Tab 1	**CS/SB 402** by **JU, Rodrigues**; (Compare to CS/H 00035) Legal Notices					
304210	D	S	TP	ACJ, Rodrigues	Delete everything after	04/08 06:18 PM

Tab 2	**SB 1002** by **Stewart**; (Similar to CS/CS/H 00673) DNA Evidence Collected in Sexual Offense Investigations					
602498	A	S	RCS	ACJ, Stewart	Delete L.58 - 70:	04/08 06:18 PM
901148	A	S	RCS	ACJ, Stewart	Delete L.90:	04/08 06:18 PM

Tab 3	**CS/SB 1032** by **CJ, Perry (CO-INTRODUCERS) Bracy**; (Compare to H 00235) Criminal Convictions					
862400	A	S	RCS	ACJ, Perry	Delete L.344 - 348:	04/08 06:19 PM

Tab 4	**CS/SB 1530** by **CJ, Book**; (Compare to CS/H 01189) Victims of Sexual Offenses					
156864	D	S	RCS	ACJ, Book	Delete everything after	04/08 06:19 PM

Tab 5	**SB 1810** by **Powell**; (Similar to H 01405) Care for Retired Law Enforcement Dogs

Tab 6	**CS/SB 1920** by **CF, Book**; Child Welfare					
833736	A	S	RCS	ACJ, Book	Delete L.104 - 570:	04/08 06:20 PM
381004	AA	S L	RCS	ACJ, Book	Delete L.470:	04/08 06:20 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS SUBCOMMITTEE ON CRIMINAL AND CIVIL JUSTICE
Senator Perry, Chair
Senator Brandes, Vice Chair

MEETING DATE: Thursday, April 8, 2021
TIME: 11:30 a.m.—1:30 p.m.
PLACE: *Mallory Horne Committee Room,* 37 Senate Building

MEMBERS: Senator Perry, Chair; Senator Brandes, Vice Chair; Senators Baxley, Bracy, Gainer, Pizzo, Rodriguez, and Torres

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A2 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301		
1	**CS/SB 402** Judiciary / Rodrigues (Compare CS/H 35)	Legal Notices; Revising requirements for newspapers that are qualified to publish legal notices; authorizing the Internet publication of legal notices on certain websites in lieu of print publication in a newspaper; requiring the Florida Press Association to consult with the Black Press Association of Florida for a specified purpose; authorizing a governmental agency to opt for Internet-only publication of legal notices with any newspaper of general circulation within the state if certain conditions are met; authorizing a newspaper to charge for Internet-only publication, subject to specified limitations, etc. JU 01/25/2021 Temporarily Postponed JU 02/15/2021 Temporarily Postponed JU 03/22/2021 Fav/CS ACJ 04/08/2021 Temporarily Postponed AP	Temporarily Postponed
2	**SB 1002** Stewart (Similar CS/CS/H 673)	DNA Evidence Collected in Sexual Offense Investigations; Citing this act as "Gail's Law"; requiring the Department of Law Enforcement, by a specified date and subject to legislative appropriation, to create and maintain a statewide database for tracking sexual offense evidence kits; providing database requirements; requiring the department to ensure that alleged sexual offense victims and certain other persons receive specified notice and instructions and be informed that they are entitled to access information regarding such kits and evidence, etc. CJ 03/02/2021 Favorable ACJ 04/08/2021 Fav/CS AP	Fav/CS Yeas 7 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**CS/SB 1032** Criminal Justice / Perry (Compare H 235, CS/H 953, H 1215, S 472)	Criminal Convictions; Revising the timeframe when a conviction, or any other adjudication, for a crime may not be grounds for denial of licensure in specified professions; revising the principles that the Criminal Punishment Code embodies as it relates to punishment and rehabilitation; authorizing the Department of Corrections to grant deductions from sentences in the form of good behavior time, rehabilitation credits, and outstanding deed awards, rather than solely for gain-time, for specified purposes, etc. CJ 03/02/2021 Fav/CS ACJ 04/08/2021 Fav/CS AP	Fav/CS Yeas 7 Nays 0
4	**CS/SB 1530** Criminal Justice / Book (Compare CS/H 1189)	Victims of Sexual Offenses; Authorizing a victim of sexual battery or cyberstalking to petition the Governor to disqualify a state attorney under certain circumstances; requiring county health departments to participate in local sexual assault response teams coordinated by local certified rape crisis centers if such a team exists; authorizing the certified rape crisis center serving the county to coordinate with community partners to establish a local or regional team if a local sexual assault response team does not exist; requiring teams to promote and support the use of sexual assault forensic examiners meeting certain requirements, etc. CJ 03/23/2021 Fav/CS ACJ 04/08/2021 Fav/CS AP	Fav/CS Yeas 7 Nays 0
5	**SB 1810** Powell (Similar H 1405)	Care for Retired Law Enforcement Dogs; Designating the "Care for Retired Law Enforcement Dogs Program Act"; creating the Care for Retired Law Enforcement Dogs Program within the Department of Law Enforcement; requiring the department to contract with a nonprofit corporation to administer and manage the program; prohibiting a former handler or an adopter from accumulating unused funds from a current year for use in a future year; prohibiting a former handler or an adopter from receiving reimbursement if funds are depleted for the year for which the reimbursement is sought; requiring the department to adopt rules, etc. CJ 03/30/2021 Favorable ACJ 04/08/2021 Favorable AP	Favorable Yeas 7 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	**CS/SB 1920** Children, Families, and Elder Affairs / Book	Child Welfare; Specifying circumstances under which a court is required, on or after a specified date, to appoint a guardian ad litem; renaming the Guardian Ad Litem Qualifications Committee as the Child Well-Being Qualifications Committee; specifying that the executive director of the Statewide Guardian Ad Litem Office may be reappointed; creating the Statewide Office of Child Representation within the Justice Administration Commission; specifying when the court is authorized or required to appoint an attorney for the child; requiring the court to appoint the Statewide Office of Child Representation, etc. CF 03/16/2021 Temporarily Postponed CF 03/23/2021 Fav/CS ACJ 04/08/2021 Fav/CS AP	Fav/CS Yeas 7 Nays 0

Other Related Meeting Documents

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Criminal and Civil Justice

BILL:	CS/SB 402
INTRODUCER:	Judiciary Committee and Senator Rodrigues
SUBJECT:	Legal Notices
DATE:	April 1, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ravelo	Cibula	JU	**Fav/CS**
2.	Forbes	Harkness	ACJ	**Pre-meeting**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 402 gives a government agency the option to publish legal notices on a newspaper website instead of only in a print based newspaper. An agency exercising this option must provide an *additional* notice in a print edition of a local newspaper to inform the general public that additional legal notices may be found on the statewide legal notice website maintained by the Florida Press Association. Any legal notice published in print or through a website must also be published on the statewide legal notice website: www.FloridaPublicNotices.com.

Additionally, the bill expands the types of publications that qualify for the posting of legal notices. Currently, a newspaper must, among other requirements, be "for sale to the general public" and be qualified to be admitted and entered as a periodical matter the local post office. By removing these two requirements, the bill will allow for legal notices to be published in smaller publications that are free to the public.

The bill amends several sections of the Florida Statutes to conform the ability of a government agency to post legal advertisements and notices on the Internet.

The bill is effective July 1, 2021.

II. Present Situation:

The Florida Constitution requires that certain meetings between public officials be "open and noticed to the public."[1] Generally, this requirement applies to meetings where official acts will be taken, or where public business will be transacted or discussed.

Similarly, procedural due process requires that a citizen receive proper notice of any government action that may affect his or her life, liberty, or property. The purpose of this notice is "to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections" [2] and "must be of such nature as reasonably to convey the required information."[3]

Historically, notice can be established by service of process by personally and directly delivering the notice to the interested party.[4] Issues may arise, for example, when an interested party is difficult to locate or when someone is purposefully avoiding service.[5] Likewise, some government actions such as public meetings affect so many interested individuals that it becomes implausible to individually notice each interested individual. To balance these interests, the Legislature has provided options to satisfy notice requirements for both litigation purposes as well as notices of public meetings and actions.

Statutory Notice Requirements

Florida law requires that all legal notices and publications, including those made in lieu of service of process, be made in a newspaper that:

- Is printed and published at least once a week;
- Contains at least 25 percent of its words in the English language;
- Is considered a periodical by the post office in the county where it is published;
- Is for sale to the public generally;
- Customarily contains information of public interest to the residents or property owners in the county where it is published or is of interest or of value to the general public;[6] and
- Has been in existence for at least 1 year at the time the notice is published.[7]

If no newspaper is published in the county, three copies of the notice or advertisement must be posted in the county, with one being posted at the front door of the courthouse, two others posted

[1] Art. I, s. 24(b), Fla. Const.
[2] *Mullane v. Central Hanover Bank & Trust Co.,* 339 U.S. 306, 314 (1950).
[3] *Id.*
[4] "Personal service guarantees actual notice of the pendency of a legal action; it thus presents the ideal circumstance under which to commence legal proceedings against a person, and has traditionally been deemed necessary in actions styled." *Greene v. Lindsey*, 456 U.S. 444, 449 (1982).
[5] "Where person to be served with process flees from presence of process server in a deliberate attempt to avoid service of process, the delivery requirement may be satisfied if the process server leaves the papers at a place in which such person can easily retrieve them and takes reasonable steps to call such delivery to the attention of the person to be served." *Olin Corp. v. Haney*, 245 So. 2d 669 (Fla. 4th DCA 1971). This only applies, however, to a service of process made at the individual's "usual place of abode." Section 48.031, F.S.
[6] Section 50.011, F.S.
[7] Section 50.031, F.S.

at other locations in the county, and by publication of the notice in the nearest county where a newspaper is published.[8]

A newspaper publishing any notice is also tasked with placing the notice on a statewide website established and maintained by the Florida Press Association.[9] This website must be accessible and searchable by party name and case number, and each notice must be posted for at least 90 days.[10] This provision of Florida law is similar to statewide legal notice websites established in Alabama,[11] Colorado,[12] Illinois,[13] Louisiana,[14] Maine,[15] Massachusetts,[16] North Dakota,[17] Ohio,[18] Tennessee,[19] Utah,[20] Virginia,[21] and Wisconsin.[22] The above states require that any notice published in a newspaper as set forth by law also be published in a statewide website maintained and operated by a private entity on behalf of the newspapers of that state, such as a union or trade group.

Newspaper Website

Florida law further provides that if the newspaper publishing the notice maintains a website, the legal notice must be published on the website the same day that it appears in the newspaper at no additional charge.[23] The newspaper's website must contain a search function to facilitate searching for legal notices.[24] Registration cannot be a requirement, nor can a fee be charged, for searching or viewing legal notices on a newspaper's website if the legal notices are published in a newspaper.[25]

Fees

The fees for a legal notice published in a newspaper are set by statute and may not be rebated, commissioned, or refunded. The charge for publishing a legal notice is set by statute at 70 cents per square inch for the first insertion and 40 cents per square inch for each subsequent insertion. Notices required to be published more than once and paid for by the government entity may not be charged greater than 85 percent of the original rate for second and successive insertions. If the regular established minimum commercial rate per square inch is greater than the rate stipulated in statute, the publisher may charge the minimum commercial rate for each insertion, except that

[8] Section 50.021, F.S.
[9] Section 50.021, F.S. The website established by the Florida Press Association, Florida Public Notices, is available at https://www.floridapublicnotices.com/.
[10] *Id.*
[11] Ala. Code § 6-8-62.
[12] Colo. Rev. Stat. Ann. § 24-70-103.
[13] 715 Ill. Comp. Stat. Ann. 5/2.1.
[14] La. Stat. Ann. § 43:111E.
[15] Me. Rev. Stat. tit. 1, § 603(2).
[16] Mass. Gen. Laws Ann. ch. 4, § 13.
[17] N.D. Cent. Code Ann. § 46-05-09.
[18] Ohio Rev. Code Ann. § 125.182(a).
[19] Tenn. Code Ann. § 1-3-120(a)(2).
[20] Utah Code Ann. § 45-1-101(2)(b).
[21] Va. Code Ann. § 8.01-324(g).
[22] Wis. Stat. Ann. § 985.01(7).
[23] Section 50.0211(2), F.S.
[24] *Id.*
[25] *Id.*

notices required to be published more than once and paid for by the government entity may not be charged greater than 85 percent of the original rate for second and successive insertions. All notices and legal advertisements are charged on the basis of 6-point type on 6-point body, unless otherwise specified by statute.[26]

Actual fees vary depending on the type of notice requested, the size of the notice, any subsequent insertions or publications, as well as which newspaper publicizes the notice. The Tampa Bay Times, for example, charges $200 for a "full run" of a notice of a foreclosure action.[27] If the notice needs to be up for more than 2 days, the charge increases to $400. Additionally, the per-line cost above the included 165 line limit is $6.45.

Proof of Publication

If an affidavit of proof of publication is required for a legal notice, the affidavit must comply with certain standards. Specifically, the affidavit must:

- Be printed upon white paper;
- Be 8.5 inches in width and at least 5.5 inches in length; and
- Contain a margin of at least 2.5 inches at the right side of the affidavit form with a clipping of a true copy of the public notice or legal advertisement which was executed.[28]

The affidavit may be provided electronically so long is it complies with the electronic notarization requirements.[29]

If the proof of publication is in a county having a population in excess of 450,000 according to the latest decennial census, the publication may charge a maximum fee of $2 for the preparation and execution of each of proof of publication.[30]

III. Effect of Proposed Changes:

Legal Notice Website

The bill provides an option for government agencies required by law to publish legal notices to publish those notices on a newspaper's website in lieu of a paper based publication. Legal notice may be satisfied upon the publication of the legal notice in a newspaper of general circulation. To qualify as a newspaper of general circulation, the bill requires the newspaper to be:

- Printed and published at least once a week;
- Contain at least 25 percent of its words in the English language; and
- Be available to the public generally for the publication of notices and customarily contain information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public.

[26] Section 50.061, F.S.
[27] For the Tampa Bay Times, a "full run" includes all of Pinellas, Pasco, Hernando, Citrus, and Hillsborough counties. Opting for an individual run of a specific county costs $135 for Pasco County, and $155 for Hillsborough or Pinellas Counties. TAMPA BAY TIMES, *Certified Legal Rates,* https://www.tampabay.com/resources/images/marketing/mediakit/pdf/Legal-Rate-Card.pdf (Last visited January 21, 2021)
[28] Section 50.041(2), F.S.
[29] Section 117.021, F.S., contains additional requirements for documents notarized electronically.
[30] Section 50.041(3), F.S.

Under current law, a newspaper must additionally be "for sale to the general public" and entered as a periodical matter at the local post office in the county where the newspaper is published. By removing these two requirements, the bill allows for legal notices to be published using non-subscription based publications and publications that may not be recognized as periodical matter by the local post office.

If a government agency exercises the option to publish legal notices on a newspaper website, the agency must provide an *additional* notice at least once per week in a print edition newspaper of general circulation. This notice must contain a statement that legal notices pertaining to the agency do not all appear in the print edition of the local newspaper and that a full listing may be accessed on the statewide legal notice website located at the website managed by the Florida Press Association.[31] Furthermore, a government agency must determine that Internet publication of any notice would not unreasonably restrict public access to the legal notice.

The bill allows for a newspaper to charge for publication of a legal notice on the newspaper's website. However, the newspaper may not charge a higher rate for publication than the amount that would be authorized if the legal notice were publicized in print.[32]

The bill revises the additional fee that may be charged by a newspaper if a proof of publication is required for public notices or legal advertisements. Currently, a $2 charge may be levied for a proof of publication executed in a county with a population in excess of 450,000. The bill allows the maximum $2 charge to be levied for any proof of publication regardless of the population of the county.

The bill provides an option for storage facilities to post an advertisement for sale of the content of a storage unit on a website. Under current law, an advertisement for the sale or disposition of the contents of a storage unit based on a facility owner's lien must be published for a period of 2 weeks in a newspaper of general circulation in the area where the self-service storage facility is located. The bill allows for these advertisement to be published on a public website that customarily conducts personal property auctions.

The bill revises several sections of the Florida Statutes to conform to the option to publish certain notices in a newspaper website. Specifically, the bill revises the following sections of the Florida Statutes to provide an option to publish a notice in a newspaper website:

- Section 11.02, F.S., providing notice of special or location legislation or any relief acts pursuant to s. 50.0211(5), F.S.
- Section 45.031, F.S., to provide that a publication of a sale in a judicial sales procedure may be published by Internet publication pursuant to s. 50.0211(5), F.S., if it is published for at least 2 consecutive weeks.
- Section 120.81, F.S., to provide that a notice relating to the rules regarding an educational unit, such as a district school board, may be issued by Internet publication pursuant to s. 50.0211(5).

[31] *See* www.FloridaPublicNotices.com
[32] *See* "Fees" subsection under "Present Situation" of this analysis for further discussion of print based fees.

- Section 121.055, F.S., to provide that a Notice of Intent to designate certain positions as "Senior Management Services Class" under the Florida Retirement System may be publicized through an Internet publication pursuant to s. 50.0211(5), F.S. The notice must be published for at least 2 consecutive weeks.
- Section 125.66, F.S., to provide that the board of county commissioners may issue a notice of intent to consider an ordinance by publication as specified in ch. 50, F.S., as amended by the bill.
- Section 162.12, F.S., to provide that a code enforcement board, or local government, may issue a notice by Internet publication by publishing the notice for 4 consecutive weeks on the newspaper's website and the statewide legal notice website as provided in s. 50.0211(5), F.S., as amended by the bill.
- Section 189.015, F.S., to provide that the governing body of each special district shall advertise the day, time, place, and purpose of any meeting other than a regular meeting or any recessed and reconvened meeting of the governing body, at least 7 days before such meeting as provided in ch. 50, F.S., as revised by the bill.
- Section 190.005, F.S., to provide that a notice of a hearing for the establishment of a community development district with the size of 2,500 acres or more shall published for 4 consecutive weeks on a newspaper's website and the statewide legal notice website if published in print.
- Section 190.046, F.S., to provide that a notice of intent to amend an ordinance establishing a community development district must be published as provided in ch. 50, F.S., as revised by the bill.
- Section 194.037, F.S, to provide that the findings of the Tax Impact of Value Adjustment Board be published as provided in ch. 50, F.S., as revised by the bill.
- Section 197.402, F.S., provides that advertisements of real or personal property with delinquent taxes are to be advertised as provided in ch. 50, F.S., as revised by the bill.
- Section 200.065, F.S., to provide that the assessment conducted by the property appraiser shall be published as provided in ch. 50, F.S. Additionally, the bill revises this section to allow notices for certain millage increases that may lead to tax increases, such as ad-valorem taxes, to be advertised pursuant to ch. 50, F.S., as revised by the bill.
- Section 849.38, F.S., to provide that when certain property seized by the sheriff's office has an appraisal value of $1,000 or less, the notice must be posted for at least 2 consecutive weeks on a newspaper's website and the statewide legal notice website in accordance with s. 50.0211(5), F.S.
- Section 932.704, F.S., to provide that the notice required for a forfeiture complaint must be published for 2 consecutive weeks on a newspaper's website and the statewide legal notice website in accordance with s. 50.0211(5), F.S., or if published in print, once each week for 2 consecutive weeks.

The bill has additional requirement for newspapers that publish legal notices. Specifically, the newspapers are required to include a disclaimer stating that the listing of legal notices may not include all legal notices affecting the area of distribution of the newspaper and that the additional legal notices may be accessed on the statewide legal notice website. Additionally, any notice issued through the newspaper's printed edition or website is required to also be published on the statewide legal notice website maintained by the Florida Press Association.

The bill requires the Florida Press Association to consult with the Black Press Association of Florida to ensure that minority populations throughout the state have equitable access to legal notices that are posted on the internet.

The bill takes effect July 1, 2021.

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:

Article VII, s. 19(a) of the State Constitution prohibits the Legislature from imposing a new fee except through legislation approved by supermajority vote of each house of the Legislature. Because the bill preserves the option of publishing legal notices in a newspaper, the supermajority vote requirements do not appear to apply.

E. Other Constitutional Issues:

The bill may raise procedural due process concerns to the extent that it hinders actual notice of legal proceedings. Procedural due process requires fair notice "to apprise interested parties of the pendency of" an action that may affect life, liberty, or property.[33] For example, notice is required for termination of parent rights proceedings,[34] certain local county initiatives,[35] and civil judgements based on litigation.[36] On the other hand, the publication of a notice on a website instead of a newspaper may, in some cases, be

[33] 339 U.S. 306, 314 (1950).
[34] *J.B. v. Florida Dept. of Children & Family Services*, 768 So. 2d 1060, 1066 (Fla. 2000) (Finding that 24-hour notice of a hearing regarding termination of parent rights was insufficient notice) .
[35] *Baycol, Inc. v. Downtown Dev. Auth. of City of Fort Lauderdale*, 315 So. 2d 451, 455 (Fla. 1975) (Finding that the city failed to place express or de facto notice in an eminent domain proceeding) and *Keys Citizens For Responsible Gov't, Inc. v. Florida Keys Aqueduct Auth*., 795 So. 2d 940, 949 (Fla. 2001) (The Court found in dictum that "constructive notice by publication is appropriate in bond validation proceedings").
[36] "To give such proceedings any validity, there must be a competent tribunal to pass on their subject-matter; and, if that involves merely a determination of the personal liability of defendant, he must be brought within its jurisdiction by service of process within the state, or by his voluntary appearance." *Pennoyer v. Neff*, 95 U.S. 714, 719 (1877), overruled in part by *Shaffer v. Heitner*, 433 U.S. 186 (1977).

more effective than publishing a notice solely in a newspaper. Courts have accepted various alternatives to actual service of process over the years.[37]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill could reduce revenue for certain newspapers to the extent that the bill allows for more publications to qualify as publications for the purpose of publishing a legal notice.

C. Government Sector Impact:

The impact of this bill is indeterminate since it is unknown how governmental entities will be impacted based on the volume of legal notices to be published. This is especially true in counties where there are no newspapers available for general circulation and the only option will now be internet publication.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides that the fee for an online publication of a legal notice cannot exceed the fee charged for a print edition of that notice. The current fee structure is based on the size of the notice and can be more costly depending on how many copies of the newspaper are printed and distributed. This is meant to encourage pricing based on how much space is taken up in the print edition newspaper as well as how large that newspapers audience is. A website publication does not have these same logistical structures to base a fee on the statutory mechanism.

Several sections of the bill permit publication pursuant to s. 50.0211(5), F.S., or as otherwise provided under ch. 50, F.S. Other sections of the bill, such as section 14, include language such as "on a newspaper's website and the statewide legal notice website as provided in s. 50.0211(5)."

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 50.011, 50.021, 50.0211, 50.031, 50.041, 50.051, 83.806, 11.02, 45.031, 120.81, 121.0511, 121.055, 125.66, 162.12, 166.041, 189.015, 190.005, 190.046, 194.037, 197.402, 200.065, 338.223, 348.0308, 348.635, 348.7605, 373.0397, 373.146, 403.722, 712.06, 849.38, 865.09 and 932.704.

[37] For example, the courts have routinely upheld certified mail as a valid method of constructive notice. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950) (The Court found in dictum that mail "provide[s] an 'efficient and inexpensive means of communication' upon which prudent men will ordinarily rely in the conduct of important affairs").

IX. Additional Information:

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

CS by Judiciary on March 22, 2021:
The committee substitute:

- Allows a government agency to publish legal notices on a newspaper website in lieu of a print based publication.
- Allows legal notices to be published using a non-subscription based publisher.
- Removes the requirement that the Supreme Court establish a legal notice website and a restitution, fines, and fees website.
- Provides an option for storage facilities to post an advertisement for sale of the content of a storage unit on a website.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: TP	.	
04/08/2021	.	
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Appropriations Subcommittee on Criminal and Civil Justice (Rodrigues) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 50.011, Florida Statutes, is amended to read:

50.011 Publication of ~~Where and in what language~~ legal notices ~~to be published~~.—Whenever by statute an official or legal advertisement or a publication, or notice in a newspaper has been or is directed or permitted in the nature of or in lieu

of process, or for constructive service, or in initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, or for any purpose, including all legal notices and advertisements of sheriffs and tax collectors, the contemporaneous and continuous intent and meaning of such legislation all and singular, existing or repealed, is and has been and is hereby declared to be and to have been, and the rule of interpretation is and has been the following:~~,~~

(1) A publication in a newspaper printed and published periodically at least once a week; which contains ~~or oftener, containing~~ at least 25 percent of its words in the English language; which has a net distribution of at least 1,000 net print copies per week; which has a website averaging at least 1,000 unique users per week; which has its distribution and website readership audited and certified biannually by an independent third-party auditor who is qualified and accredited; which is~~, entered or qualified to be admitted and entered as periodicals matter at a post office in the county where published, for sale to the public generally,~~ available to the public generally in the county or nearby counties to which the legal notice pertains; and which publishes ~~for the publication of~~ official or other notices and customarily dedicates at least 25 percent of its content to local and regional news and ~~containing~~ information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public; or

(2) By Internet publication on the website of any newspaper of general circulation in the county or nearby counties to which

the legal notice pertains which otherwise meets the criteria specified in subsection (1) and on the statewide legal notice website as provided under s. 50.0211(5).

Section 2. Section 50.021, Florida Statutes, is amended to read:

50.021 Publication when no newspaper in county.—When any law, or order or decree of court, directs ~~shall direct~~ advertisements to be made in a ~~any~~ county and there is ~~be~~ no newspaper published in the ~~said~~ county, the advertisement may be made by posting on the website of any newspaper of general circulation in an adjoining county and on the statewide legal notice website as provided in s. 50.0211(5) or posting three copies thereof in three different places in the ~~said~~ county, one of which shall be at the front door of the courthouse, and by publication in the nearest county in which a newspaper is published.

Section 3. Section 50.0211, Florida Statutes, is amended to read:

50.0211 Internet website publication.—

(1) As used in this section, the term "governmental agency" means a county, municipality, district school board, or other unit of local government or political subdivision in this state.

(2) This section applies to legal notices that must be published in accordance with this chapter unless otherwise specified.

(3)~~(2)~~ If a governmental agency publishes a legal notice in the print edition of a newspaper, each legal notice must be posted on the newspaper's website on the same day that the printed notice appears in the newspaper, at no additional


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charge, in a separate web page titled "Legal Notices," "Legal Advertising," or comparable identifying language. A link to the legal notices web page shall be provided on the front page of the newspaper's website that provides access to the legal notices. If there is a specified size and placement required for a printed legal notice, the size and placement of the notice on the newspaper's website must optimize its online visibility in keeping with the print requirements. The newspaper's web pages that contain legal notices must present the legal notices as the dominant and leading subject matter of those pages. The newspaper's website must contain a search function to facilitate searching the legal notices. A fee may not be charged, and registration may not be required, for viewing or searching legal notices on a newspaper's website if the legal notice is published in a newspaper.

(4)(a) ~~(3)(a)~~ If a legal notice is published in the print edition of a newspaper or on a newspaper's website, the newspaper publishing the notice shall place the notice on the statewide website established and maintained as an initiative of the Florida Press Association as a repository for such notices located at the following address: www.floridapublicnotices.com.

(b) A legal notice placed on the statewide website created under this subsection must be:

1. Accessible and searchable by party name and case number.

2. Posted for a period of at least 90 consecutive days after the first day of posting.

(c) The statewide website created under this subsection shall maintain a searchable archive of all legal notices posted on the publicly accessible website ~~on or after October 1, 2014,~~


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for 18 months after the first day of posting. Such searchable archive shall be provided and accessible to the general public without charge.

(d) In its operation of the statewide website, the Florida Press Association shall consult with the Black Press Association of Florida to ensure that minority populations throughout the state have equitable access to legal notices that are posted on the Internet.

(5)(a) In lieu of publishing a legal notice in the print edition of a newspaper of general circulation, a governmental agency may opt for Internet-only publication with any newspaper of general circulation within the jurisdiction of the affected governmental agency so long as the governmental agency determines that the Internet publication of such notice would not unreasonably restrict public access. Any such notice that is published only on the Internet in accordance with this subsection must be placed in the legal notices section of the newspaper’s website and the statewide legal notice website established under subsection (4). All requirements regarding the format and accessibility of legal notices placed on the newspaper’s website and the statewide legal notice website in subsections (3) and (4) also apply to legal notices that are published only on the Internet in accordance with this subsection.

(b) The legal notices section of the print edition of a newspaper must include a disclaimer stating that additional legal notices may be accessed on the newspaper’s website and the statewide legal notice website. The legal notices section of the newspaper’s website must also include a disclaimer stating that

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legal notices are also published in the print edition of the newspaper and on the statewide legal notice website.

(c) A newspaper may charge for the publication of any legal notice that is published only on the newspaper's website, without rebate, commission, or refund; however, the newspaper may not charge any higher rate for publication than the amount that would be authorized under s. 50.061 if the legal notice had been printed in the newspaper. The penalties prescribed in s. 50.061(7) for allowing or accepting any rebate, commission, or refund in connection to the amounts charged for publication also apply to any legal notices that are published only on the Internet in accordance with this subsection.

(d) If a governmental agency exercises the option to publish legal notices on the Internet in accordance with this subsection, such agency must provide notice at least once per week in the print edition of a newspaper of general circulation within the region in which the governmental agency is located which states that legal notices pertaining to the agency do not all appear in the print edition of the local newspaper and that additional legal notices may be accessed on the newspaper's website and that a full listing of any legal notices may be accessed on the statewide legal notice website located at www.floridapublicnotices.com.

(6) ~~(4)~~ Newspapers that publish legal notices shall, upon request, provide e-mail notification of new legal notices when they are published ~~printed~~ in the newspaper or on ~~and added to~~ the newspaper's website. Such e-mail notification shall be provided without charge, and notification for such an e-mail registry shall be available on the front page of the legal

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notices section of the newspaper's website.

Section 4. Section 50.031, Florida Statutes, is amended to read:

50.031 Newspapers in which legal notices and process may be published.—No notice or publication required to be published in the print edition of a newspaper or on a newspaper's website in the nature of or in lieu of process of any kind, nature, character or description provided for under any law of the state, whether heretofore or hereafter enacted, and whether pertaining to constructive service, or the initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, by any court in this state, or any notice of sale of property, real or personal, for taxes, state, county or municipal, or sheriff's, guardian's or administrator's or any sale made pursuant to any judicial order, decree or statute or any other publication or notice pertaining to any affairs of the state, or any county, municipality or other political subdivision thereof, shall be deemed to have been published in accordance with the statutes providing for such publication, unless the same shall have been published for the prescribed period of time required for such publication, in a newspaper which at the time of such publication shall have been in existence for 1 year ~~and shall have been entered as periodicals matter at a post office in the county where published,~~ or in a newspaper which is a direct successor of a newspaper which has ~~together have~~ been so published; provided, however, that nothing herein contained shall apply where in any county there shall be no newspaper in existence which shall have been published for the length of time above prescribed. No legal publication of any kind, nature or

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description, as herein defined, shall be valid or binding or held to be in compliance with the statutes providing for such publication unless the same shall have been published in accordance with the provisions of this section or s. 50.0211(5). Proof of such publication shall be made by uniform affidavit.

Section 5. Section 50.041, Florida Statutes, is amended to read:

50.041 Proof of publication; uniform affidavits required.—

(1) All affidavits ~~of publishers of newspapers (or their official representatives)~~ made for the purpose of establishing proof of publication of public notices or legal advertisements shall be uniform throughout the state.

(2) Each such affidavit shall be printed upon white paper and shall be 8 1/2 inches in width and of convenient length, not less than 5 1/2 inches. A white margin of not less than 2 1/2 inches shall be left at the right side of each affidavit form and upon or in this space shall be substantially pasted a clipping which shall be a true copy of the public notice or legal advertisement for which proof is executed. Alternatively, the affidavit may be provided in electronic rather than paper form, provided the notarization of the affidavit complies with the requirements of s. 117.021.

(3) ~~In all counties having a population in excess of 450,000 according to the latest official decennial census, in addition to the charges which are now or may hereafter be established by law for the publication of every official notice or legal advertisement,~~ There may be a charge not to exceed $2 levied for the preparation and execution of each such proof of publication or ~~publisher's~~ affidavit.


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Section 6. Section 50.051, Florida Statutes, is amended to read:

50.051 Proof of publication; form of uniform affidavit.—The printed form upon which all such affidavits establishing proof of publication are to be executed shall be substantially as follows:

NAME OF COUNTY ~~NEWSPAPER~~

~~Published (Weekly or Daily)~~

~~(Town or City) (County) FLORIDA~~

STATE OF FLORIDA

COUNTY OF ....:

Before the undersigned authority personally appeared ...., who on oath says that he or she is .... of the ...., a .... newspaper published at .... in .... County, Florida; that the attached copy of advertisement, being a .... in the matter of .... in the .... Court, was published in said newspaper by print in the issues of .... or by publication on the newspaper's website on ...(date)....

Affiant further says that the newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes ~~said .... is a newspaper published at ...., in said .... County, Florida, and that the said newspaper has heretofore been continuously published in said .... County, Florida, each .... and has been entered as periodicals matter at the post office in ...., in said .... County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any~~

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~~discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper~~.

Sworn to and subscribed before me this .... day of ....,
...(year)..., by ...., who is personally known to me or who has produced (type of identification) as identification.

...(Signature of Notary Public)...

...(Print, Type, or Stamp Commissioned Name of Notary Public)...

...(Notary Public)...

Section 7. Section 11.02, Florida Statutes, is amended to read:

11.02 Notice of special or local legislation or certain relief acts.—The notice required to obtain special or local legislation or any relief act specified in s. 11.065 shall be by publishing the identical notice ~~in each county involved in some newspaper~~ as provided ~~defined~~ in chapter 50 ~~published in~~ or circulated throughout the county or counties where the matter or thing to be affected by such legislation shall be situated one time at least 30 days before introduction of the proposed law into the Legislature or, if the notice is not made by Internet publication as provided in s. 50.0211(5) and there being no newspaper circulated throughout or published in the county, by posting for at least 30 days at not less than three public places in the county or each of the counties, one of which places shall be at the courthouse in the county or counties

where the matter or thing to be affected by such legislation shall be situated. Notice of special or local legislation shall state the substance of the contemplated law, as required by s. 10, Art. III of the State Constitution. Notice of any relief act specified in s. 11.065 shall state the name of the claimant, the nature of the injury or loss for which the claim is made, and the amount of the claim against the affected municipality's revenue-sharing trust fund.

Section 8. Paragraph (d) of subsection (1) of section 120.81, Florida Statutes, is amended to read:

120.81 Exceptions and special requirements; general areas.—

(1) EDUCATIONAL UNITS.—

(d) Notwithstanding any other provision of this chapter, educational units shall not be required to include the full text of the rule or rule amendment in notices relating to rules and need not publish these or other notices in the Florida Administrative Register, but notice shall be made:

1. By publication in the print edition of a newspaper of general circulation in the affected area or by Internet publication in accordance with s. 50.0211(5);

2. By mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and

3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

Section 9. Subsection (2) of section 121.0511, Florida Statutes, is amended to read:


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121.0511 Revocation of election and alternative plan.—The governing body of any municipality or independent special district that has elected to participate in the Florida Retirement System may revoke its election in accordance with the following procedure:

(2) At least 7 days, but not more than 15 days, before the hearing, notice of intent to revoke, specifying the time and place of the hearing, must be published as provided in chapter 50 ~~in a newspaper of general circulation in the area affected, as provided by ss. 50.011-50.031~~. Proof of publication of the notice must be submitted to the Department of Management Services.

Section 10. Paragraphs (b) and (h) of subsection (1) of section 121.055, Florida Statutes, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(b)1. Except as provided in subparagraph 2., effective January 1, 1990, participation in the Senior Management Service Class is compulsory for the president of each community college, the manager of each participating municipality or county, and all appointed district school superintendents. Effective January 1, 1994, additional positions may be designated for inclusion in the Senior Management Service Class if:

a. Positions to be included in the class are designated by the local agency employer. Notice of intent to designate positions for inclusion in the class must be published for at

least 2 consecutive weeks if published by Internet publication as provided in s. 50.0211(5) or, if published in print, once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected~~,~~ as provided in chapter 50.

b. Up to 10 nonelective full-time positions may be designated for each local agency employer reporting to the department; for local agencies with 100 or more regularly established positions, additional nonelective full-time positions may be designated, not to exceed 1 percent of the regularly established positions within the agency.

c. Each position added to the class must be a managerial or policymaking position filled by an employee who is not subject to continuing contract and serves at the pleasure of the local agency employer without civil service protection, and who:

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. In lieu of participation in the Senior Management Service Class, members of the Senior Management Service Class, pursuant to subparagraph 1., may withdraw from the Florida Retirement System altogether. The decision to withdraw from the system is irrevocable as long as the employee holds the position. Any service creditable under the Senior Management Service Class shall be retained after the member withdraws from the system; however, additional service credit in the Senior Management Service Class may not be earned after such withdrawal. Such members are not eligible to participate in the

Senior Management Service Optional Annuity Program.

3. Effective January 1, 2006, through June 30, 2006, an employee who has withdrawn from the Florida Retirement System under subparagraph 2. has one opportunity to elect to participate in the pension plan or the investment plan.

a. If the employee elects to participate in the investment plan, membership shall be prospective, and the applicable provisions of s. 121.4501(4) govern the election.

b. If the employee elects to participate in the pension plan, the employee shall, upon payment to the system trust fund of the amount calculated under sub-sub-subparagraph (I), receive service credit for prior service based upon the time during which the employee had withdrawn from the system.

(I) The cost for such credit shall be an amount representing the actuarial accrued liability for the affected period of service. The cost shall be calculated using the discount rate and other relevant actuarial assumptions that were used to value the pension plan liabilities in the most recent actuarial valuation. The calculation must include any service already maintained under the pension plan in addition to the period of withdrawal. The actuarial accrued liability attributable to any service already maintained under the pension plan shall be applied as a credit to the total cost resulting from the calculation. The division must ensure that the transfer sum is prepared using a formula and methodology certified by an actuary.

(II) The employee must transfer a sum representing the net cost owed for the actuarial accrued liability in sub-sub-subparagraph (I) immediately following the time of such

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movement, determined assuming that attained service equals the sum of service in the pension plan and the period of withdrawal.

(h)1. Except as provided in subparagraph 3., effective January 1, 1994, participation in the Senior Management Service Class shall be compulsory for the State Courts Administrator and the Deputy State Courts Administrators, the Clerk of the Supreme Court, the Marshal of the Supreme Court, the Executive Director of the Justice Administrative Commission, the capital collateral regional counsel, the clerks of the district courts of appeals, the marshals of the district courts of appeals, and the trial court administrator and the Chief Deputy Court Administrator in each judicial circuit. Effective January 1, 1994, additional positions in the offices of the state attorney and public defender in each judicial circuit may be designated for inclusion in the Senior Management Service Class of the Florida Retirement System, provided that:

a. Positions to be included in the class shall be designated by the state attorney or public defender, as appropriate. Notice of intent to designate positions for inclusion in the class shall be published for at least 2 consecutive weeks by Internet publication as provided in s. 50.0211(5) or, if published in print, once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected~~,~~ as provided in chapter 50.

b. One nonelective full-time position may be designated for each state attorney and public defender reporting to the Department of Management Services; for agencies with 200 or more regularly established positions under the state attorney or

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public defender, additional nonelective full-time positions may be designated, not to exceed 0.5 percent of the regularly established positions within the agency.

c. Each position added to the class must be a managerial or policymaking position filled by an employee who serves at the pleasure of the state attorney or public defender without civil service protection, and who:

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. Participation in this class shall be compulsory, except as provided in subparagraph 3., for any judicial employee who holds a position designated for coverage in the Senior Management Service Class, and such participation shall continue until the employee terminates employment in a covered position. Effective January 1, 2001, participation in this class is compulsory for assistant state attorneys, assistant statewide prosecutors, assistant public defenders, and assistant capital collateral regional counsel. Effective January 1, 2002, participation in this class is compulsory for assistant attorneys general.

3. In lieu of participation in the Senior Management Service Class, such members, excluding assistant state attorneys, assistant public defenders, assistant statewide prosecutors, assistant attorneys general, and assistant capital collateral regional counsel, may participate in the Senior Management Service Optional Annuity Program as established in subsection (6).

Section 11. Paragraph (a) of subsection (2) and paragraph (b) of subsection (4) of section 125.66, Florida Statutes, are amended to read:

125.66 Ordinances; enactment procedure; emergency ordinances; rezoning or change of land use ordinances or resolutions.—

(2)(a) The regular enactment procedure shall be as follows: The board of county commissioners at any regular or special meeting may enact or amend any ordinance, except as provided in subsection (4), if notice of intent to consider such ordinance is given at least 10 days before such ~~prior to said~~ meeting by publication as provided in chapter 50 ~~in a newspaper of general circulation in the county~~. A copy of such notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the board of county commissioners. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the county where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(4) Ordinances or resolutions, initiated by other than the county, that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to subsection (2). Ordinances or resolutions that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or ordinances or resolutions initiated by the county that change the actual zoning map designation of a parcel

or parcels of land shall be enacted pursuant to the following procedure:

(b) In cases in which the proposed ordinance or resolution changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more, the board of county commissioners shall provide for public notice and hearings as follows:

1. The board of county commissioners shall hold two advertised public hearings on the proposed ordinance or resolution. At least one hearing shall be held after 5 p.m. on a weekday, unless the board of county commissioners, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

2. <u>If published in the print edition of a newspaper,</u> the required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper ~~of general paid circulation~~ in the county and of general interest and readership in the community pursuant to chapter 50~~, not one of limited subject matter~~. It is the legislative intent that, whenever possible, the advertisement

shall appear in a newspaper that is published at least weekly ~~5 days a week~~ unless the only newspaper in the community is published less than weekly ~~5 days a week~~. The advertisement shall be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

The ...(name of local governmental unit)... proposes to adopt the following by ordinance or resolution:...(title of ordinance or resolution)....

A public hearing on the ordinance or resolution will be held on ...(date and time)... at ...(meeting place)....

Except for amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement shall contain a geographic location map which clearly indicates the area within the local government covered by the proposed ordinance or resolution. The map shall include major street names as a means of identification of the general area. If ~~In addition to being~~ published in the print edition of the newspaper, the map must be part of any ~~the~~ online notice made ~~required~~ pursuant to s. 50.0211.

3. In lieu of publishing the advertisements set out in this paragraph, the board of county commissioners may mail a notice to each person owning real property within the area covered by the ordinance or resolution. Such notice shall clearly explain the proposed ordinance or resolution and shall notify the person of the time, place, and location of both public hearings on the proposed ordinance or resolution.

Section 12. Paragraph (a) of subsection (2) of section

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162.12, Florida Statutes, is amended to read:

162.12 Notices.—

(2) In addition to providing notice as set forth in subsection (1), at the option of the code enforcement board or the local government, notice may be served by publication or posting, as follows:

(a)1. Such notice shall be published by print, or on a newspaper's website and the statewide legal notice website as provided in s. 50.0211(5) for 4 consecutive weeks. If published in print, the notice shall be published once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located. The newspaper shall meet such requirements as are prescribed under chapter 50 for legal and official advertisements.

2. Proof of publication shall be made as provided in ss. 50.041 and 50.051.

Section 13. Paragraph (c) of subsection (3) of section 166.041, Florida Statutes, is amended to read:

166.041 Procedures for adoption of ordinances and resolutions.—

(3)

(c) Ordinances initiated by other than the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to paragraph (a). Ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or ordinances initiated by the municipality that change the actual zoning map designation of a parcel or parcels of land shall be

enacted pursuant to the following procedure:

1. In cases in which the proposed ordinance changes the actual zoning map designation for a parcel or parcels of land involving less than 10 contiguous acres, the governing body shall direct the clerk of the governing body to notify by mail each real property owner whose land the municipality will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of the notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the governing body. The governing body shall hold a public hearing on the proposed ordinance and may, upon the conclusion of the hearing, immediately adopt the ordinance.

2. In cases in which the proposed ordinance changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more, the governing body shall provide for public notice and hearings as follows:

a. The local governing body shall hold two advertised public hearings on the proposed ordinance. At least one hearing shall be held after 5 p.m. on a weekday, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing

shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

b. If published in the print edition of a newspaper, the required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper ~~of general paid circulation~~ in the municipality and of general interest and readership in the municipality~~, not one of limited subject matter,~~ pursuant to chapter 50. It is the legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least weekly ~~5 days a week~~ unless the only newspaper in the municipality is published less than weekly ~~5 days a week~~. The advertisement shall be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

The ...(name of local governmental unit)... proposes to adopt the following ordinance:...(title of the ordinance)....

A public hearing on the ordinance will be held on ...(date and time)... at ...(meeting place)....

Except for amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the

advertisement shall contain a geographic location map which clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identification of the general area. If ~~In addition to being~~ published in the print edition of the newspaper, the map must also be part of any ~~the~~ online notice made ~~required~~ pursuant to s. 50.0211.

c. In lieu of publishing the advertisement set out in this paragraph, the municipality may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place, and location of any public hearing on the proposed ordinance.

Section 14. Subsection (1) of section 189.015, Florida Statutes, is amended to read:

189.015 Meetings; notice; required reports.—

(1) The governing body of each special district shall file quarterly, semiannually, or annually a schedule of its regular meetings with the local governing authority or authorities. The schedule shall include the date, time, and location of each scheduled meeting. The schedule shall be published quarterly, semiannually, or annually ~~in a newspaper of general paid circulation~~ in the manner required in this subsection. The governing body of an independent special district shall advertise the day, time, place, and purpose of any meeting other than a regular meeting or any recessed and reconvened meeting of the governing body, at least 7 days before such meeting as provided in chapter 50~~, in a newspaper of general paid circulation~~ in the county or counties in which the special

district is located, unless a bona fide emergency situation exists, in which case a meeting to deal with the emergency may be held as necessary, with reasonable notice, so long as it is subsequently ratified by the governing body. No approval of the annual budget shall be granted at an emergency meeting. The notice shall be posted as provided in ~~advertisement shall be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the county is published fewer than 5 days a week. The newspaper selected must be one of general interest and readership in the community and not one of limited subject matter, pursuant to~~ chapter 50. Any other provision of law to the contrary notwithstanding, and except in the case of emergency meetings, water management districts may provide reasonable notice of public meetings held to evaluate responses to solicitations issued by the water management district, by publication as provided in chapter 50 by Internet publication or by publication in a newspaper ~~of general paid circulation~~ in the county where the principal office of the water management district is located, or in the county or counties where the public work will be performed, no less than 7 days before such meeting.

Section 15. Paragraph (d) of subsection (1) of section 190.005, Florida Statutes, is amended to read:

190.005 Establishment of district.—

(1) The exclusive and uniform method for the establishment of a community development district with a size of 2,500 acres or more shall be pursuant to a rule, adopted under chapter 120

by the Florida Land and Water Adjudicatory Commission, granting a petition for the establishment of a community development district.

(d) A local public hearing on the petition shall be conducted by a hearing officer in conformance with the applicable requirements and procedures of the Administrative Procedure Act. The hearing shall include oral and written comments on the petition pertinent to the factors specified in paragraph (e). The hearing shall be held at an accessible location in the county in which the community development district is to be located. The petitioner shall cause a notice of the hearing to be published for 4 successive weeks on a newspaper's website and the statewide legal notice website provided in s. 50.0211(5) or, if published in print, in a newspaper at least once a week for the 4 successive weeks immediately prior to the hearing as provided in chapter 50. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, which description shall include a map showing clearly the area to be covered by the district, and any other relevant information which the establishing governing bodies may require. If published in the print edition of a newspaper, the advertisement may ~~shall~~ not be placed in the ~~that~~ portion of the newspaper where legal notices and classified advertisements appear. The advertisement must ~~shall~~ be published in a newspaper ~~of general paid circulation~~ in the county and of general interest and readership in the community~~, not one of limited subject matter,~~ pursuant to chapter 50. Whenever possible, the advertisement shall appear in a newspaper that is published at least weekly ~~5~~

~~days a week~~, unless the only newspaper in the community is published less than weekly ~~fewer than 5 days a week~~. If the notice is ~~In addition to being~~ published in the print edition of the newspaper, the map ~~referenced above~~ must also be included in any ~~part of the~~ online advertisement ~~required~~ pursuant to s. 50.0211. All affected units of general-purpose local government and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition.

Section 16. Paragraph (h) of subsection (1) of section 190.046, Florida Statutes, is amended to read:

190.046 Termination, contraction, or expansion of district.—

(1) A landowner or the board may petition to contract or expand the boundaries of a community development district in the following manner:

(h) For a petition to establish a new community development district of less than 2,500 acres on land located solely in one county or one municipality, sufficiently contiguous lands located within the county or municipality which the petitioner anticipates adding to the boundaries of the district within 10 years after the effective date of the ordinance establishing the district may also be identified. If such sufficiently contiguous land is identified, the petition must include a legal description of each additional parcel within the sufficiently contiguous land, the current owner of the parcel, the acreage of the parcel, and the current land use designation of the parcel. At least 14 days before the hearing required under s. 190.005(2)(b), the petitioner must give the current owner of

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each such parcel notice of filing the petition to establish the district, the date and time of the public hearing on the petition, and the name and address of the petitioner. A parcel may not be included in the district without the written consent of the owner of the parcel.

1. After establishment of the district, a person may petition the county or municipality to amend the boundaries of the district to include a previously identified parcel that was a proposed addition to the district before its establishment. A filing fee may not be charged for this petition. Each such petition must include:

a. A legal description by metes and bounds of the parcel to be added;

b. A new legal description by metes and bounds of the district;

c. Written consent of all owners of the parcel to be added;

d. A map of the district including the parcel to be added;

e. A description of the development proposed on the additional parcel; and

f. A copy of the original petition identifying the parcel to be added.

2. Before filing with the county or municipality, the person must provide the petition to the district and to the owner of the proposed additional parcel, if the owner is not the petitioner.

3. Once the petition is determined sufficient and complete, the county or municipality must process the addition of the parcel to the district as an amendment to the ordinance that establishes the district. The county or municipality may process


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all petitions to amend the ordinance for parcels identified in the original petition, even if, by adding such parcels, the district exceeds 2,500 acres.

4. The petitioner shall cause to be published in a newspaper of general circulation in the proposed district a notice of the intent to amend the ordinance that establishes the district. The notice must be in addition to any notice required for adoption of the ordinance amendment. Such notice must be published as provided in chapter 50 at least 10 days before the scheduled hearing on the ordinance amendment ~~and may be published in the section of the newspaper reserved for legal notices~~. The notice must include a general description of the land to be added to the district and the date and time of the scheduled hearing to amend the ordinance. The petitioner shall deliver, including by mail or hand delivery, the notice of the hearing on the ordinance amendment to the owner of the parcel and to the district at least 14 days before the scheduled hearing.

5. The amendment of a district by the addition of a parcel pursuant to this paragraph does not alter the transition from landowner voting to qualified elector voting pursuant to s. 190.006, even if the total size of the district after the addition of the parcel exceeds 5,000 acres. Upon adoption of the ordinance expanding the district, the petitioner must cause to be recorded a notice of boundary amendment which reflects the new boundaries of the district.

6. This paragraph is intended to facilitate the orderly addition of lands to a district under certain circumstances and does not preclude the addition of lands to any district using

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the procedures in the other provisions of this section.

Section 17. Subsection (1) of section 194.037, Florida Statutes, is amended to read:

194.037 Disclosure of tax impact.—

(1) After hearing all petitions, complaints, appeals, and disputes, the clerk shall make public notice of the findings and results of the board as provided in chapter 50. If published in the print edition of a newspaper, the notice must be in at least a quarter-page size advertisement of a standard size or tabloid size newspaper, and the headline shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper ~~of general paid circulation~~ in the county. The newspaper selected shall be one of general interest and readership in the community~~, and not one of limited subject matter,~~ pursuant to chapter 50. For all advertisements published pursuant to this section, the headline shall read: TAX IMPACT OF VALUE ADJUSTMENT BOARD. The public notice shall list the members of the value adjustment board and the taxing authorities to which they are elected. The form shall show, in columnar form, for each of the property classes listed under subsection (2), the following information, with appropriate column totals:

(a) In the first column, the number of parcels for which the board granted exemptions that had been denied or that had not been acted upon by the property appraiser.

(b) In the second column, the number of parcels for which petitions were filed concerning a property tax exemption.

(c) In the third column, the number of parcels for which

the board considered the petition and reduced the assessment from that made by the property appraiser on the initial assessment roll.

(d) In the fourth column, the number of parcels for which petitions were filed but not considered by the board because such petitions were withdrawn or settled prior to the board's consideration.

(e) In the fifth column, the number of parcels for which petitions were filed requesting a change in assessed value, including requested changes in assessment classification.

(f) In the sixth column, the net change in taxable value from the assessor's initial roll which results from board decisions.

(g) In the seventh column, the net shift in taxes to parcels not granted relief by the board. The shift shall be computed as the amount shown in column 6 multiplied by the applicable millage rates adopted by the taxing authorities in hearings held pursuant to s. 200.065(2)(d) or adopted by vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution, but without adjustment as authorized pursuant to s. 200.065(6). If for any taxing authority the hearing has not been completed at the time the notice required herein is prepared, the millage rate used shall be that adopted in the hearing held pursuant to s. 200.065(2)(c).

Section 18. Subsection (1) of section 197.402, Florida Statutes, is amended to read:

197.402 Advertisement of real or personal property with delinquent taxes.—

(1) If advertisements are required, the board of county

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commissioners shall make such notice ~~select the newspaper~~ as provided in chapter 50. The tax collector shall pay all ~~newspaper~~ charges, and the proportionate cost of the advertisements shall be added to the delinquent taxes collected.

Section 19. Subsection (3) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(3) The advertisement shall be published as provided in chapter 50. If the advertisement is published in the print edition of a newspaper, the advertisement must be no less than one-quarter page in size of a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper ~~of general paid circulation~~ in the county or in a geographically limited insert of such newspaper. The geographic boundaries in which such insert is circulated shall include the geographic boundaries of the taxing authority. It is the legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least weekly ~~5 days a week~~ unless the only newspaper in the county is published less than weekly ~~5 days a week~~, or that the advertisement appear in a geographically limited insert of such newspaper which insert is published throughout the taxing authority's jurisdiction at least twice each week. It is further the legislative intent that the newspaper selected be one of general interest and readership in the community ~~and not one of limited subject matter,~~ pursuant to chapter 50.

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(a) For taxing authorities other than school districts which have tentatively adopted a millage rate in excess of 100 percent of the rolled-back rate computed pursuant to subsection (1), the advertisement shall be in the following form:

NOTICE OF PROPOSED TAX INCREASE

The ...(name of the taxing authority)... has tentatively adopted a measure to increase its property tax levy.
Last year’s property tax levy:
A. Initially proposed tax levy.....$XX,XXX,XXX
B. Less tax reductions due to Value Adjustment Board and other assessment changes.....($XX,XXX,XXX)
C. Actual property tax levy.....$XX,XXX,XXX
This year’s proposed tax levy.....$XX,XXX,XXX
All concerned citizens are invited to attend a public hearing on the tax increase to be held on ...(date and time)... at ...(meeting place)....

A FINAL DECISION on the proposed tax increase and the budget will be made at this hearing.

(b) In all instances in which the provisions of paragraph (a) are inapplicable for taxing authorities other than school districts, the advertisement shall be in the following form:

NOTICE OF BUDGET HEARING

The ...(name of taxing authority)... has tentatively adopted a budget for ...(fiscal year).... A public hearing to make a FINAL DECISION on the budget AND TAXES will be held on


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...(date and time)... at ...(meeting place)....

(c) For school districts which have proposed a millage rate in excess of 100 percent of the rolled-back rate computed pursuant to subsection (1) and which propose to levy nonvoted millage in excess of the minimum amount required pursuant to s. 1011.60(6), the advertisement shall be in the following form:

NOTICE OF PROPOSED TAX INCREASE

The ...(name of school district)... will soon consider a measure to increase its property tax levy.

Last year’s property tax levy:

A. Initially proposed tax levy.....$XX,XXX,XXX

B. Less tax reductions due to Value Adjustment Board and other assessment changes.....($XX,XXX,XXX)

C. Actual property tax levy.....$XX,XXX,XXX

This year’s proposed tax levy.....$XX,XXX,XXX

A portion of the tax levy is required under state law in order for the school board to receive $...(amount A)... in state education grants. The required portion has ...(increased or decreased)... by ...(amount B)... percent and represents approximately ...(amount C)... of the total proposed taxes.

The remainder of the taxes is proposed solely at the discretion of the school board.

All concerned citizens are invited to a public hearing on the tax increase to be held on ...(date and time)... at ...(meeting place)....

A DECISION on the proposed tax increase and the budget will be made at this hearing.

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1. AMOUNT A shall be an estimate, provided by the Department of Education, of the amount to be received in the current fiscal year by the district from state appropriations for the Florida Education Finance Program.

2. AMOUNT B shall be the percent increase over the rolled-back rate necessary to levy only the required local effort in the current fiscal year, computed as though in the preceding fiscal year only the required local effort was levied.

3. AMOUNT C shall be the quotient of required local-effort millage divided by the total proposed nonvoted millage, rounded to the nearest tenth and stated in words; however, the stated amount shall not exceed nine-tenths.

(d) For school districts which have proposed a millage rate in excess of 100 percent of the rolled-back rate computed pursuant to subsection (1) and which propose to levy as nonvoted millage only the minimum amount required pursuant to s. 1011.60(6), the advertisement shall be the same as provided in paragraph (c), except that the second and third paragraphs shall be replaced with the following paragraph:

This increase is required under state law in order for the school board to receive $...(amount A)... in state education grants.

(e) In all instances in which the provisions of paragraphs (c) and (d) are inapplicable for school districts, the advertisement shall be in the following form:

NOTICE OF BUDGET HEARING

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The ...(name of school district)... will soon consider a budget for ...(fiscal year).... A public hearing to make a DECISION on the budget AND TAXES will be held on ...(date and time)... at ...(meeting place)....

(f) In lieu of publishing the notice set out in this subsection, the taxing authority may mail a copy of the notice to each elector residing within the jurisdiction of the taxing authority.

(g) In the event that the mailing of the notice of proposed property taxes is delayed beyond September 3 in a county, any multicounty taxing authority which levies ad valorem taxes within that county shall advertise its intention to adopt a tentative budget and millage rate in a newspaper ~~of paid general circulation~~ within that county which meets the requirements of chapter 50, as provided in this subsection, and shall hold the hearing required pursuant to paragraph (2)(c) not less than 2 days or more than 5 days thereafter, and not later than September 18. The advertisement shall be in the following form, unless the proposed millage rate is less than or equal to the rolled-back rate, computed pursuant to subsection (1), in which case the advertisement shall be as provided in paragraph (e):

NOTICE OF TAX INCREASE

The ...(name of the taxing authority)... proposes to increase its property tax levy by ...(percentage of increase over rolled-back rate)... percent.

All concerned citizens are invited to attend a public

hearing on the proposed tax increase to be held on ...(date and time)... at ...(meeting place)....

(h) In no event shall any taxing authority add to or delete from the language of the advertisements as specified herein unless expressly authorized by law, except that, if an increase in ad valorem tax rates will affect only a portion of the jurisdiction of a taxing authority, advertisements may include a map or geographical description of the area to be affected and the proposed use of the tax revenues under consideration. In addition, if published in the print edition of the newspaper or only published on the Internet in accordance with s. 50.0211(5), the map must be included in ~~part of~~ the online advertisement required by s. 50.0211. The advertisements required herein shall not be accompanied, preceded, or followed by other advertising or notices which conflict with or modify the substantive content prescribed herein.

(i) The advertisements required pursuant to paragraphs (b) and (e) need not be one-quarter page in size or have a headline in type no smaller than 18 point.

(j) The amounts to be published as percentages of increase over the rolled-back rate pursuant to this subsection shall be based on aggregate millage rates and shall exclude voted millage levies unless expressly provided otherwise in this subsection.

(k) Any taxing authority which will levy an ad valorem tax for an upcoming budget year but does not levy an ad valorem tax currently shall, in the advertisement specified in paragraph (a), paragraph (c), paragraph (d), or paragraph (g), replace the phrase "increase its property tax levy by ...(percentage of

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increase over rolled-back rate)... percent" with the phrase "impose a new property tax levy of $...(amount)... per $1,000 value."

(l) Any advertisement required pursuant to this section shall be accompanied by an adjacent notice meeting the budget summary requirements of s. 129.03(3)(b). Except for those taxing authorities proposing to levy ad valorem taxes for the first time, the following statement shall appear in the budget summary in boldfaced type immediately following the heading, if the applicable percentage is greater than zero:

THE PROPOSED OPERATING BUDGET EXPENDITURES OF ...(name of taxing authority)... ARE ...(percent rounded to one decimal place)... MORE THAN LAST YEAR'S TOTAL OPERATING EXPENDITURES.

For purposes of this paragraph, "proposed operating budget expenditures" or "operating expenditures" means all moneys of the local government, including dependent special districts, that:

1. Were or could be expended during the applicable fiscal year, or

2. Were or could be retained as a balance for future spending in the fiscal year.

Provided, however, those moneys held in or used in trust, agency, or internal service funds, and expenditures of bond proceeds for capital outlay or for advanced refunded debt principal, shall be excluded.

Section 20. Paragraph (c) of subsection (1) of section


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338.223, Florida Statutes, is amended to read:

338.223 Proposed turnpike projects.—

(1)

(c) Prior to requesting legislative approval of a proposed turnpike project, the environmental feasibility of the proposed project shall be reviewed by the Department of Environmental Protection. The department shall submit its Project Development and Environmental Report to the Department of Environmental Protection, along with a draft copy of a public notice. Within 14 days of receipt of the draft public notice, the Department of Environmental Protection shall return the draft public notice to the Department of Transportation with an approval of the language or modifications to the language. Upon receipt of the approved or modified draft, or if no comments are provided within 14 days, the Department of Transportation shall publish the notice as provided in chapter 50 ~~in a newspaper~~ to provide a 30-day public comment period. If published in the print edition of a newspaper, the headline of the required notice shall be in a type no smaller than 18 point, ~~. The notice~~ shall be placed in that portion of the newspaper where legal notices appear, and ~~.~~ ~~The notice~~ shall be published in a newspaper of general circulation in the county or counties of general interest and readership in the community as provided in s. 50.031~~, not one of limited subject matter~~. Whenever possible, the notice shall appear in a newspaper that is published at least weekly ~~5 days a week~~. All notices published pursuant to this section ~~The notice~~ shall include, at a minimum ~~but is not limited to~~, the following information:

1. The purpose of the notice is to provide for a 30-day

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period for written public comments on the environmental impacts of a proposed turnpike project.

2. The name and description of the project, along with a geographic location map clearly indicating the area where the proposed project will be located.

3. The address where such comments must be sent and the date such comments are due.

After a review of the department's report and any public comments, the Department of Environmental Protection shall submit a statement of environmental feasibility to the department within 30 days after the date on which public comments are due. The notice and the statement of environmental feasibility shall not give rise to any rights to a hearing or other rights or remedies provided pursuant to chapter 120 or chapter 403, and shall not bind the Department of Environmental Protection in any subsequent environmental permit review.

Section 21. Subsection (3) of section 348.0308, Florida Statutes, is amended to read:

348.0308 Public-private partnership.—The Legislature declares that there is a public need for the rapid construction of safe and efficient transportation facilities for traveling within the state and that it is in the public's interest to provide for public-private partnership agreements to effectuate the construction of additional safe, convenient, and economical transportation facilities.

(3) The agency may request proposals for public-private transportation projects or, if it receives an unsolicited proposal, it must publish a notice in the Florida Administrative

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Register and, as provided in chapter 50, by Internet publication or by print in a newspaper of general circulation in the county in which the project ~~it~~ is located at least once a week for 2 weeks stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the agency shall rank the proposals in order of preference. In ranking the proposals, the agency shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the agency is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the agency may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the agency may negotiate in good faith, and if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. The agency may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

Section 22. Subsection (3) of section 348.635, Florida Statutes, is amended to read:

348.635 Public-private partnership.—The Legislature declares that there is a public need for the rapid construction of safe and efficient transportation facilities for traveling within the state and that it is in the public's interest to

provide for public-private partnership agreements to effectuate the construction of additional safe, convenient, and economical transportation facilities.

(3) The authority may request proposals for public-private transportation projects or, if it receives an unsolicited proposal, it must publish a notice in the Florida Administrative Register and, as provided in chapter 50, by either Internet publication or by print in ~~and~~ a newspaper of general circulation in the county in which the project ~~it~~ is located at least once a week for 2 weeks stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith, and if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. The authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

Section 23. Subsection (3) of section 348.7605, Florida Statutes, is amended to read:

348.7605 Public-private partnership.—The Legislature declares that there is a public need for the rapid construction of safe and efficient transportation facilities for traveling within the state and that it is in the public's interest to provide for public-private partnership agreements to effectuate the construction of additional safe, convenient, and economical transportation facilities.

(3) The authority may request proposals for public-private transportation projects or, if it receives an unsolicited proposal, it must publish a notice in the Florida Administrative Register and, as provided in chapter 50, by either Internet publication or by print in a newspaper of general circulation in the county in which the project ~~it~~ is located at least once a week for 2 weeks stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same


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procedure. If only one proposal is received, the authority may negotiate in good faith, and if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. The authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

Section 24. Section 373.0397, Florida Statutes, is amended to read:

373.0397 Floridan and Biscayne aquifers; designation of prime groundwater recharge areas.—Upon preparation of an inventory of prime groundwater recharge areas for the Floridan or Biscayne aquifers, but prior to adoption by the governing board, the water management district shall publish a legal notice of public hearing on the designated areas for the Floridan and Biscayne aquifers, with a map delineating the boundaries of the areas, as provided ~~in newspapers defined~~ in chapter 50 ~~as having general circulation within the area to be affected~~. The notice shall be at least one-fourth page and shall read as follows:

NOTICE OF PRIME RECHARGE
AREA DESIGNATION

The ...(name of taxing authority)... proposes to designate specific land areas as areas of prime recharge to the ...(name of aquifer)... Aquifer.

All concerned citizens are invited to attend a public hearing on the proposed designation to be held on ...(date and time)... at ...(meeting place)....

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A map of the affected areas follows.

The governing board of the water management district shall adopt a designation of prime groundwater recharge areas to the Floridan and Biscayne aquifers by rule within 120 days after the public hearing, subject to the provisions of chapter 120.

Section 25. Section 373.146, Florida Statutes, is amended to read:

373.146 Publication of notices, process, and papers.—

(1) Whenever in this chapter the publication of any notice, process, or paper is required or provided for, unless otherwise provided by law, the publication thereof ~~in some newspaper or newspapers~~ as provided ~~defined~~ in chapter 50 is ~~having general circulation within the area to be affected shall be taken and~~ considered as being sufficient.

(2) Notwithstanding any other provision of law to the contrary, and except in the case of emergency meetings, water management districts may provide reasonable notice of public meetings held to evaluate responses to solicitations issued by the water management district, by publication as provided in chapter 50 ~~in a newspaper of general paid circulation in the county where the principal office of the water management district is located, or in the county or counties where the public work will be performed~~, no less than 7 days before such meeting.

Section 26. Subsection (12) of section 403.722, Florida Statutes, is amended to read:

403.722 Permits; hazardous waste disposal, storage, and treatment facilities.—


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(12) On the same day of filing with the department of an application for a permit for the construction modification, or operation of a hazardous waste facility, the applicant shall notify each city and county within 1 mile of the facility of the filing of the application and shall publish notice of the filing of the application. The applicant shall publish a second notice of the filing within 14 days after the date of filing. Each notice shall be published as provided in chapter 50 ~~in a newspaper of general circulation~~ in the county in which the facility is located or is proposed to be located. ~~Notwithstanding the provisions of chapter 50, for purposes of this section, a "newspaper of general circulation" shall be the newspaper within the county in which the installation or facility is proposed which has the largest daily circulation in that county and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, the notice shall appear in both the newspaper with the largest daily circulation in that county, and a newspaper authorized to publish legal notices in that county.~~ The notice shall contain:

(a) The name of the applicant and a brief description of the project and its location.

(b) The location of the application file and when it is available for public inspection.

The notice shall be prepared by the applicant and shall comply with the following format:

Notice of Application

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The Department of Environmental Protection announces receipt of an application for a permit from ...(name of applicant)... to ...(brief description of project).... This proposed project will be located at ...(location)... in ...(county)... ...(city)....

This application is being processed and is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at ...(name and address of office)....

Section 27. Paragraph (b) of subsection (3) of section 712.06, Florida Statutes, is amended to read:

712.06 Contents of notice; recording and indexing.—

(3) The person providing the notice referred to in s. 712.05, other than a notice for preservation of a community covenant or restriction, shall:

(b) Publish the notice referred to in s. 712.05 by Internet publication as provided in s. 50.0211(5) or printed once a week, for 2 consecutive weeks, in a newspaper as defined in chapter 50~~, the notice referred to in s. 712.05,~~ with the official record book and page number in which such notice was recorded~~,~~ ~~in a newspaper as defined in chapter 50~~ in the county in which the property is located.

Section 28. Subsection (5) of section 849.38, Florida Statutes, is amended to read:

849.38 Proceedings for forfeiture; notice of seizure and order to show cause.—

(5) If the value of the property seized is shown by the sheriff’s return to have an appraised value of $1,000 or less, the above citation shall be served by posting at three public

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places in the county, one of which shall be the front door of the courthouse; if the value of the property is shown by the sheriff's return to have an approximate value of more than $1,000, the citation shall be published by print or posted for at least 2 consecutive weeks on a newspaper's website and the statewide legal notice website in accordance with s. 50.0211(5). If published in print, the citation shall appear at least once each week for 2 consecutive weeks in a ~~some~~ newspaper of general publication published in the county, if there is ~~be~~ such a newspaper published in the county. ~~and~~ If there is no newspaper of general circulation ~~not~~, the ~~then said~~ notice of such publication shall be made by certificate of the clerk if publication is made by posting, and by affidavit as provided in chapter 50, if made by publication as provided in chapter 50 ~~in a newspaper~~, which affidavit or certificate shall be filed and become a part of the record in the cause. Failure of the record to show proof of such publication shall not affect any judgment made in the cause unless it shall affirmatively appear that no such publication was made.

Section 29. Paragraph (a) of subsection (3) of section 865.09, Florida Statutes, is amended to read:

865.09 Fictitious name registration.—

(3) REGISTRATION.—

(a) A person may not engage in business under a fictitious name unless the person first registers the name with the division by filing a registration listing:

1. The name to be registered.

2. The mailing address of the business.

3. The name and address of each registrant.


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4. If the registrant is a business entity that was required to file incorporation or similar documents with its state of organization when it was organized, such entity must be registered with the division and in active status with the division; provide its Florida document registration number; and provide its federal employer identification number if the entity has such a number.

5. Certification by at least one registrant that the intention to register such fictitious name has been advertised as provided ~~at least once in a newspaper as defined~~ in chapter 50 in the county in which the principal place of business of the registrant is or will be located.

6. Any other information the division may reasonably deem necessary to adequately inform other governmental agencies and the public as to the registrant so conducting business.

Section 30. Paragraph (a) of subsection (6) of section 932.704, Florida Statutes, is amended to read:

932.704 Forfeiture proceedings.—

(6)(a) If the property is required by law to be titled or registered, or if the owner of the property is known in fact to the seizing agency, or if the seized property is subject to a perfected security interest in accordance with the Uniform Commercial Code, chapter 679, the attorney for the seizing agency shall serve the forfeiture complaint as an original service of process under the Florida Rules of Civil Procedure and other applicable law to each person having an ownership or security interest in the property. The seizing agency shall also publish, in accordance with chapter 50, notice of the forfeiture complaint for 2 consecutive weeks on a newspaper's website and

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the statewide legal notice website in accordance with s. 50.0211(5) or, if published in print, once each week for 2 consecutive weeks in a newspaper of general circulation~~, as defined in s. 165.031,~~ in the county where the seizure occurred.

Section 31. This act shall take effect July 1, 2022.

========== 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 legal notices; amending s. 50.011, F.S.; revising requirements for newspapers that are qualified to publish legal notices; authorizing the Internet publication of legal notices on certain websites in lieu of print publication in a newspaper; amending s. 50.021, F.S.; conforming provisions to changes made by the act; amending s. 50.0211, F.S.; defining the term "governmental agency"; requiring the Florida Press Association to consult with the Black Press Association of Florida for a specified purpose; authorizing a governmental agency to choose between print publication or Internet-only publication of legal notices with specified newspapers if certain conditions are met; specifying requirements for the placement, format, and accessibility of any such legal notices; requiring the newspaper to display a specified disclaimer regarding the posting of legal notices; authorizing a newspaper to charge for


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Internet-only publication, subject to specified limitations; specifying applicable penalties for unauthorized rebates, commissions, or refunds in connection with publication charges; requiring a governmental agency that publishes certain legal notices by Internet-only publication to publish a specified notice in the print edition of a local newspaper; amending s. 50.031, F.S.; conforming provisions to changes made by the act; amending ss. 50.041 and 50.051, F.S.; revising provisions governing the uniform affidavit establishing proof of publication to conform to changes made by the act; amending ss. 11.02, 120.81, 121.0511, 121.055, 125.66, 162.12, 166.041, 189.015, 190.005, 190.046, 194.037, 197.402, 200.065, 338.223, 348.0308, 348.635, 348.7605, 373.0397, 373.146, 403.722, 712.06, 849.38, 865.09, and 932.704, F.S.; conforming provisions to changes made by the act; providing an effective date.

By the Committee on Judiciary; and Senator Rodrigues

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A bill to be entitled

An act relating to legal notices; amending s. 50.011, F.S.; revising requirements for newspapers that are qualified to publish legal notices; authorizing the Internet publication of legal notices on certain websites in lieu of print publication in a newspaper; amending s. 50.021, F.S.; conforming provisions to changes made by the act; amending s. 50.0211, F.S.; defining the term "governmental agency"; requiring the Florida Press Association to consult with the Black Press Association of Florida for a specified purpose; authorizing a governmental agency to opt for Internet-only publication of legal notices with any newspaper of general circulation within the state if certain conditions are met; specifying requirements for the placement, format, and accessibility of any such legal notices; requiring the newspaper to display a specified disclaimer regarding the posting of legal notices; authorizing a newspaper to charge for Internet-only publication, subject to specified limitations; specifying applicable penalties for unauthorized rebates, commissions, or refunds in connection with publication charges; requiring a governmental agency that publishes certain legal notices by Internet-only publication to publish a specified notice in the print edition of a local newspaper; amending s. 50.031, F.S.; conforming provisions to changes made by the act; amending ss. 50.041 and 50.051, F.S.; revising provisions governing

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the uniform affidavit establishing proof of publication to conform to changes made by the act; amending s. 83.806, F.S.; providing that an advertisement of a sale or disposition of property may be published on certain websites for a specified time period; amending ss. 11.02, 45.031, 120.81, 121.0511, 121.055, 125.66, 162.12, 166.041, 189.015, 190.005, 190.046, 194.037, 197.402, 200.065, 338.223, 348.0308, 348.635, 348.7605, 373.0397, 373.146, 403.722, 712.06, 849.38, 865.09, and 932.704, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 50.011, Florida Statutes, is amended to read:

50.011 Publication of ~~Where and in what language~~ legal notices ~~to be published~~.~~—~~Whenever by statute an official or legal advertisement or a publication, or notice in a newspaper has been or is directed or permitted in the nature of or in lieu of process, or for constructive service, or in initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, or for any purpose, including all legal notices and advertisements of sheriffs and tax collectors, the contemporaneous and continuous intent and meaning of such legislation all and singular, existing or repealed, is and has been and is hereby declared to be and to have been, and the rule of interpretation is and has been the following:~~,~~

(1) A publication in a newspaper printed and published periodically at least once a week ~~or oftener~~, containing at least 25 percent of its words in the English language, ~~entered or qualified to be admitted and entered as periodicals matter at a post office in the county where published, for sale to the public generally,~~ available to the public generally for the publication of official or other notices and customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public; or

(2) By Internet publication on the website of any newspaper of general circulation in this state that otherwise meets the criteria specified in subsection (1) and on the statewide legal notice website as provided under s. 50.0211(5).

Section 2. Section 50.021, Florida Statutes, is amended to read:

50.021 Publication when no newspaper in county.—When any law, or order or decree of court, directs ~~shall direct~~ advertisements to be made in a ~~any~~ county and there is ~~be~~ no newspaper published in the ~~said~~ county, the advertisement may be made by posting on the website of any newspaper of general circulation in this state and on the statewide legal notice website as provided in s. 50.0211(5) or posting three copies thereof in three different places in the ~~said~~ county, one of which shall be at the front door of the courthouse, and by publication in the nearest county in which a newspaper is published.

Section 3. Section 50.0211, Florida Statutes, is amended to

read:

50.0211 Internet website publication.—

(1) As used in this section, the term "governmental agency" means a county, municipality, district school board, or other unit of local government or political subdivision in this state.

(2) This section applies to legal notices that must be published in accordance with this chapter unless otherwise specified.

(3) ~~(2)~~ If a governmental agency publishes a legal notice in the print edition of a newspaper, each legal notice must be posted on the newspaper's website on the same day that the printed notice appears in the newspaper, at no additional charge, in a separate web page titled "Legal Notices," "Legal Advertising," or comparable identifying language. A link to the legal notices web page shall be provided on the front page of the newspaper's website that provides access to the legal notices. If there is a specified size and placement required for a printed legal notice, the size and placement of the notice on the newspaper's website must optimize its online visibility in keeping with the print requirements. The newspaper's web pages that contain legal notices must present the legal notices as the dominant and leading subject matter of those pages. The newspaper's website must contain a search function to facilitate searching the legal notices. A fee may not be charged, and registration may not be required, for viewing or searching legal notices on a newspaper's website if the legal notice is published in a newspaper.

(4)(a) ~~(3)(a)~~ If a legal notice is published in the print edition of a newspaper or on a newspaper's website, the

newspaper publishing the notice shall place the notice on the statewide website established and maintained as an initiative of the Florida Press Association as a repository for such notices located at the following address: www.floridapublicnotices.com.

(b) A legal notice placed on the statewide website created under this subsection must be:

1. Accessible and searchable by party name and case number.

2. Posted for a period of at least 90 consecutive days after the first day of posting.

(c) The statewide website created under this subsection shall maintain a searchable archive of all legal notices posted on the publicly accessible website ~~on or after October 1, 2014,~~ for 18 months after the first day of posting. Such searchable archive shall be provided and accessible to the general public without charge.

(d) In its operation of the statewide website, the Florida Press Association shall consult with the Black Press Association of Florida to ensure that minority populations throughout the state have equitable access to legal notices that are posted on the Internet.

(5)(a) In lieu of publishing a legal notice in the print edition of a newspaper of general circulation within the jurisdiction of the affected governmental agency, a governmental agency may opt for Internet-only publication with any newspaper of general circulation within this state so long as the governmental agency determines that the Internet publication of such notice would not unreasonably restrict public access. Any such notice that is published only on the Internet in accordance with this subsection must be placed in the legal notices section

of the newspaper's website and the statewide website established under subsection (4). All requirements regarding the format and accessibility of legal notices placed on the newspaper's website and the statewide website in subsections (3) and (4) also apply to legal notices that are published only on the Internet in accordance with this subsection.

(b) The legal notices section of the print edition of a newspaper and a newspaper's website must include a disclaimer stating that the listing of legal notices may not include all legal notices affecting the area of distribution of the newspaper and that additional legal notices may be accessed on the statewide legal notice website.

(c) A newspaper may charge for the publication of any legal notice that is published only on the newspaper's website, without rebate, commission, or refund; however, the newspaper may not charge any higher rate for publication than the amount that would be authorized under s. 50.061 if the legal notice had been printed in the newspaper. The penalties prescribed in s. 50.061(7) for allowing or accepting any rebate, commission, or refund in connection to the amounts charged for publication also apply to any legal notices that are published only on the Internet in accordance with this subsection.

(d) If a governmental agency exercises the option to publish legal notices on the Internet in accordance with this subsection, such agency must provide notice at least once per week in the print edition of a newspaper of general circulation within the region in which the governmental agency is located which states that legal notices pertaining to the agency do not all appear in the print edition of the local newspaper and that

a full listing of any legal notices may be accessed on the statewide legal notice website located at www.floridapublicnotices.com.

(6)~~(4)~~ Newspapers that publish legal notices shall, upon request, provide e-mail notification of new legal notices when they are published ~~printed~~ in the newspaper or on ~~and added to~~ the newspaper's website. Such e-mail notification shall be provided without charge, and notification for such an e-mail registry shall be available on the front page of the legal notices section of the newspaper's website.

Section 4. Section 50.031, Florida Statutes, is amended to read:

50.031 Newspapers in which legal notices and process may be published.—No notice or publication required to be published in the print edition of a newspaper or on a newspaper's website in the nature of or in lieu of process of any kind, nature, character or description provided for under any law of the state, whether heretofore or hereafter enacted, and whether pertaining to constructive service, or the initiating, assuming, reviewing, exercising or enforcing jurisdiction or power, by any court in this state, or any notice of sale of property, real or personal, for taxes, state, county or municipal, or sheriff's, guardian's or administrator's or any sale made pursuant to any judicial order, decree or statute or any other publication or notice pertaining to any affairs of the state, or any county, municipality or other political subdivision thereof, shall be deemed to have been published in accordance with the statutes providing for such publication, unless the same shall have been published for the prescribed period of time required for such

publication, in a newspaper which at the time of such publication shall have been in existence for 1 year ~~and shall have been entered as periodicals matter at a post office in the county where published,~~ or in a newspaper which is a direct successor of a newspaper which has ~~together have~~ been so published; provided, however, that nothing herein contained shall apply where in any county there shall be no newspaper in existence which shall have been published for the length of time above prescribed. No legal publication of any kind, nature or description, as herein defined, shall be valid or binding or held to be in compliance with the statutes providing for such publication unless the same shall have been published in accordance with the provisions of this section or s. 50.0211(5). Proof of such publication shall be made by uniform affidavit.

Section 5. Section 50.041, Florida Statutes, is amended to read:

50.041 Proof of publication; uniform affidavits required.—

(1) All affidavits ~~of publishers of newspapers (or their official representatives)~~ made for the purpose of establishing proof of publication of public notices or legal advertisements shall be uniform throughout the state.

(2) Each such affidavit shall be printed upon white paper and shall be 8 1/2 inches in width and of convenient length, not less than 5 1/2 inches. A white margin of not less than 2 1/2 inches shall be left at the right side of each affidavit form and upon or in this space shall be substantially pasted a clipping which shall be a true copy of the public notice or legal advertisement for which proof is executed. Alternatively, the affidavit may be provided in electronic rather than paper

form, provided the notarization of the affidavit complies with the requirements of s. 117.021.

(3) ~~In all counties having a population in excess of 450,000 according to the latest official decennial census, in addition to the charges which are now or may hereafter be established by law for the publication of every official notice or legal advertisement,~~ There may be a charge not to exceed $2 levied for the preparation and execution of each such proof of publication or ~~publisher's~~ affidavit.

Section 6. Section 50.051, Florida Statutes, is amended to read:

50.051 Proof of publication; form of uniform affidavit.—The printed form upon which all such affidavits establishing proof of publication are to be executed shall be substantially as follows:

NAME OF COUNTY ~~NEWSPAPER~~

~~Published (Weekly or Daily)~~

~~(Town or City) (County) FLORIDA~~

STATE OF FLORIDA

COUNTY OF ....:

Before the undersigned authority personally appeared ...., who on oath says that he or she is .... of the ...., a .... newspaper published at .... in .... County, Florida; that the attached copy of advertisement, being a .... in the matter of .... in the .... Court, was published in said newspaper by print in the issues of .... or by publication on the newspaper's website on ...(date)....

Affiant further says that the newspaper complies with all

legal requirements for publication in chapter 50, Florida Statutes ~~said .... is a newspaper published at ...., in said .... County, Florida, and that the said newspaper has heretofore been continuously published in said .... County, Florida, each .... and has been entered as periodicals matter at the post office in ...., in said .... County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper~~.

Sworn to and subscribed before me this .... day of ...., ...(year)..., by ...., who is personally known to me or who has produced (type of identification) as identification.

...(Signature of Notary Public)...

...(Print, Type, or Stamp Commissioned Name of Notary Public)...

...(Notary Public)...

Section 7. Subsection (4) of section 83.806, Florida Statutes, is amended to read:

83.806 Enforcement of lien.—An owner's lien as provided in s. 83.805 may be satisfied as follows:

(4) After the expiration of the time given in the notice, an advertisement of the sale or other disposition shall be published once a week for 2 consecutive weeks in a newspaper of

general circulation in the area where the self-service storage facility or self-contained storage unit is located or published continuously for 14 consecutive days on a public website that customarily conducts personal property auctions.

(a) A lien sale may be conducted on a public website that customarily conducts personal property auctions. The facility or unit owner is not required to hold a license to post property for online sale. Inasmuch as any sale may involve property of more than one tenant, a single advertisement may be used to dispose of property at any one sale.

(b) The advertisement shall include:

1. A brief and general description of what is believed to constitute the personal property contained in the storage unit, as provided in paragraph (2)(b).

2. The address of the self-service storage facility or the address where the self-contained storage unit is located and the name of the tenant.

3. The time, place, and manner of the sale or other disposition. The sale or other disposition shall take place at least 15 days after the first publication.

(c) If there is no newspaper of general circulation in the area where the self-service storage facility or self-contained storage unit is located, the advertisement shall be posted at least 10 days before the date of the sale or other disposition in at least three conspicuous places in the neighborhood where the self-service storage facility or self-contained storage unit is located or published continuously for 14 consecutive days on a public website that customarily conducts personal property auctions.

Section 8. Section 11.02, Florida Statutes, is amended to read:

11.02 Notice of special or local legislation or certain relief acts.—The notice required to obtain special or local legislation or any relief act specified in s. 11.065 shall be by publishing the identical notice ~~in each county involved in some newspaper~~ as provided ~~defined~~ in chapter 50 ~~published in~~ or circulated throughout the county or counties where the matter or thing to be affected by such legislation shall be situated one time at least 30 days before introduction of the proposed law into the Legislature or, if the notice is not made by Internet publication as provided in s. 50.0211(5) and there being no newspaper circulated throughout or published in the county, by posting for at least 30 days at not less than three public places in the county or each of the counties, one of which places shall be at the courthouse in the county or counties where the matter or thing to be affected by such legislation shall be situated. Notice of special or local legislation shall state the substance of the contemplated law, as required by s. 10, Art. III of the State Constitution. Notice of any relief act specified in s. 11.065 shall state the name of the claimant, the nature of the injury or loss for which the claim is made, and the amount of the claim against the affected municipality's revenue-sharing trust fund.

Section 9. Subsection (2) of section 45.031, Florida Statutes, is amended to read:

45.031 Judicial sales procedure.—In any sale of real or personal property under an order or judgment, the procedures provided in this section and ss. 45.0315-45.035 may be followed

as an alternative to any other sale procedure if so ordered by the court.

(2) PUBLICATION OF SALE.—Notice of sale shall be published by Internet publication in accordance with s. 50.0211(5) for at least 2 consecutive weeks before the sale or, if published in print, once a week for 2 consecutive weeks in a newspaper of general circulation~~,~~ as provided ~~defined~~ in chapter 50, published in the county where the sale is to be held. The second publication by print shall be at least 5 days before the sale. The notice shall contain:

(a) A description of the property to be sold.

(b) The time and place of sale.

(c) A statement that the sale will be made pursuant to the order or final judgment.

(d) The caption of the action.

(e) The name of the clerk making the sale.

(f) A statement that any person claiming an interest in the surplus from the sale, if any, other than the property owner as of the date of the lis pendens must file a claim before the clerk reports the surplus as unclaimed.

The court, in its discretion, may enlarge the time of the sale. Notice of the changed time of sale shall be published as provided herein.

Section 10. Paragraph (d) of subsection (1) of section 120.81, Florida Statutes, is amended to read:

120.81 Exceptions and special requirements; general areas.—

(1) EDUCATIONAL UNITS.—

(d) Notwithstanding any other provision of this chapter,

educational units shall not be required to include the full text of the rule or rule amendment in notices relating to rules and need not publish these or other notices in the Florida Administrative Register, but notice shall be made:

1. By publication in the print edition of a newspaper of general circulation in the affected area or by Internet publication in accordance with s. 50.0211(5);

2. By mail to all persons who have made requests of the educational unit for advance notice of its proceedings and to organizations representing persons affected by the proposed rule; and

3. By posting in appropriate places so that those particular classes of persons to whom the intended action is directed may be duly notified.

Section 11. Subsection (2) of section 121.0511, Florida Statutes, is amended to read:

121.0511 Revocation of election and alternative plan.—The governing body of any municipality or independent special district that has elected to participate in the Florida Retirement System may revoke its election in accordance with the following procedure:

(2) At least 7 days, but not more than 15 days, before the hearing, notice of intent to revoke, specifying the time and place of the hearing, must be published as provided in chapter 50 ~~in a newspaper of general circulation in the area affected, as provided by ss. 50.011-50.031~~. Proof of publication of the notice must be submitted to the Department of Management Services.

Section 12. Paragraphs (b) and (h) of subsection (1) of

section 121.055, Florida Statutes, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(b)1. Except as provided in subparagraph 2., effective January 1, 1990, participation in the Senior Management Service Class is compulsory for the president of each community college, the manager of each participating municipality or county, and all appointed district school superintendents. Effective January 1, 1994, additional positions may be designated for inclusion in the Senior Management Service Class if:

a. Positions to be included in the class are designated by the local agency employer. Notice of intent to designate positions for inclusion in the class must be published for at least 2 consecutive weeks if published by Internet publication as provided in s. 50.0211(5) or, if published in print, once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected~~,~~ as provided in chapter 50.

b. Up to 10 nonelective full-time positions may be designated for each local agency employer reporting to the department; for local agencies with 100 or more regularly established positions, additional nonelective full-time positions may be designated, not to exceed 1 percent of the regularly established positions within the agency.

c. Each position added to the class must be a managerial or policymaking position filled by an employee who is not subject

to continuing contract and serves at the pleasure of the local agency employer without civil service protection, and who:

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. In lieu of participation in the Senior Management Service Class, members of the Senior Management Service Class, pursuant to subparagraph 1., may withdraw from the Florida Retirement System altogether. The decision to withdraw from the system is irrevocable as long as the employee holds the position. Any service creditable under the Senior Management Service Class shall be retained after the member withdraws from the system; however, additional service credit in the Senior Management Service Class may not be earned after such withdrawal. Such members are not eligible to participate in the Senior Management Service Optional Annuity Program.

3. Effective January 1, 2006, through June 30, 2006, an employee who has withdrawn from the Florida Retirement System under subparagraph 2. has one opportunity to elect to participate in the pension plan or the investment plan.

a. If the employee elects to participate in the investment plan, membership shall be prospective, and the applicable provisions of s. 121.4501(4) govern the election.

b. If the employee elects to participate in the pension plan, the employee shall, upon payment to the system trust fund of the amount calculated under sub-sub-subparagraph (I), receive service credit for prior service based upon the time during which the employee had withdrawn from the system.

(I) The cost for such credit shall be an amount representing the actuarial accrued liability for the affected period of service. The cost shall be calculated using the discount rate and other relevant actuarial assumptions that were used to value the pension plan liabilities in the most recent actuarial valuation. The calculation must include any service already maintained under the pension plan in addition to the period of withdrawal. The actuarial accrued liability attributable to any service already maintained under the pension plan shall be applied as a credit to the total cost resulting from the calculation. The division must ensure that the transfer sum is prepared using a formula and methodology certified by an actuary.

(II) The employee must transfer a sum representing the net cost owed for the actuarial accrued liability in sub-sub-subparagraph (I) immediately following the time of such movement, determined assuming that attained service equals the sum of service in the pension plan and the period of withdrawal.

(h)1. Except as provided in subparagraph 3., effective January 1, 1994, participation in the Senior Management Service Class shall be compulsory for the State Courts Administrator and the Deputy State Courts Administrators, the Clerk of the Supreme Court, the Marshal of the Supreme Court, the Executive Director of the Justice Administrative Commission, the capital collateral regional counsel, the clerks of the district courts of appeals, the marshals of the district courts of appeals, and the trial court administrator and the Chief Deputy Court Administrator in each judicial circuit. Effective January 1, 1994, additional positions in the offices of the state attorney and public

defender in each judicial circuit may be designated for inclusion in the Senior Management Service Class of the Florida Retirement System, provided that:

a. Positions to be included in the class shall be designated by the state attorney or public defender, as appropriate. Notice of intent to designate positions for inclusion in the class shall be published for at least 2 consecutive weeks by Internet publication as provided in s. 50.0211(5) or, if published in print, once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected~~,~~ as provided in chapter 50.

b. One nonelective full-time position may be designated for each state attorney and public defender reporting to the Department of Management Services; for agencies with 200 or more regularly established positions under the state attorney or public defender, additional nonelective full-time positions may be designated, not to exceed 0.5 percent of the regularly established positions within the agency.

c. Each position added to the class must be a managerial or policymaking position filled by an employee who serves at the pleasure of the state attorney or public defender without civil service protection, and who:

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. Participation in this class shall be compulsory, except as provided in subparagraph 3., for any judicial employee who

holds a position designated for coverage in the Senior Management Service Class, and such participation shall continue until the employee terminates employment in a covered position. Effective January 1, 2001, participation in this class is compulsory for assistant state attorneys, assistant statewide prosecutors, assistant public defenders, and assistant capital collateral regional counsel. Effective January 1, 2002, participation in this class is compulsory for assistant attorneys general.

3. In lieu of participation in the Senior Management Service Class, such members, excluding assistant state attorneys, assistant public defenders, assistant statewide prosecutors, assistant attorneys general, and assistant capital collateral regional counsel, may participate in the Senior Management Service Optional Annuity Program as established in subsection (6).

Section 13. Paragraph (a) of subsection (2) and paragraph (b) of subsection (4) of section 125.66, Florida Statutes, are amended to read:

125.66 Ordinances; enactment procedure; emergency ordinances; rezoning or change of land use ordinances or resolutions.—

(2)(a) The regular enactment procedure shall be as follows: The board of county commissioners at any regular or special meeting may enact or amend any ordinance, except as provided in subsection (4), if notice of intent to consider such ordinance is given at least 10 days <u>before such</u> ~~prior to said~~ meeting by publication <u>as provided in chapter 50</u> ~~in a newspaper of general circulation in the county~~. A copy of such notice shall be kept

available for public inspection during the regular business hours of the office of the clerk of the board of county commissioners. The notice of proposed enactment shall state the date, time, and place of the meeting; the title or titles of proposed ordinances; and the place or places within the county where such proposed ordinances may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the proposed ordinance.

(4) Ordinances or resolutions, initiated by other than the county, that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to subsection (2). Ordinances or resolutions that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or ordinances or resolutions initiated by the county that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to the following procedure:

(b) In cases in which the proposed ordinance or resolution changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more, the board of county commissioners shall provide for public notice and hearings as follows:

1. The board of county commissioners shall hold two advertised public hearings on the proposed ordinance or resolution. At least one hearing shall be held after 5 p.m. on a weekday, unless the board of county commissioners, by a majority plus one vote, elects to conduct that hearing at another time of

day. The first public hearing shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

2. If published in the print edition of a newspaper, the required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper ~~of general paid circulation~~ in the county and of general interest and readership in the community pursuant to chapter 50, not one of limited subject matter. It is the legislative intent that, whenever possible, the advertisement shall appear in a newspaper that is published at least weekly ~~5 days a week~~ unless the only newspaper in the community is published less than weekly ~~5 days a week~~. The advertisement shall be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

The ...(name of local governmental unit)... proposes to adopt the following by ordinance or resolution:...(title of ordinance or resolution)....

A public hearing on the ordinance or resolution will be held on ...(date and time)... at ...(meeting place)....

Except for amendments which change the actual list of permitted,

conditional, or prohibited uses within a zoning category, the advertisement shall contain a geographic location map which clearly indicates the area within the local government covered by the proposed ordinance or resolution. The map shall include major street names as a means of identification of the general area. If ~~In addition to being~~ published in the print edition of the newspaper, the map must be part of any ~~the~~ online notice made ~~required~~ pursuant to s. 50.0211.

3. In lieu of publishing the advertisements set out in this paragraph, the board of county commissioners may mail a notice to each person owning real property within the area covered by the ordinance or resolution. Such notice shall clearly explain the proposed ordinance or resolution and shall notify the person of the time, place, and location of both public hearings on the proposed ordinance or resolution.

Section 14. Paragraph (a) of subsection (2) of section 162.12, Florida Statutes, is amended to read:

162.12 Notices.—

(2) In addition to providing notice as set forth in subsection (1), at the option of the code enforcement board or the local government, notice may be served by publication or posting, as follows:

(a)1. Such notice shall be published for 4 consecutive weeks on a newspaper's website and the statewide legal notice website as provided in s. 50.0211(5) or, if published in print, once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located. The newspaper shall meet such requirements as are prescribed under

chapter 50 for legal and official advertisements.

2. Proof of publication shall be made as provided in ss. 50.041 and 50.051.

Section 15. Paragraph (c) of subsection (3) of section 166.041, Florida Statutes, is amended to read:

166.041 Procedures for adoption of ordinances and resolutions.—

(3)

(c) Ordinances initiated by other than the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to paragraph (a). Ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or ordinances initiated by the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to the following procedure:

1. In cases in which the proposed ordinance changes the actual zoning map designation for a parcel or parcels of land involving less than 10 contiguous acres, the governing body shall direct the clerk of the governing body to notify by mail each real property owner whose land the municipality will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of the notice shall be kept available for public inspection during the regular business hours of the

office of the clerk of the governing body. The governing body shall hold a public hearing on the proposed ordinance and may, upon the conclusion of the hearing, immediately adopt the ordinance.

2. In cases in which the proposed ordinance changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more, the governing body shall provide for public notice and hearings as follows:

a. The local governing body shall hold two advertised public hearings on the proposed ordinance. At least one hearing shall be held after 5 p.m. on a weekday, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

b. If published in the print edition of a newspaper, the required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper ~~of general paid circulation~~ in the municipality and of general interest and readership in the municipality, not one of limited subject matter, pursuant to chapter 50. It is the

legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least weekly ~~5 days a week~~ unless the only newspaper in the municipality is published less than weekly ~~5 days a week~~. The advertisement shall be in substantially the following form:

NOTICE OF (TYPE OF) CHANGE

The ...(name of local governmental unit)... proposes to adopt the following ordinance:...(title of the ordinance)....

A public hearing on the ordinance will be held on ...(date and time)... at ...(meeting place)....

Except for amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement shall contain a geographic location map which clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identification of the general area. If ~~In addition to being~~ published in the print edition of the newspaper, the map must also be part of any ~~the~~ online notice made ~~required~~ pursuant to s. 50.0211.

c. In lieu of publishing the advertisement set out in this paragraph, the municipality may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place, and location of any public hearing on the proposed ordinance.

Section 16. Subsection (1) of section 189.015, Florida

Statutes, is amended to read:

189.015 Meetings; notice; required reports.—

(1) The governing body of each special district shall file quarterly, semiannually, or annually a schedule of its regular meetings with the local governing authority or authorities. The schedule shall include the date, time, and location of each scheduled meeting. The schedule shall be published quarterly, semiannually, or annually ~~in a newspaper of general paid circulation~~ in the manner required in this subsection. The governing body of an independent special district shall advertise the day, time, place, and purpose of any meeting other than a regular meeting or any recessed and reconvened meeting of the governing body, at least 7 days before such meeting as provided in chapter 50, ~~in a newspaper of general paid circulation in the county or counties in which the special district is located,~~ unless a bona fide emergency situation exists, in which case a meeting to deal with the emergency may be held as necessary, with reasonable notice, so long as it is subsequently ratified by the governing body. No approval of the annual budget shall be granted at an emergency meeting. The notice shall be posted as provided in ~~advertisement shall be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the county is published fewer than 5 days a week. The newspaper selected must be one of general interest and readership in the community and not one of limited subject matter, pursuant to~~ chapter 50. Any other provision of law to the contrary notwithstanding, and except in the case of

emergency meetings, water management districts may provide reasonable notice of public meetings held to evaluate responses to solicitations issued by the water management district, by publication as provided in chapter 50 by Internet publication or by publication in a newspaper ~~of general paid circulation~~ in the county where the principal office of the water management district is located, or in the county or counties where the public work will be performed, no less than 7 days before such meeting.

Section 17. Paragraph (d) of subsection (1) of section 190.005, Florida Statutes, is amended to read:

190.005 Establishment of district.—

(1) The exclusive and uniform method for the establishment of a community development district with a size of 2,500 acres or more shall be pursuant to a rule, adopted under chapter 120 by the Florida Land and Water Adjudicatory Commission, granting a petition for the establishment of a community development district.

(d) A local public hearing on the petition shall be conducted by a hearing officer in conformance with the applicable requirements and procedures of the Administrative Procedure Act. The hearing shall include oral and written comments on the petition pertinent to the factors specified in paragraph (e). The hearing shall be held at an accessible location in the county in which the community development district is to be located. The petitioner shall cause a notice of the hearing to be published for 4 successive weeks on a newspaper's website and the statewide legal notice website provided in s. 50.0211(5) or, if published in print, in a

newspaper at least once a week for the 4 successive weeks immediately prior to the hearing as provided in chapter 50. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, which description shall include a map showing clearly the area to be covered by the district, and any other relevant information which the establishing governing bodies may require. If published in the print edition of a newspaper, the advertisement may ~~shall~~ not be placed in the ~~that~~ portion of the newspaper where legal notices and classified advertisements appear. The advertisement must ~~shall~~ be published in a newspaper ~~of general paid circulation~~ in the county and of general interest and readership in the community, not one of limited subject matter, pursuant to chapter 50. Whenever possible, the advertisement shall appear in a newspaper that is published at least weekly ~~5 days a week~~, unless the only newspaper in the community is published less than weekly ~~fewer than 5 days a week~~. If the notice is ~~In addition to being~~ published in the print edition of the newspaper, the map ~~referenced above~~ must also be included in any ~~part of the~~ online advertisement ~~required~~ pursuant to s. 50.0211. All affected units of general-purpose local government and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition.

Section 18. Paragraph (h) of subsection (1) of section 190.046, Florida Statutes, is amended to read:

190.046 Termination, contraction, or expansion of district.—

(1) A landowner or the board may petition to contract or

expand the boundaries of a community development district in the following manner:

(h) For a petition to establish a new community development district of less than 2,500 acres on land located solely in one county or one municipality, sufficiently contiguous lands located within the county or municipality which the petitioner anticipates adding to the boundaries of the district within 10 years after the effective date of the ordinance establishing the district may also be identified. If such sufficiently contiguous land is identified, the petition must include a legal description of each additional parcel within the sufficiently contiguous land, the current owner of the parcel, the acreage of the parcel, and the current land use designation of the parcel. At least 14 days before the hearing required under s. 190.005(2)(b), the petitioner must give the current owner of each such parcel notice of filing the petition to establish the district, the date and time of the public hearing on the petition, and the name and address of the petitioner. A parcel may not be included in the district without the written consent of the owner of the parcel.

1. After establishment of the district, a person may petition the county or municipality to amend the boundaries of the district to include a previously identified parcel that was a proposed addition to the district before its establishment. A filing fee may not be charged for this petition. Each such petition must include:

a. A legal description by metes and bounds of the parcel to be added;

b. A new legal description by metes and bounds of the

district;

c. Written consent of all owners of the parcel to be added;

d. A map of the district including the parcel to be added;

e. A description of the development proposed on the additional parcel; and

f. A copy of the original petition identifying the parcel to be added.

2. Before filing with the county or municipality, the person must provide the petition to the district and to the owner of the proposed additional parcel, if the owner is not the petitioner.

3. Once the petition is determined sufficient and complete, the county or municipality must process the addition of the parcel to the district as an amendment to the ordinance that establishes the district. The county or municipality may process all petitions to amend the ordinance for parcels identified in the original petition, even if, by adding such parcels, the district exceeds 2,500 acres.

4. The petitioner shall cause to be published in a newspaper of general circulation in the proposed district a notice of the intent to amend the ordinance that establishes the district. The notice must be in addition to any notice required for adoption of the ordinance amendment. Such notice must be published as provided in chapter 50 at least 10 days before the scheduled hearing on the ordinance amendment ~~and may be published in the section of the newspaper reserved for legal notices~~. The notice must include a general description of the land to be added to the district and the date and time of the scheduled hearing to amend the ordinance. The petitioner shall

deliver, including by mail or hand delivery, the notice of the hearing on the ordinance amendment to the owner of the parcel and to the district at least 14 days before the scheduled hearing.

5. The amendment of a district by the addition of a parcel pursuant to this paragraph does not alter the transition from landowner voting to qualified elector voting pursuant to s. 190.006, even if the total size of the district after the addition of the parcel exceeds 5,000 acres. Upon adoption of the ordinance expanding the district, the petitioner must cause to be recorded a notice of boundary amendment which reflects the new boundaries of the district.

6. This paragraph is intended to facilitate the orderly addition of lands to a district under certain circumstances and does not preclude the addition of lands to any district using the procedures in the other provisions of this section.

Section 19. Subsection (1) of section 194.037, Florida Statutes, is amended to read:

194.037 Disclosure of tax impact.—

(1) After hearing all petitions, complaints, appeals, and disputes, the clerk shall make public notice of the findings and results of the board as provided in chapter 50. If published in the print edition of a newspaper, the notice must be in at least a quarter-page size advertisement of a standard size or tabloid size newspaper, and the headline shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper ~~of general paid circulation~~ in the county. The

newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter, pursuant to chapter 50. For all advertisements published pursuant to this section, the headline shall read: TAX IMPACT OF VALUE ADJUSTMENT BOARD. The public notice shall list the members of the value adjustment board and the taxing authorities to which they are elected. The form shall show, in columnar form, for each of the property classes listed under subsection (2), the following information, with appropriate column totals:

(a) In the first column, the number of parcels for which the board granted exemptions that had been denied or that had not been acted upon by the property appraiser.

(b) In the second column, the number of parcels for which petitions were filed concerning a property tax exemption.

(c) In the third column, the number of parcels for which the board considered the petition and reduced the assessment from that made by the property appraiser on the initial assessment roll.

(d) In the fourth column, the number of parcels for which petitions were filed but not considered by the board because such petitions were withdrawn or settled prior to the board's consideration.

(e) In the fifth column, the number of parcels for which petitions were filed requesting a change in assessed value, including requested changes in assessment classification.

(f) In the sixth column, the net change in taxable value from the assessor's initial roll which results from board decisions.

(g) In the seventh column, the net shift in taxes to

parcels not granted relief by the board. The shift shall be computed as the amount shown in column 6 multiplied by the applicable millage rates adopted by the taxing authorities in hearings held pursuant to s. 200.065(2)(d) or adopted by vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution, but without adjustment as authorized pursuant to s. 200.065(6). If for any taxing authority the hearing has not been completed at the time the notice required herein is prepared, the millage rate used shall be that adopted in the hearing held pursuant to s. 200.065(2)(c).

Section 20. Subsection (1) of section 197.402, Florida Statutes, is amended to read:

197.402 Advertisement of real or personal property with delinquent taxes.—

(1) If advertisements are required, the board of county commissioners shall make such notice ~~select the newspaper~~ as provided in chapter 50. The tax collector shall pay all ~~newspaper~~ charges, and the proportionate cost of the advertisements shall be added to the delinquent taxes collected.

Section 21. Subsection (3) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(3) The advertisement shall be published as provided in chapter 50. If the advertisement is published in the print edition of a newspaper, the advertisement must be no less than one-quarter page in size of a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and

classified advertisements appear. The advertisement shall be published in a newspaper ~~of general paid circulation~~ in the county or in a geographically limited insert of such newspaper. The geographic boundaries in which such insert is circulated shall include the geographic boundaries of the taxing authority. It is the legislative intent that, whenever possible, the advertisement appear in a newspaper that is published at least weekly ~~5 days a week~~ unless the only newspaper in the county is published less than weekly ~~5 days a week~~, or that the advertisement appear in a geographically limited insert of such newspaper which insert is published throughout the taxing authority's jurisdiction at least twice each week. It is further the legislative intent that the newspaper selected be one of general interest and readership in the community and not one of limited subject matter, pursuant to chapter 50.

(a) For taxing authorities other than school districts which have tentatively adopted a millage rate in excess of 100 percent of the rolled-back rate computed pursuant to subsection (1), the advertisement shall be in the following form:

NOTICE OF PROPOSED TAX INCREASE

The ...(name of the taxing authority)... has tentatively adopted a measure to increase its property tax levy.

Last year's property tax levy:

A. Initially proposed tax levy.....$XX,XXX,XXX

B. Less tax reductions due to Value Adjustment Board and other assessment changes.....($XX,XXX,XXX)

C. Actual property tax levy.....$XX,XXX,XXX

This year's proposed tax levy.....$XX,XXX,XXX

All concerned citizens are invited to attend a public hearing on the tax increase to be held on ...(date and time)... at ...(meeting place)....

A FINAL DECISION on the proposed tax increase and the budget will be made at this hearing.

(b) In all instances in which the provisions of paragraph (a) are inapplicable for taxing authorities other than school districts, the advertisement shall be in the following form:

NOTICE OF BUDGET HEARING

The ...(name of taxing authority)... has tentatively adopted a budget for ...(fiscal year).... A public hearing to make a FINAL DECISION on the budget AND TAXES will be held on ...(date and time)... at ...(meeting place)....

(c) For school districts which have proposed a millage rate in excess of 100 percent of the rolled-back rate computed pursuant to subsection (1) and which propose to levy nonvoted millage in excess of the minimum amount required pursuant to s. 1011.60(6), the advertisement shall be in the following form:

NOTICE OF PROPOSED TAX INCREASE

The ...(name of school district)... will soon consider a measure to increase its property tax levy.

Last year's property tax levy:

A. Initially proposed tax levy.....$XX,XXX,XXX

B. Less tax reductions due to Value Adjustment Board and

other assessment changes.....($XX,XXX,XXX)

C. Actual property tax levy.....$XX,XXX,XXX

This year's proposed tax levy.....$XX,XXX,XXX

A portion of the tax levy is required under state law in order for the school board to receive $...(amount A)... in state education grants. The required portion has ...(increased or decreased)... by ...(amount B)... percent and represents approximately ...(amount C)... of the total proposed taxes.

The remainder of the taxes is proposed solely at the discretion of the school board.

All concerned citizens are invited to a public hearing on the tax increase to be held on ...(date and time)... at ...(meeting place)....

A DECISION on the proposed tax increase and the budget will be made at this hearing.

1. AMOUNT A shall be an estimate, provided by the Department of Education, of the amount to be received in the current fiscal year by the district from state appropriations for the Florida Education Finance Program.

2. AMOUNT B shall be the percent increase over the rolled-back rate necessary to levy only the required local effort in the current fiscal year, computed as though in the preceding fiscal year only the required local effort was levied.

3. AMOUNT C shall be the quotient of required local-effort millage divided by the total proposed nonvoted millage, rounded to the nearest tenth and stated in words; however, the stated amount shall not exceed nine-tenths.

(d) For school districts which have proposed a millage rate in excess of 100 percent of the rolled-back rate computed

pursuant to subsection (1) and which propose to levy as nonvoted millage only the minimum amount required pursuant to s. 1011.60(6), the advertisement shall be the same as provided in paragraph (c), except that the second and third paragraphs shall be replaced with the following paragraph:

This increase is required under state law in order for the school board to receive $...(amount A)... in state education grants.

(e) In all instances in which the provisions of paragraphs (c) and (d) are inapplicable for school districts, the advertisement shall be in the following form:

NOTICE OF BUDGET HEARING

The ...(name of school district)... will soon consider a budget for ...(fiscal year).... A public hearing to make a DECISION on the budget AND TAXES will be held on ...(date and time)... at ...(meeting place)....

(f) In lieu of publishing the notice set out in this subsection, the taxing authority may mail a copy of the notice to each elector residing within the jurisdiction of the taxing authority.

(g) In the event that the mailing of the notice of proposed property taxes is delayed beyond September 3 in a county, any multicounty taxing authority which levies ad valorem taxes within that county shall advertise its intention to adopt a

tentative budget and millage rate in a newspaper of paid general circulation within that county, as provided in this subsection, and shall hold the hearing required pursuant to paragraph (2)(c) not less than 2 days or more than 5 days thereafter, and not later than September 18. The advertisement shall be in the following form, unless the proposed millage rate is less than or equal to the rolled-back rate, computed pursuant to subsection (1), in which case the advertisement shall be as provided in paragraph (e):

NOTICE OF TAX INCREASE

The ...(name of the taxing authority)... proposes to increase its property tax levy by ...(percentage of increase over rolled-back rate)... percent.

All concerned citizens are invited to attend a public hearing on the proposed tax increase to be held on ...(date and time)... at ...(meeting place)....

(h) In no event shall any taxing authority add to or delete from the language of the advertisements as specified herein unless expressly authorized by law, except that, if an increase in ad valorem tax rates will affect only a portion of the jurisdiction of a taxing authority, advertisements may include a map or geographical description of the area to be affected and the proposed use of the tax revenues under consideration. In addition, if published in the print edition of the newspaper or only published on the Internet in accordance with s. 50.0211(5), the map must be included in ~~part of~~ the online advertisement required by s. 50.0211. The advertisements required herein shall

not be accompanied, preceded, or followed by other advertising or notices which conflict with or modify the substantive content prescribed herein.

(i) The advertisements required pursuant to paragraphs (b) and (e) need not be one-quarter page in size or have a headline in type no smaller than 18 point.

(j) The amounts to be published as percentages of increase over the rolled-back rate pursuant to this subsection shall be based on aggregate millage rates and shall exclude voted millage levies unless expressly provided otherwise in this subsection.

(k) Any taxing authority which will levy an ad valorem tax for an upcoming budget year but does not levy an ad valorem tax currently shall, in the advertisement specified in paragraph (a), paragraph (c), paragraph (d), or paragraph (g), replace the phrase "increase its property tax levy by ...(percentage of increase over rolled-back rate)... percent" with the phrase "impose a new property tax levy of $...(amount)... per $1,000 value."

(l) Any advertisement required pursuant to this section shall be accompanied by an adjacent notice meeting the budget summary requirements of s. 129.03(3)(b). Except for those taxing authorities proposing to levy ad valorem taxes for the first time, the following statement shall appear in the budget summary in boldfaced type immediately following the heading, if the applicable percentage is greater than zero:

THE PROPOSED OPERATING BUDGET EXPENDITURES OF ...(name of taxing authority)... ARE ...(percent rounded to one decimal place)... MORE THAN LAST YEAR'S TOTAL OPERATING EXPENDITURES.

For purposes of this paragraph, "proposed operating budget expenditures" or "operating expenditures" means all moneys of the local government, including dependent special districts, that:

1. Were or could be expended during the applicable fiscal year, or

2. Were or could be retained as a balance for future spending in the fiscal year.

Provided, however, those moneys held in or used in trust, agency, or internal service funds, and expenditures of bond proceeds for capital outlay or for advanced refunded debt principal, shall be excluded.

Section 22. Paragraph (c) of subsection (1) of section 338.223, Florida Statutes, is amended to read:

338.223 Proposed turnpike projects.—

(1)

(c) Prior to requesting legislative approval of a proposed turnpike project, the environmental feasibility of the proposed project shall be reviewed by the Department of Environmental Protection. The department shall submit its Project Development and Environmental Report to the Department of Environmental Protection, along with a draft copy of a public notice. Within 14 days of receipt of the draft public notice, the Department of Environmental Protection shall return the draft public notice to the Department of Transportation with an approval of the language or modifications to the language. Upon receipt of the approved or modified draft, or if no comments are provided

within 14 days, the Department of Transportation shall publish the notice as provided in chapter 50 ~~in a newspaper~~ to provide a 30-day public comment period. If published in the print edition of a newspaper, the headline of the required notice shall be in a type no smaller than 18 point, ~~. The notice~~ shall be placed in that portion of the newspaper where legal notices appear, and ~~.~~ ~~The notice~~ shall be published in a newspaper of general circulation in the county or counties of general interest and readership in the community as provided in s. 50.031, not one of limited subject matter. Whenever possible, the notice shall appear in a newspaper that is published at least weekly ~~5 days a week~~. All notices published pursuant to this section ~~The notice~~ shall include, at a minimum ~~but is not limited to~~, the following information:

1. The purpose of the notice is to provide for a 30-day period for written public comments on the environmental impacts of a proposed turnpike project.

2. The name and description of the project, along with a geographic location map clearly indicating the area where the proposed project will be located.

3. The address where such comments must be sent and the date such comments are due.

After a review of the department's report and any public comments, the Department of Environmental Protection shall submit a statement of environmental feasibility to the department within 30 days after the date on which public comments are due. The notice and the statement of environmental feasibility shall not give rise to any rights to a hearing or

other rights or remedies provided pursuant to chapter 120 or chapter 403, and shall not bind the Department of Environmental Protection in any subsequent environmental permit review.

Section 23. Subsection (3) of section 348.0308, Florida Statutes, is amended to read:

348.0308 Public-private partnership.—The Legislature declares that there is a public need for the rapid construction of safe and efficient transportation facilities for traveling within the state and that it is in the public's interest to provide for public-private partnership agreements to effectuate the construction of additional safe, convenient, and economical transportation facilities.

(3) The agency may request proposals for public-private transportation projects or, if it receives an unsolicited proposal, it must publish a notice in the Florida Administrative Register and, as provided in chapter 50, by Internet publication or by print in a newspaper of general circulation in the county in which the project ~~it~~ is located at least once a week for 2 weeks stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the agency shall rank the proposals in order of preference. In ranking the proposals, the agency shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the agency is not satisfied with the results of the negotiations, it may, at its sole

discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the agency may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the agency may negotiate in good faith, and if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. The agency may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

Section 24. Subsection (3) of section 348.635, Florida Statutes, is amended to read:

348.635 Public-private partnership.—The Legislature declares that there is a public need for the rapid construction of safe and efficient transportation facilities for traveling within the state and that it is in the public's interest to provide for public-private partnership agreements to effectuate the construction of additional safe, convenient, and economical transportation facilities.

(3) The authority may request proposals for public-private transportation projects or, if it receives an unsolicited proposal, it must publish a notice in the Florida Administrative Register and, as provided in chapter 50, by either Internet publication or by print in ~~and~~ a newspaper of general circulation in the county in which the project ~~it~~ is located at least once a week for 2 weeks stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has

expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith, and if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. The authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

Section 25. Subsection (3) of section 348.7605, Florida Statutes, is amended to read:

348.7605 Public-private partnership.—The Legislature declares that there is a public need for the rapid construction of safe and efficient transportation facilities for traveling within the state and that it is in the public's interest to provide for public-private partnership agreements to effectuate the construction of additional safe, convenient, and economical transportation facilities.

(3) The authority may request proposals for public-private transportation projects or, if it receives an unsolicited proposal, it must publish a notice in the Florida Administrative Register and, as provided in chapter 50, by either Internet publication or by print in a newspaper of general circulation in

the county in which the project ~~it~~ is located at least once a week for 2 weeks stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith, and if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. The authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

Section 26. Section 373.0397, Florida Statutes, is amended to read:

373.0397 Floridan and Biscayne aquifers; designation of prime groundwater recharge areas.—Upon preparation of an inventory of prime groundwater recharge areas for the Floridan or Biscayne aquifers, but prior to adoption by the governing board, the water management district shall publish a legal notice of public hearing on the designated areas for the

Floridan and Biscayne aquifers, with a map delineating the boundaries of the areas, as provided ~~in newspapers defined~~ in chapter 50 ~~as having general circulation within the area to be affected~~. The notice shall be at least one-fourth page and shall read as follows:

NOTICE OF PRIME RECHARGE
AREA DESIGNATION

The ...(name of taxing authority)... proposes to designate specific land areas as areas of prime recharge to the ...(name of aquifer)... Aquifer.

All concerned citizens are invited to attend a public hearing on the proposed designation to be held on ...(date and time)... at ...(meeting place)....

A map of the affected areas follows.

The governing board of the water management district shall adopt a designation of prime groundwater recharge areas to the Floridan and Biscayne aquifers by rule within 120 days after the public hearing, subject to the provisions of chapter 120.

Section 27. Section 373.146, Florida Statutes, is amended to read:

373.146 Publication of notices, process, and papers.—

(1) Whenever in this chapter the publication of any notice, process, or paper is required or provided for, unless otherwise provided by law, the publication thereof ~~in some newspaper or newspapers~~ as provided ~~defined~~ in chapter 50 is ~~having general circulation within the area to be affected shall be taken and~~

considered as being sufficient.

(2) Notwithstanding any other provision of law to the contrary, and except in the case of emergency meetings, water management districts may provide reasonable notice of public meetings held to evaluate responses to solicitations issued by the water management district, by publication as provided in chapter 50 ~~in a newspaper of general paid circulation in the county where the principal office of the water management district is located, or in the county or counties where the public work will be performed~~, no less than 7 days before such meeting.

Section 28. Subsection (12) of section 403.722, Florida Statutes, is amended to read:

403.722 Permits; hazardous waste disposal, storage, and treatment facilities.—

(12) On the same day of filing with the department of an application for a permit for the construction modification, or operation of a hazardous waste facility, the applicant shall notify each city and county within 1 mile of the facility of the filing of the application and shall publish notice of the filing of the application. The applicant shall publish a second notice of the filing within 14 days after the date of filing. Each notice shall be published as provided in chapter 50 ~~in a newspaper of general circulation in the county in which the facility is located or is proposed to be located~~. ~~Notwithstanding the provisions of chapter 50, for purposes of this section, a "newspaper of general circulation" shall be the newspaper within the county in which the installation or facility is proposed which has the largest daily circulation in~~

~~that county and has its principal office in that county. If the newspaper with the largest daily circulation has its principal office outside the county, the notice shall appear in both the newspaper with the largest daily circulation in that county, and a newspaper authorized to publish legal notices in that county.~~

The notice shall contain:

(a) The name of the applicant and a brief description of the project and its location.

(b) The location of the application file and when it is available for public inspection.

The notice shall be prepared by the applicant and shall comply with the following format:

Notice of Application

The Department of Environmental Protection announces receipt of an application for a permit from ...(name of applicant)... to ...(brief description of project).... This proposed project will be located at ...(location)... in ...(county)... ...(city)....

This application is being processed and is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at ...(name and address of office)....

Section 29. Paragraph (b) of subsection (3) of section 712.06, Florida Statutes, is amended to read:

712.06 Contents of notice; recording and indexing.—

(3) The person providing the notice referred to in s. 712.05, other than a notice for preservation of a community

covenant or restriction, shall:

(b) Publish the notice referred to in s. 712.05 by Internet publication as provided in s. 50.0211(5) or printed once a week, for 2 consecutive weeks, in a newspaper as defined in chapter 50~~, the notice referred to in s. 712.05,~~ with the official record book and page number in which such notice was recorded~~, in a newspaper as defined in chapter 50~~ in the county in which the property is located.

Section 30. Subsection (5) of section 849.38, Florida Statutes, is amended to read:

849.38 Proceedings for forfeiture; notice of seizure and order to show cause.—

(5) If the value of the property seized is shown by the sheriff's return to have an appraised value of $1,000 or less, the above citation shall be served by posting at three public places in the county, one of which shall be the front door of the courthouse; if the value of the property is shown by the sheriff's return to have an approximate value of more than $1,000, the citation shall be posted for at least 2 consecutive weeks on a newspaper's website and the statewide legal notice website in accordance with s. 50.0211(5) or published in print at least once each week for 2 consecutive weeks in a ~~some~~ newspaper of general publication published in the county, if there is ~~be~~ such a newspaper published in the county. ~~and~~ If there is no newspaper of general circulation ~~not~~, the ~~then said~~ notice of such publication shall be made by certificate of the clerk if publication is made by posting, and by affidavit as provided in chapter 50, if made by publication as provided in chapter 50 ~~in a newspaper~~, which affidavit or certificate shall

be filed and become a part of the record in the cause. Failure of the record to show proof of such publication shall not affect any judgment made in the cause unless it shall affirmatively appear that no such publication was made.

Section 31. Paragraph (a) of subsection (3) of section 865.09, Florida Statutes, is amended to read:

865.09 Fictitious name registration.—

(3) REGISTRATION.—

(a) A person may not engage in business under a fictitious name unless the person first registers the name with the division by filing a registration listing:

1. The name to be registered.

2. The mailing address of the business.

3. The name and address of each registrant.

4. If the registrant is a business entity that was required to file incorporation or similar documents with its state of organization when it was organized, such entity must be registered with the division and in active status with the division; provide its Florida document registration number; and provide its federal employer identification number if the entity has such a number.

5. Certification by at least one registrant that the intention to register such fictitious name has been advertised as provided ~~at least once in a newspaper as defined~~ in chapter 50 in the county in which the principal place of business of the registrant is or will be located.

6. Any other information the division may reasonably deem necessary to adequately inform other governmental agencies and the public as to the registrant so conducting business.

Section 32. Paragraph (a) of subsection (6) of section 932.704, Florida Statutes, is amended to read:

932.704 Forfeiture proceedings.—

(6)(a) If the property is required by law to be titled or registered, or if the owner of the property is known in fact to the seizing agency, or if the seized property is subject to a perfected security interest in accordance with the Uniform Commercial Code, chapter 679, the attorney for the seizing agency shall serve the forfeiture complaint as an original service of process under the Florida Rules of Civil Procedure and other applicable law to each person having an ownership or security interest in the property. The seizing agency shall also publish, in accordance with chapter 50, notice of the forfeiture complaint for 2 consecutive weeks on a newspaper's website and the statewide legal notice website in accordance with s. 50.0211(5) or, if published in print, once each week for 2 consecutive weeks in a newspaper of general circulation~~, as defined in s. 165.031,~~ in the county where the seizure occurred.

Section 33. This act shall take effect July 1, 2022.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR RAY WESLEY RODRIGUES
27th District

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Agriculture, Environment, and General Government, *Vice Chair*
Appropriations Subcommittee on Health and Human Services
Banking and Insurance
Finance and Tax
Judiciary
Regulated Industries

JOINT COMMITTEES:
Joint Select Committee on Collective Bargaining, *Alternating Chair*
Joint Committee on Public Counsel Oversight

March 29, 2021

The Honorable Keith Perry
Senate Appropriations Subcommittee on Criminal and Civil Justice, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

RE: CS/SB 402 - An act relating to Legal Notices

Dear Mr. Chair:

Please allow this letter to serve as my respectful request to place CS/SB 402, relating to legal notices, on the next committee agenda.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

Ray Rodrigues

Ray Rodrigues
Senate District 27

Cc: Marti Harkness, Staff Director
Hayley Kolich, Administrative Assistant

REPLY TO:
❒ 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
❒ 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5027

Senate's Website: *www.flsenate.gov*

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/21
Meeting Date

SB 402
Bill Number (if applicable)

Strike-all Amend.
Amendment Barcode (if applicable)

Topic Public Notice

Name Jim FOGLER

Job Title President Florida Press Association

Address 336 E. College Ave
Street

Phone

Tallahassee FL 32301
City *State* *Zip*

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida Press Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

April 8, 2021
Meeting Date

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

SB402
Bill Number (if applicable)

Topic PUBLIC NOTICES

Amendment Barcode (if applicable)

Name WILLIAM SNOWDEN

Job Title EDITOR, THE WAKULLA NEWS

Address P.O. Box 307 ~~CRAWFORDVILLE~~
Street

CRAWFORDVILLE FL 32326
City *State* *Zip*

Phone (850) 926-7102

Email EDITOR@THEWAKULLANEWS.NET

Speaking: ☐ For ☒ Against ☐ Information

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

Representing THE WAKULLA NEWS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/21
Meeting Date

SB 402
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Public Notices

Name Todd Wilson

Job Title Publisher

Address 126 NW Irish Gln. Phone 386-752-1293
Street

Lake City FL 32055 Email twilson@lakecityreporter.com
City *State* *Zip*

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Lake City Reporter / Florida Press Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/21
Meeting Date

SB 402
Bill Number (if applicable)

Topic Public Notice Requirements

Amendment Barcode (if applicable)

Name Douglas Ray

Job Title Editor and Market Leader

Address 2700 SW 13th St
Street

Phone 352-538-3087

Gainesville FL 32608
City *State* *Zip*

Email douglas.ray@starbanner.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Gainesville Sun, Ocala Star-Banner, Leesburg Daily Commercial

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

APRIL 8, 2021
Meeting Date

SB402
Bill Number (if applicable)

Topic PUBLIC NOTICES

Amendment Barcode (if applicable)

Name WM HATFIELD

Job Title EXECUTIVE EDITOR TALLAHASSEE DEMOCRAT

Address 4743 STONEY TRACE
Street
TALLAHASSEE FL 32309
City *State* *Zip*

Phone 850-228-6463

Email WHATFIELD@TALLAHASSEE.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing TALLAHASSEE DEMOCRAT

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

4/8/2021
Meeting Date

SB 402
Bill Number (if applicable)

304210
Amendment Barcode (if applicable)

Topic Legal Notices

Name Sam Morley

Job Title Gen. Counsel

Address 336 E. College Ave.
Street

Tall. FL 32312
City *State* *Zip*

Phone 850 2124395

Email SMorley@flpress.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Press Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Information

THE FLORIDA SENATE

APPEARANCE RECORD

4/8/21
Meeting Date

402
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Legal Notices

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St
Street

Phone 224-7173

Tallahassee — *City* | FL — *State* | 32301 — *Zip*

Email bbevis@aif.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.8.21
Meeting Date

402
Bill Number (if applicable)

Topic Public Hotels

Strike All Amendment
Amendment Barcode (if applicable)

Name WAYNE MALANEY

Job Title

Address 32 VIA DEL CORSO
Street

Phone 8.50.933.7001

PB GARDENS FL 33418
City *State* *Zip*

Email FLLOBBYIST@AOL.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing AMERICAN LAWYER MEDIA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4-8-2021 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB 402

Meeting Date *Bill Number (if applicable)*

Amendment Barcode (if applicable)

Topic Legal Notices

Name Karen Tower

Job Title Director

Address 336 E College Ave Phone 321-283-5345

Street

Tallahassee FL 32301 Email KTower@flpress.com

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against

(The Chair will read this information into the record.)

Representing FL Press Foundation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

April 8, 2021
Meeting Date

SB 402
Bill Number (if applicable)

304210
Amendment Barcode (if applicable)

Topic Legal Notices

Name Bryan Boukari

Job Title Publisher / Attorney

Address 14804 Main Street
Street

Alachua — *City* | Florida — *State* | 32615 — *Zip*

Phone 386-462-7529

Email Bryan@BoukariLaw.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Alachua County Today Newspaper

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

April 8, 2021
Meeting Date

SB 402
Bill Number (if applicable)

Topic Legal Notices

Amendment Barcode (if applicable)

Name Bryan Boukari

Job Title Publisher / Attorney

Address 14804 Main Street
Street

Phone 386-462-7529

Alachua — *City* | Florida — *State* | 32615 — *Zip*

Email Bryan@BoukariLaw.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Alachua County Today Newspaper

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

8 April 21
Meeting Date

402
Bill Number (if applicable)

Topic Legal Notices

Amendment Barcode (if applicable)

Name DIEGO ECHEVERRI

Job Title

Address
Street

Phone

City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Americans For Prosperity

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/24
Meeting Date

402
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Legal Ads ROW Book

Name

Job Title

Address 104 W. Jefferson
Street
TCH
City *State* *Zip*

Phone 8138243424

Email

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Gannett News Chain

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

The Florida Senate

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL:	SB 1002
INTRODUCER:	Senator Stewart
SUBJECT:	DNA Evidence Collected in Sexual Offense Investigations
DATE:	March 4, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones	CJ	**Favorable**
2.	Dale	Harkness	ACJ	**Pre-meeting**
3.			AP	

I. Summary:

SB 1002 amends section 943.326, Florida Statutes, to require that the Florida Department of Law Enforcement (FDLE) create and begin to maintain a statewide database, the purpose of which is to track the location, processing status, and storage of sexual assault evidence kits (SAKs), from evidence collection throughout the criminal justice process. The database must be created no later than July 1, 2023, and is subject to appropriation by the Legislature.

The alleged victim, who has reported the crime to law enforcement, will have the ability to access the database and follow his or her SAK from the collection site, to law enforcement agency storage, then to the crime laboratory for forensic testing and back to law enforcement agency storage.

If there is a DNA match between the SAK evidence and a person whose DNA is stored in a local, state, or federal database and who may be a suspect or person of interest in the case, the alleged victim will be notified of the match, but not the person's identity, via the newly-created statewide database

Law enforcement agencies, medical facilities, crime laboratories, and any other facilities that collect, receive, maintain, store, or preserve the SAKs must participate in the database, as required by the FDLE.

If the alleged victim is a minor, his or her parent, guardian, or legal representative will have access to the database. If the alleged victim is deceased, his or her personal representative will have access.

The FDLE is required to ensure that each alleged victim, or his or her representative is notified of the existence of the database and provided with instruction on how to access the database.

The FDLE may phase in participation and access to the new statewide SAK tracking database at its discretion and in the manner it chooses. All entities in the chain of custody of SAKs must fully participate in the statewide database no later than one year after its creation.

The bill states that the act may be cited as "Gail's Law."

The bill will have a negative fiscal impact on the FDLE. See Section V. Fiscal Impact Statement.

The bill becomes effective July 1, 2021.

II. Present Situation:

Forensic Evidence Collection in Sexual Assault Cases

A sexual assault kit (SAK), is a medical kit used by a healthcare provider to collect evidence from the body and clothing of a victim of sexual battery or other sexual offense during a forensic physical examination. The kit contains tools such as swabs, tubes, glass slides, containers, and plastic bags. These items are used to collect and preserve bodily fluids, hair, and fibers that can help identify DNA (deoxyribonucleic acid) and other forensic evidence left by a perpetrator.[1] SAK contents are typically very standardized and, because they are collected directly from the victim's person, generally represent the most probative evidence.[2]

According to protocols developed by the Department of Legal Affairs (DLA), healthcare providers conducting the forensic physical examination should complete the document entitled "Sexual Assault Kit Form for Healthcare Providers."[3] This document includes an exam consent form that requires the victim or his or her legal guardian to indicate that he or she consents to a forensic physical examination for the preservation of evidence of a sexual offense.[4] The victim or his or her legal guardian will also be asked whether he or she wants to report the sexual offense to law enforcement. Non-reporting victims' SAKs will be retained as evidence should he or she decide to report the offense at a later date, but unless there is an active criminal case, the SAK will not be tested for DNA.[5]

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[1] The White House, Office of the Press Secretary, *Fact Sheet: Investments To Reduce The National Rape Kit Backlog And Combat Violence Against Women*, March 16, 2015, available at https://obamawhitehouse.archives.gov/the-press-office/2015/03/16/fact-sheet-investments-reduce-national-rape-kit-backlog-and-combat-viole (last visited February 17, 2021).
[2] Florida Department of Law Enforcement, *Assessment of Unsubmitted Sexual Assault Kits*, Executive Summary, p. 5, available at http://www.fdle.state.fl.us/docs/SAKResults.pdf (last visited February 17, 2021).
[3] Florida Department of Legal Affairs, Division of Victim Services and Criminal Justice Programs, *Adult and Child Sexual Assault Protocols: Initial Forensic Physical Examination*, April 2015, pp. 12-13, available at https://myfloridalegal.com/webfiles.nsf/WF/JFAO-77TKCT/$file/ACSP.pdf; *See also* Florida Council Against Sexual Violence, *Sexual Assault Nurse Examiner Program Guidance Document, Forensic Exam: Evidence Collection*; May 29, 2018, available at https://www.fcasv.org/sites/default/files/Evidence%20Collection%20Guidance%20Document%205.29.18%20%20FINAL.docx.pdf; and Florida Department of Law Enforcement, *Sexual Assault/Forensic/Medical Exam*, available at http://www.fdle.state.fl.us/Documents/SAEKrev5.aspx (all sites last visited February 24, 2021).
[4] *Id.*
[5] *Id.* According to FDLE protocols, to test a non-reporting victim's SAK would violate the confidentiality and privacy of the victim's health records under the Health Insurance Portability and Accountability Act (HIPAA). Florida Department of Law Enforcement, *Sexual Assault Kit Submissions Frequently Asked Questions*, p. 1, available at https://www.fdle.state.fl.us/Forensics/Documents/Sexual-Assault-Kit-FAQs-for-LEA_Final.aspx (last visited February 18,

The DLA protocols provide instructions for sealing the SAK upon completion of the exam and indicate that the SAK must stay with the examiner or secured in a locked area with limited access and proper chain of custody procedures until transferred to the proper law enforcement agency.[6]

Evidence Submission, DNA Testing, DNA Database

A law enforcement agency must submit a SAK, or other DNA evidence if a kit is not collected, to a member of the statewide criminal analysis laboratory system for forensic testing within 30 days after:

- Receipt of the evidence by a law enforcement agency if a report of the sexual offense is made to the law enforcement agency; or
- A request to have the evidence tested is made to the medical provider or the law enforcement agency by:
  - The alleged victim;
  - The alleged victim's parent, guardian, or legal representative, if the alleged victim is a minor; or
  - The alleged victim's personal representative, if the alleged victim is deceased.[7]

The victim or the victim's representative must be informed of the purpose of submitting the SAK or other evidence by the law enforcement agency or the medical provider collecting the SAK.[8]

Generally, law enforcement agencies in Florida submit SAKs for DNA analysis to the statewide criminal analysis laboratory system, which consists of six laboratories operated by the Florida Department of Law Enforcement (FDLE) in Ft. Myers, Jacksonville, Pensacola, Orlando, Tallahassee, and Tampa and five local laboratories in Broward, Indian River, Miami-Dade, Palm Beach, and Pinellas counties.[9]

Testing of SAKs must be completed no later than 120 days after submission to a member of the statewide criminal analysis laboratory system.[10] Testing satisfies the statutory timeline when a member of the statewide criminal analysis laboratory system tests the contents of the SAK in an attempt to identify the foreign DNA attributable to a suspect.[11]

Evidence that may carry a suspect's DNA can be found on physical evidence such as the victim's clothing or bedding. This type of physical evidence is typically accepted for laboratory analysis

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2021). The DLA, which administers a program that pays for an alleged sexual assault victim's forensic physical exam, does not discriminate based upon whether the victim reports the crime to a law enforcement agency. Additionally, the DLA keeps the victim's identity confidential and exempt from the public records law. Section 960.28, F.S.

[6] *Id*. pp. 20-21. *See also* Florida Department of Law Enforcement, *Crime Laboratory Evidence Submission Manual*, March 2020, p. 15, available at https://www.fdle.state.fl.us/Forensics/Documents/2020-ESM (last visited February 18, 2021). A collected sexual offense evidence kit must be retained in a secure, environmentally safe manner until the prosecuting agency has approved its destruction. Section 943.326(3), F.S.

[7] Section 943.326(1), F.S.

[8] Section 943.326(2), F.S.

[9] Section 943.32, F.S.

[10] Section 943.326(4), F.S.

[11] Section 943.326(4)(b), F.S.

if no probative results are obtained from the SAK which may include a pair of underwear worn by the victim at the time of the crime or closely thereafter, and a condom, if applicable.[12]

The state crime laboratories perform short tandem repeats (STR)[13] DNA testing on evidence received from a law enforcement agency, comparing the SAK or crime scene DNA evidence to known DNA samples. The DNA samples from the SAK or other crime scene evidence that do not match the victim's DNA may be attributed to the suspect.[14] The suspect's DNA from the SAK or the crime scene may be submitted to the local, state or Federal Bureau of Investigation's Combined DNA Index System (CODIS) to be searched against local, state, and national casework index files and convicted offender profiles, which could reveal the identity of the perpetrator.[15]

Sexual Assault Kit Tracking

Law Enforcement Tracking

Investigative reporting in the 2000's discovered that large cities like New York and Los Angeles, among others had large numbers of SAKs that had not been submitted to laboratories for DNA testing.[16] Florida was among the states that had a SAK backlog. For this reason, the 2015 Legislature required the FDLE to complete a statewide assessment of unsubmitted SAKs and report on the findings by January 1, 2016.[17]

Local law enforcement agencies were surveyed by the FDLE with 279 agencies responding. The survey responses showed that in 2015, there were approximately 13,435 unsubmitted SAKs of which agencies approximated 9,484 of them should be submitted (under agency guidelines) to the state crime laboratories for DNA testing. The decision to submit a SAK rested with the local law enforcement agencies.[18] Until s. 943.326, F.S., became effective on July 1, 2016, there were no statewide standards or expectations regarding the submission of SAKs.

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[12] Florida Department of Law Enforcement, *Crime Laboratory Evidence Submission Manual*, March 2020, pp. 14-15, available at https://www.fdle.state.fl.us/Forensics/Documents/2020-ESM (last visited February 18, 2021).

[13] STR (short tandem repeats) DNA testing examines thirteen different areas (markers) of DNA that have been found to be highly variable. These thirteen markers have been standardized in the United States to allow the comparison of testing results from one state to another. Florida Department of Law Enforcement, *Biology/DNA Laboratory and the DNA Investigative Database*, Rev. January 2015, available at https://www.fdle.state.fl.us/Publications/Documents/Brochures/DNABrochureJan2015_1.aspx#:~:text=Biology/DNA%20Laboratory%20and%20the%20DNA%20Investigative%20Support%20Database,LAW%20ENFORCEMENT%202331%20Phillips%20Road%20Tallahassee,%20Florida%2032308 (last visited February 18, 2021).

[14] *Id*.

[15] *Id*.

[16] There were a reported 17,000 unsubmitted SAKs in New York City, and at least 12,669 in Los Angeles. Madeleine Carlisle, *A New System to Ensure Sexual-Assault Cases Aren't Forgotten*, The Atlantic, April 7, 2019, available at https://www.theatlantic.com/politics/archive/2019/04/many-states-are-adopting-rape-kit-tracking-systems/586531/ (last visited February 23, 2021). *See also* Florida Department of Law Enforcement, *Assessment of Unsubmitted Sexual Assault Kits*, p. 1, available at http://www.fdle.state.fl.us/docs/SAKResults.pdf (last visited February 17, 2021).

[17] Florida Department of Law Enforcement, *Assessment of Unsubmitted Sexual Assault Kits*, Executive Summary, available at http://www.fdle.state.fl.us/docs/SAKResults.pdf, (last visited February 17, 2021).

[18] *Id*. at pp. 2-3.

The FDLE completed laboratory analysis of the previously unsubmitted SAKs with an offense date of prior to October 1, 2014, by the end of June, 2019.[19] DNA testing of the 8,023 SAKs resulted in 1,814 CODIS "hits" which linked the DNA from the SAKs to a possible suspect in the sexual assault and possibly other unsolved crimes throughout the country.[20]

Other States Statewide SAK Tracking Provides Victims' Access

In 2016, Idaho was the first state to create its own statewide SAK tracking system. Idaho has shared this system with other states free of charge. The states that have not taken Idaho up on its offer have largely contracted with one of several companies that provide services like round-the-clock technical support.[21]

As adopted or considered in other states, SAK tracking typically consists of a software program that provides for the upload of SAK location information by medical, law enforcement, and laboratory personnel. A secure database that contains no personal information allows victims of sexual assault to monitor the progress of the SAK for his or her case through the criminal justice system. The tracking is typically accomplished by checking a randomly assigned bar code matching the bar code used to track the evidence by law enforcement and laboratories.[22]

Florida does not currently possess a statewide electronic tracking system for SAKs.

III. Effect of Proposed Changes:

The bill requires that, subject to appropriation by the Legislature, and no later than July 1, 2023, the FDLE create and begin to maintain a statewide database, the purpose of which is to track the location, processing status, and storage of sexual assault evidence kits (SAKs), from evidence collection throughout the criminal justice process. The database must be accessible to:

- The alleged victim of the sexual assault;
- The alleged victim's parent, guardian, or legal representative, if the alleged victim is a minor;
- The alleged victim's personal representative, if the alleged victim is deceased; and
- Law enforcement agencies.

The bill specifies that law enforcement agencies, medical facilities, crime laboratories, and any other facilities that collect, receive, maintain, store, or preserve the SAKs must participate in the

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[19] *See* Press Release containing the Florida Department of Law Enforcement, *Sexual Assault Kit Final Progress Report*, September 2019, Hernando Sun, *FDLE completes 3-year sexual assault kit project*, September 20, 2019, available at https://www.hernandosun.com/article/fdle-completes-3-year-sexual-assault-kit-project (last visited February 24, 2021).

[20] *Id*.

[21] Madeleine Carlisle, *A New System to Ensure Sexual-Assault Cases Aren't Forgotten*, The Atlantic, April 7, 2019, available at https://www.theatlantic.com/politics/archive/2019/04/many-states-are-adopting-rape-kit-tracking-systems/586531/. *See also* Barbara Sprunt, *Virginia Launches Rape Kit Tracking System To Give Control Back To Survivors*, National Public Radio, WAMU 88.5, October 4, 2019, available at https://www.npr.org/local/305/2019/10/04/767403524/virginia-launches-rape-kit-tracking-system-to-give-control-back-to-survivors; Nicole Nixon, *Sexual Assault Survivors in California Could Track Their Rape Kit Online Under New Bill*, CapRadio, February 2, 2021, available at https://www.capradio.org/articles/2021/02/02/sexual-assault-survivors-in-california-could-track-their-rape-kit-online-under-new-bill/; and Doug Richards, *New bill introduced in Georgia would create online registry to track rape kits*, 11alive.com, February 4, 2021, available at https://www.11alive.com/article/news/politics/rape-kits-tracking-bill/85-ba8092be-0a65-4241-8d26-2182f38c420f (all sites last visited February 19, 2021).

[22] *Id*.

database, as required by the FDLE. This provision appears to give the FDLE the ability to require the listed facilities to input data into the database to the extent necessary to maintain uninterrupted tracking of the SAKs.

The FDLE is required to ensure that each alleged victim, the alleged victim's parent, guardian, or legal representative, if the alleged victim is a minor, and the alleged victim's personal representative, if the alleged victim is deceased is:

- Notified of the existence of the database;
- Provided with instruction on how to access the database; and
- Informed that he or she is entitled to access information regarding the alleged victim's SAK, including:
  - Tracking information;
  - Testing status; and
  - Any DNA matches to a person deemed by investigators to be a suspect or a person of interest in the investigation.

The bill provides that notification about a DNA match should be limited to the occurrence of a match, and without any genetic or other identifying information. Such notification may be delayed for up to 180 days if the investigators are of the opinion that immediate notification would negatively affect the investigation.

The FDLE may phase-in participation and access to the new statewide SAK tracking database at its discretion and in the manner it chooses.

The bill requires that all entities in the chain of custody of SAKs fully participate in the statewide database no later than 1 year after its creation. The database must track the status of SAKs from entities in the chain of custody which include medical providers who collect the SAK evidence, the law enforcement personnel who receive, store, and send the SAK for testing, and laboratory personnel who process the SAK and return it to the law enforcement agency for storage until the prosecuting agency has approved its destruction according to s. 943.326(3), F.S.

The bill states that the act may be cited as "Gail's Law."

The bill becomes effective July 1, 2021.

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 makes the creation of program subject to appropriation. However, the FDLE estimates the bill's fiscal impact in FY 2021-22 will be $600,000 in nonrecurring funds for software purchase and customization. Beginning in FY 2022-23, the department estimates that it will need $500,000 in recurring funds for IT maintenance and support costs, software licenses, and help desk support. The department is also requesting two FTE positions for management, training, and support of the new system, which will total $182,266, of which $174,476 will be recurring funds. The FDLE will also need $150,000 annually to purchase standardized SAKs, designed to include barcodes for tracking.[23]

D. Technical Deficiencies:

None.

VI. Related Issues:

The FDLE suggests that the investigating law enforcement agency notify the alleged victim of a CODIS "hit," rather than that information being accessible through the database. This seems to be an issue of notification timing as well as the suggestion that "hit" notifications be limited to a "hit" that is a legitimate match to a potential suspect and not other types of "hits" that can occur through CODIS.[24]

From an investigatory standpoint, another concern regarding alleged victim access to CODIS "hit" confirmations arises under the following circumstances. If the alleged victim is a minor and, therefore, it is the parent or guardian who is entitled to database access, what might occur if the parent or guardian is actually the perpetrator and receives the identifying "hit" notification? This unintended occurrence may compromise the investigation by giving the perpetrator time to

[23] 2021 FDLE Legislative Bill Analysis, SB 1002, February 19, 2021 (on file with the Senate Criminal Justice Committee).
[24] *Id.*

influence the alleged victim's cooperation with law enforcement and time to concoct his or her "story."

The FDLE also suggests that there is no apparent mechanism provided in the bill that would enforce compliance with the database participation requirements.[25]

VII. Statutes Affected:

This bill substantially amends section 943.326 of the Florida Statutes.

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.

[25] *Id.*

602498

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice (Stewart) recommended the following:

Senate Amendment (with title amendment)

Delete lines 58 - 70

and insert:

storage of each sexual offense evidence kit collected after the implementation of the database that is accessible to law enforcement agencies and alleged victims and other persons listed in paragraph (1)(b). The database shall track the status of the kits from the collection site throughout the criminal justice process, including, but not limited to, the initial

602498

collection at medical facilities, inventory and storage by law enforcement agencies or crime laboratories, analysis at crime laboratories, and storage or destruction after completion of analysis.

(d) The department shall adopt rules establishing the requirements for each entity that participates in the database. Law enforcement agencies, medical facilities, crime laboratories, and any other facility that collects, receives, maintains, stores, or preserves a sexual offense evidence kit shall participate in the database, as required by the department.

(e) The department shall ensure that each alleged victim

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

And the title is amended as follows:

Delete line 9

and insert:

requiring the department to adopt rules; providing database participation requirements for specified entities mandated to participate in the database if the entity has certain interaction with the kits; requiring the

901148

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice (Stewart) recommended the following:

Senate Amendment (with title amendment)

Delete line 90

and insert:

1 year after its creation. The department shall apply for any available grant funds to assist it in implementing the statewide database.

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

And the title is amended as follows:

901148

Delete line 15

and insert:

notification; providing for implementation; requiring the department to apply for specified grant funds; providing

By Senator Stewart

13-00904A-21 20211002__

A bill to be entitled

An act relating to DNA evidence collected in sexual offense investigations; providing a short title; amending s. 943.326, F.S.; requiring the Department of Law Enforcement, by a specified date and subject to legislative appropriation, to create and maintain a statewide database for tracking sexual offense evidence kits; providing database requirements; providing participation requirements; requiring the department to ensure that alleged sexual offense victims and certain other persons receive specified notice and instructions and be informed that they are entitled to access information regarding such kits and evidence; providing requirements for such notification; providing for implementation; providing an effective date.

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

Section 1. This act may be cited as "Gail's Law."

Section 2. Subsection (4) of section 943.326, Florida Statutes, is amended to read:

943.326 DNA evidence collected in sexual offense investigations.—

(4) ~~By January 1, 2017,~~ The department and each laboratory within the statewide criminal analysis laboratory system, in coordination with the Florida Council Against Sexual Violence, shall adopt and disseminate guidelines and procedures for the collection, submission, and testing of DNA evidence that is

13-00904A-21 20211002__

obtained in connection with an alleged sexual offense. The timely submission and testing of sexual offense evidence kits is a core public safety issue. Testing of sexual offense evidence kits must be completed no later than 120 days after submission to a member of the statewide criminal analysis laboratory system.

(a) The guidelines and procedures must include the requirements of this section, standards for how evidence is to be packaged for submission, what evidence must be submitted to a member of the statewide criminal analysis laboratory system, and timeframes for when the evidence must be submitted, analyzed, and compared to DNA databases.

(b) The testing requirements of this section are satisfied when a member of the statewide criminal analysis laboratory system tests the contents of the sexual offense evidence kit in an attempt to identify the foreign DNA attributable to a suspect. If a sexual offense evidence kit is not collected, the laboratory may receive and examine other items directly related to the crime scene, such as clothing or bedding or personal items left behind by the suspect. If probative information is obtained from the testing of the sexual offense evidence kit, the examination of other evidence should be based on the potential evidentiary value to the case and determined through cooperation among the investigating agency, the laboratory, and the prosecutor.

(c) The department shall, subject to appropriation by the Legislature, no later than July 1, 2023, create and maintain a statewide database to track the location, processing status, and storage of sexual offense evidence kits which is accessible to

law enforcement agencies and alleged victims and other persons listed in paragraph (1)(b). The database shall track the status of the kits from the collection site throughout the criminal justice process, including, but not limited to, the initial collection at medical facilities, inventory and storage by law enforcement agencies or crime laboratories, analysis at crime laboratories, and storage or destruction after completion of analysis. Law enforcement agencies, medical facilities, crime laboratories, and any other facilities that collect, receive, maintain, store, or preserve the kits shall participate in the database, as required by the department.

(d) The department shall ensure that each alleged victim and other person listed in paragraph (1)(b) is notified of the existence of the database and provided with instruction on how to access it and is informed that he or she is entitled to access information regarding the alleged victim's sexual offense evidence kit, including tracking information, testing status, and any DNA matches to a person deemed by investigators to be a suspect or person of interest. However, notification of a DNA match shall state only that a DNA match has occurred and may not contain any genetic or other identifying information. Such a notification may be delayed for up to 180 days if such notification would, in the opinion of investigators, negatively affect the investigation.

Section 3. The Department of Law Enforcement may phase in initial participation in the statewide database for tracking sexual offense evidence kits created in s. 943.326, Florida Statutes, as amended by this act, according to region, volume of kits, or other appropriate classifications; however, all

entities in the chain of custody of sexual offense evidence kits shall fully participate in the statewide database no later than 1 year after its creation.

Section 4. This act shall take effect July 1, 2021.

The Florida Senate

Committee Agenda Request

To: Senator Keith Perry, Chair
Appropriations Subcommittee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: March 5, 2021

I respectfully request that **Senate Bill #1002**, relating to DNA Evidence Collected in Sexual Offense Investigations, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Linda Stewart

Senator Linda Stewart
Florida Senate, District 13

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/2021
Meeting Date

SB1002
Bill Number (if applicable)

Topic DNA EVIDENCE TRACKING

Amendment Barcode (if applicable)

Name GAIL GARDNER

Job Title ADVOCATE

Address 1028 CRESTWOOD COMMONS AV Phone 321.202.3288
Street

OCOEE FL 34761 Email gailfgardner@gmail.com
City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

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

Representing SURVIVORS FOR SYSTEM CHANGE / JOYFUL HEART FOUNDATION

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

04/08/2021
Meeting Date

1002
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Rape Kit Tracking

Name Jennifer L. Dritt

Job Title Executive Director

Address 1820 E. Park Avenue, Suite 100
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-297-2000

Email jdritt@fcasv.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Council Against Sexual Violence

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL:	PCS/CS/SB 1032 (741924)
INTRODUCER:	Appropriations Subcommittee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Perry
SUBJECT:	Criminal Convictions
DATE:	April 8, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Jones	CJ	**Fav/CS**
2.	Forbes	Harkness	ACJ	**Recommend: Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1032 revises licensing requirements for individuals with criminal convictions, revises the purpose of the Criminal Punishment Code, and modifies the current system of gain-time, which allows prisoners to reduce the term of prison sentences.

The bill prohibits the Department of Business and Professional Regulation (DBPR) from denying an application for licensure for certain professions if more than two years have passed since the applicant's conviction, with exceptions. The bill also requires the DBPR to approve educational courses offered by correctional institutions or facilities, to satisfy applicable training requirements for licensure for certain professions.

The bill revises the purpose of the Criminal Punishment Code to provide that criminal offenders are to be appropriately *punished and rehabilitated*, rather than ensuring that violent criminal offenders are incarcerated. The bill also provides that the dual purpose of sentencing in the criminal justice system are punishment and *rehabilitation* of the offender so that he or she can successfully transition back into the community. Rehabilitation is no longer a subordinate goal.

The bill authorizes the Department of Corrections (DOC) to award three types of reductions to a prisoner's sentence in the form of outstanding deed awards, good behavior time, and rehabilitation credits.

The bill authorizes the DOC to award outstanding deed awards of 30 to 60 days, per outstanding deed, to a prisoner who performs an outstanding deed, such as saving a life. The bill requires the DOC to grant 10 days each month of good behavior time to encourage satisfactory behavior and develop character traits for successful reentry into the community. The bill authorizes prisoners who are serving sentences for offenses committed on or after July 1, 1978, to be granted good behavior time. The DOC grants rehabilitation credits for each month a prisoner participates in education or training. The amount of rehabilitation credit a prisoner may earn varies by the date of the offense for which he or she is incarcerated and the offense severity level of the offense.

The bill authorizes the DOC to grant up to two additional days per month of good behavior time to prisoners serving sentences related to certain offenses involving controlled substances. The grant of these two additional days of good behavior is to be applied retroactively.

The bill authorizes prisoners to earn rehabilitation credit for completion of a high school equivalency diploma, a college degree, vocational certificate, drug treatment program, life skills program, reentry program, or other evidence-based program approved by the DOC that serves the purpose of reducing recidivism and assisting a prisoner to reintegrate into society. Prisoners may earn 60 days of rehabilitation credit for the completion of each program. Additionally, the bill authorizes prisoners to earn five days of rehabilitation credit for completion of any other DOC-approved program. The bill makes these rehabilitation credits retroactive.

The bill prohibits prisoners from earning good behavior time or outstanding deed awards in an amount that would cause them to serve less than 85 percent of the sentence imposed if the prisoner is serving a sentence for an offense committed after October 1, 1995. However, a prisoner may earn rehabilitation credits in an amount that would not cause him or her to serve less than 65 percent of the imposed sentence.

The bill also revises the Criminal Punishment Code to prohibit a prisoner from earning good behavior time or outstanding deed awards in an amount that would cause a prisoner to serve less than 85 percent of the sentence imposed if the prisoner is serving a sentence for an offense committed after October 1, 1995, and rehabilitation credits in an amount that would cause a prisoner to serve less than 65 percent of the sentence imposed.

The bill requires the DOC to provide a prisoner due process before the forfeiture of any gain-time.

The bill directs the DOC to adopt rules to implement its provisions. The bill also makes conforming changes and reenacts statutes.

The bill will likely have a negative prison bed impact, resulting in a decrease in the need for prison beds. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

II. Present Situation:

Licensing Determinations and Criminal History

Section 112.011, F.S., outlines general guidelines for considering criminal convictions during licensure determinations. Generally, a person may be denied a professional license based on his or her prior conviction of a crime if the crime was a felony[1] or first-degree misdemeanor[2] that is directly related to the standards determined by the regulatory authority to be necessary and reasonably related to the protection of the public health, safety, and welfare for the specific profession for which the license is sought.[3] Notwithstanding any law to the contrary, a state agency may not deny an application for a license based solely on the applicant's lack of civil rights.[4]

Department of Business and Professional Regulation

Licensure, Generally

The Department of Business and Professional Regulation (DBPR) has 12 divisions that are tasked with the licensure and general regulation of several professions and businesses in Florida.[5] Fifteen boards and programs exist within the Division of Professions,[6] two boards exist within the Division of Real Estate,[7] and one board exists in the Division of Certified Public Accounting.[8]

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[1] Section 775.08(1), F.S., defines "felony" as any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or a term of imprisonment in a state penitentiary that exceeds one year.

[2] Section 775.08(2), F.S., defines "misdemeanor" as any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by a term of imprisonment in a county correctional facility of less than one year. A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year and a fine not exceeding $1,000. Sections 775.082 and 775.083, F.S.

[3] Section 112.011(1)(b), F.S. *See also*, e.g., *State ex rel. Sbordy v. Rowlett*, 138 Fla. 330, 190 So. 59, 63 (1939), holding that "the preservation of the public health is one of the duties of sovereignty and in a conflict between the right of a citizen to follow a profession and the right of a sovereignty to guard the health and welfare, it logically follows that the rights of the citizen to pursue his profession must yield to the power of the State to prescribe such restrictions and regulations as shall fully protect the people from ignorance, incapacity, deception, and fraud."

[4] Section 112.011(1)(c), F.S.

[5] *See* s. 20.165, F.S, creating the divisions of Administration; Alcoholic Beverages and Tobacco; Certified Public Accounting; Drugs, Devices, and Cosmetics; Florida Condominiums, Timeshares, and Mobile Homes; Hotels and Restaurants; Pari-mutuel Wagering; Professions; Real Estate; Regulation; Service Operations; and Technology.

[6] Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes: Board of Architecture and Interior Design, part I of ch. 481, F.S.; Florida Board of Auctioneers, part VI of ch. 468, F.S.; Barbers' Board, ch. 476, F.S.; Florida Building Code Administrators and Inspectors Board, part XII of ch. 468, F.S.; Construction Industry Licensing Board, part I of ch. 489, F.S.; Board of Cosmetology, ch. 477, F.S.; Electrical Contractors' Licensing Board, part II of ch. 489, F.S.; Board of Employee Leasing Companies, part XI of ch. 468, F.S.; Board of Landscape Architecture, part II of ch. 481, F.S.; Board of Pilot Commissioners, ch. 310, F.S.; Board of Professional Engineers, ch. 471, F.S.; Board of Professional Geologists, ch. 492, F.S.; Board of Veterinary Medicine, ch. 474, F.S.; Home Inspection Services Licensing Program, part XV of ch. 468, F.S.; and Mold-related Services Licensing Program, part XVI of ch. 468, F.S.

[7] *See* s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

[8] *See* s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

Sections 455.203 and 455.213, F.S., establish the DBPR's general licensing authority, including its authority to charge license fees and license renewal fees. Each board within the DBPR must determine by rule the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.[9] When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a "permit, registration, certificate, or license" to the licensee.[10]

In Fiscal Year 2019-2020, there were 468,949 active licensees in the Division of Professions.[11]

Denial of Licensure

Chapter 455, F.S., provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under the DBPR as well as the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.[12] The DBPR may regulate professions "only for the preservation of the health, safety, and welfare of the public under the police powers of the state."[13] Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.[14]

However, "neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention," or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.[15]

The DBPR or a pertinent regulatory board may deny an application for licensure based on the grounds set forth in s. 455.227(1), F.S., or in the profession's practice act.[16] Specifically, the DBPR or regulatory board may deny a licensure application for any person who was:

> …convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.[17] (Emphasis added.)

[9] Section 455.219(1), F.S.
[10] Section 455.01(4) and (5), F.S.
[11] *See* Department of Business and Professional Regulation, Division of Professions, Division of Certified Public Accounting, Division of Real Estate, and Division of Regulation, *Annual Report, Fiscal Year 2019-2020*, p. 20, available at http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1920.pdf (last visited March 2, 2021).
[12] *See* ss. 455.01(6) and 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing DBPR staff counsel. *See* s. 455.221(1), F.S.
[13] Section 455.201(2), F.S.
[14] Section 455.201(2), F.S.
[15] Section 455.201(4)(b), F.S.
[16] Section 455.227(2), F.S.
[17] Section 455.227(1)(c), F.S.

Section 455.227, F.S., does not specifically require the DBPR or the applicable regulatory board to consider the passage of time since the disqualifying criminal offense before denying or granting a license.

Licensing and Criminal Background for Certain Professions

However, in 2019, the Legislature created a new process for reviewing the criminal history of applicants for specified professions or occupations regulated by the DBPR.[18] The new process applies to:

- Barbers;
- Cosmetologists and cosmetology specialists (i.e. hair braiders, hair wrappers, and body wrappers);
- Construction professionals, including:
  - Air-conditioning contractors;
  - Electrical contractors;
  - Mechanical contractors;
  - Plumbing contractors;
  - Pollutant storage systems contractors;
  - Roofing contractors;
  - Septic tank contractors;
  - Sheet metal contractors;
  - Solar contractors;
  - Swimming pool and spa contractors;
  - Underground utility and excavation contractors; and
  - Other specialty contractors; or
- Any other profession for which the DBPR issues a license, provided the profession is offered to prisoners in any correctional institution or correctional facility as a vocational training or through an industry certification program.[19]

Under this process, a prisoner may apply for a license before he or she is lawfully released from confinement or supervision.[20] The application may not be denied solely on the basis of the applicant's current confinement or supervision.

The DBPR may not deny a license for one of the above-listed occupations based on a conviction for a crime more than five years before the date of application.[21] However, a board may deny a license if the applicant's criminal history includes a crime listed in s. 775.21(4)(a)1., F.S., relating to sexual predator crimes, or s. 776.08, F.S., relating to forcible felonies, if such criminal history relates to the practice of the applicable profession.[22] A regulatory board may also consider the criminal history of an applicant if such criminal history is found to relate to good moral character.[23]

[18] Chapter 2019-167, L.O.F., codified at s. 455.213(3), F.S.
[19] Section 455.213(3)(a), F.S.
[20] Section 455.213.(3)(c), F.S.
[21] Section 455.213(3)(b)1., F.S. "Conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.
[22] *Id*.
[23] Section 455.213(3)(b) 2., F.S.

Education for State Prisoners

Florida law establishes a Correctional Education Program (CEP) under the Department of Corrections (DOC), which must be composed of the educational facilities and services of all institutions, and facilities housing inmates operated by the DOC.[24] The duties of the CEP include, but are not limited to:

- Developing guidelines for collecting education-related information during the inmate reception process and for disseminating such information to the classification staff of the DOC.[25]
- Approving educational programs of the appropriate levels and types in the correctional institutions and developing procedures for the admission of inmate students into such programs.[26]
- Entering into agreements with public or private school districts, entities, community colleges, junior colleges, colleges, or universities as may be deemed appropriate for the purpose of carrying out the CEP duties.[27]
- Ensuring that such local agreements require minimum performance standards and standards for measurable objectives, in accordance with established Department of Education standards.[28]
- Developing and maintaining complete and reliable statistics on the number of high school equivalency diplomas and vocational certificates issued by each institution in each skill area, the change in inmate literacy levels, and the number of inmate admissions to and withdrawals from education courses.[29]
- Ensuring every inmate who has two years or more on his or her sentence at the time of being received at an institution and who lacks basic and functional literacy skills as defined in s. 1004.02, F.S.,[30] attends not less than 150 hours of sequential instruction in a correctional adult basic education program.[31]
- Ensuring that all education staff are certified in accordance with the Department of Education standards.[32]

[24] Section 944.801(1), F.S.
[25] Section 944.801(3)(a), F.S., also provides that the information collected must include the inmate's areas of educational or vocational interest, vocational skills, and level of education.
[26] Section 944.801(3)(d), F.S.
[27] Section 944.801(3)(e), F.S.
[28] *Id*.
[29] Section 944.801(3)(g), F.S.
[30] Section 1004.02(4), F.S., defines basic literacy to mean the demonstration of academic competence from 2.0 through 5.9 educational grade levels as measured by means approved for this purpose by the State Board of Education. Section 1004.02(15), F.S., defines functional literacy to mean the demonstration of academic competence from 6.0 through 8.9 educational grade levels as measured by means approved for this purpose by the State Board of Education.
[31] Section 944.801(3)(i), F.S., further provides that highest priority of inmate participation must be focused on youthful offenders and those inmates nearing release from the correctional system and that an inmate is not allowed to participate in the adult basic education program if he or she is serving a life sentence or is under sentence of death, specifically exempted for security or health reasons, housed at a community correctional center, road prison, work camp, or vocational center, attains a functional literacy level after attendance in fewer than 150 hours of adult basic education instruction, or is unable to enter such instruction because of insufficient facilities, staff, or classroom capacity.
[32] Section 944.801(3)(k), F.S. *See* ss. 1002.33(12)(f), 1012.54, 1012.55, and 1012.56, F.S.

The DOC provides 92 career and technical education courses in 37 district vocational trades, which are aligned to Florida's in-demand occupations.[33] The DOC has been able to expand these programs by contracting with state colleges, technical colleges, and community providers. Technical training, employability skill development, and industry-recognized credentialing are integrated into the career and technical education programs to ensure returning citizens are job-ready upon release.[34]

Criminal Punishment Code

In 1997, the Legislature enacted the Criminal Punishment Code[35] (Code) as Florida's "primary sentencing policy."[36] The primary purpose of the Code is to punish the offender and though rehabilitation is desired, it is a subordinate goal.[37]

The Code also provides that the sentence imposed by the sentencing judge for noncapital felony offenses committed on or after October 1, 1998, reflects the length of actual time to be served, shortened only by the application of incentive and meritorious gain-time as provided by law.[38] The sentence may not be shortened if the defendant would consequently serve less than 85 percent of his or her term of imprisonment as provided in s. 944.275(4)(b)3., F.S.[39]

Gain-Time

Section 944.275, F.S., allows the DOC to grant deductions from sentences in the form of gain-time in order to encourage satisfactory prisoner behavior, to provide incentive for prisoners to participate in productive activities, and to reward prisoners who perform outstanding deeds or services. There are currently three types of gain-time prisoners may earn: basic, incentive, and meritorious. As discussed below, the types of gain-time that a prisoner may earn, as well as the amount of gain-time a prisoner may earn, varies according to the offense date. Gain-time earned by a prisoner may also be forfeited for violations of state law or department rules.

Basic Gain-Time

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

- Portions of any sentences to be served concurrently are treated as a single sentence when determining basic gain-time;
- Basic gain-time for a partial month is prorated on the basis of a 30-day month; and

[33] The DOC, *Bureau of Education*, available at http://www.dc.state.fl.us/development/programs.html (last visited March 2, 2021).
[34] *Id.*
[35] Sections 921.002-921.0027, F.S. The Code is effective for offenses committed on or after October 1, 1998.
[36] *See* chs. 97-194 and 98-204, L.O.F.
[37] Section 921.002(1)(b), F.S.
[38] Section 921.002(1)(e), F.S.
[39] Persons sentenced for offenses committed prior to October 1, 1995, are not subject to the 85 percent requirement. *See Frequently Asked Questions Regarding Gain time*, DOC, available at https://www.floridasupremecourt.org/content/download/242696/file/Johnson%2013-711(1).pdf (last visited on February 18, 2021).

- When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, basic gain-time is granted for the amount of time the maximum sentence expiration date was extended.[40]

Basic gain-time is awarded as a lump sum upon receipt into the custody of the DOC. Basic gain-time only applies to sentences imposed or offenses committed on or after July 1, 1978, and before January 1, 1994.[41]

The DOC may not grant basic gain-time to prisoners who are convicted of committing a sexual battery on or after October 1, 1992.[42]

Incentive Gain-Time

The DOC may grant incentive gain-time for each month during which a prisoner works diligently, participates in training, uses time constructively, or otherwise engages in positive activities. The rate of incentive gain-time in effect on the date the prisoner committed the offense that resulted in his or her incarceration is the prisoner's rate of eligibility to earn incentive gain-time throughout the period of incarceration and cannot be altered by a subsequent change in the severity level of the offense for which the prisoner was sentenced. Section 944.275(4)(b), F.S., specifies that:

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

The DOC may grant, upon a recommendation of the education program manager, a one-time award of 60 additional days of incentive gain-time to a prisoner who is otherwise eligible and who successfully completes requirements for and is awarded a high school equivalency diploma or vocational certificate. A prisoner may not receive more than 60 days for educational attainment.[43] The DOC may grant an additional six days of incentive gain-time if a prisoner attends and actively participates in 150 hours of adult basic education to attain basic and functional literacy.[44]

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

[40] Section 944.275(4)(a), F.S.
[41] Section 944.275(6), F.S.
[42] Section 794.011(7), F.S.
[43] Section 944.275(4)(d), F.S.
[44] Section 944.801(3)(i), F.S. "Active participation" means at a minimum, that the inmate is attentive, responsive, cooperative, and completes assigned work.

- Homicide occurring in the perpetration of or attempted perpetration of a sexual battery;
- Kidnapping of a child under the age of 13, and in the course of committing the offense, commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- False imprisonment of a child under the age of 13, and in the course of committing the offense commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- Sexual battery;
- Lewd or lascivious offenses upon or in the presence of persons less than 16 years of age;
- Lewd or lascivious offenses upon or in the presence of an elderly person or disabled person; or
- Computer pornography.[45]

Meritorious Gain-Time

The DOC may grant meritorious gain-time to a prisoner who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped prisoner, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his or her sentence. The grant of meritorious gain-time may be from 1 to 60 days.[46]

Limitations on Earning Gain-Time

For sentences imposed for offenses committed on or after October 1, 1995, a prisoner may not earn any type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed.[47] Credits awarded by the court for time physically incarcerated are credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by s. 944.275, F.S., a prisoner may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. If a prisoner is found to have violated state law or department rules, gain-time may be forfeited according to law.[48]

State prisoners sentenced to life imprisonment must be incarcerated for the rest of their natural lives, unless granted pardon or clemency.[49] Certain offenders are statutorily prohibited from earning gain-time:

- Prison releasee reoffenders must serve 100 percent of the court-imposed sentence and may not earn gain-time to shorten the length of incarceration.[50]

[45] Section 944.275(4)(e), F.S.
[46] Section 944.275(4)(c), F.S.
[47] Section 944.275(4)(f), F.S.
[48] Sections 944.275(5) and 944.28, F.S.
[49] *Id.*
[50] Under s. 775.082(9), F.S., a defendant may be designated a "prison releasee offender" if within three years of being released from incarceration commits or attempts to commit: treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, arson, kidnaping, aggravated assault with a deadly weapon, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive devise or bomb, any felony that involves the use or threat of physical force or violence against an individual, armed burglary, burglary of a dwelling, or burglary of an occupied structure, or any felony violation of ss. 790.07, 800.04, 827.03, 827.071, or 847.0135(5), F.S. A "prison releasee

- Certain prisoners convicted of offenses involving the fleeing or attempting to elude a law enforcement officer are ineligible for statutory gain-time.[51]
- Prisoners convicted of committing or attempting to commit certain felonies while possessing or using a firearm or destructive device.[52]
- Prisoners convicted of committing or attempting to commit certain felonies while possessing or using a semiautomatic firearm and its high-capacity box magazine or a machine gun.[53]
- Prisoners convicted of battery on a law enforcement officer, firefighter, emergency medical providers, public transit employees or agents, or other specified officers while possessing a firearm or semiautomatic firearm and its high-capacity box magazine.[54]
- Prisoners convicted under the dangerous sexual felony offender statute.[55]

Forfeiture of Gain-Time

Florida law allows gain-time to be forfeited or withheld if a prisoner is found guilty of an infraction of state law or department rules.[56] A prisoner shall, without prior notice or hearing, forfeit all earned gain-time upon:

- Conviction for an escape committed before October 1, 2013;
- Revocation of parole,[57] conditional release,[58] control release,[59] or clemency;[60]
- Revocation of conditional medical release,[61] if the revocation was for any reason other than improvement in medical condition; or

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

[51] Section 316.1935(6), F.S.

[52] Section 775.087(2), F.S.

[53] Section 775.087(3), F.S.

[54] Section 784.07(3), F.S.

[55] Section 794.0115, F.S.

[56] Section 944.275(5), F.S.

[57] Parole is the release of a prisoner, prior to the expiration of the prisoner's court-imposed sentence with a period of supervision to be successfully completed by compliance with the conditions and terms of the release agreement ordered by the Florida Commission on Offender Review. Parole is only available to prisoners whose crimes were committed prior to October 1, 1983, with exceptions. *See* Florida Commission on Offender Review, *Release Types: Parole*, available at https://www.fcor.state.fl.us/release-types.shtml (last visited February 20, 2021).

[58] Section 947.1405, F.S., requires certain violent prisoners who have also served a prior felony commitment at a federal or state correctional institution or who are habitual offenders, violent habitual offenders, violent career criminals, or court-designated sexual offenders to be released under supervision subject to specified terms and conditions upon reaching the tentative release date or provisional release date, as established by the DOC. *See also* Florida Commission on Offender Review, *Release Types: Post Release*, available at https://www.fcor.state.fl.us/postrelease.shtml#conditionalRelease (last visited February 20, 2021).

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

[60] Article IV, Section 8 of the Florida Constitution authorizes a process to provide the means through which convicted individuals may be considered for relief from punishment and seek restoration of their civil rights. The clemency function is an act of mercy that absolves an individual from all, or any part, of the punishment that the law imposes. The power to grant clemency is vested in the Governor with the agreement of two cabinet members. The Governor also has the sole power to deny clemency. Florida Commission on Offender Review, *Clemency*, available at https://www.fcor.state.fl.us/clemencyOverview.shtml (last visited February 20, 2021).

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

- Revocation of provisional release supervision,[62] or the revocation of probation[63] or community control[64] if such supervision was imposed for a crime committed on or after October 1, 1989.[65]

To declare a forfeiture, a written charge must be prepared, which specifies each instance of misconduct and the approximate date of each instance.[66] The prisoner must be given a copy of the charge, along with a notice of hearing before a disciplinary committee. The prisoner must be present at the hearing.[67] During the hearing, the prisoner:

- Will be read the charge, asked if he or she understands the charge, and explained the range of penalties that could be imposed if there is a finding of guilt;
- Will be asked if staff assistance is required or desired for the hearing;
- For minor violations, will be advised that he or she may request the charge be referred to the disciplinary team; and
- Will be read the statement of facts and be asked to plea.[68]

If the prisoner pleads guilty, no further action is needed. If the prisoner pleads not guilty, evidence, including witness statements, is to be presented. The prisoner may make only an oral closing statement concerning the infraction under consideration at the hearing. If a prisoner refuses to enter a plea, it is treated as a "not guilty" plea.[69]

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

- Violated a penal law of this state, or any rule of the DOC or institution;
- Threatened or knowingly endangered the life or physical well-being of another;
- Refused in any way to carry out or obey lawful instructions;
- Neglected to perform the work, duties, and tasks assigned in a faithful, diligent, industrious, orderly, and peaceful manner; or
- Escaped on or after October 1, 2013.[70]

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

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[62] Under the former s. 944.277, F.S., which was repealed by ch. 93-406, s. 32, L.O.F., the Secretary of Corrections was authorized to grant certain inmates with provisional credits when the population of the correctional system reached 98 percent of lawful capacity, which advanced the release date for such inmates.
[63] Section 948.001(8), F.S., defines "probation" as a form of community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03, F.S.
[64] Section 948.001(3), F.S., defines "community control" as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Community control is an individualized program in which the freedom of an offender is restricted within the community, home, or non-institutional residential placement and specific sanctions are imposed and enforced.
[65] Rule 33-601.104, F.A.C.
[66] Section 944.28(2)(c), F.S.
[67] Rule 33-601.307(1)(b), F.A.C., provides instances in which the prisoner does not have to attend the hearing and procedures if the prisoner refuses to attend the hearing or is disruptive.
[68] Rule 33-601.307(1)(c)-(f), F.A.C.
[69] Rule 33-601.307(g), F.A.C.
[70] *Supra* note 65.

that the prisoner will continue to perform positively without further violation of the DOC's rules or state laws.[71]

Sentence Expiration and Release Dates

The DOC must establish a maximum sentence expiration date for each prisoner who is committed to the DOC to serve a term of years. The maximum sentence expiration date is the date on which the sentence(s) imposed on the prisoner will expire. The DOC must reduce the total time to be served by any time lawfully credited.[72]

The DOC must also establish a tentative release date for each prisoner sentenced to a term of years. The tentative release date is the date on which the prisoner is projected to be released from custody based on the amount of gain-time earned or forfeited. The initial tentative release date is established by deducting basic gain-time from the maximum sentence expiration date.[73] Other gain-time is applied when earned or restored, to make the tentative release date earlier and forfeited gain-time is applied to make the tentative release date later.[74]

A prisoner who has served his or her time, as reduced by gain-time deductions, must be released and placed under further supervision and control of the DOC.[75]

III. Effect of Proposed Changes:

Occupational Licensing

The bill amends s. 455.213, F.S., to reduce the timeframe during which the DBPR may deny a license on the basis of criminal history from five years to two years from the date of criminal conviction for applicants applying for licenses as:

- Barbers;
- Cosmetologists and cosmetology specialists (i.e. hair braiders, hair wrappers, and body wrappers);
- Construction professionals, including:
  - Air-conditioning contractors;
  - Electrical contractors;
  - Mechanical contractors;
  - Plumbing contractors;
  - Pollutant storage systems contractors;
  - Roofing contractors;
  - Septic tank contractors;
  - Sheet metal contractors;
  - Solar contractors;

[71] Rule 33-601.105, F.A.C.
[72] Section 944.275(2), F.S.
[73] Basic gain-time only applies to prisoners serving sentences imposed or for offenses committed on or after July 1, 1978, and before January 1, 1994.
[74] Section 944.275(3), F.S.
[75] Section 944.291, F.S. Prisoners serving sentences imposed for offenses committed on or after October 1, 1995, must serve at minimum 85 percent of the imposed sentence.

  - Swimming pool and spa contractors;
  - Underground utility and excavation contractors; and
  - Other specialty contractors; or
- Any other profession for which the DBPR issues a license, provided the profession is offered to prisoners in any correctional institution or correctional facility as a vocational training or through an industry certification program

The bill retains the authority of a regulatory board to deny a license to certain individuals required to register as sexual predators or who have convictions for forcible felonies, if it relates to the practice of the applicable profession. A regulatory board may also consider an applicant's criminal history if such criminal history is found to relate to good moral character.

The bill requires the regulatory boards for the above-listed occupations to approve educational program credits offered to prisoners in any correctional institution or facility, whether offered as vocational training or through an industry certification program, to satisfy applicable training requirements for licensure.

Criminal Punishment Code

The bill revises the purpose of the Criminal Punishment Code to provide that criminal offenders are to be appropriately *punished and rehabilitated*, rather than ensuring that violent criminal offenders are incarcerated. The bill also provides that the dual purpose of sentencing in the criminal justice system are punishment and *rehabilitation* of the offender so that he or she can successfully transition back into the community. Rehabilitation is no longer a subordinate goal.

The bill further revises the Criminal Punishment Code to prohibit a prisoner from earning outstanding deed awards or good behavior time in an amount that would cause a prisoner to serve less than 85 percent of the sentence imposed or earning rehabilitation credits in an amount that would cause a prisoner to serve less than 65 percent of the sentence imposed.

The bill revises the ways in which prisoners may earn gain-time. The bill eliminates the current gain-time categories of basic, incentive, and meritorious gain-time and creates new categories of gain-time: good behavior time, rehabilitation credits, and outstanding deed awards. The bill defines "gain-time" as good behavior time, rehabilitation credits, and outstanding deed awards, collectively, and as defined in the bill.

Good Behavior Time

The bill requires the DOC to grant good behavior time, similar to the current basic gain-time, as a means of encouraging satisfactory behavior and developing character traits necessary for successful reentry to the community. The DOC must grant good behavior time, at a rate of 10 days per month, subject to the following:

- Portions of any sentence to be served concurrently shall be treated as a single sentence when determining good behavior time;
- Good behavior time for a partial month shall be prorated on the basis of a 30-day month; and

- When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, good behavior time shall be granted for the amount of time the maximum sentence expiration date was granted.

Unlike the current basic gain-time, which is only eligible for sentences imposed or offenses committed on or after July 1, 1978, and before January 1, 1994, the bill makes prisoners who are serving sentences for offenses committed on or after July 1, 1978, eligible to receive good behavior time. The good behavior time would be applied in a lump sum at the beginning of the prisoner's sentence, as it is with the current basic gain-time.

The bill also authorizes the DOC to award up to two additional days of good behavior time per month for prisoners who are serving sentences for violations of ss. 893.13 or 893.135, F.S., relating to certain controlled substance offenses.[76] These additional days of good behavior time are retroactive.

Rehabilitation Credits

The bill authorizes the DOC to grant rehabilitation credits, similar to the current incentive gain-time, if a prisoner works diligently, participates in training or education, uses time constructively, or otherwise engages in positive activities. The rate of rehabilitation credits in effect on the date the prisoner committed the offense that resulted in his or her incarceration is the prisoner's rate of eligibility to earn rehabilitation throughout the period of incarceration:

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

Therefore, prisoners who committed offenses after October 1, 1995, are eligible to receive up to 20 days of rehabilitation credits, rather than the 10 days of incentive gain-time that they now receive. The other rates of awarding rehabilitation credit remain the same.

The bill further requires the DOC to grant additional awards of 60 days of rehabilitation credits to eligible prisoners for the successful completion of each of the following:

- A high school equivalency diploma;
- A college degree;
- A vocational certificate;
- A drug treatment program;

[76] Section 893.13, F.S., makes it unlawful for a person to sell, manufacture, deliver, possess with intent to sell, manufacture, or deliver, a controlled substance, except as authorized by law; to purchase, possess, or possess with intent to purchase, a controlled substance, except as authorized by law. Section 893.135, F.S., makes it unlawful for a person to sell, purchase, manufacture, deliver, or bring into this state, or who is knowingly in actual or constructive possession of certain quantities of controlled substances (i.e. trafficking).

- A life skills program;[77]
- A reentry program; or
- Other evidence-based program approved by the DOC that serves the purpose of reducing recidivism and assisting a prisoner reintegrate into society.

The bill also requires the DOC to grant five additional days of rehabilitation credits for successful completion of any other department-approved program, including prisoner-developed programs or a passing grade in each online or in-person educational course.

The bill makes the award of rehabilitation credits related to educational or treatment programs retroactive.

As with the existing incentive gain-time, the bill retains the prohibition against the award of rehabilitative credits for sentences imposed for the following offenses committed on or after October 1, 2014:

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

Rehabilitation credits must be credited and applied monthly.

Outstanding Deed Awards

The bill authorizes the DOC to grant from 30 days to 60 days of outstanding deed awards, which is similar to the current meritorious gain-time, for each outstanding deed a prisoner performs, such as saving a life or assisting in the recapture of an escaped prisoner, or who performs an outstanding service that would merit the grant of additional deductions from his or her sentence. The bill increases the minimum number of days a prisoner may get for performing an outstanding deed to 30 days from the current one day.

[77] The bill defines "life skills program" as a program, approved by the DOC, which consists of at least 60 hours designed to reduce recidivism by addressing, at a minimum, education, job skills, interpersonal skills, stress and anger management, and personal development.

Limitations on Awards of Good Behavior Time, Rehabilitation Credits, and Outstanding Deed Awards

Similar to the current gain-time limitation, the bill prohibits a prisoner, serving a sentence for an offense committed on or after October 1, 1995, from receiving good behavior time or outstanding deed awards in an amount that would cause an inmate to serve less than 85 percent of his or her sentence. The bill does not apply the 85 percent sentence service requirement on prisoners who are serving sentences imposed for offenses committed before October 1, 1995, as they are not currently subject to the 85 percent service requirement.

The bill prohibits a prisoner serving a sentence imposed for an offense committed on or after October 1, 1995, from earning good behavior time once the prisoner's tentative release date is the same date as the date at which the prisoner will have served 85 percent of his or her sentence. The bill also prohibits a prisoner from receiving rehabilitation credits in an amount that would result in the prisoner's release prior to serving a minimum of 65 percent of the sentence imposed. Once a prisoner's tentative release date is equal to the date at which the prisoner will have served 65 percent of the sentence imposed, the prisoner may not accumulate any more awards.

The bill retains the current law's requirement that individuals serving a life sentence be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

Forfeiture of Gain-Time

The bill requires that prior to the forfeiture of gain-time, the prisoner must be afforded due process. Prisoners are currently afforded a hearing prior to forfeiting any gain-time.

Sentence Expiration and Release Dates

The bill requires the DOC to establish an initial tentative release date for each prisoner by deducting good behavior time from the maximum sentence expiration date. The bill also requires that good behavior time, rehabilitation credits, and outstanding deed awards be applied when granted or restored to make the release date proportionately earlier and that any forfeitures of good behavior time be applied to make the tentative release date proportionately later.

Rule-making

The bill directs the DOC to adopt rules to implement the granting, forfeiture, restoration, and deletion of outstanding deed awards, good behavior time, and rehabilitation credits.

The bill makes conforming changes to several provisions of law.

The bill is effective July 1, 2021.

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 Criminal Justice Impact Conference (CJIC) reviewed this legislation on March 11, 2021. The CJIC determined the retroactive application of two additional days of good behavior time and reducing time served to 65% of the total sentence with the application of rehabilitation credits will have the following impacts[78]:

Retroactive Application of Good Behavior

July 1, 2021 Effective Date

Fiscal Year	Projected Cumulative Prison Beds Required	Funds Required Annual Operating Costs
2021-2022	(141)	($577,656)
2022-2023	(294)	($1,773,648)
2023-2024	(346)	($2,603,520)
2024-2025	(337)	($2,782,512)
2025-2026	(329)	($2,709,288)
Total	**(329)**	**($10,446,624)**

[78] Criminal Justice Impact Conference (CJIC), CS/SB 1032, *Adopted Impact*, March 11, 2021.

Changing Percent of Sentence that Must Be Served

July 1, 2021 Effective Date

Fiscal Year	Projected Cumulative Prison Beds Required	Funds Required Annual Operating Costs
2021-2022	(1,486)	($9,049,048)
2022-2023	(4,141)	($53,747,204)
2023-2024	(6,084)	($121,359,898)
2024-2025	(7,379)	($163,441,552)
2025-2026	(8,244)	($200,080,932)
Total	**(8,244)**	**($547,678,604)**

The DOC also reported an overall significant bed impact reduction as a result of the bill.[79] The DOC anticipates an indeterminate need for additional officers for community supervision, since the number of inmates subject to supervision as a result of gain-time is unknown. The Department's FY 2019-20 average per diem for community supervision was $6.01.[80] The DOC also estimates that its Office of Information Technology will need $130,500 for programming needs; however, these costs can be absorbed within the department's current resources. [81]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 455.213, 921.002, 944.02, 944.275, 316.027, 775.0845, 775.0847, 775.0861, 775.0862, 775.087, 775.0875, 777.03, 777.04, 794.011, 794.023, 817.568, 831.032, 843.22, 874.04, 944.281, 944.473, and 944.70.

This bill reenacts the following sections of the Florida Statutes: 775.084, 900.05, 944.28, 944.605, 944.607, 947.005, and 985.4815.

[79] The DOC, *2021 Agency Bill Analysis for SB 1032*, February 26, 2021, pp. 12-14 (on file with the Senate Committee on Criminal Justice).
[80] *Id*. at p. 13.
[81] *Id*. at p. 14.

IX. Additional Information:

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

Recommend CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on April 8, 2021:
The committee substitute:

- Clarifies that the 85 percent service requirement applies to good behavior time and outstanding deed awards, and that only rehabilitation credits may reduce the minimum sentence service requirement to 65 percent of the imposed sentence.

CS by Criminal Justice on March 2, 2021:
The committee substitute:

- Changes the title of the bill from "Gain-time" to "criminal convictions";
- Shortens the lookback time for crimes by the Department of Business and Professional Regulation from 5 years to 2 years for certain occupations;
- Requires that training provided in a correctional institution be accepted by the Department of Business and Professional Regulation to meet licensure requirements for certain occupations;
- Changes the term "outstanding deed gain-time" to "outstanding deed awards";
- Defines gain-time to collectively mean outstanding deed award, good behavior time, and rehabilitation credits;
- Clarifies that the 85 percent service requirement only applies to those inmates who are serving sentences for crimes committed before October 1, 1995;
- Clarifies that the 85 percent service requirement only applies to good behavior time and outstanding award deeds and that the 65 percent service requirement only applies to rehabilitation credits;
- Restores discretion to the department to award rehabilitation credits;
- Restores the phrase "otherwise eligible" to ensure that the DOC only awards rehabilitation credits to those who are eligible to receive such credits, under the law;
- Removes mental health treatment and behavior modification programs from the list of programs for which a prisoner may receive rehabilitation credit for successful completion;
- Authorizes the DOC to award *up to* two days of additional rehabilitation credit for certain prisoners serving time for drug offenses rather than only two days (or alternatively zero days);
- Removes the provision that only vested good behavior time may be forfeited and makes all gain-time eligible for forfeiture;
- Removes the provision that vests good behavior time two years after it is earned; and
- Makes conforming changes throughout statute to update terminology.

B. Amendments:

None.

862400

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice (Perry) recommended the following:

Senate Amendment

Delete lines 344 - 348

and insert:

accumulate further good behavior time or outstanding deed awards ~~gain-time awards~~ at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. A prisoner may not accumulate further rehabilitation credits at any point

By the Committee on Criminal Justice; and Senator Perry

591-02346B-21 20211032c1

A bill to be entitled

An act relating to criminal convictions; amending s. 455.213, F.S.; revising the timeframe when a conviction, or any other adjudication, for a crime may not be grounds for denial of licensure in specified professions; removing a provision requiring good moral character for licensure in such professions; requiring the applicable board to approve certain education program credits offered to inmates in correctional institutions or facilities to satisfy training requirements for licensure in specified professions; amending s. 921.002, F.S.; revising the principles that the Criminal Punishment Code embodies as it relates to punishment and rehabilitation; conforming provisions to changes made by the act; amending s. 944.02, F.S.; defining the term "gain-time"; amending s. 944.275, F.S.; authorizing the Department of Corrections to grant deductions from sentences in the form of good behavior time, rehabilitation credits, and outstanding deed awards, rather than solely for gain-time, for specified purposes; revising a prisoner's "tentative release date" that the department must calculate for each prisoner based on his or her good behavior time, rehabilitation credits, and outstanding deed awards; requiring the department to grant good behavior time, rather than basic gain-time, as a means of encouraging satisfactory behavior and developing character traits necessary for successful reentry to the community, subject to

591-02346B-21 20211032c1

certain conditions; authorizing the department to grant rehabilitation credits, rather than incentive gain-time, for each month during which a prisoner engages in specified activities; revising the rates of eligibility to earn rehabilitation credits; increasing the authorized amount of outstanding deed awards which a prisoner may be granted per outstanding deed performed; authorizing the department to grant a specified number of additional days of rehabilitation credit for successful completion of specified programs; defining the term "life skills program"; providing for retroactivity of specified rehabilitation credits; authorizing the department to grant up to a certain additional amount of days per month to prisoners serving sentences for certain violations; providing for retroactivity of specified good behavior time; prohibiting certain prisoners from being eligible to earn or receive good behavior time or outstanding deed awards in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, before he or she serves a specified minimum percentage of the sentence imposed; prohibiting certain prisoners from earning or receiving rehabilitation credits in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, before he or she serves a specified minimum percentage of the sentence imposed; providing that gain-time may be forfeited according to law after due process if a

prisoner is found guilty of an infraction of certain laws or rules; requiring the department to adopt rules in accordance with the changes made by the act; conforming provisions to changes made by the act; making technical changes; amending ss. 316.027, 775.0845, 775.0847, 775.0861, 775.0862, 775.087, 775.0875, 777.03, 777.04, 794.011, 794.023, 817.568, 831.032, 843.22, 874.04, 944.281, 944.473, and 944.70, F.S.; conforming provisions to changes made by the act; reenacting ss. 775.084(4)(k), 900.05(2)(v) and (3)(e), 944.28, 944.605(1), 944.607(6), 947.005(15), and 985.4815(6)(a), F.S., relating to gain-time granted by the department, the definition of "gain-time credit earned" and gain-time data that the department must collect, the forfeiture of gain-time and the right to earn gain-time in the future, a required notification of expiration of sentence, a requirement that a digitized photograph of sexual offenders be taken within a certain time before release, the definition of "tentative release date," and a requirement that a digitized photograph of sexual offenders be taken within a certain time before release, respectively, to incorporate the amendment made to s. 944.275, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (b) of subsection (3) of section

455.213, Florida Statutes, is amended, and paragraph (f) is added to that subsection, to read:

455.213 General licensing provisions.—

(3)

(b)~~1.~~ A conviction, or any other adjudication, for a crime more than 2 ~~5~~ years before the date the application is received by the applicable board may not be grounds for denial of a license specified in paragraph (a). For purposes of this paragraph, the term "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld. This paragraph does not limit the applicable board from considering an applicant's criminal history that includes a crime listed in s. 775.21(4)(a)1. or s. 776.08 at any time, but only if such criminal history has been found to relate to the practice of the applicable profession.

~~2. The applicable board may consider the criminal history of an applicant for licensure under subparagraph (a)3. if such criminal history has been found to relate to good moral character.~~

(f) The applicable board shall approve educational programs credits offered to inmates in any correctional institution or correctional facility, whether offered as vocational training or through an industry certification program, for the purposes of satisfying applicable training requirements for licensure in a profession specified in paragraph (a).

Section 2. Subsection (1) of section 921.002, Florida Statutes, is amended to read:

921.002 The Criminal Punishment Code.—The Criminal Punishment Code shall apply to all felony offenses, except

capital felonies, committed on or after October 1, 1998.

(1) The provision of criminal penalties and of limitations upon the application of such penalties is a matter of predominantly substantive law and, as such, is a matter properly addressed by the Legislature. The Legislature, in the exercise of its authority and responsibility to establish sentencing criteria, to provide for the imposition of criminal penalties, and to make the best use of state prisons so that ~~violent~~ criminal offenders are appropriately punished and rehabilitated ~~incarcerated~~, has determined that it is in the best interest of the state to develop, implement, and revise a sentencing policy. The Criminal Punishment Code embodies the principles that:

(a) Sentencing is neutral with respect to race, gender, and social and economic status.

(b) The dual purposes ~~primary purpose~~ of sentencing in the criminal justice system are ~~is~~ to punish the offender and rehabilitate the offender so that he or she can successfully transition back into the community. ~~Rehabilitation is a desired goal of the criminal justice system but is subordinate to the goal of punishment.~~

(c) The penalty imposed is commensurate with the severity of the primary offense and the circumstances surrounding the primary offense.

(d) The severity of the sentence increases with the length and nature of the offender's prior record.

(e) The sentence imposed by the sentencing judge reflects the length of actual time to be served, shortened only by the application of good behavior time, rehabilitation credits, and outstanding deed awards, ~~incentive and meritorious gain-time~~ as

provided by law, and may not be shortened if the defendant would consequently serve less than 85 percent of his or her term of imprisonment upon the application of good behavior time and outstanding deed awards or 65 percent of his or her term of imprisonment upon the application of rehabilitation credits, as provided in s. 944.275(4). The provisions of chapter 947, relating to parole, do not ~~shall not~~ apply to persons sentenced under the Criminal Punishment Code.

(f) Departures below the lowest permissible sentence established by the code must be articulated in writing by the trial court judge and made only when circumstances or factors reasonably justify the mitigation of the sentence. The level of proof necessary to establish facts that support a departure from the lowest permissible sentence is a preponderance of the evidence.

(g) The trial court judge may impose a sentence up to and including the statutory maximum for any offense, including an offense that is before the court due to a violation of probation or community control.

(h) A sentence may be appealed on the basis that it departs from the Criminal Punishment Code only if the sentence is below the lowest permissible sentence or as enumerated in s. 924.06(1).

(i) Use of incarcerative sanctions is prioritized toward offenders convicted of serious offenses and certain offenders who have long prior records, in order to maximize the finite capacities of state and local correctional facilities.

Section 3. Present subsections (5) through (8) of section 944.02, Florida Statutes, are redesignated as subsections (6)

through (9), respectively, and a new subsection (5) is added to that section, to read:

944.02 Definitions.—The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:

(5) "Gain-time" means good behavior time, rehabilitation credits, and outstanding deed awards, collectively.

Section 4. Section 944.275, Florida Statutes, is amended to read:

944.275 Good behavior time; rehabilitation credits; outstanding deed awards ~~gain-time~~.—

(1) The department is authorized to grant deductions from sentences in the form of good behavior time, rehabilitation credits, and outstanding deed awards ~~gain-time~~ in order to encourage satisfactory prisoner behavior, to provide incentive for prisoners to participate in productive activities, and to reward prisoners who perform outstanding deeds or services.

(2)(a) The department shall establish for each prisoner sentenced to a term of years a "maximum sentence expiration date," which shall be the date when the sentence or combined sentences imposed on a prisoner will expire. In establishing this date, the department shall reduce the total time to be served by any time lawfully credited.

(b) When a prisoner with an established maximum sentence expiration date is sentenced to an additional term or terms without having been released from custody, the department shall extend the maximum sentence expiration date by the length of time imposed in the new sentence or sentences, less lawful credits.

(c) When an escaped prisoner or a parole violator is returned to the custody of the department, the maximum sentence expiration date in effect when the escape occurred or the parole was effective shall be extended by the amount of time the prisoner was not in custody plus the time imposed in any new sentence or sentences, but reduced by any lawful credits.

(3)(a) The department shall also establish for each prisoner sentenced to a term of years a "tentative release date" which shall be the date projected for the prisoner's release from custody by virtue of good behavior time, rehabilitation credits, or outstanding deed awards ~~gain-time~~ granted or forfeited as described in this section. The initial tentative release date shall be determined by deducting good behavior time ~~basic gain-time~~ granted from the maximum sentence expiration date. Rehabilitation credits and outstanding deed awards ~~Other gain-time~~ shall be applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, shall be applied to make the tentative release date proportionately later.

(b) When an initial tentative release date is reestablished because of additional sentences imposed before the prisoner has completely served all prior sentences, any good behavior time, rehabilitation credits, and outstanding deed awards ~~gain-time~~ granted during service of a prior sentence and not forfeited shall be applied.

(c) The tentative release date may not be later than the maximum sentence expiration date.

(4)(a) As a means of encouraging satisfactory behavior and developing character traits necessary for successful reentry to

the community, the department shall grant good behavior time ~~basic gain-time~~ at the rate of 10 days for each month of each sentence imposed on a prisoner, subject to the following:

1. Portions of any sentences to be served concurrently shall be treated as a single sentence when determining good behavior time ~~basic gain-time~~.

2. Good behavior time ~~Basic gain-time~~ for a partial month shall be prorated on the basis of a 30-day month.

3. When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, good behavior time ~~basic gain-time~~ shall be granted for the amount of time the maximum sentence expiration date was extended.

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

1. For sentences imposed for offenses committed before ~~prior to~~ January 1, 1994, and on or after October 1, 1995, up to 20 days of rehabilitation credits ~~incentive gain-time~~ may be granted. If granted, such rehabilitation credits ~~gain-time~~ shall be credited and applied monthly.

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

a. For offenses ranked in offense severity levels 1 through 7, under former s. 921.0012 or former s. 921.0013, up to 25 days of rehabilitation credits ~~incentive gain-time~~ may be granted. If granted, such rehabilitation credits ~~gain-time~~ shall be credited and applied monthly.

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

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

(c) A prisoner ~~An inmate~~ who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped prisoner ~~inmate~~, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his or her sentence may be granted an outstanding deed award ~~meritorious gain-time~~ of from 30 ~~1~~ to 60 days per outstanding deed performed.

(d) Notwithstanding the monthly maximum awards of rehabilitation credits under subparagraphs (b)1. and 2., ~~incentive gain-time under subparagraphs (b)1., 2., and 3.,~~ the education program manager shall recommend, and the department ~~of Corrections~~ may grant, to a prisoner who is otherwise eligible, ~~a one-time award of~~ 60 additional days of rehabilitation credits for each of the following successfully completed by a prisoner:

~~incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is, or has been during the current commitment, awarded~~ a high school equivalency diploma, a college degree, a ~~or~~ vocational certificate, a drug treatment program, a life skills program, a reentry program, or other evidence-based program approved by the department that serves the purpose of reducing recidivism and assisting a prisoner reintegrate into society. For purposes of this paragraph, a "life skills program" means a program, approved by the department, which consists of at least 60 hours designed to reduce recidivism by addressing, at a minimum, education, job skill, interpersonal skills, stress and anger management, and personal development. Additionally, the department shall grant 5 additional days of rehabilitation credits for successful completion of any other department-approved program, including prisoner-developed programs or a passing grade in each online or in-person educational course, as approved by the department. Rehabilitation credits under this paragraph are retroactive.

(e) Notwithstanding the monthly maximum awards of rehabilitation credits under subparagraphs (b)1. and 2., the department may grant up to 2 additional days per month of good behavior time to prisoners serving sentences for violations of s. 893.13 or s. 893.135. Good behavior time under this paragraph is retroactive ~~Under no circumstances may an inmate receive more than 60 days for educational attainment pursuant to this section~~.

(f) ~~(e)~~ Notwithstanding subparagraph (b)1. ~~subparagraph (b)3.~~, for sentences imposed for offenses committed on or after October 1, 2014, the department may not grant rehabilitation

credits ~~incentive gain-time~~ if the offense is a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

(g)1. ~~(f)~~ A prisoner ~~An inmate~~ who is subject to this subsection and who is serving a sentence imposed for an offense committed on or after October 1, 1995, ~~subparagraph (b)3.~~ is not eligible to earn or receive good behavior time or outstanding deed awards ~~gain-time under paragraph (a), paragraph (b), paragraph (c), or paragraph (d) or any other type of gain-time~~ in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, before he or she serves ~~prior to serving~~ a minimum of 85 percent of the sentence imposed.

2. A prisoner who is subject to this subsection may not earn or receive rehabilitation credits in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, before he or she serves a minimum of 65 percent of the sentence imposed.

3. For purposes of this paragraph, credits awarded by the court for time physically incarcerated shall be credited toward satisfaction of ~~85 percent of~~ the sentence imposed. Except as provided by this section, a prisoner serving a sentence imposed for an offense committed on or after October 1, 1995, may not accumulate further good behavior time ~~gain-time awards~~ at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. A prisoner may not accumulate further rehabilitation credits or outstanding deed awards at any point

when the tentative release date is the same as that date at which the prisoner will have served 65 percent of the sentence imposed. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

(5) If ~~When~~ a prisoner is found guilty of an infraction of the laws of this state or the rules of the department, gain-time may be forfeited according to law after due process.

(6)(a) Good behavior time ~~Basic gain-time~~ under this section shall be computed on and applied to all sentences imposed for offenses committed on or after July 1, 1978~~, and before January 1, 1994~~.

(b) All good behavior time, rehabilitation credits, and outstanding deed awards are ~~incentive and meritorious gain-time is~~ granted according to this section.

(c) All additional gain-time previously awarded under former subsections (2) and (3) and all forfeitures ordered before ~~prior to~~ the effective date of the act that created this section shall remain in effect and be applied in establishing an initial tentative release date.

(7) The department shall adopt rules to implement the granting, forfeiture, restoration, and deletion of good behavior time, rehabilitation credits, and outstanding deed awards, ~~gain-time~~.

Section 5. Subsection (2) of section 316.027, Florida Statutes, is amended to read:

316.027 Crash involving death or personal injuries.—

(2)(a) The driver of a vehicle involved in a crash occurring on public or private property which results in injury

to a person other than serious bodily injury shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who willfully violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The driver of a vehicle involved in a crash occurring on public or private property which results in serious bodily injury to a person shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who willfully violates this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) The driver of a vehicle involved in a crash occurring on public or private property which results in the death of a person shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who is arrested for a violation of this paragraph and who has previously been convicted of a violation of this section, s. 316.061, s. 316.191, or s. 316.193, or a felony violation of s. 322.34, shall be held in custody until brought before the court for admittance to bail in accordance with chapter 903. A person who willfully violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be sentenced to a mandatory minimum term of

imprisonment of 4 years. A person who willfully commits such a violation while driving under the influence as set forth in s. 316.193(1) shall be sentenced to a mandatory minimum term of imprisonment of 4 years.

(d) Notwithstanding s. 775.089(1)(a), if the driver of a vehicle violates paragraph (a), paragraph (b), or paragraph (c), the court shall order the driver to make restitution to the victim for any damage or loss unless the court finds clear and compelling reasons not to order the restitution. Restitution may be monetary or nonmonetary restitution. The court shall make the payment of restitution a condition of probation in accordance with s. 948.03. An order requiring the defendant to make restitution to a victim does not remove or diminish the requirement that the court order payment to the Crimes Compensation Trust Fund under chapter 960. Payment of an award by the Crimes Compensation Trust Fund creates an order of restitution to the Crimes Compensation Trust Fund unless specifically waived in accordance with s. 775.089(1)(b).

(e) A driver who violates paragraph (a), paragraph (b), or paragraph (c) shall have his or her driver license revoked for at least 3 years as provided in s. 322.28(4).

1. A person convicted of violating paragraph (a), paragraph (b), or paragraph (c) shall, before his or her driving privilege may be reinstated, present to the department proof of completion of a victim's impact panel session in a judicial circuit if such a panel exists, or if such a panel does not exist, a department-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2).

2. The department may reinstate an offender's driving privilege after he or she satisfies the 3-year revocation period as provided in s. 322.28(4) and successfully completes either a victim's impact panel session or a department-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2).

3. For purposes of this paragraph, an offender's driving privilege may be reinstated only after the department verifies that the offender participated in and successfully completed a victim's impact panel session or a department-approved driver improvement course.

(f) For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, an offense listed in this subsection is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the offense committed if the victim of the offense was a vulnerable road user.

(g) The defendant may move to depart from the mandatory minimum term of imprisonment prescribed in paragraph (c) unless the violation was committed while the defendant was driving under the influence. The state may object to this departure. The court may grant the motion only if it finds that a factor, consideration, or circumstance clearly demonstrates that imposing a mandatory minimum term of imprisonment would constitute or result in an injustice. The court shall state in open court the basis for granting the motion.

Section 6. Section 775.0845, Florida Statutes, is amended to read:

775.0845 Wearing mask while committing offense; reclassification.—The felony or misdemeanor degree of any criminal offense, other than a violation of ss. 876.12-876.15, shall be reclassified to the next higher degree as provided in this section if, while committing the offense, the offender was wearing a hood, mask, or other device that concealed his or her identity.

(1)(a) In the case of a misdemeanor of the second degree, the offense is reclassified to a misdemeanor of the first degree.

(b) In the case of a misdemeanor of the first degree, the offense is reclassified to a felony of the third degree. For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.

(2)(a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under former s. 921.0012, former s. 921.0013, s. 921.0022, or s. 921.0023 of the offense committed.

Section 7. Section 775.0847, Florida Statutes, is amended to read:

775.0847 Possession or promotion of certain images of child pornography; reclassification.—

(1) For purposes of this section:

(a) "Child" means any person, whose identity is known or unknown, less than 18 years of age.

(b) "Child pornography" means any image depicting a minor engaged in sexual conduct.

(c) "Sadomasochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from inflicting harm on another or receiving such harm oneself.

(d) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

(e) "Sexual bestiality" means any sexual act, actual or simulated, between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(f) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual 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."

(2) A violation of s. 827.071, s. 847.0135, s. 847.0137, or s. 847.0138 shall be reclassified to the next higher degree as provided in subsection (3) if:

(a) The offender possesses 10 or more images of any form of child pornography regardless of content; and

(b) The content of at least one image contains one or more of the following:

1. A child who is younger than the age of 5.

2. Sadomasochistic abuse involving a child.

3. Sexual battery involving a child.

4. Sexual bestiality involving a child.

5. Any movie involving a child, regardless of length and regardless of whether the movie contains sound.

(3)(a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this section is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 8. Section 775.0861, Florida Statutes, is amended to read:

775.0861 Offenses against persons on the grounds of religious institutions; reclassification.—

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

(a) "Religious institution" is as defined in s. 496.404.

(b) "Religious service" is a religious ceremony, prayer, or other activity according to a form and order prescribed for worship, including a service related to a particular occasion.

(2) The felony or misdemeanor degree of any violation of:

(a) Section 784.011, relating to assault;

(b) Section 784.021, relating to aggravated assault;

(c) Section 784.03, relating to battery;

(d) Section 784.041, relating to felony battery;

(e) A statute defining any offense listed in s. 775.084(1)(b)1.; or

(f) Any other statute defining an offense that involves the use or threat of physical force or violence against any individual

shall be reclassified as provided in this section if the offense is committed on the property of a religious institution while the victim is on the property for the purpose of participating in or attending a religious service.

(3)(a) In the case of a misdemeanor of the second degree, the offense is reclassified to a misdemeanor of the first degree.

(b) In the case of a misdemeanor of the first degree, the offense is reclassified to a felony of the third degree. For purposes of sentencing under chapter 921, such offense is ranked in level 2 of the offense severity ranking chart.

(c) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(d) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

(e) In the case of a felony of the first degree, the offense is reclassified to a life felony.

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 9. Section 775.0862, Florida Statutes, is amended to read:

775.0862 Sexual offenses against students by authority figures; reclassification.—

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

(a) "Authority figure" means a person 18 years of age or older who is employed by, volunteering at, or under contract with a school.

(b) "School" has the same meaning as provided in s. 1003.01 and includes a private school as defined in s. 1002.01, a voluntary prekindergarten education program as described in s. 1002.53(3), early learning programs, a public school as described in s. 402.3025(1), the Florida School for the Deaf and the Blind, and the Florida Virtual School established under s. 1002.37. The term does not include facilities dedicated exclusively to the education of adults.

(c) "Student" means a person younger than 18 years of age who is enrolled at a school.

(2) The felony degree of a violation of an offense listed

in s. 943.0435(1)(h)1.a., unless the offense is a violation of s. 794.011(4)(e)7. or s. 810.145(8)(a)2., shall be reclassified as provided in this section if the offense is committed by an authority figure of a school against a student of the school.

(3)(a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

(c) In the case of a felony of the first degree, the offense is reclassified to a life felony.

For purposes of sentencing under chapter 921 and determining ~~incentive gain time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 10. Subsections (1) and (3) of section 775.087, Florida Statutes, are amended to read:

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

(1) Unless otherwise provided by law, whenever a person is charged with a felony, except a felony in which the use of a weapon or firearm is an essential element, and during the commission of such felony the defendant carries, displays, uses, threatens to use, or attempts to use any weapon or firearm, or during the commission of such felony the defendant commits an aggravated battery, the felony for which the person is charged shall be reclassified as follows:

(a) In the case of a felony of the first degree, to a life

felony.

(b) In the case of a felony of the second degree, to a felony of the first degree.

(c) In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense which is reclassified under this section is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

(3)(a)1. Any person who is convicted of a felony or an attempt to commit a felony, regardless of whether the use of a firearm is an element of the felony, and the conviction was for:

a. Murder;

b. Sexual battery;

c. Robbery;

d. Burglary;

e. Arson;

f. Aggravated battery;

g. Kidnapping;

h. Escape;

i. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;

j. Aircraft piracy;

k. Aggravated child abuse;

l. Aggravated abuse of an elderly person or disabled adult;

m. Unlawful throwing, placing, or discharging of a destructive device or bomb;

n. Carjacking;

o. Home-invasion robbery;

p. Aggravated stalking; or

q. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1);

and during the commission of the offense, such person possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 15 years.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph (a)1., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine or a "machine gun" as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph (a)1., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box

magazine or a "machine gun" as defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

(b) Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not prevent a court from imposing a longer sentence of incarceration as authorized by law in addition to the minimum mandatory sentence, or from imposing a sentence of death pursuant to other applicable law. Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not authorize a court to impose a lesser sentence than otherwise required by law.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence.

(c) If the minimum mandatory terms of imprisonment imposed pursuant to this section exceed the maximum sentences authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the mandatory minimum sentence must be imposed. If the mandatory minimum terms of imprisonment pursuant to this section are less than the sentences that could be imposed as authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the sentence imposed by

the court must include the mandatory minimum term of imprisonment as required in this section.

(d) It is the intent of the Legislature that offenders who possess, carry, display, use, threaten to use, or attempt to use a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001 be punished to the fullest extent of the law, and the minimum terms of imprisonment imposed pursuant to this subsection shall be imposed for each qualifying felony count for which the person is convicted. The court shall impose any term of imprisonment provided for in this subsection consecutively to any other term of imprisonment imposed for any other felony offense.

(e) As used in this subsection, the term:

1. "High-capacity detachable box magazine" means any detachable box magazine, for use in a semiautomatic firearm, which is capable of being loaded with more than 20 centerfire cartridges.

2. "Semiautomatic firearm" means a firearm which is capable of firing a series of rounds by separate successive depressions of the trigger and which uses the energy of discharge to perform a portion of the operating cycle.

Section 11. Section 775.0875, Florida Statutes, is amended to read:

775.0875 Unlawful taking, possession, or use of law enforcement officer's firearm; crime reclassification; penalties.—

(1) A person who, without authorization, takes a firearm from a law enforcement officer lawfully engaged in law enforcement duties commits a felony of the third degree,

punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) If a person violates subsection (1) and commits any other crime involving the firearm taken from the law enforcement officer, such crime shall be reclassified as follows:

(a)1. In the case of a felony of the first degree, to a life felony.

2. In the case of a felony of the second degree, to a felony of the first degree.

3. In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

(b) In the case of a misdemeanor, to a felony of the third degree. For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.

(3) A person who possesses a firearm that he or she knows was unlawfully taken from a law enforcement officer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 12. Section 777.03, Florida Statutes, is amended to read:

777.03 Accessory after the fact.—

(1)(a) Any person not standing in the relation of husband

or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity to the offender, who maintains or assists the principal or an accessory before the fact, or gives the offender any other aid, knowing that the offender had committed a crime and such crime was a third degree felony, or had been an accessory thereto before the fact, with the intent that the offender avoids or escapes detection, arrest, trial, or punishment, is an accessory after the fact.

(b) Any person who maintains or assists the principal or accessory before the fact, or gives the offender any other aid, knowing that the offender had committed the offense of child abuse, neglect of a child, aggravated child abuse, aggravated manslaughter of a child under 18 years of age, or murder of a child under 18 years of age, or had been an accessory thereto before the fact, with the intent that the offender avoids or escapes detection, arrest, trial, or punishment, is an accessory after the fact unless the court finds that the person is a victim of domestic violence.

(c) Any person who maintains or assists the principal or an accessory before the fact, or gives the offender any other aid, knowing that the offender had committed a crime and such crime was a capital, life, first degree, or second degree felony, or had been an accessory thereto before the fact, with the intent that the offender avoids or escapes detection, arrest, trial, or punishment, is an accessory after the fact.

(2)(a) If the felony offense committed is a capital felony, the offense of accessory after the fact is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the felony offense committed is a life felony or a felony of the first degree, the offense of accessory after the fact is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the felony offense committed is a felony of the second degree or a felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023, the offense of accessory after the fact is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the felony offense committed is a felony of the third degree ranked in level 1 or level 2 under s. 921.0022 or s. 921.0023, the offense of accessory after the fact is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Except as otherwise provided in s. 921.0022, for purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, the offense of accessory after the fact is ranked two levels below the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

Section 13. Section 777.04, Florida Statutes, is amended to read:

777.04 Attempts, solicitation, and conspiracy.—

(1) A person who attempts to commit an offense prohibited by law and in such attempt does any act toward the commission of such offense, but fails in the perpetration or is intercepted or prevented in the execution thereof, commits the offense of criminal attempt, ranked for purposes of sentencing as provided

in subsection (4). Criminal attempt includes the act of an adult who, with intent to commit an offense prohibited by law, allures, seduces, coaxes, or induces a child under the age of 12 to engage in an offense prohibited by law.

(2) A person who solicits another to commit an offense prohibited by law and in the course of such solicitation commands, encourages, hires, or requests another person to engage in specific conduct which would constitute such offense or an attempt to commit such offense commits the offense of criminal solicitation, ranked for purposes of sentencing as provided in subsection (4).

(3) A person who agrees, conspires, combines, or confederates with another person or persons to commit any offense commits the offense of criminal conspiracy, ranked for purposes of sentencing as provided in subsection (4).

(4)(a) Except as otherwise provided in ss. 104.091(2), 379.2431(1), 828.125(2), 849.25(4), 893.135(5), and 921.0022, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is ranked for purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944 one level below the ranking under s. 921.0022 or s. 921.0023 of the offense attempted, solicited, or conspired to. If the criminal attempt, criminal solicitation, or criminal conspiracy is of an offense ranked in level 1 or level 2 under s. 921.0022 or s. 921.0023, such offense is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the offense attempted, solicited, or conspired to is a capital felony, the offense of criminal attempt, criminal

solicitation, or criminal conspiracy is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Except as otherwise provided in s. 893.135(5), if the offense attempted, solicited, or conspired to is a life felony or a felony of the first degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Except as otherwise provided in s. 104.091(2), s. 379.2431(1), s. 828.125(2), or s. 849.25(4), if the offense attempted, solicited, or conspired to is a:

1. Felony of the second degree;

2. Burglary that is a felony of the third degree; or

3. Felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023,

the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) Except as otherwise provided in s. 104.091(2), s. 379.2431(1), s. 849.25(4), or paragraph (d), if the offense attempted, solicited, or conspired to is a felony of the third degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(f) Except as otherwise provided in s. 104.091(2), if the offense attempted, solicited, or conspired to is a misdemeanor of the first or second degree, the offense of criminal attempt,

criminal solicitation, or criminal conspiracy is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) It is a defense to a charge of criminal attempt, criminal solicitation, or criminal conspiracy that, under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose, the defendant:

(a) Abandoned his or her attempt to commit the offense or otherwise prevented its commission;

(b) After soliciting another person to commit an offense, persuaded such other person not to do so or otherwise prevented commission of the offense; or

(c) After conspiring with one or more persons to commit an offense, persuaded such persons not to do so or otherwise prevented commission of the offense.

Section 14. Subsection (7) of section 794.011, Florida Statutes, is amended to read:

794.011 Sexual battery.—

(7) A person who is convicted of committing a sexual battery on or after October 1, 1992, is not eligible for good behavior ~~basic~~ gain-time under s. 944.275. This subsection may be cited as the "Junny Rios-Martinez, Jr. Act of 1992."

Section 15. Section 794.023, Florida Statutes, is amended to read:

794.023 Sexual battery by multiple perpetrators; reclassification of offenses.—

(1) The Legislature finds that an act of sexual battery, when committed by more than one person, presents a great danger to the public and is extremely offensive to civilized society.

It is therefore the intent of the Legislature to reclassify offenses for acts of sexual battery committed by more than one person.

(2) A violation of s. 794.011 shall be reclassified as provided in this subsection if it is charged and proven by the prosecution that, during the same criminal transaction or episode, more than one person committed an act of sexual battery on the same victim.

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

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

This subsection does not apply to life felonies or capital felonies. For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 16. Subsection (5) of section 817.568, Florida Statutes, is amended to read:

817.568 Criminal use of personal identification information.—

(5) If an offense prohibited under this section was facilitated or furthered by the use of a public record, as defined in s. 119.011, the offense is reclassified to the next higher degree as follows:

(a) A misdemeanor of the first degree is reclassified as a felony of the third degree.

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

(c) A felony of the second degree is reclassified as a felony of the first degree.

For purposes of sentencing under chapter 921 and ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 of the felony offense committed, and a misdemeanor offense that is reclassified under this subsection is ranked in level 2 of the offense severity ranking chart in s. 921.0022.

Section 17. Subsection (3) of section 831.032, Florida Statutes, is amended to read:

831.032 Offenses involving forging or counterfeiting private labels.—

(3)(a) Violation of subsection (1) or subsection (2) is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, except that:

1. A violation of subsection (1) or subsection (2) is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offense involves 100 or more but less than 1,000 items bearing one or more counterfeit marks or if the goods involved in the offense have a total retail value of more than $2,500, but less than $20,000.

2. A violation of subsection (1) or subsection (2) is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offense involves 1,000 or more items bearing one or more counterfeit marks or if

the goods involved in the offense have a total retail value of $20,000 or more.

3. A violation of subsection (1) or subsection (2) is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if, during the commission or as a result of the commission of the offense, the person engaging in the offense knowingly or by culpable negligence causes or allows to be caused bodily injury to another.

4. A violation of subsection (1) or subsection (2) is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if, during the commission or as a result of the commission of the offense, the person engaging in the offense knowingly or by culpable negligence causes or allows to be caused serious bodily injury to another.

5. A violation of subsection (1) or subsection (2) is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if, during the commission or as a result of the commission of the offense, the person engaging in the offense knowingly or by culpable negligence causes or allows to be caused death to another.

(b) For any person who, having previously been convicted for an offense under this section, is subsequently convicted for another offense under this section, such subsequent offense shall be reclassified as follows:

1. In the case of a felony of the second degree, to a felony of the first degree.

2. In the case of a felony of the third degree, to a felony of the second degree.

3. In the case of a misdemeanor of the first degree, to a

felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 4 of the offense severity ranking chart.

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

(c) In lieu of a fine otherwise authorized by law, when any person has been convicted of an offense under this section, the court may fine the person up to three times the retail value of the goods seized, manufactured, or sold, whichever is greater, and may enter orders awarding court costs and the costs of investigation and prosecution, reasonably incurred. The court shall hold a hearing to determine the amount of the fine authorized by this paragraph.

(d) When a person is convicted of an offense under this section, the court, pursuant to s. 775.089, shall order the person to pay restitution to the trademark owner and any other victim of the offense. In determining the value of the property loss to the trademark owner, the court shall include expenses incurred by the trademark owner in the investigation or prosecution of the offense as well as the disgorgement of any profits realized by a person convicted of the offense.

Section 18. Section 843.22, Florida Statutes, is amended to read:

843.22 Traveling across county lines with intent to commit

a burglary.—

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

(a) "County of residence" means the county within this state in which a person resides. Evidence of a person's county of residence includes, but is not limited to:

1. The address on a person's driver license or state identification card;

2. Records of real property or mobile home ownership;

3. Records of a lease agreement for residential property;

4. The county in which a person's motor vehicle is registered;

5. The county in which a person is enrolled in an educational institution; and

6. The county in which a person is employed.

(b) "Burglary" means burglary as defined in s. 810.02, including an attempt, solicitation, or conspiracy to commit such offense.

(2) If a person who commits a burglary travels any distance with the intent to commit the burglary in a county in this state other than the person's county of residence, the degree of the burglary shall be reclassified to the next higher degree if the purpose of the person's travel is to thwart law enforcement attempts to track the items stolen in the burglary. For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a burglary that is reclassified under this section is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the burglary committed.

Section 19. Section 874.04, Florida Statutes, is amended to

read:

874.04 Gang-related offenses; enhanced penalties.—Upon a finding by the factfinder that the defendant committed the charged offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, the penalty for any felony or misdemeanor, or any delinquent act or violation of law which would be a felony or misdemeanor if committed by an adult, may be enhanced. Penalty enhancement affects the applicable statutory maximum penalty only. Each of the findings required as a basis for such sentence shall be found beyond a reasonable doubt. The enhancement will be as follows:

(1)(a) A misdemeanor of the second degree may be punished as if it were a misdemeanor of the first degree.

(b) A misdemeanor of the first degree may be punished as if it were a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 1 of the offense severity ranking chart. The criminal gang multiplier in s. 921.0024 does not apply to misdemeanors enhanced under this paragraph.

(2)(a) A felony of the third degree may be punished as if it were a felony of the second degree.

(b) A felony of the second degree may be punished as if it were a felony of the first degree.

(c) A felony of the first degree may be punished as if it were a life felony.

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under

chapter 944, such felony offense is ranked as provided in s. 921.0022 or s. 921.0023, and without regard to the penalty enhancement in this subsection.

Section 20. Section 944.281, Florida Statutes, is amended to read:

944.281 Ineligibility to earn gain-time due to disciplinary action.—The department may declare that a prisoner who commits a violation of any law of the state or rule or regulation of the department or institution on or after January 1, 1996, and who is found guilty pursuant to s. 944.28(2), shall not be eligible to earn rehabilitation credits ~~incentive gain-time~~ for up to 6 months following the month in which the violation occurred. The department shall adopt rules to administer the provisions of this section.

Section 21. Subsection (1) of section 944.473, Florida Statutes, is amended to read:

944.473 Inmate substance abuse testing program.—

(1) RULES AND PROCEDURES.—The department shall establish programs for random and reasonable suspicion drug and alcohol testing by urinalysis or other noninvasive procedure for inmates to effectively identify those inmates abusing drugs, alcohol, or both. The department shall also adopt rules relating to fair, economical, and accurate operations and procedures of a random inmate substance abuse testing program and a reasonable suspicion substance abuse testing program by urinalysis or other noninvasive procedure which enumerate penalties for positive test results, including but not limited to the forfeiture of both good behavior time and rehabilitation credits ~~basic and incentive gain-time~~, and which do not limit the number of times

an inmate may be tested in any one fiscal or calendar year.

Section 22. Subsection (1) of section 944.70, Florida Statutes, is amended to read:

944.70 Conditions for release from incarceration.—

(1)(a) A person who is convicted of a crime committed on or after October 1, 1983, but before January 1, 1994, may be released from incarceration only:

1. Upon expiration of the person's sentence;

2. Upon expiration of the person's sentence as reduced by accumulated gain-time;

3. As directed by an executive order granting clemency;

4. Upon attaining the provisional release date;

5. Upon placement in a conditional release program pursuant to s. 947.1405; or

6. Upon the granting of control release pursuant to s. 947.146.

(b) A person who is convicted of a crime committed on or after January 1, 1994, may be released from incarceration only:

1. Upon expiration of the person's sentence;

2. Upon expiration of the person's sentence as reduced by accumulated rehabilitation credits and outstanding deed awards ~~meritorious or incentive gain-time~~;

3. As directed by an executive order granting clemency;

4. Upon placement in a conditional release program pursuant to s. 947.1405 or a conditional medical release program pursuant to s. 947.149; or

5. Upon the granting of control release, including emergency control release, pursuant to s. 947.146.

Section 23. For the purpose of incorporating the amendment

made by this act to section 944.275, Florida Statutes, in a reference thereto, paragraph (k) of subsection (4) of section 775.084, Florida Statutes, is reenacted to read:

775.084 Violent career criminals; habitual felony offenders and habitual violent felony offenders; three-time violent felony offenders; definitions; procedure; enhanced penalties or mandatory minimum prison terms.—

(4)

(k)1. A defendant sentenced under this section as a habitual felony offender, a habitual violent felony offender, or a violent career criminal is eligible for gain-time granted by the Department of Corrections as provided in s. 944.275(4)(b).

2. For an offense committed on or after October 1, 1995, a defendant sentenced under this section as a violent career criminal is not eligible for any form of discretionary early release, other than pardon or executive clemency, or conditional medical release granted pursuant to s. 947.149.

3. For an offense committed on or after July 1, 1999, a defendant sentenced under this section as a three-time violent felony offender shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release.

Section 24. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in references thereto, paragraph (v) of subsection (2) and paragraph (e) of subsection (3) of section 900.05, Florida Statutes, are reenacted to read:

900.05 Criminal justice data collection.—

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

(v) "Gain-time credit earned" means a credit of time awarded to an inmate in a county detention facility in accordance with s. 951.21 or a state correctional institution or facility in accordance with s. 944.275.

(3) DATA COLLECTION AND REPORTING.—An entity required to collect data in accordance with this subsection shall collect the specified data and report them in accordance with this subsection to the Department of Law Enforcement on a monthly basis.

(e) *Department of Corrections.*—The Department of Corrections shall collect the following data:

1. Information related to each inmate, including:

a. Identifying information, including name, date of birth, race, ethnicity, gender, case number, and identification number assigned by the department.

b. Highest education level.

c. Date the inmate was admitted to the custody of the department for his or her current incarceration.

d. Current institution placement and the security level assigned to the institution.

e. Custody level assignment.

f. Qualification for a flag designation as defined in this section, including sexual offender flag, habitual offender flag, habitual violent felony offender flag, prison releasee reoffender flag, three-time violent felony offender flag, violent career criminal flag, gang affiliation flag, or concurrent or consecutive sentence flag.

g. County that committed the prisoner to the custody of the department.

h. Whether the reason for admission to the department is for a new conviction or a violation of probation, community control, or parole. For an admission for a probation, community control, or parole violation, the department shall report whether the violation was technical or based on a new violation of law.

i. Specific statutory citation for which the inmate was committed to the department, including, for an inmate convicted of drug trafficking under s. 893.135, the statutory citation for each specific drug trafficked.

j. Length of sentence served.

k. Length of concurrent or consecutive sentences served.

l. Tentative release date.

m. Gain time earned in accordance with s. 944.275.

n. Prior incarceration within the state.

o. Disciplinary violation and action.

p. Participation in rehabilitative or educational programs while in the custody of the department.

q. Digitized sentencing scoresheet prepared in accordance with s. 921.0024.

2. Information about each state correctional institution or facility, including:

a. Budget for each state correctional institution or facility.

b. Daily prison population of all inmates incarcerated in a state correctional institution or facility.

c. Daily number of correctional officers for each state correctional institution or facility.

3. Information related to persons supervised by the

department on probation or community control, including:

a. Identifying information for each person supervised by the department on probation or community control, including his or her name, date of birth, race, ethnicity, gender, case number, and department-assigned case number.

b. Length of probation or community control sentence imposed and amount of time that has been served on such sentence.

c. Projected termination date for probation or community control.

d. Revocation of probation or community control due to a violation, including whether the revocation is due to a technical violation of the conditions of supervision or from the commission of a new law violation.

4. Per diem rates for:

a. Prison bed.

b. Probation.

c. Community control.

This information only needs to be reported once annually at the time the most recent per diem rate is published.

Section 25. For the purpose of incorporating the amendment made in this act to section 944.275, Florida statutes, in reference thereto, section 944.28, Florida Statutes, is reenacted to read:

944.28 Forfeiture of gain-time and the right to earn gain-time in the future.—

(1) If a prisoner is convicted of escape, or if the clemency, conditional release as described in chapter 947,

probation or community control as described in chapter 948, provisional release as described in s. 944.277, parole, or control release as described in s. 947.146 granted to the prisoner is revoked, the department may, without notice or hearing, declare a forfeiture of all gain-time earned according to the provisions of law by such prisoner prior to such escape or his or her release under such clemency, conditional release, probation, community control, provisional release, control release, or parole.

(2)(a) All or any part of the gain-time earned by a prisoner according to the provisions of law is subject to forfeiture if such prisoner unsuccessfully attempts to escape; assaults another person; threatens or knowingly endangers the life or person of another person; refuses by action or word to carry out any instruction duly given to him or her; neglects to perform in a faithful, diligent, industrious, orderly, and peaceful manner the work, duties, and tasks assigned to him or her; is found by a court to have brought a frivolous suit, action, claim, proceeding, or appeal in any court; is found by a court to have knowingly or with reckless disregard for the truth brought false information or evidence before the court; or violates any law of the state or any rule or regulation of the department or institution.

(b) A prisoner's right to earn gain-time during all or any part of the remainder of the sentence or sentences under which he or she is imprisoned may be declared forfeited because of the seriousness of a single instance of misconduct or because of the seriousness of an accumulation of instances of misconduct.

(c) The method of declaring a forfeiture under paragraph

(a) or paragraph (b) shall be as follows: A written charge shall be prepared, which shall specify each instance of misconduct upon which it is based and the approximate date thereof. A copy of such charge shall be delivered to the prisoner, and he or she shall be given notice of a hearing before the disciplinary committee created under the authorization of rules heretofore or hereafter adopted by the department for the institution in which he or she is confined. The prisoner shall be present at the hearing. If at such hearing the prisoner pleads guilty to the charge or if the committee determines that the prisoner is guilty thereof upon the basis of proof presented at such hearing, it shall find him or her guilty. If the committee considers that all or part of the prisoner's gain-time and the prisoner's right to earn gain-time during all or any part of the sentence or sentences under which he or she is imprisoned shall be forfeited, it shall so recommend in its written report. Such report shall be presented to the warden of the institution, who may approve such recommendation in whole or in part by endorsing such approval on the report. In the event of approval, the warden shall forward the report to the department. Thereupon, the department may, in its discretion, declare the forfeiture thus approved by the warden or any specified part thereof.

(3) Upon the recommendation of the warden, the department may, in its discretion, restore all or any part of any gain-time forfeited under this section.

Section 26. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, subsection (1) of section 944.605, Florida Statutes, is reenacted to read:

944.605 Inmate release; notification; identification card.—

(1) Within 6 months before the release of an inmate from the custody of the Department of Corrections or a private correctional facility by expiration of sentence under s. 944.275, any release program provided by law, or parole under chapter 947, or as soon as possible if the offender is released earlier than anticipated, notification of such anticipated release date shall be made known by the Department of Corrections to the chief judge of the circuit in which the offender was sentenced, the appropriate state attorney, the original arresting law enforcement agency, the Department of Law Enforcement, and the sheriff as chief law enforcement officer of the county in which the inmate plans to reside. In addition, unless otherwise requested by the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, the state attorney or the Department of Corrections, whichever is appropriate, shall notify such person within 6 months before the inmate's release, or as soon as possible if the offender is released earlier than anticipated, when the name and address of such victim, or the name and address of the parent, guardian, next of kin, or lawful representative of the victim has been furnished to the agency. The state attorney shall provide the latest address documented for the victim, or for the victim's parent, guardian, next of kin, or lawful representative, as applicable, to the sheriff with the other documents required by law for the delivery of inmates to those agencies for service of sentence. Upon request, within 30 days after an inmate is

approved for community work release, the state attorney, the victim, the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, or the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor shall be notified that the inmate has been approved for community work release. This section does not imply any repeal or modification of any provision of law relating to notification of victims.

Section 27. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, subsection (6) of section 944.607, Florida Statutes, is reenacted to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.—

(6) The information provided to the Department of Law Enforcement must include:

(a) The information obtained from the sexual offender under subsection (4);

(b) The sexual offender's most current address, 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 under supervision 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;

(c) The legal status of the sexual offender and the scheduled termination date of that legal status;

(d) The location of, and local telephone number for, any Department of Corrections' office that is responsible for supervising the sexual offender;

(e) An indication of whether the victim of the offense that resulted in the offender's status as a sexual offender was a minor;

(f) The offense or offenses at conviction which resulted in the determination of the offender's status as a sex offender; and

(g) A digitized photograph of the sexual offender which must have been taken within 60 days before the offender is released from the custody of the department or a private correctional facility by expiration of sentence under s. 944.275 or must have been taken by January 1, 1998, or within 60 days after the onset of the department's supervision of any sexual offender who is on probation, 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 paragraph and shall provide the photograph to the department.

If any information provided by the department changes during the time the sexual offender is under the department's control, custody, or supervision, including any change in the offender's name by reason of marriage or other legal process, the department shall, in a timely manner, update the information and provide it to the Department of Law Enforcement in the manner prescribed in subsection (2).

Section 28. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, subsection (15) of section 947.005, Florida Statutes, is reenacted to read:

947.005 Definitions.—As used in this chapter, unless the context clearly indicates otherwise:

(15) "Tentative release date" means the date projected for the prisoner's release from custody by virtue of gain-time granted or forfeited pursuant to s. 944.275(3)(a).

Section 29. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, paragraph (a) of subsection (6) of section 985.4815, Florida Statutes, is reenacted 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 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 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 30. This act shall take effect July 1, 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 Appropriations Subcommittee on Criminal and Civil Justice

BILL:	PCS/SB 1530 (549558)
INTRODUCER:	Appropriations Subcommittee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Book
SUBJECT:	Victims of Sexual Offenses
DATE:	April 8, 2021 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones	CJ	**Fav/CS**
2.	Dale	Harkness	ACJ	**Recommend: Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1530 establishes that the purpose of a Sexual Assault Response Team (SART) is to ensure a coordinated multidisciplinary response to sexual violence. The bill requires all county health departments, or a designee for the department, to participate in the local SART if one exists. If no local SART exists, the certified rape crisis center serving the county may coordinate with community partners to establish a local or a regional team.

The bill provides that local SARTs will be coordinated by the certified rape crisis center serving the county, who will select the SART membership in collaboration with community partners. The SARTs membership should include the members listed in the bill, at a minimum. Each SART must create written protocols to govern the SARTs response to sexual assault.

The bill requires each SART to promote and support the use of sexual assault forensic examiners who have received a minimum of 40 hours of specialized training in the provision of trauma-informed medical care and in the collection of evidence for sexual assault victims. The Florida Council Against Sexual Violence (FCASV) will provide technical assistance relating to the development and implementation of the SARTs.

The bill requires the Criminal Justice Standards and Training Commission (CJSTC), in consultation with the FCASV, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive

trauma-informed response to sexual assault. The bill specifies the timing of the implementation of the training.

The bill may have a fiscal impact on the Florida Department of Law Enforcement (FDLE). See Section V. Fiscal Impact Statement.

The bill becomes effective July 1, 2021.

II. Present Situation:

The Offense of Sexual Battery

Sexual battery is defined in s. 794.011(1)(h), F.S., as oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

Generally, it is a second degree felony[1] for a person to commit one of the acts described in s. 794.011(1)(h), F.S., without the victim's consent, where:
- The perpetrator is 18 years of age or older;
- The victim is 18 years of age or older, and
- In the process the perpetrator does not use physical force and violence likely to cause serious personal injury.[2]

The penalties for committing a sexual battery increase as the circumstances of the criminal act change. For example, a person commits a first degree felony[3] when a person 18 years of age or older commits sexual battery upon:
- A person 12 years of age or older but younger than 18 years of age, without that person's consent, and
- In the process does not use physical force and violence likely to cause serious personal injury.[4]

Sexual Battery Victim Services

The Florida Department of Health (DOH) requires that any licensed facility which provides emergency room services shall arrange for the rendering of appropriate medical attention and treatment of victims of sexual assault through:
- Gynecological, psychological, and medical services as are needed by the victim;
- The gathering of forensic medical evidence required for investigation and prosecution from a victim who has reported a sexual battery to a law enforcement agency or who requests that such evidence be gathered for a possible future report; and

[1] 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.
[2] Section 775.011(5)(b), F.S.
[3] 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.
[4] Section 794.011(5)(a), F.S.

- The training of medical support personnel competent to provide the medical services and treatment.[5]

Section 794.052, F.S., requires the law enforcement officer investigating the sexual battery to:
- Provide or arrange for transportation of a victim of sexual battery to an appropriate facility for medical treatment or forensic examination;
- Immediately notify sexual battery victims of their legal rights and remedies;
- Assist them in obtaining any necessary medical treatment resulting from the alleged incident, a forensic examination, and crisis-intervention services from a certified rape crisis center;
- Provide for a review of the officer's final report by a victim and an opportunity for a statement about the report by the victim; and
- Advise sexual battery victims that they can contact a certified rape crisis center about services,[6] including the presence of a victim advocate from a certified rape crisis center at any forensic medical examination.[7]

Services in the aftermath of a sexual battery are generally provided locally by certified Rape Crisis Centers and volunteers. A "Rape Crisis Center" is any public or private agency that offers assistance to victims of sexual assault or sexual battery and their families.[8] The Florida Council Against Sexual Violence (FCASV) is a statewide nonprofit organization committed to victims and survivors of sexual violence and the sexual assault crisis programs that serve them. The FCASV certifies Rape Crisis Centers.[9]

Sexual Assault Response Teams

A sexual assault response team (SART) is a community-based team that convenes regularly and coordinates the local response to sexual assault victims. SARTs are often comprised of sexual assault nurse examiners (SANEs), sexual assault victim advocates, law enforcement officials, and prosecutors. These teams work to develop a stronger understanding of victimization and the positive effects of trauma-informed training. SARTs support victims, provide expertise for prosecution, and maintain a victim-centered, offender-focused approach to review sexual assault case files.[10] The FCASV currently coordinates the Statewide SART Advisory Committee.[11]

Law Enforcement Officer Training

In compliance with s. 943.13, F.S., applicants must complete the 770-hour law enforcement basic recruit training program to meet the qualifications for becoming a certified law

[5] Section 395.1021, F.S.
[6] Section 794.052. F.S.
[7] *See* s. 960.001(1)(u), F.S.
[8] Section 90.5035(1)(a), F.S.
[9] FCASV, *About FCASV*, available at https://www.fcasv.org/about-fcasv (last visited March 16, 2021).
[10] Sexual Assault Kit Initiative and RTI International, *A Multidisciplinary Approach to Cold Case Sexual Assault: Guidance for Establishing an MDT or a SART*, available at https://www.sakitta.org/toolkit/docs/A-Multidisciplinary-Approach-to-Cold-Case-Sexual-Assault-Guidance-for-Establishing-an-MDT-or-a-SART.pdf (last visited March 16, 2021).
[11] The Statewide SART Advisory Committee is a statewide group coordinated by the FCASV and comprised of representatives from a broad range of disciplines whose work brings them into contact with rape survivors. The committee works to assess and improve Florida's response to survivors of sexual violence at the state and local level. FCASV, SART, available at https://www.fcasv.org/new-statewide-sart-advisory-committee (last visited March 16, 2021).

enforcement officer. In order to maintain their certification, law enforcement officers must satisfy continuing training and education requirements.[12]

Currently, s. 943.17295, F.S., requires the CJSTC to incorporate the subject of sexual abuse and assault investigations, with an emphasis on cases involving child victims or juvenile offenders, into the curriculum required for continuous employment or appointment as a law enforcement officer. The FDLE developed an on-line course that satisfies this requirement and is available at no cost to law enforcement officers or the employing agencies.[13]

Additionally, the CJSTC has authorized an advanced training course related to sexual crime investigations since July 1985. In 2017, the CJSTC approved adult and child sex crimes investigations advanced training courses (#1170 and #1171, respectively). These courses include information produced by the FCASV. As of February 2021, 581 law enforcement officers have completed #1170 and 429 law enforcement officers have completed #1171.[14]

III. Effect of Proposed Changes:

Sexual Assault Response Teams

The bill establishes that the purpose of the SART is to ensure a coordinated multidisciplinary response to sexual violence. The bill requires county health departments, or a designee for the department, to participate in a local SART if one exists. It specifies that SARTs will be coordinated by the local certified rape crisis center. If no local SART exists, the local certified rape crisis center serving the county may coordinate with community partners to establish a local or regional team. The FCASV must provide technical assistance relating to the development and implementation of the SARTs.

SART membership shall be determined by the certified rape crisis center in collaboration with community partners. Membership should include the following members or their designees, at a minimum:

- The director of the local certified rape crisis center;
- A representative from the local county health department;
- The state attorney;
- The chief of police;
- The county sheriff;
- Forensic sexual assault nurse examiners; and
- A representative from local hospital emergency departments.

[12] Section 943.135, F.S. The Department of Law Enforcement (FDLE) Legislative Bill Analysis, SB 1530, February 26, 2021 (on file with the Senate Criminal Justice Committee).
[13] *Id*.
[14] *Id*.

The SART must develop a written protocol to govern the team's response to sexual assault that includes:

- The role and responsibilities of each team member;
- Procedural issues regarding the immediate crisis and health care and law enforcement responses and follow-up services provided to a victim;
- Procedures for the preservation, secure storage, and destruction of evidence from a sexual assault evidence kit, including length of storage, site of storage, and chain of custody; and
- Procedures for maintaining the confidentiality of the victim regarding the forensic medical examination.

The bill requires each SART to promote and support the use of sexual assault forensic examiners who have received a minimum of 40 hours of specialized training in the provision of trauma-informed medical care and in the collection of evidence for sexual assault victims.

Law Enforcement Officer Training

The bill requires the CJSTC, in consultation with the FCASV, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive trauma-informed response to sexual assault. After July 1, 2022, every basic skills course required for law enforcement officers to obtain initial and continuing education certification must include training on culturally responsive trauma-informed interviewing of sexual assault victims and investigations of alleged sexual assaults.

The bill creates s. 943.1724, F.S., requiring the CJSTC to incorporate a culturally responsive trauma-informed response to sexual assault into the course curriculum required for a law enforcement officer to obtain initial certification. Additionally, each law enforcement officer must complete training on sexual violence and interviewing of sexual assault victims and investigations of alleged sexual assaults as a part of basic recruit training,[15] training for applicants who are exempt from the basic recruit training,[16] or as part of continuing training or education[17] before July 1, 2024. If an officer fails to complete the required training, his or her certification must be placed on inactive status until the employing agency notifies the commission that the officer has completed the training.

The bill is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

[15] Section 943.13(9), F.S.
[16] Section 943.131(4)(a), F.S.
[17] Section 943.135(1), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDLE expects that the fiscal impact of the bill will total $45,779 non-recurring funds. This includes developing instruction as required in the bill ($8,779), and necessary modifications to the Automated Training Management System ($37,000). [18]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 943.17 of the Florida Statutes.

This bill creates sections 154.012 and 943.1724 of the Florida Statutes.

[18] The Florida Department of Law Enforcement (FDLE) Legislative Bill Analysis, SB 1530, February 26, 2021 (on file with the Senate Criminal Justice Committee).

IX. Additional Information:

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

Recommend CS/CS by Appropriations Subcommittee on Criminal and Civil Justice on April 8, 2021:
The committee substitute:

- Removes the section of the bill amending s. 27.14, F.S., regarding the Governor reassigning sexual battery or cyberstalking cases under certain circumstances.
- Deletes the requirement that a sexual assault response team meet at least quarterly and produce an annual report which will be published by The Florida Council Against Sexual Violence (FCASV).
- Requires the Criminal Justice Standards and Training Commission (CJSTC), in consultation with the FCASV, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive trauma-informed response to sexual assault.
- Creates s. 943.1724, F.S., requiring the CJSTC to incorporate a culturally responsive trauma-informed response to sexual assault into the course curriculum required for a law enforcement officer to obtain initial certification. Additional times and opportunities to complete the training are offered or required.

CS by Criminal Justice on March 23, 2021:
The committee substitute:

- Deletes current Section 1 of the bill related to the AG, replacing it with an amendment to s. 27.14, F.S., which creates a mechanism by which the Governor can disqualify a state attorney (and appoint a different state attorney by executive order) if the victim of a sexual battery or cyberstalking petitions the Governor and presents sufficient evidence to show:
  - A willful disregard of the evidence and
  - The repeated failure of a state attorney to prosecute a particular crime.
- Changes a requirement in the bill that every county health department *establish* a local sexual assault response team (SART). The amendment requires the county health departments to *participate* if one (a local SART) exists.
- Specifies that SARTs will be coordinated by the certified rape crisis center serving the county, who will select the SART membership in collaboration with community partners.
- Specifies that if there is no SART in existence, the local certified rape crisis center may coordinate with community partners to establish a local or a regional team.
- Alters SART membership in the bill to include:
  - The director of the local certified rape crisis center;
  - A representative (not necessarily from physician or nursing leadership) from a local hospital emergency department;
  - Forensic sexual assault nurse examiners (rather than a forensic sexual assault nurse examiner or a designated health care provider who performs forensic medical examinations and collects evidence); and
  - A representative of the local county health department.

- Requires that SARTs submit their annual reports to the FCASV to be published on FCASV's website.
- Deletes Section 3 of the bill related to payment of insurance claims.
- Deletes the sections of the bill related to training of law enforcement.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2021	.	
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	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice (Book) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 154.012, Florida Statutes, is created to read:

154.012 Sexual assault response teams; membership; duties.—

(1) The health department in every county in this state, or its designee, shall participate in the local sexual assault response team coordinated by the certified rape crisis center

serving the county if such a team exists. If a local sexual assault response team does not exist, the certified rape crisis center serving the county may coordinate with community partners to establish a local or a regional team. The purpose of the sexual assault response team is to ensure a coordinated multidisciplinary response to sexual violence.

(2) Each team shall develop a written protocol to govern the team's response to sexual assault which includes:

(a) The role and responsibilities of each team member.

(b) Procedural issues regarding the immediate crisis and health care and law enforcement responses and followup services provided to a victim.

(c) Procedures for the preservation, secure storage, and destruction of evidence from a sexual assault evidence kit, including length of storage, site of storage, and chain of custody.

(d) Procedures for maintaining the confidentiality of the victim regarding the forensic medical examination.

(3) Membership of each team shall be determined by the certified rape crisis center in collaboration with community partners. At a minimum, membership should include the following persons or their designees:

(a) The director of the local certified rape crisis center;

(b) A representative from the county health department;

(c) The state attorney;

(d) The chief of police;

(e) The county sheriff;

(f) Forensic sexual assault nurse examiners; and

(g) A representative from local hospital emergency

departments.

(4) The Florida Council Against Sexual Violence shall provide technical assistance relating to the development and implementation of the teams.

(5) Each team shall promote and support the use of qualified sexual assault forensic examiners who have successfully completed a minimum of 40 hours of specialized training in the provision of trauma-informed medical care and in the collection of evidence for sexual assault victims.

Section 2. Subsection (7) is added to section 943.17, Florida Statutes, to read:

943.17 Basic recruit, advanced, and career development training programs; participation; cost; evaluation.—The commission shall, by rule, design, implement, maintain, evaluate, and revise entry requirements and job-related curricula and performance standards for basic recruit, advanced, and career development training programs and courses. The rules shall include, but are not limited to, a methodology to assess relevance of the subject matter to the job, student performance, and instructor competency.

(7) The commission, in consultation with the Florida Council Against Sexual Violence, shall establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive trauma-informed response to sexual assault. After July 1, 2022, every basic skills course required for law enforcement officers to obtain initial and continuing education certification must include training on culturally responsive trauma-informed interviewing of sexual assault victims and

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investigations of alleged sexual assaults.

Section 3. Section 943.1724, Florida Statutes, is created to read:

943.1724 Training on sexual assault.—

(1) The commission shall incorporate a culturally responsive trauma-informed response to sexual assault into the course curriculum required for a law enforcement officer to obtain initial certification.

(2) Each law enforcement officer must successfully complete training on sexual violence and interviewing and investigations of sexual assault victims, with an emphasis on culturally responsive trauma-informed interviewing of sexual assault victims and alleged sexual assault investigations as a part of the basic recruit training, as required under s. 943.13(9), training required under s. 943.131(4)(a), or as a part of continuing training or education required under s. 943.135(1), before July 1, 2024. If an officer fails to complete the required training, his or her certification must be placed on inactive status until the employing agency notifies the commission that the officer has completed the training.

Section 4. This act shall take effect July 1, 2021.

================ 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 victims of sexual offenses; creating s. 154.012, F.S.; requiring counties to


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establish sexual assault response teams; providing for duties, membership, and technical assistance; requiring teams to promote the use of sexual assault forensic examiners meeting certain requirements; amending s. 943.17, F.S.; requiring the Criminal Justice Standards and Training Commission, in consultation with the Florida Council Against Sexual Violence, to establish minimum standards for basic and advanced career development training programs for law enforcement officers that include a culturally responsive trauma-informed response to sexual assault; requiring every basic skills course for law enforcement officers to include certain training by a specified date; creating s. 943.1724, F.S.; requiring the Criminal Justice Standards and Training Commission to incorporate a culturally responsive trauma-informed response to sexual assault into a certain course curriculum; requiring each certified law enforcement officer to successfully complete a specified number of hours of training on sexual violence and interviewing of sexual assault victims and investigations of alleged sexual assault within a specified timeframe; providing requirements for current law enforcement officers; providing an effective date.

By the Committee on Criminal Justice; and Senator Book

591-03250-21 20211530c1

A bill to be entitled

An act relating to victims of sexual offenses; amending s. 27.14, F.S.; authorizing a victim of sexual battery or cyberstalking to petition the Governor to disqualify a state attorney under certain circumstances; creating s. 154.012, F.S.; requiring county health departments to participate in local sexual assault response teams coordinated by local certified rape crisis centers if such a team exists; authorizing the certified rape crisis center serving the county to coordinate with community partners to establish a local or regional team if a local sexual assault response team does not exist; providing the purpose of such teams; providing for duties, membership, meetings, technical assistance, and an annual report; requiring teams to promote and support the use of sexual assault forensic examiners meeting certain requirements; providing an effective date.

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

Section 1. Present subsections (2) and (3) of section 27.14, Florida Statutes, are redesignated as subsections (3) and (4), respectively, and a new subsection (2) is added to that section, to read:

27.14 Assigning state attorneys to other circuits.—

(2) A victim of a sexual battery or cyberstalking may petition the Governor to disqualify a state attorney pursuant to subsection (1) if sufficient evidence is presented that shows a

591-03250-21 20211530c1

willful disregard of the evidence and repeated failure of a state attorney to prosecute a particular crime.

Section 2. Section 154.012, Florida Statutes, is created to read:

154.012 Sexual assault response teams; membership; duties.—

(1) The health department in every county in this state, or its designee, shall participate in the local sexual assault response team coordinated by the certified rape crisis center serving the county if such a team exists. If a local sexual assault response team does not exist, the certified rape crisis center serving the county may coordinate with community partners to establish a local or a regional team. The purpose of the sexual assault response team is to ensure a coordinated multidisciplinary response to sexual violence.

(2) Each team shall develop a written protocol to govern the team's response to sexual assault which includes:

(a) The role and responsibilities of each team member.

(b) Procedural issues regarding the immediate crisis and health care and law enforcement responses and followup services provided to a victim.

(c) Procedures for the preservation, secure storage, and destruction of evidence from a sexual assault evidence kit, including length of storage, site of storage, and chain of custody.

(d) Procedures for maintaining the confidentiality of the victim regarding the forensic medical examination.

(3) Membership of each team shall be determined by the certified rape crisis center in collaboration with community partners. At a minimum, membership should include the following

persons or their designees:

(a) The director of the local certified rape crisis center;

(b) A representative from the county health department;

(c) The state attorney;

(d) The chief of police;

(e) The county sheriff;

(f) Forensic sexual assault nurse examiners; and

(g) A representative from local hospital emergency departments.

(4) The Florida Council Against Sexual Violence shall provide technical assistance relating to the development and implementation of the teams.

(5) Each team shall promote and support the use of qualified sexual assault forensic examiners who have successfully completed a minimum of 40 hours of specialized training in the provision of trauma-informed medical care and in the collection of evidence for sexual assault victims.

(6) Each team shall meet at least quarterly, or more often as determined by the team's membership, to ensure a coordinated multidisciplinary response to sexual violence and shall produce an annual report for the jurisdictions covered by the team which includes local statistics on the number of forensic medical examinations performed, the number of criminal sexual assaults reported to law enforcement, the number of cases referred by law enforcement for prosecution, the number of criminal sexual assaults prosecuted, and the outcome of the prosecutions. Each annual report shall be submitted to the Florida Council Against Sexual Violence, which must publish the annual reports on its website.

Section 3. This act shall take effect July 1, 2021.

The Florida Senate

Committee Agenda Request

To: Senator Keith Perry, Chair
Appropriations Subcommittee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: March 23, 2021

I respectfully request that **Senate Bill 1530**, relating to Victims of Sexual Assault, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Thank you for your consideration.

Senator Lauren Book
Florida Senate, District 32

File signed original with committee office

S-020 (03/2004)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

04/08/2021
Meeting Date

1530
Bill Number (if applicable)

156864
Amendment Barcode (if applicable)

Topic Victims of Sexual Offenses

Name Jennifer L. Dritt

Job Title Executive Director

Address 1820 E. Park Avenue
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-297-2000

Email jdritt@fcasv.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Council Against Sexual Violence

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL:	SB 1810
INTRODUCER:	Senator Powell
SUBJECT:	Care for Retired Law Enforcement Dogs
DATE:	April 1, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones	CJ	**Favorable**
2.	Dale	Harkness	ACJ	**Recommend: Favorable**
3.			AP	

I. Summary:

SB 1810 creates the Care for Retired Law Enforcement Dogs Program. The program will provide reimbursement for up to $1,500 of annual veterinary costs associated with caring for a retired law enforcement dog by the former handler or adopter who incurs the costs.

The bill provides legislative findings and definitions. The bill requires valid documentation of the dog's retirement from the law enforcement agency the dog served and a valid paid invoice from the veterinarian for veterinary care for reimbursement of costs to occur.

The program will be administered and managed by a not-for-profit corporation in a contractual arrangement with the Florida Department of Law Enforcement (FDLE) after a competitive grant award process.

The bill includes an appropriation of $300,000 in recurring funds from the General Revenue Fund for the purpose of implementing and administering the program.

The bill is effective July 1, 2021.

II. Present Situation:

Law enforcement dogs have become an integral part of many law enforcement efforts statewide, including suspect apprehension through tracking and searching, evidence location, drug and bomb detection, and search and rescue operations.[1] Law enforcement dogs cannot work forever and are faced with natural aging conditions and may have sustained injuries in the line of duty.

[1] Hillsborough County Sheriff's Office, *K-9 Unit*, available at http://www.hcso.tampa.fl.us/A-Z-Directory/K/K9-Unit.aspx (last visited March 23, 2021); Pasco County Sheriff's Office, *K-9 Association*, available at https://www.pascosheriffcharities.org/k-9-association/k-9-meet-the-teams/ (last visited March 23, 2021); Gainesville Police

When it is time for a law enforcement dog to retire, the dog typically lives with their law enforcement officer partner. Tarpon Springs Police Department K-9 officer, Dobies, retired on his birthday, after seven years of service.[2] In 2017, two dogs who had both served the Flagler County Sheriff's Office for eight years retired from duty in apprehending suspects and sniffing for narcotics, with a combined 190 deployments.[3] All three of the dogs were to stay at home with their handlers as pets.[4] However, retired law enforcement dogs can experience costly medical expenses that the owner is unable to handle.[5]

III. Effect of Proposed Changes:

The bill creates the Care for Retired Law Enforcement Dogs Program (program) within the FDLE. The program is created within the FDLE to provide a stable funding source for veterinary care for retired law enforcement dogs.

The program will provide up to $1,500 annually to any former handler or adopter of a retired law enforcement dog for reimbursement of veterinary care for the dog if the agency from which the dog retired provides verification of the dog's service. The former handler or adopter must submit a valid invoice from a veterinarian for care provided in Florida and proof of payment for reimbursement to occur. The former handler or adopter may not accumulate unused funds for the current year for use in a future year. When the annual funding for the program is depleted, reimbursements must be discontinued for the remainder of the year.

"Retired law enforcement dog" is defined as a dog who has been in the service of or employed by a law enforcement agency in this state for the principle purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders. The retired law enforcement dog must have received certification in obedience and apprehension work from a certifying organization, such as the National Police Canine Association, Inc.[6]

The bill defines "law enforcement agency" as a state or local public agency that has primary responsibility for the prevention and detection of crime or the enforcement of the penal, traffic, highway, regulatory, game, immigration, postal, customs, or controlled substance laws.

Department, *Patrol Support Bureau, K-9*, available at http://www.gainesvillepd.org/About-GPD/Operations-Bureau/Patrol-Support-Bureau/K-9 (last visited March 23, 2021).

[2] Fox 35 Orlando, *Florida K-9 retires on his birthday, officers pay tribute with heartwarming final sign-off*, January 17, 2020, available at Florida K-9 retires on his birthday, officers pay tribute with heartwarming final sign-off (fox35orlando.com) (last visited March 23, 2021).

[3] FlaglerLive.com, *Retirement of Two K-9s, Repo and Reno, Highlights Sheriff's Award Ceremony*, April 26, 2017, available at https://flaglerlive.com/107363/sheriffs-awards-2017/ (last visited March 23, 2021).

[4] *Supra* note 2 and 3.

[5] South Florida Fund for Retired Law Enforcement K-9's, Who We Help, *The Fund*, available at https://soflretiredk9fund.com/about/who-we-help/ (last visited March 23, 2021).

[6] National Police Canine Association, available at http://www.npca.net/ (last visited March 23, 2021). The National Police Canine Association is one of many such organizations in the country, including The Florida Law Enforcement Canine Association (FLECA) dedicated to the training and certification of Florida's Law Enforcement Canine Teams. Florida Law Enforcement Canine Association, FLECA, available at http://www.flecak9.com/ (last visited March 23, 2021).

The bill adopts the term "veterinarian" from s. 474.202(11), F.S., which defines "veterinarian" as a health care practitioner who is licensed to engage in the practice of veterinary medicine in Florida under the authority of ch. 474, F.S.[7] The bill also defines "veterinary care" as the practice of veterinary medicine as defined in s. 474.202(13), F.S. "Veterinary medicine" includes, with respect to animals, surgery, acupuncture, obstetrics, dentistry, physical therapy, radiology, theriogenology, and other branches or specialties of veterinary medicine.[8] The bill specifies that the term also includes:

- Annual wellness examinations;
- Vaccinations;
- Internal and external parasite prevention treatments;
- Testing and treatment of illnesses and diseases;
- Medications;
- Emergency care and surgeries; and
- Care provided in specialties of veterinary medicine such as veterinary oncology, euthanasia, and cremation services.

The FDLE is directed to contract with a not-for-profit corporation, organized under ch. 617, F.S., to administer and manage the program.[9] The corporation will be selected through a competitive grant award process and must:

- Be dedicated to the protection or care of retired law enforcement dogs.
- Hold tax-exempt status under the Internal Revenue code as an s. 501(c)(3) organization.[10]
- Have held tax-exempt status for at least five years.
- Agree to be subject to review and audit at the discretion of the Auditor General to ensure accurate accounting and disbursement of state funds.
- Demonstrate the ability to effectively and efficiently disseminate information and assist former handlers and adopters of retired law enforcement dogs in complying with the bill.

The bill specifies the not-for-profit corporation is the disbursing authority for the funds appropriated by the Legislature to the FDLE for the program. The FDLE must pay the not-for-profit corporation up to ten percent of appropriated funds for administrative expenses, including salaries and benefits.

The bill contains legislative findings related to the value of law enforcement dogs to the residents of Florida.

[7] Section 474.202(9), F.S., defines "practice of veterinary medicine" to mean diagnosing the medical condition of animals and prescribing, dispensing, or administering drugs, medicine, appliances, applications, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, bodily injury, or disease thereof; performing any manual procedure for the diagnosis of or treatment for pregnancy or fertility or infertility of animals; or representing oneself by the use of titles or words, or undertaking, offering, or holding oneself out, as performing any of these functions. The term includes the determination of the health, fitness, or soundness of an animal.
[8] Section 474.202(13), F.S.
[9] Section 617.01401(5), F.S., defines "corporation not for profit" as a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under ch. 617, F.S.
[10] *See* 26 U.S.C. s. 501(c)(3).

The bill includes an appropriation of $300,000 for FY 2021-2022 in recurring funds from the General Revenue Fund to the FDLE for the purpose of implementing and administering the program.

The FDLE is given rulemaking authority to implement the provisions in the bill.

The bill is effective July 1, 2021.

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 includes an appropriation of $300,000 for FY 2021-2022 in recurring funds from the General Revenue Fund to the FDLE for the purpose of implementing and administering the program.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 943.69 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 Powell

30-00829-21 20211810__

A bill to be entitled

An act relating to care for retired law enforcement dogs; creating s. 943.69, F.S.; providing a short title; providing legislative findings; defining terms; creating the Care for Retired Law Enforcement Dogs Program within the Department of Law Enforcement; requiring the department to contract with a nonprofit corporation to administer and manage the program; specifying requirements for the nonprofit corporation; specifying requirements for the disbursement of funds for the veterinary care of eligible retired law enforcement dogs; placing an annual cap on the amount of funds available for the care of an eligible retired law enforcement dog; prohibiting a former handler or an adopter from accumulating unused funds from a current year for use in a future year; prohibiting a former handler or an adopter from receiving reimbursement if funds are depleted for the year for which the reimbursement is sought; requiring the department to pay to the nonprofit corporation, and authorizing the nonprofit corporation to use, up to a certain percentage of appropriated funds for administrative expenses; requiring the department to adopt rules; providing an appropriation; providing an effective date.

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

Section 1. Section 943.69, Florida Statutes, is created to

30-00829-21 20211810__

read:

943.69 Care for Retired Law Enforcement Dogs Program.—

(1) SHORT TITLE.—This section may be cited as the "Care for Retired Law Enforcement Dogs Program Act."

(2) LEGISLATIVE FINDINGS.—The Legislature finds that:

(a) Law enforcement dogs are an integral part of many law enforcement efforts statewide, including the apprehension of suspects through tracking and searching, evidence location, drug and bomb detection, and search and rescue operations;

(b) Law enforcement agencies agree that the use of law enforcement dogs is an extremely cost-effective means of crime control and that these dogs possess skills and abilities that frequently exceed those of existing technology;

(c) The service of law enforcement dogs is often dangerous and can expose them to injury at a rate higher than that of nonservice dogs; and

(d) Law enforcement dogs provide significant contributions to the residents of this state.

(3) DEFINITIONS.—As used in this section, the term:

(a) "Law enforcement agency" means a lawfully established state or local public agency having primary responsibility for the prevention and detection of crime or the enforcement of penal, traffic, highway, regulatory, game, immigration, postal, customs, or controlled substance laws.

(b) "Retired law enforcement dog" means a dog that was previously in the service of or employed by a law enforcement agency in this state for the principal purpose of aiding in the detection of criminal activity, enforcement of laws, or apprehension of offenders and that received certification in

obedience and apprehension work from a certifying organization, such as the National Police Canine Association, Inc., or other certifying organization.

(c) "Veterinarian" has the same meaning as in s. 474.202.

(d) "Veterinary care" means the practice, by a veterinarian, of veterinary medicine as defined in s. 474.202. The term includes annual wellness examinations, vaccinations, internal and external parasite prevention treatments, testing and treatment of illnesses and diseases, medications, emergency care and surgeries, veterinary oncology or other specialty care, euthanasia, and cremation.

(4) ESTABLISHMENT OF PROGRAM.—The Care for Retired Law Enforcement Dogs Program is created within the department to provide a stable funding source for the veterinary care these dogs receive.

(5) ADMINISTRATION.—The department shall contract with a nonprofit corporation organized under chapter 617 to administer and manage the Care for Retired Law Enforcement Dogs Program. Notwithstanding chapter 287, the department shall select the nonprofit corporation through a competitive grant award process. The nonprofit corporation must meet all of the following criteria:

(a) Be dedicated to the protection or care of retired law enforcement dogs.

(b) Be exempt from taxation under s. 501(a) of the Internal Revenue Code as an organization described in s. 501(c)(3) of that code.

(c) Have maintained such tax-exempt status for at least 5 years.

(d) Agree to be subject to review and audit at the discretion of the Auditor General in order to ensure accurate accounting and disbursement of state funds.

(e) Demonstrate the ability to effectively and efficiently disseminate information and to assist former handlers and adopters of retired law enforcement dogs in complying with this section.

(6) FUNDING.—

(a) The nonprofit corporation shall be the disbursing authority for funds the Legislature appropriates to the department for the Care for Retired Law Enforcement Dogs Program. These funds must be disbursed to the former handler or the adopter of a retired law enforcement dog upon receipt of:

1. Valid documentation from the law enforcement agency from which the dog retired which verifies that the dog was in the service of or employed by that agency; and

2. A valid invoice from a veterinarian for veterinary care provided in this state to a retired law enforcement dog and documentation establishing payment of the invoice by the former handler or the adopter of the retired law enforcement dog.

(b) Annual disbursements to a former handler or an adopter to reimburse him or her for the cost of the retired law enforcement dog's veterinary care may not exceed $1,500 per dog. A former handler or an adopter of a retired law enforcement dog may not accumulate unused funds from a current year for use in a future year.

(c) A former handler or an adopter of a retired law enforcement dog who seeks reimbursement for veterinary care may not receive reimbursement if funds appropriated for the Care for

Retired Law Enforcement Dogs Program are depleted in the year for which the reimbursement is sought.

(7) ADMINISTRATIVE EXPENSES.—The department shall pay to the nonprofit corporation, and the nonprofit corporation may use, up to 10 percent of appropriated funds for its administrative expenses, including salaries and benefits.

(8) RULEMAKING.—The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement this section.

Section 2. For the 2021-2022 fiscal year, and each fiscal year thereafter, the sum of $300,000 in recurring funds is appropriated from the General Revenue Fund to the Department of Law Enforcement for the purpose of implementing and administering the Care for Retired Law Enforcement Dogs Program.

Section 3. This act shall take effect July 1, 2021.

The Florida Senate

Committee Agenda Request

To: Senator Keith Perry, Chair
Appropriations Subcommittee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: March 30, 2021

I respectfully request that **Senate Bill #1810**, relating to Care for Retired Law Enforcement Dogs, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Bobby Powell
Florida Senate, District 30

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/21
Meeting Date

1810
Bill Number (if applicable)

Topic Retirement Law Enforcent Dogs

Amendment Barcode (if applicable)

Name Kate Macfall

Job Title state director

Address 1204 Walton Dr. Phone 850 508-1001
Street

Tallahassee FL. 32312 Email KMacfall@hsus.org
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Humane Society of the United States

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/21
Meeting Date

1810
Bill Number (if applicable)

Topic Care for Retirement of Law Enforcement Dogs

Amendment Barcode (if applicable)

Name TRAVIS Moore

Job Title

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Street

Phone 727.421.6902

St. Petersburg FL 33731
City *State* *Zip*

Email travis@moore-relations.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Animal Legal Defense Fund

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

The Florida Senate

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 Appropriations Subcommittee on Criminal and Civil Justice

BILL:	PCS/CS/SB 1920 (771334)
INTRODUCER:	Appropriations Subcommittee on Criminal and Civil Justice; Children, Families, and Elder Affairs Committee; and Senator Book
SUBJECT:	Child Welfare
DATE:	April 8, 2021
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Moody	Cox	CF	**Fav/CS**
2.	Dale	Harkness	ACJ	**Recommend: Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1920 creates the Statewide Office of Child Representation (OCR) and makes a number of changes to various provisions related to guardians ad litem (GAL) under ch. 39, F.S., and regarding attorney representation for the child.

The bill provides that on or after July 1, 2022, a GAL must be appointed in specified circumstances including to a child who remains in his or her home or nonlicensed placement under protective supervision of the department, and may be appointed at the court's discretion upon a finding that circumstances exist which require the appointment. If a GAL is appointed initially and the circumstances of the child change resulting in the requirement of the court to subsequently appoint an attorney, the court may maintain the appointment of the guardian ad litem even though an attorney for the child has been appointed.

The bill defines a "conflict of interest" with respect to GAL volunteers and requires the guardian ad litem program (GALP) to develop guidelines to identify when there is reasonable cause to suspect an assigned GAL has a conflict of interest. The bill prohibits the GALP from appointing a GAL when a conflict of interest is identified. It also requires the court to order that a new GAL be assigned or, unless otherwise prohibited by law, discharge the GAL and appoint an attorney for the child when such circumstances exist. Further, the GALP must identify any GAL who is experiencing a physical or mental health issue and who appears to present a danger to any child, and remove him or her from all assigned cases and terminate his or her volunteer services. The

GALP has discretion to allow a GAL to work in the office in certain circumstances, but a GAL who has caused harm to a child during the course of his or her appointment is prohibited from being an employee of or volunteer for the program.

The GAL Qualifications Committee is redesignated as the Child Well-Being Qualifications Committee. The bill provides that the executive director of the GALP may be reappointed to serve more than one term and the reappointment process must be made in accordance with the initial appointment process.

The OCR is established within the Justice Administrative Commission (JAC) and is structured with requirements substantially similar to current law relating to the GALP. Regional Offices are created within the area serviced by each of the five district court of appeals. Child Representation Counsel (CRC) must comply with proscribed duties. The bill provides specified duties for the OCR and the Department of Children and Families (DCF) is required to take any necessary steps to obtain federal Title IV-E funding reimbursement for the OCR. The OCR may contract with a local nonprofit agency to provide direct representation for the child.

Section 39.831, F.S., is created to make provisions regarding when an "attorney for the child", as defined in the bill, must or may be appointed. The bill relocates s. 39.01305(4)(b) and (5), F.S. to s. 39.831, F.S., but clarifies the scope of attorney representation and, unless otherwise agreed, requires an attorney to be compensated in accordance with s. 27.5304, F.S. The bill provides that an attorney for the child, or certain staff when appropriate, may represent the child in fair hearings in certain circumstances within the resources allocated for representation in dependency proceedings. The bill also sets out several other provisions regarding an attorney for the child, including when the OCR must be appointed, the process that must be followed when OCR has a conflict of interest in representing a child, when the attorney for the child may withdraw or be discharged, his or her access to records, and requirement to file all appropriate motions at least 72 hours before a court hearing.

Several sections are amended to conform cross-references and provisions to changes made by the act.

The bill will result in an indeterminate negative fiscal impact on state expenditures. The GALP reports an indeterminate fiscal impact of the bill as it is unknown how many children will meet the criteria in the bill. Further, the JAC states that the bill will likely have a substantial fiscal impact on the JAC through increased workload. Finally, the fiscal impact to fund the creation and operation of the OCR will likely have a substantial negative fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

II. Present Situation:

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the Florida central abuse hotline (hotline).[1]

[1] Section 39.201(a), F.S.

A child protective investigation begins if the hotline determines the allegations meet the statutory definition of abuse,[2] abandonment,[3] or neglect.[4] A child protective investigator investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.[5]

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. When the Department of Children and Families (DCF) removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.[6] The dependency court process is summarized in the table below.

The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines the child's home is unsafe, and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.

[2] Section 39.01(2), F.S. The term "abuse" means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

[3] Section 39.01(1), F.S. The term "abandoned" or "abandonment" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child's care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.

[4] Sections 39.01(50) and 39.201(2)(a), F.S. "Neglect" occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

[5] Section 39.201(5), F.S.

[6] *See* s. 39.01(15), F.S., for the definition of "child who is found to be dependent".

Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Postdisposition hearing	The court may change temporary placement at a postdisposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

Attorney Representation in Dependency Cases

An attorney must comply with the Florida Rules of Professional Conduct promulgated by the Florida Bar. An attorney must zealously advocate for his or her client and must abide by a client's decision on how to proceed in a matter.[7] This means the client has authority to decide the purpose and scope of the attorney's representation, within the limits imposed by law and the attorney's professional obligations, including for instance whether to settle a matter.[8] An attorney has an obligation to communicate with his or her client about such decisions,[9] and should try to reach a mutually agreeable resolution with his or her client if a disagreement arises on how to proceed.[10]

[7] Rules Regulating the Fla. Bar 4-1.2.
[8] *Id.*
[9] Rules Regulating the Fla. Bar 4-1.2 and 4-1.4(a)(1).
[10] Rules Regulating the Fla. Bar 4-1.2.

Attorney Duties and Conflicts of Interest

Attorneys are required to adhere to specified duties within the Rules of Professional Conduct. For instance, an attorney must be competent to represent his or her client, and must act with reasonable diligence and promptness in representing a client.[11]An attorney also has duties of loyalty and confidentiality to his client.[12] However, an attorney must disclose confidential information if he or she reasonably believes it is necessary to prevent a client from committing a crime, or to prevent death or substantial bodily harm to another.[13] An attorney may also disclose confidential information, in part, if the client gives informed consent or the attorney reasonably believes the disclosure is necessary to serve the client's interest provided the client does not specifically require the information not to be disclosed.[14]

The Rules of Professional Conduct also contain provisions regarding how an attorney must handle circumstances in which conflict of interest exists.[15] This includes, in part, when an attorney has a conflict with a current[16] or former client[17] as well as prohibited transactions.[18] An attorney must not represent a client whose interests are directly adverse to another client, or there is a substantial risk that representation of the client would materially limit the attorney's representation of another client, a former client or personal interest of the lawyer, except when the client waives the conflict in specified circumstances.[19] This means an attorney must not represent opposing parties in litigation.[20] Further, an attorney generally may not use information to the disadvantage of a client without informed consent, unless otherwise permitted in the rules.[21]

An attorney must not represent a client if his or her representation will result in a violation of the Rules of Professional Conduct or law, or the attorney's physical or mental condition materially impairs his or her ability to represent the client.[22] In such instances, the attorney must not commence representation or must withdraw as counsel if specified conditions are met.[23]

Attorney for the DCF

The DCF must be represented by counsel in dependency and termination of parental rights proceedings.[24] The DCF, through its counsel, must make recommendations to the court and may present evidence including testimony from its own employees or employees of its agents, subcontractors, or other community providers.[25] The DCF may enter into a contract for the

[11] Rules Regulating the Fla. Bar 4-1.1 and 4-1.3.
[12] Rules Regulating the Fla. Bar 4-1.6 and 4-1.7.
[13] Rules Regulating the Fla. Bar 4-1.6(b).
[14] Rules Regulating the Fla. Bar 4-1.6(a) and (c).
[15] *See* Rules Regulating the Fla. Bar 4-1.7 to 4-1.11.
[16] Rules Regulating the Fla. Bar 4-1.7
[17] Rules Regulating the Fla. Bar 4-1.9.
[18] Rules Regulating the Fla. Bar 4-1.8.
[19] Rules Regulating the Fla. Bar 4-1.7(a).
[20] Rules Regulating the Fla. Bar 4-1.7.
[21] Rules Regulating the Fla. Bar 4-1.8(b).
[22] Rules Regulating the Fla. Bar 4-1.16(a), F.S.
[23] Rules Regulating the Fla. Bar 4-1.16(a) and (b), F.S.
[24] Section 39.013(12), F.S.
[25] *Id.*

provision of children legal services, and all counsel included those contracted must adopt the child welfare practice model as proscribed by the DCF.[26]

Except when legal representation is contracted out, the State of Florida is represented by Children Legal Services through the DCF.[27] The DCF is required to contract with the state attorney in the sixth judicial circuit for children legal services.[28] The DCF contracts with the Florida Attorney General's Office to provide children's legal services in Hillsborough and Broward counties.[29]

Attorney for the parents

Parents have the right to be represented by counsel in dependency proceedings, and they must be informed of this right at each stage of the dependency proceedings.[30] The court must appoint counsel to represent parents who are indigent.[31] The Office of Criminal Conflict and Civil Regional Counsel (OCCCRC) has primary responsibility for representing parents in proceedings under ch. 39, F.S.[32] If OCCCRC has a conflict of interest in representing a parent or parents, private counsel who must be selected from a registry is appointed on a rotating basis.[33] The private attorneys contract with the JAC under specified terms to provide such services.[34]

Attorney for the child

Attorney representation of children

An attorney should, as far as reasonably practical, maintain a normal attorney-client relationship when a client's ability to make an adequately informed decision is impaired, such as in representation of a minor child.[35] An attorney may seek the appointment of a GAL if he or she reasonably believes the client is not able to adequately act in his or her own interest.[36] The Rules of Professional Conduct acknowledge that the law recognizes intermediate degrees of competence, and explicitly provides that children ages 10 or 12 are regarded as having opinions which are entitled to be considered in respect of legal proceedings concerning their custody.[37]

[26] Section 409.996(18), F.S.
[27] The DCF, *Children Legal Services Overview*, available at https://www.myflfamilies.com/service-programs/childrens-legal-services/overview.shtml (last visited March 25, 2021).
[28] Section 409.996(18)(a), F.S.
[29] The Office of Attorney General State of Florida, *Children's Legal Services Bureau*, available at http://myfloridalegal.com/pages.nsf/Main/27E91605D4750EBF85256CCB006E66D3 (last visited March 25, 2021).
[30] Section 39.013(1), F.S.
[31] Section 39.013(9)(a), F.S.
[32] Section 27.511(6)(a), F.S.
[33] Section 27.40(2) and (3), F.S.
[34] Section 27.40(3) and (5), F.S.
[35] Rules Regulating the Fla. Bar 4-1.14.
[36] *Id.*
[37] *Id.*

Child Representation Models

Child representation in dependency proceedings varies but in most instances is based on what is in the child's best interest, direct representation, or a hybrid approach.[38] A summary of the different models and how they operate is set out in the table below.[39]

Exhibit 3
States' Models of Representation for Children in Dependency Proceedings Fall Into Six Categories

Representation Model	Number of States That Use Model	Description
Age Dependent	4	Children in these states receive different types of representation depending on their age. In these states, older children receive a client-directed attorney, and younger children receive a GAL.
Best Interest (attorney or professional)	20	Children in these states always receive a GAL who is required to be either an attorney or a professional (e.g., professional GAL or mental health counselor). These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.
Best Interest (lay volunteer)	12	Children in these states always receive a GAL, who is not required to be an attorney. These states may also allow for the appointment of a client-directed attorney at the discretion of the judge or in certain circumstances.
Client-Directed Attorney	7	Children in these states always receive a client-directed attorney. These states may also allow for the appointment of a separate GAL or CASA at the discretion of the judge or in certain circumstances.
Hybrid	6	Children in these states always receive both a client-directed attorney and a GAL.
Multidisciplinary Team	2	Children in these states are represented by a GAL team, made up of a volunteer, a staff advocate, and an attorney.

Source: OPPAGA analysis of state statutes and court rules.

Representation under current Florida law

Section 39.01305, F.S., provides that an attorney must be appointed to represent a dependent child[40] who has the following special needs:

- Resides in or is being considered for placement in a skilled nursing home;
- Is prescribed psychotropic medication but does not agree to take it;
- Has a diagnosis of a developmental disability;[41]
- Is being placed or is being considered for placement in a residential treatment center; or
- Is a victim of human trafficking.[42]

[38] The Office of Program Policy Analysis and Government Accountability (OPPAGA), *OPPAGA Review of Florida's Guardian ad Litem Program, Presentation to the Senate Committee on Children, Families, and Elder Affairs*, p. 9, January 26, 2021, available at https://oppaga.fl.gov/Documents/Presentations/GAL%20Presentation%201-26-21.pdf (last visited March 25, 2021) (hereinafter cited as "OPPAGA Presentation").
[39] OPPAGA, *OPPAGA Review of Florida's Guardian ad Litem Program*, p. 5 and 34, December 2020 (on file with the Committee on Children, Families, and Elder Affairs) (hereinafter cited as "The OPPAGA Memo").
[40] Section 39.01305(2), F.S., defines "dependent child" as a child who is subject to any proceeding under ch. 39, F.S. The term does not require that a child be adjudicated dependent for purposes of this section.
[41] Section 393.063(12), F.S., defines "developmental disability" as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely. *See* s. 393.063, F.S., for other definitions related to developmental disability.
[42] Section 787.06(2)(d), F.S., defines "human trafficking" as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.

A court is not restricted to appointing an attorney to represent a child for the reasons listed above.[43]

The court must request a recommendation from the GALP for an attorney who is willing to represent a child without additional compensation before a court may appoint one under s. 39.01305(4)(a), F.S. If the GAL recommends an attorney who is available within 15 days from the date of the court's request, the court must appoint that attorney.[44] The court may appoint an attorney who will receive additional compensation within 15 days if the GALP notifies the court that it will not be able to make a recommendation within the specified time.[45]

An attorney who is appointed to represent a child continues to be appointed until the attorney is allowed to withdraw or is discharged by the court or until the case is dismissed.[46] An attorney who is appointed must provide a range of legal services including from removal or appointment through any appellate proceedings.[47] The appointment must be in writing and the attorney must be adequately compensated unless he or she was agreed to provide pro bono services.[48] Unless an attorney has agreed to represent a child pro bono, the JAC must contract with attorneys appointed by the court and their fees may not exceed $1,000 per child per year.[49] All appointed attorneys must also be provided with access to funding for due process costs of litigation subject to appropriations.[50]

Several counties in Florida currently operate offices that provide child representation, including Palm Beach, Broward, and Hillsborough counties.[51] For instance, the Legal Aid Society of Palm Beach (LAS Palm Beach) Children's Foster Project is appointed to every child 0 to 12 years old who is in out-of-home care.[52] The Legal Aid Society of Broward County (LAS Broward) represents children in dependency cases and provides free legal services for eligible relative and nonrelative caregivers.[53] Similarly, the L. David Shear Children's Law Center of Bay Area Legal Services provides representation to children who have been abused, abandoned, or neglected.[54]

At least some of these organizations receive government funding.[55] For instance, the LAS Palm Beach County receives public grants, such as the U.S. Department of Justice under the Violence against Women Act and Children's Services Council of Palm Beach County, and private grants,

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[43] Section 39.01305(8), F.S.
[44] Section 39.01305(4)(a), F.S.
[45] *Id.*
[46] Section 39.01305(4)(b), F.S.
[47] *Id.*
[48] Section 39.01305(4)(b) and (5), F.S.
[49] Section 39.01305(5), F.S.
[50] *Id.*
[51] *See* Legal Aid Society Palm Beach ("LAS Palm Beach"), *children*, available at https://legalaidpbc.org/children/ (hereinafter cited as "LAS Palm Beach Children"); Legal Aid Service of Broward County ("LAS Broward"), *Children & Education*, available at https://www.browardlegalaid.org/what-we-do/areas-of-legal-service/children-education/ (hereinafter cited as "LAS Broward Children"); Bay Area Legal Services, *Family & Children*, available at https://bals.org/help/family-children (all sites last visited March 25, 2021).
[52] LAS Palm Beach Children.
[53] LAS Broward Children.
[54] *Id.*
[55] *See* LAS Broward Children.

such as William and Helen Thomas Charitable Foundation.[56] LAS Broward receives funding from the Children's Services Council of Broward County (CSCBC).[57] In many instances, these organizations rely on donations and pro bono attorneys who donate their services to provide representation to children who are the subject of a dependency case.[58]

The Legal Aid Society of Palm Beach County provides representation to all children in the foster care system who are between birth and 12 years old, and their siblings under a program referred to as the Foster Children Project (Project).[59] The Chapin Hall Center for Children at the University of Chicago (CFC) conducted a study that found that children who were represented by the Project had a significantly higher rate of exit to permanency than children not served by the Project due to higher rates of adoption and long-term custody.[60] Additionally, it has been reported that children who were represented by counsel, including those served by the Project, exited foster care 88.3 days quicker on average.[61]

Office of Child Representation (OCR) (Section 8)

Florida law does not currently provide for an OCR. Colorado and Travis County, Texas, however, do have offices of child representation. The Colorado Office of Child's Representative (COCR) is a state agency that was established in 2000 to provide representation to children.[62] The COCR represent children in several types of cases, including:

- Dependency and Neglect;
- Juvenile Delinquency;
- Domestic Relations; and
- Adoption, Truancy, Probation, Mental Health, and Paternity.[63]

All COCR attorneys are trained on the law, social science research, child development, mental health and education issues, and best practices in court proceedings.[64] A Colorado court must

[56] LAS Palm Beach, *Funding*, available at https://legalaidpbc.org/funding/ (last visited March 25, 2021).
[57] *See* LAS Broward, *Children & Education*, available at https://www.browardlegalaid.org/what-we-do/areas-of-legal-service/children-education/ (last visited March 25, 2021). The CSCBC is an independent taxing authority created by voters in 2000 and reauthorized in 2014, and its purpose is to provide advocacy and resources to children of Broward County. The CSCBC, *About Us*, available at https://www.cscbroward.org/about (last visited March 25, 2021).
[58] *See* LAS Broward County, *Get Involved with Legal Aid*, available at https://www.browardlegalaid.org/get-involved/; Dade Legal Aid, *Pro Bono Enrollment (Attorney)*, available at http://www.dadelegalaid.org/psb-enrollment-form-attorneys/; Dade Legal Aid, *Donations through The Miami Foundation*, available at http://www.dadelegalaid.org/donations-through-the-miami-foundation/; Bay Area Legal Services, *Justice Works! The Campaign for Bay Area Legal Services*, available at https://bals.org/support; and Bay Area Legal Services, *Volunteer Lawyers Program*, available at https://bals.org/volunteer (all sites last visited March 25, 2021).
[59] LAS Palm Beach Children.
[60] Zinn, A.E. & Slowriver, J. (2008) *Expediting Permanency: Legal Representation for Foster Children in Palm Beach County.* Chicago: Chapin Hall Center for Children at the University of Chicago, p. 1.
[61] *See* Florida Times-Union, *Guest Column: Legal Representation for Foster Youth can Make a Difference*, available at https://www.jacksonville.com/story/opinion/2021/03/28/guest-column-legal-representation-foster-youth-can-make-difference/6997135002/; Tallahassee Democrat, *Kids in Florida Foster Care Need Legal Representation – and the Legislature can Help | Opinion*, March 31, 2021, available at State's foster children need legal help (Tallahassee Democrat).pdf (all sites last visited April 8, 2021).
[62] The COCR, *What We Do*, available at https://coloradochildrep.org/about-ocr/ (last visited March 25, 2021).
[63] *Id.*
[64] The COCR, *Case Types Covered by OCR Attorneys*, available at https://coloradochildrep.org/about-ocr/ocr-cases/ (last visited March 25, 2021).

appoint a GAL in dependency and neglect cases to represent the child's best interest, and must appoint an OCR attorney to act as the child's counsel when the child faces contempt citations or the court has determined that the child holds his or her own patient-therapist privilege.[65, 66] The COCR is responsible for overseeing both roles as a GAL and as counsel for the children, if applicable.[67] When COCR is appointed as counsel for the child, the attorney has a traditional attorney-client role in which he or she represents the child's wishes in court proceedings.[68]

In Colorado, a GAL is a COCR attorney who is appointed to represent the best interest of the child which means that the COCR attorney does not advocate for the child's express wishes in a traditional attorney-client role.[69] Instead, the GAL must advocate for the child's health, safety, and well-being, and his or her advocacy must align with the interests and needs of the child.[70] The GAL has specified requirements that must be met, including attending all court hearings and conducting an independent investigation which must continue throughout the duration of the case.[71]

The Travis County, Texas Office of Children Representation (TOCR), however, provides legal representation to children who are the subject of dependency cases only.[72] The TOCR counsel act in a traditional attorney-client role and represent children's legal interests.[73]

Guardian ad Litem

Appointment and Discharge

Federal and Florida law provide that a GAL must be appointed to represent the child in every case.[74] The Child Abuse Prevention and Treatment Act makes the approval of grants contingent on a eligible state plans which must include provisions and procedures to appoint a GAL in every case.[75] The GAL must be appointed to:

- Obtain first-hand knowledge of the child's situation and needs; and
- Make recommendations to the court regarding the best interest of the child.[76]

Under Florida law, a court must appoint a GAL at the earliest possible time to represent the child in a dependency proceeding.[77] The GALP publishes monthly representation reports which

[65] L.A.N. et al. v. L.M.B., 11 SC 529 (Jan. 22, 2013) (finding that a GAL holds a child's psychotherapist-patient privilege when: (1) the child is too young or incompetent to hold the privilege; (2) the child's interests are adverse to those of his or her parent(s); and (3) section 19-3-311, C.R.S. (2012) does not abrogate the privilege).
[66] The COCR, *Dependency & Neglect Cases*, available at https://coloradochildrep.org/about-ocr/ocr-cases/dependency-and-neglect/ (last visited March 25, 2021) (hereinafter cited as "D&N Cases").
[67] *Id.*
[68] *Id.*
[69] D&N Cases.
[70] *Id.*
[71] *Id.*
[72] Travis County, Tx Gov, *The Office of Child Representation*, available at https://www.traviscountytx.gov/criminal-justice/child-representation (last visited March 25, 2021) (hereinafter cited as "TOCR website").
[73] *Id.*
[74] 42 U.S.C. 67 §5106a.(b)(2)(xiii); Section 39.822(1), F.S.
[75] 42 U.S.C. 67 §5106a.(b)(2)(xiii).
[76] *Id.*
[77] Section 39.822(1), F.S.

summarize, in part, the number of reported dependent children, the GALPs appointments in those cases, and the number of certified volunteer GALs.[78] The December 2020 Representation Report details the following statistics:

- The Office of State Courts Administrator reports there are 31,288 children who are the subject of a dependency case.[79]
- The GALP reports that 22,960 children are appointed to the program, and there are 11,116 certified case volunteers including pro bono attorneys.[80]
- The GALP reports 98 newly certified case volunteers in its December 2020 report.[81]

In some cases, the GALP may discharge from a case when a child's permanency goal has been established and the child is in a stable placement.[82] A summary of the reasons the GALP has been discharged from dependency cases from 2016 to 2020 by Fiscal Year is summarized in the table below.[83]

Exhibit 6

Closure Reasons Reported by GAL Program Remained Stable From Fiscal Year 2016-17 Through the First Half of Fiscal Year 2019-20[1]

GAL Program Closure Reason for GAL Program Closures	FY 2016-17	FY 2017-18	FY 2018-19	FY 2019-20[1]	Four-Year Total
Reunification	29%	31%	29%	31%	30%
Adoption	18%	18%	20%	19%	19%
Permanency Goal Established[2]	18%	19%	23%	22%	21%
Permanent Guardianship	17%	15%	13%	12%	15%
Other[3]	9%	9%	6%	6%	8%
Insufficient Program Resources[4]	5%	4%	4%	4%	5%
Aged Out of Care	3%	4%	4%	4%	4%
Total	**100%**	**100%**	**100%**	**100%**	**100%**

[1] To control for differences between GAL Program closures and DCF discharges, we limited the Fiscal Year 2019-20 data to the first six months (July 1, 2019–December 31, 2019).
[2] Closure reasons of APPLA are included here.
[3] Other includes children who ran away, were transferred to or placed in another circuit, and cases that were either consolidated or bifurcated by the courts.
[4] This includes cases to which the GAL Program was appointed where the program was either unable to staff the case at all or had to discharge from a case before it concluded. Closure reasons of APPLA are included here.
Source: OPPAGA analysis of Florida Guardian ad Litem Program data representing 80% of GAL children with a closed case.

Role of the GALP and GAL

"Guardian ad litem" is defined as the Statewide Guardian Ad Litem Office, which includes circuit guardian ad litem programs, a duly certified volunteer, a staff member, a staff attorney, a contract attorney, pro bono attorney working on behalf of a GAL; court-appointed attorney; or responsible adult who is appointed by the court to represent the best interest of a child in a proceeding as provided by law including ch. 39, F.S., until discharged by the court.[84]

[78] *See* the GAL for Children, *Florida Guardian ad Litem Program, Monthly Representation Report: December 2020*, available at https://guardianadlitem.org/wp-content/uploads/2021/01/Representation-Report-December-2020.pdf (last visited March 25, 2021) (hereinafter cited as "December 2020 Representation Report").
[79] *Id.*
[80] December 2020 Representation Report.
[81] *Id.*
[82] The OPPAGA Memo at p. 15.
[83] *Id.* at p. 16.
[84] Section 39.820(1), F.S.

The GALP reports that it represents the children who are alleged to be abused, abandoned, or neglected and are subject to the dependency court's jurisdiction.[85] The Florida Supreme Court has recognized that a GAL is appointed to serve as the child's representative in court to present what is in the child's best interest.[86] The GALP reports that the adult representing the child's best interest will ordinarily be represented by counsel in the judicial proceedings, and suggests such attorney owes a duty of care to both the guardian ad litem and the child with whom the GAL is appointed to represent.[87] The GALP acknowledges that there is no attorney-client relationship between the GALP attorney and the child, and suggests that independent legal representation is provided through the GAL.[88]

The GAL or GALP representative must review all disposition recommendations or changes in placements, and must be present at all critical stages of the proceeding or submit a written report, which must be filed and served on all parties whose whereabouts are known at least 72 hours prior to the hearing.[89]

Performance Advocacy Snapshot (PASS) summarizes the individual GAL circuit program performance and GAL influence on child welfare outcomes by circuit.[90] The December 2020 PASS report states that a GAL has been appointed to 73.4% of children who are the subject of dependency proceedings, with some exceptions.[91] It also reports 67.5% active certified volunteers statewide.[92] Children achieving permanency within 12 months of entering care totals 18 percent and 40.6 percent of adoptions occur within 24 months according to the PASS report.[93]

Activities of GAL

The GALP reports that GAL are involved in a number of activities related to the child, including, in part:

- Attending school events;
- Guiding children through changes of placement;
- Creating community awareness about children who are abused, abandoned, or neglected;
- Being a safe and stable adult in the child's life; or
- Reporting quality information to judges.[94]

[85] The GALP, *Agency Analysis for SB 1920*, p. 15, March 14, 2021 (on file with the Senate Committee on Children, Families, and Elder Affairs) (hereinafter cited as "The GALP Analysis").
[86] *D.H. v. Adept Cmty. Servs.*, 271 So. 3d 870, 879 (Fla. 2018) (citing *C.M. v Dep't of Children & Family Servs.*, 854 So.2d 777, 779 (Fla. 4th DCA 2003).
[87] The GALP Analysis at p. 3 [citing Op. Att'y Gen. Fla. 96-94 (1996)].
[88] *Id.* at p. 4.
[89] Section 39.822(4), F.S.
[90] *See* The GALP, *Statewide Guardian ad Litem Program – Performance Advocacy Snapshot (PASS)*, December 2020, available at https://guardianadlitem.org/wp-content/uploads/2021/01/Performance-Advocacy-SnapShot-December-2020-Revised.pdf (last visited March 25, 2021) (hereinafter cited as "December 2020 PASS").
[91] *Id.*
[92] December 2020 PASS.
[93] *Id.*
[94] The GALP Analysis at p. 4.

Conflicts of Interest

Under current law, there is no statutory provision under ch. 39, F.S., which requires the GALP to identify any conflict of interest a GAL may have. The GALP Standards of Operation, however, provide that the GALP "shall not accept appointment to a case where the Program has an impermissible conflict of interest and shall seek discharge if an impermissible conflict of interest arises after appointment. An impermissible conflict of interest between the GAL Program and a child or children will be found if the GAL Program has a duty, or the appearance of a duty, to another that may prevent the GAL Program from being fully able to represent the child to whom the Program is appointed. If an individual GAL Volunteer or staff member has a conflict, this may be resolved by assigning another individual from the Program in the discretion of the Circuit Director."[95] Standard 7.D. further states that GALs have an obligation to notify the GAL Program Attorney if they are aware of a possible conflict of interest, which could include prior involvement with individuals involved in the case, any personal reasons that may not allow them to provide best interests advocacy for a child, and situations when the GALP is appointed to represent multiple related children whose interests conflict with one another.
Further, Standard 7.D. states that an impermissible conflict will not be found simply because the GAL is advocating in good faith for the child's best interests and the child conveys a position that may be opposed to the position taken by the GAL.[96]

The GAL's Standards of Operation 3, Code of Conduct, prohibit GALs from practicing, condoning, facilitating, or participating in any form of discrimination, including in part, discrimination based on race, color, gender, sexual orientation, sexual identity, age, religion, or ethnicity.[97] Finally, the GALP reports that the Standards of Operation prohibit a GAL from receiving a fee for their services as a GAL or accepting a gift for personal benefit.[98]

GAL Executive Director Appointment and Reappointment

The GALP's executive director is appointed by the Governor from a list of at least three nominees of eligible applicants selected by the Guardian Ad Litem Qualifications Committee (GALQC).[99] The executive director must meet minimum qualifications, serve a term of 3 years, and has specified duties.[100] The executive director is permitted to serve more than one term, but current law is unclear on whether any additional terms are subject to the appointment process.

Funding

GAL Funding

The OPPAGA reports that state funding for the GALP has increased by 21% over the past five years from $43.6 million in Fiscal Year 2015-16 to $52.9 million in Fiscal Year 2019-20.[101]

[95] *Id.* at p. 9-10 (citing GAL's Standard 7.D.).
[96] The GALP, *Standards of Operation*, Revised April 2020, p. 18, available at https://guardianadlitem.org/wp-content/uploads/2020/05/GAL-Standards-Rev.-4.30.2020-FINAL.pdf (last visited March 25, 2021) (hereinafter cited as "GALP SOP 2020").
[97] *Id.* at p. 10.
[98] The GALP Analysis at p. 10.
[99] Section 39.8296(2)(a), F.S.
[100] *Id.*
[101] OPPAGA Presentation at p. 7.

Other sources of funding, including local governments, federal Victims of Crime Act (VOCA) funds, and non-profit sources, have also increased over the past five years from $4.6 million in Calendar Year (CY) 2015 to $9.7 million in CY 2019.[102] With this increase, the number of staff increased, the number of volunteers remained stable, and the number of children served has decreased from 40,032 in Fiscal Year (FY) 2016-17 to 36,506 in FY 2019-20.[103]

Family First Prevention Services Act

The Bipartisan Budget Act of 2018 (HR 1892) was signed into law on February 9, 2018, which included the Family First Prevention Services Act (FFPSA). The legislation aims at providing financial assistance with a focus on prevention services and reducing funds to residential group care.[104] It also has the potential to dramatically change child welfare systems by expanding the way in which Title IV-E funding may be spent.[105] The FFPSA requirements include:

- Option to use funds for up to 12 months for evidence-based services, such as substance abuse treatment;
- Eligible candidates include children who can remain safely in the home with the provision of services, children in foster care who are parents, or parents or caregivers who require services to prevent a child's entry into foster care;
- States must prepare a prevention plan for the child to safely remain at home with services; and
- Services must be trauma-informed and pre-approved on the Health and Human Services website.[106]

Title IV-E funds previously were restricted to being used for the costs of eligible children's foster care maintenance; administrative expenses to manage the foster care program; training for specified persons; and kinship guardianship assistance. Title IV-E federal funding is now available for direct legal representation and advocacy for eligible children in foster care and their parents.[107] As the GALP attorney does not have a direct attorney-client relationship with the child[108] and directly represent the children in Florida dependency proceedings, it is unclear whether the GALP is eligible for Title IV-E funding under the new federal standards. However, the GALP has not begun to be reimbursed for legal representation and advocacy under the FFPSA standards.

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[102] *Id.*
[103] *Id.*
[104] The DCF, *The Florida Center for Child Welfare FFPSA Updates*, available at http://centerforchildwelfare.fmhi.usf.edu/FFPSA.shtml (last visited March 25, 2021).
[105] National Conference of State Legislatures, *Family First Prevention Services Act Update*, available at https://www.ncsl.org/research/human-services/family-first-prevention-services-act-ffpsa.aspx. (last visited March 25, 2021).
[106] The DCF, *Family First Prevention Services Act*, p. 26, August 28, 2020, available at http://centerforchildwelfare.fmhi.usf.edu/kb/prevplans/FFPSA-StatewideWebinar8_28_2020.pdf (last visited March 25, 2021).
[107] U.S. Department of Health and Human Services, Administration for Children and Families, *High Quality Memo*, p. 10-11, January 14, 2021, available at https://www.courts.ca.gov/documents/ffdrp_acf2021_high_quality_memo.pdf (last visited March 25, 2021).
[108] The GALP SOP 2020, p. 7.

III. Effect of Proposed Changes:

Office of Child Representation (Section 8)

The bill establishes a new Office of Child Representation (OCR) to provide direct legal representation to specified children during dependency proceedings. Similar to the GALP, the bill creates the OCR within the JAC which provides administrative support and services but does not control, supervisor, or direct the OCR in the performance of its duties. However, employees are governed by plans, including salary and benefits, approved by the JAC.

The bill provides for an executive director to be appointed to the OCR with the same appointment process, term, and requirements as the executive of the GALP provided for in s. 39.8296(2)(a), F.S. The OCR executive director must be a member of The Florida Bar in good standing for at least 5 years and have knowledge of dependency law and social service delivery systems to meet the needs of children who are abused, abandoned and neglected. The bill requires the appointment of the initial executive director to be completed by January 1, 2022.

The OCR, within the resources of the JAC, must provide oversight and technical assistance, in part, as follows:

- Identify the resources required to implement methods of collecting, reporting, and tracking case data;
- Review and collect information relating to offices of child representation and other models of attorney representation in other states;
- Develop statewide performance measures and standards in collaboration with the regional offices of OCR;
- Develop a training program for each attorney for the child, and create a curriculum committee composed of specified professionals[109] for such purpose;
- Develop protocols that must be implemented to assist children in meeting eligibility requirements to receive all federal funding;[110]
- Review methods of funding, maximum the use of those funds, and review the kinds of services being provided by the regional offices;
- Determine the feasibility or desirability of new concepts regarding the operation and scope of services provided by the OCR;
- Develop standards and protocols to represent children who have diminished capacity; and
- Submit a report to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court, including:
    - An interim report describing the progress of the statewide office in meeting the responsibilities described in this paragraph.
    - A proposed plan that includes alternatives for meeting the representation needs of children in this state. The plan may include recommendations for implementation in only

[109] Members must include, but not limited to, a dependency judge, a director of circuit guardian ad litem programs, an active certified guardian ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of a domestic violence advocacy group, an individual with at least a Master of Social Work degree, and a social worker experienced in working with victims and perpetrators of child abuse.

[110] This may not be construed to mean that the protocols may interfere with zealous and effective representation of the children.

a portion of this state or phased-in statewide implementation and must include an estimate of the cost of each such alternative.
- An annual status report that includes any additional recommendations for addressing the representation needs of children in this state and related issues.

The DCF or community-based care lead agency must take any steps necessary to obtain and maintain eligible federal funding. The bill provides that OCR may contract with local nonprofit agencies to provide direct representation to a child if it is the most efficient method to satisfy its duties and if federal funding has been approved for reimbursement.

The bill provides for regional offices to be established within each of the five district court of appeals which must commence fulfilling their purpose and duties on July 1, 2022. Each regional office is also assigned to the JAC for it to provide administrative support and services within available resources. Like the statewide office, the regional offices are not subject to control, supervision, or direction by the JAC, but are governed by plans such as salary and benefits.

Finally, the child representation counsel (CRC) who is the head of the regional offices must serve on a full-time basis and may not engage in private practice. Assistant child representation counsel (ACRC) must give priority to his or her duties in that position but part-time ACRC may practice dependency law provided the representation does not result in a legal or ethical conflict of interest with a case that OCR is providing representation.

Attorney for the Child (Sections 1-3 and 9)

Appointment

Section 39.013(13), F.S. is amended to provide that an attorney for the child must be appointed pursuant to s. 39.831, F.S. The bill defines "attorney for the child" as an attorney providing direct representation to the child, which may include the appointment of the Office of the Child Representation, an attorney provided by an entity contracted through the Office of the Child Representation to provide direct representation, any privately court-appointed counsel who is compensated pursuant to s. 27.5305, F.S., any privately retained counsel or pro bono counsel, or any other attorney who represents the child under ch. 39, F.S.

The bill creates s. 39.831, F.S., which provides that an attorney for the child:
- Must be appointed when the child has special needs as provided in s. 39.01305(3), F.S.;
- Must be appointed by the court for any child who is subject to a dependency proceeding and who is placed in out-of-home licensed care on or after July 1, 2022; and
- May be appointed upon a finding by the court that circumstances exist which necessitate the appointment.

The bill modifies s. 39.01305(4)(a), F.S., to provide that an attorney must be appointed as provided for in s. 39.831, F.S.

Scope of Representation and Compensation

The bill clarifies that the scope of the appointment of an attorney for the child is limited to representation of the child in the dependency proceedings, which may include representation in

fair hearings and appellate proceedings that are directly related to matters needing resolution for the child to achieve permanency. Further, representation in fair hearings must be provided within the resources allotted for representation in the dependency proceedings. Trained staff of the OCR or local nonprofit agency, which may include social workers, case workers, education advocates, or health care advocates, may attend the fair hearings rather than the appointed attorney when appropriate.

The bill relocates s. 39.01305(4)(b),F.S., to s. 39.831, F.S., which specifies that the appointment continues in effect until the attorney is allowed to withdraw, the attorney is discharged by the court, or the case is dismissed. The attorney for the child must provide all legal services required from the time the child is removed or the initial appointment through appellate proceedings. With court permission, the attorney for the child may arrange for supplemental or separate counsel to represent the child in appellate proceedings. An order appointing an attorney for the child must be in writing.

The bill clarifies that the attorney must be adequately compensated as provided in s. 27.5304, F.S. The bill also relocates s. 39.01305(5), F.S., to s. 39.831, F.S., in regards to payment required to be made to an attorney for his or her representation which may not exceed $1,000 unless the attorney agrees to represent the child pro bono, and the requirement to provide access to funding for due process costs of litigation which is subject to appropriations.

The court must appoint the OCR unless the child is otherwise represented. Similar to the GALP, parents who are financially able must reimburse the court for the costs of the OCR representation, but reimbursement for the attorney's services may not be contingent upon successful collection by the court of reimbursement from the parent.

Conflicts of Interest

If the OCR determines that the interests of clients are so adverse or hostile that they cannot all be counseled by child representation counsel or his or her staff because of a conflict of interest, the OCR must file a motion to withdraw and move the court to appoint alternative counsel. The bill provides that the OCR must not automatically determine the appointment to represent siblings as a conflict of interest. If requested, the OCR must provide the JAC with a copy of the motion at the time it is filed. The court must consider the OCR's submission regarding the conflict without requiring the disclosure of any confidential communications. The court must deny the motion if there are insufficient grounds for the request. If the motion is granted, the court must appoint an attorney as provided in s. 27.40, F.S.

Access to Records

Upon presentation of a court order by an attorney for the child, an agency, person, or organization must allow the attorney to inspect and copy records related to the child who is the subject of the appointment, including records that are made confidential. An agency must also allow an attorney for the child to inspect and copy records that are exempt from

s. 119.07(1), F.S., or s. 24(a), Art. I of the Florida Constitution, but he or she must maintain the confidential or exempt[111] status of any records shared.

The attorney for the child must review all disposition recommendations and changes in placement and file any appropriate motions at least 72 hours in advance of the hearing. The DCF must develop procedures to request that a court appoint an attorney for the child, and may adopt rules to implement the section.

Guardian ad Litem (Section 4 to 7)

Part XI is retitled to state "GUARDIAN AD LITEM, GUARDIAN ADVOCATES, AND ATTORNEY FOR THE CHILD."

Appointment

The bill amends s. 39.822, F.S., providing that a GAL will continue to be appointed as proscribed under current law before July 1, 2022. On or after that date:

- The GAL must be appointed at the earliest possible time to represent a child who is:
  - Placed in nonlicensed care or remains in-home under the protective supervision of the department;
  - The subject of a dependency proceeding and the subject of a criminal proceeding;
  - The subject of a termination of parental rights proceeding under Part X; or
  - A dependent child as described in s. 39.01305(3), F.S.[112]
- The GAL may be appointed at the court's discretion upon a finding that circumstances exist which require the appointment.

If a guardian ad litem is appointed, the court may maintain the appointment even if an attorney for the child is later appointed because the child subsequently meets the above-mentioned criteria requiring the appointment of an attorney, such as he or she was placed in out-of-home care.

Conflicts of Interest

The GALP must develop guidelines to identify any possible conflicts of interest of a GAL when he or she is being considered for assignment to a child's case, and prohibits the GALP from appointing such GALs when a conflict is identified. "Conflict of interest" is defined as a GAL who:

- Has a personal relationship that could influence a recommendation regarding a child whom he or she is serving as a GAL;
- Is in a position to derive a personal benefit from his or her role as a GAL; or
- Has a personal factor or circumstance, including a bias or prejudice, which impairs the GALs ability to fully and fairly discharge his or her duties.

[111] When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." Custodians of records designated as "exempt" are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record. *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991). Custodians of records designated as "confidential and exempt" may not disclose the record except under circumstances specifically defined by the Legislature. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

[112] See below for further discussion on this section.

The bill permits the court to order that a new GAL be assigned or, unless otherwise provided by law, that the GAL be discharged and an attorney for the child be appointed upon:

- Consent of a child who is the subject of a dependency proceeding; or
- Any party presenting evidence that there is reasonable cause to suspect the assigned GAL has a conflict of interest.

The bill also requires the GALP to identify any GAL who is experiencing any physical or mental health issues and who appears to present a danger to any child, remove such GAL from all assigned cases, and terminate his or her direct contact voluntary services with the GALP. This action must be disclosed to the court. A GAL who has a physical or mental issue may work at the GALP office without direct child contact provided such issue does not negatively affect his or her ability to perform any required work duties or pose a risk of harm to any children represented by the program. A GAL who has caused harm to any child during the course of his or her appointment must not be employed or permitted to volunteer for the program.

Reappointment Process

The GAL Qualifications Committee who nominates at least three eligible applicants for the executive director position of the GALP to the Governor is renamed to the Child Well-Being Qualifications Committee. The bill provides that the executive director may be reappointed to serve more than one term pursuant to the appointment process. Every term is for a 3 year period.

Conforming Sections (Sections 10-40)

The bill amends ss. 39.00145, 39.0139, 39.402, 39.407, 39.4085, and 39.523, F.S., in part, to change the term "attorney ad litem" or other term used to refer to an attorney appointed to represent a child to the term "attorney for the child."

The bill also amends ss. 28.345, 39.001, 39.00145, 39.0132, 39.0139, 39.202, 39.302, 39.402, 39.407, 39.502, 39.521, 39.6011, 39.6012, 39.6251, 39.701, 39.702, 39.801, 39.802, 39.808, 39.810, 39.811, 39.812, 43.16, 63.085, 322.09, 394.495, 627.746, 934.255, and 960.065 to update reference to the attorney for the child as counsel for a party that is applicable to these sections as contemplated in the provisions in this bill.

The bill is effective July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The bill permits the attorney for the child to file a termination of parental rights petition which the GALP reports could raise constitutional issues with respect to the fundamental rights of parents.[113] However, s. 39.802, F.S., currently authorizes any party who has knowledge of the facts alleged or is informed of them and believes that they are true may file a termination of parental rights.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent a parent is financially able, he or she would have to reimburse the cost of the attorney for the child pursuant to s. 39.831(1)(c), F.S.

C. Government Sector Impact:

Statewide Guardian ad Litem Office Fiscal Impact

The bill's provisions would clearly reduce the demand for services provided by the GALP, though the impact is indeterminate. The GALP reports an indeterminate fiscal impact of the bill as it is unknown how many children will meet the criteria under s. 39.822(1)(b), F.S.[114] Of the 35,160 children in out-of-home care or receiving in-home services as of February 28, 2021, 23,444 children were under 10 years old and 11,714 children were 10 years of age or older.[115] Further, the number of GALs appointed to represent children will vary depending on how many termination of parental rights petitions are filed, how many children have special needs, and whether the children have pending delinquency proceedings.

[113] *2021 Agency Legislative Bill Analysis* at p. 14. (SB 1920) (March 14, 2021), Statewide Guardian ad Litem Program (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).
[114] *Id.* at p. 15.
[115] *Id.*

Justice Administrative Commission (JAC) Fiscal Impact

PCS/CS/SB 1920 will have an indeterminate, but significant, negative fiscal impact on the Justice Administrative Commission. The bill's provisions require the JAC to provide administrative support and services to the Statewide Office of Child Representation. Additional funding would be necessary for new administrative and infrastructure costs inherent in establishing and serving the new Offices of Child Representation, including employee training on the legal requirements of the OCR and incorporating the OCR into the existing state budgeting, finance, and IT systems. The JAC estimates that FTE costs for these functions would total $594,183 as follows:

- One-half FTE in Executive
- One FTE in Human Resources
- One FTE in Accounting
- One-half FTE in Financial Services
- One FTE in Information Technology
- One 3/4 FTE in Budget
- One FTE in Court-Appointed Audit (a blend of a flat fee auditor and hourly/due process auditor)
- Two FTEs in Legal (one attorney and one court-appointed paralegal)

Additionally, the JAC estimates that between $1.1 million to $5.5 million will be needed beginning in FY 2022-2023 for private court-appointed attorneys where the Offices of Child Representation have a conflict precluding representation. These costs are likely to be higher in the first year of appointments while the offices are beginning implementation of this initiative.[116]

The costs to the JAC associated with the bill are also partially contingent upon the service delivery model that the JAC provides to each of the Offices of Child Representation. The bill is silent on whether a single new state entity, the Statewide Office of Child Representation, would serve its regional offices (similar to current GALP), or whether the JAC would support the statewide office and the six separate new state entities, each functioning independently, similar to the Office of Criminal Conflict and Civil Regional Counsel.

Regional Office of the Child Representation Fiscal Impact

The bill requires the creation of five regional offices of child representation, which would have a significant negative fiscal impact on state resources. The estimated costs for the regional offices are difficult to quantify due to the multiple cost drivers, including expected caseload and conflict rate of the offices. In addition to operating costs, each office would also incur start-up costs and ongoing overhead costs. The example below projects annual recurring costs of $20.9 million based on the assumptions below; however, funding scenarios could easily range from $10 to $30 million.

[116] *2021 Agency Legislative Bill Analysis* (SB 1920) (April 2, 2021), Justice Administrative Commission (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

ASSUMPTIONS	
Number of Children Eligible	6,500
Caseload Per Attorney	60
Length of Appointment (In Months)	12
Cost Per Case Paid to Registry Attorney	$1,000
Conflict Rate	10%

FTE		Total Recurring Need	Total Nonrecurring Need
6.00	Salaries and Benefits for Director Positions (1 Per Region + Executive Director)	$ 1,078,152	$ -
	Operations Costs for Directors (Standard # 3 w/ Law Library)	$ 63,600	$ 23,370
5.00	Salaries and Benefits for Regional "Chiefs"	$ 718,365	$ -
	Operations Costs for Chiefs (Standard # 3 w/ Law Library)	$ 53,000	$ 19,475
109.00	Salaries and Benefits for Attorneys (*Estimated at $50,000 starting salary*)	$ 7,995,695	$ -
	Operations Per Attorney (Standard # 3 w/ Law Library)	$ 726,375	$ 421,958
58.00	Salaries and Benefits for Support / Other Staff	$ 3,754,050	$ -
	Operations for Support Positions (Standard # 3)	$ 501,584	$ 202,478
	Human Resource Outsourcing Costs	$ 41,830	$ -
	Risk Management Insurance Costs	$ 42,768	$ -
	Overhead Costs (Rent / IT Costs / Travel / Utilities / Supplies / Training)	$ 1,989,995	$ -
	Due Process Costs	$ 2,925,000	$ -
	Private Registry Attorney Fees (JAC HQ)	$ 650,000	$ -
	Private Registry Due Proccess Conflict Costs (JAC HQ)	$ 325,000	$ -
178.00		**$ 20,865,414**	**$ 667,281**

As discussed in the "Present Situation," state funding for these services could be partially offset by Title IV-E federal funds.

The number of cases that will require the appointment of counsel to represent children is anticipated to be fewer than the number of children eligible for the appointment of an attorney. As of December 31, 2020, there are a total of 21,122 children in out-of-home care in Florida of which 12,875 are in DCF custody.[117] There were a total of 3,573 sibling groups of which 1,732 sibling groups, or 4,317 children, were in DCF custody.[118] Given the fact that sibling representation is not a per se conflict and there are a significant number of sibling groups in out-of-home care, the caseloads will likely be less than the number of children eligible for legal representation.

[117] The DCF, *Children & Young Adults in Out-of-Home Care – Data Table*, March 10, 2021, available at https://www.myflfamilies.com/programs/childwelfare/dashboard/c-in-ooh.shtml (last visited April 8, 2021).
[118] The DCF, *Sibling Groups Where All Siblings are Placed Together*, January 13, 2021, available at https://www.myflfamilies.com/programs/childwelfare/dashboard/siblings-together.shtml (last visited April 8, 2021).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 28.345, 39.001, 39.00145, 39.01, 39.013, 39.01305, 39.0132, 39.0139, 39.202, 39.302, 39.402, 39.407, 39.4085, 39.502, 39.521, 39.523, 39.6011, 39.6012, 39.6251, 39.701, 39.702, 39.801, 39.802, 39.808, 39.810, 39.811, 39.812, 39.820, 39.822, 39.8296, 43.16, 63.085, 322.09, 394.495, 627.746, 934.255, and 960.065 of the Florida Statutes.

This bill creates sections 39.83 and 39.831 of the Florida Statutes.

IX. Additional Information:

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

CS by Appropriations Subcommittee on Criminal and Civil Justice on April 8, 2021:
The committee substitute:

- Removes the requirement to appoint a GAL to a child who is under 10 years old;
- Requires a GAL to be appointed to represent the best interest of a child who remains in-home or is placed in nonlicensed care who is under the protective supervision of the department;
- Permits the court to maintain the appointment of a GAL when an attorney for the child is appointed if the child is subsequently placed in out-of-home care;
- Clarifies that the GALP must terminate direct child contact volunteer services of any volunteer who has a physical or mental health issue and presents a danger to any child whom the GAL is assigned;
- Permits a GAL with a physical or mental health issue to work in the office performing non-direct contact duties in specified instances;
- Prohibits a GAL who has caused harm to any child during the course of his or her appointment from being an employee or volunteer for the program;
- Removes the requirement to appoint an attorney to a child who is 10 years of age and older;
- Requires an attorney to be appointed to represent a child who is the subject of a dependency proceeding and who is placed in out-of-home licensed care on or after July 1, 2022;
- Permits the attorney for the child to represent the child in fair hearings and appellate proceedings that are directly related to matters needing resolution for the child to achieve permanency;

- Permits the OCR to contract with a local nonprofit agency for attorney representation in a dependency proceeding which includes representation in fair hearings as provided in s. 39.81, F.S., if specified conditions are met;
- Requires that representation at the fair hearings be provided within the resources allocated for representation in the dependency proceedings;
- Permits trained staff rather than the appointed attorney to attend the fair hearings when appropriate;
- Removes the requirement for a GAL or an attorney for the child to be appointed to represent a child in a related adoption proceeding;
- Revises the definition of "attorney for the child" to include private court-appointed counsel who is compensated by the state; and
- Amends a cross-reference regarding private court-appointed counsel compensation to refer to s. 27.5304, F.S., instead of s. 27.5305, F.S.

CS by Children, Families, and Elder Affairs on March 23, 2021:

The committee substitute:

- Relocates and clarifies s. 39.01305(4)(b) and (c), F.S., to s. 39.81 relating to the scope of representation and payment of the attorney for the child;
- Clarifies that the GALP must not appoint a GAL to a child when a conflict of interest is identified;
- Modifies the requirement that the OCR collect certain information about national models related to GALP to other representation models for child representation;
- Modifies the composition of the OCR training curriculum committee to only one director of circuit GAL program and one active certified GAL;
- Permits the court discretion to appoint a GAL to represent a child upon a finding that circumstances exist which require the appointment;
- Requires the OCR to establish standards and protocols for representing children with diminished capacity;
- Removes the requirement for the court to consider a child's age and maturity when deciding whether to discharge a GAL upon the child's express wishes;
- Provides for private counsel to be appointed when OCR determines that it has a conflict of interest in representing a child and establishes the process which must be followed in those instances;
- Clarifies that the scope of the appointment of an attorney for the child is limited to representation in the dependency or related adoption proceeding;
- Clarifies that the court may not discharge a GAL and appoint an attorney for the child if the law otherwise requires a GAL to be appointed;
- Removes references to the OCR or attorney for the child in various sections included in the bill that are not appropriate for such references and clarifying terminology, where appropriate; and
- Makes other technical changes to update cross-references, and modifies language for consistency.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2021	.	
	.	
	.	
	.	

Appropriations Subcommittee on Criminal and Civil Justice (Book) recommended the following:

Senate Amendment (with title amendment)

Delete lines 104 - 570

and insert:

Representation to provide direct representation, any private court-appointed counsel who is compensated pursuant to s. 27.5305, any privately retained counsel or pro bono counsel, or any other attorney who is appointed to represent the child under this chapter.

(11) ~~(10)~~ "Caregiver" means the parent, legal custodian,


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permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (55) ~~(54)~~.

(38) ~~(37)~~ "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a public or private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child's welfare as defined in subsection (55) ~~(54)~~.

Section 2. Subsection (13) is added to section 39.013, Florida Statutes, to read:

39.013 Procedures and jurisdiction; right to counsel.—

(13) The court shall appoint an attorney for the child pursuant to s. 39.831.

Section 3. Subsections (4) and (5) of section 39.01305, Florida Statutes, are amended to read:

39.01305 Appointment of an attorney for a dependent child with certain special needs.—

(4) ~~(a)~~ An attorney for the child appointed under this section shall be made in accordance with s. 39.831 ~~Before a court may appoint an attorney, who may be compensated pursuant to this section, the court must request a recommendation from the Statewide Guardian Ad Litem Office for an attorney who is willing to represent a child without additional compensation. If such an attorney is available within 15 days after the court's request, the court must appoint that attorney. However, the court may appoint a compensated attorney within the 15-day period if the Statewide Guardian Ad Litem Office informs the~~

~~court that it will not be able to recommend an attorney within that time period.~~

~~(b) After an attorney is appointed, the appointment continues in effect until the attorney is allowed to withdraw or is discharged by the court or until the case is dismissed. An attorney who is appointed under this section to represent the child shall provide the complete range of legal services, from the removal from home or from the initial appointment through all available appellate proceedings. With the permission of the court, the attorney for the dependent child may arrange for supplemental or separate counsel to represent the child in appellate proceedings. A court order appointing an attorney under this section must be in writing.~~

~~(5) Unless the attorney has agreed to provide pro bono services, an appointed attorney or organization must be adequately compensated. All appointed attorneys and organizations, including pro bono attorneys, must be provided with access to funding for expert witnesses, depositions, and other due process costs of litigation. Payment of attorney fees and case-related due process costs are subject to appropriations and review by the Justice Administrative Commission for reasonableness. The Justice Administrative Commission shall contract with attorneys appointed by the court. Attorney fees may not exceed $1,000 per child per year~~.

Section 4. Part XI of chapter 39, Florida Statutes, entitled "GUARDIANS AD LITEM AND GUARDIAN ADVOCATES," is renamed "GUARDIANS AD LITEM, GUARDIAN ADVOCATES, AND ATTORNEY FOR THE CHILD."

Section 5. Section 39.822, Florida Statutes, is amended to

read:

39.822 Appointment of guardian ad litem for abused, abandoned, or neglected child.—

(1)(a) Before July 1, 2022, a guardian ad litem must ~~shall~~ be appointed by the court at the earliest possible time to represent a ~~the~~ child in any child abuse, abandonment, or neglect judicial proceeding, whether civil or criminal.

(b) On or after July 1, 2022, a guardian ad litem:

1. Must be appointed by the court at the earliest possible time to represent a child under the following circumstances:

a. The child remains in his or her home or nonlicensed placement under the protective supervision of the department;

b. The child is the subject of a dependency proceeding under this chapter and the subject of a criminal proceeding;

c. The child is the subject of a termination of parental rights proceeding under part X of this chapter; or

d. The child is a dependent child as described in s. 39.01305(3).

2. May be appointed at the court's discretion upon a finding that circumstances exist which require the appointment.

(2) If a child who is appointed a guardian ad litem when placed under the protective supervision of the department as required under subparagraph (1)(b) is subsequently appointed an attorney for the child pursuant to s. 39.831, the court has the discretion to maintain the appointment of the guardian ad litem notwithstanding the appointment of an attorney for the child.

(3) Upon request by a child who is the subject of a dependency proceeding under this chapter and who has a guardian ad litem assigned, or upon any party presenting evidence that


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there is reasonable cause to suspect the assigned guardian ad litem has a conflict of interest as defined in s. 39.8296(2)(b)9., the court may:

(a) Order that a new guardian ad litem be assigned; or

(b) Unless otherwise provided by law, discharge the child's current guardian ad litem and appoint an attorney for the child if one is not appointed.

(4) Any person participating in a civil or criminal judicial proceeding resulting from such appointment shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

(5) ~~(2)~~ In those cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of guardian ad litem services. Reimbursement to the individual providing guardian ad litem services may ~~shall~~ not be contingent upon successful collection by the court from the parent or parents.

(6) ~~(3)~~ Upon presentation by a guardian ad litem of a court order appointing the guardian ad litem:

(a) An agency, as defined in chapter 119, shall allow the guardian ad litem to inspect and copy records related to the best interests of the child who is the subject of the appointment, including, but not limited to, records made confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of the State Constitution. The guardian ad litem shall maintain the confidential or exempt status of any records shared by an agency under this paragraph.


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(b) A person or organization, other than an agency under paragraph (a), shall allow the guardian ad litem to inspect and copy any records related to the best interests of the child who is the subject of the appointment, including, but not limited to, confidential records.

For the purposes of this subsection, the term "records related to the best interests of the child" includes, but is not limited to, medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records.

(7) ~~(4)~~ The guardian ad litem or the program representative shall review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court. Written reports must be filed with the court and served on all parties whose whereabouts are known at least 72 hours before ~~prior to~~ the hearing.

Section 6. Subsection (2) of section 39.8296, Florida Statutes, is amended to read:

39.8296 Statewide Guardian Ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.—

(2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a Statewide Guardian Ad Litem Office within the Justice Administrative Commission. The Justice Administrative Commission shall provide administrative support and service to the office to the extent requested by the executive director within the available resources of the commission. The Statewide Guardian Ad


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Litem Office is not subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the office are governed by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.

(a) The head of the Statewide Guardian Ad Litem Office is the executive director, who shall be appointed by the Governor from a list of a minimum of three eligible applicants submitted by the Child Well-Being ~~a Guardian Ad Litem~~ Qualifications Committee. The Child Well-Being ~~Guardian Ad Litem~~ Qualifications Committee shall be composed of five persons, two persons appointed by the Governor, two persons appointed by the Chief Justice of the Supreme Court, and one person appointed by the Statewide Guardian Ad Litem Association. The committee shall provide for statewide advertisement and the receiving of applications for the position of executive director. The Governor shall appoint an executive director from among the recommendations, or the Governor may reject the nominations and request the submission of new nominees. The executive director must have knowledge in dependency law and knowledge of social service delivery systems available to meet the needs of children who are abused, neglected, or abandoned. The executive director shall serve on a full-time basis and shall personally, or through representatives of the office, carry out the purposes and functions of the Statewide Guardian Ad Litem Office in accordance with state and federal law. The executive director shall report to the Governor. The executive director shall serve a 3-year term, subject to removal for cause by the Governor. Any person appointed to serve as the executive director may be


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reappointed ~~permitted~~ to serve more than one term in accordance with the process provided for in this paragraph. Every second or subsequent appointment shall be for a term of 3 years.

(b) The Statewide Guardian Ad Litem Office shall, within available resources, have oversight responsibilities for and provide technical assistance to all guardian ad litem and attorney ad litem programs located within the judicial circuits.

1. The office shall identify the resources required to implement methods of collecting, reporting, and tracking reliable and consistent case data.

2. The office shall review the current guardian ad litem programs in Florida and other states.

3. The office, in consultation with local guardian ad litem offices, shall develop statewide performance measures and standards.

4. The office shall develop a guardian ad litem training program, which shall include, but is not limited to, training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age. The office shall establish a curriculum committee to develop the training program specified in this subparagraph. The curriculum committee shall include, but not be limited to, dependency judges, directors of circuit guardian ad litem programs, active certified guardians ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of a domestic violence advocacy group, an individual with a degree in social work, and a social worker experienced in working with victims and perpetrators of child abuse.

5. The office shall review the various methods of funding

guardian ad litem programs, maximize the use of those funding sources to the extent possible, and review the kinds of services being provided by circuit guardian ad litem programs.

6. The office shall determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights and fulfill other needs of dependent children.

7. In an effort to promote normalcy and establish trust between a court-appointed volunteer guardian ad litem and a child alleged to be abused, abandoned, or neglected under this chapter, a guardian ad litem may transport a child. However, a guardian ad litem volunteer may not be required or directed by the program or a court to transport a child.

8. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court an interim report describing the progress of the office in meeting the goals as described in this section. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court a proposed plan including alternatives for meeting the state’s guardian ad litem and attorney ad litem needs. This plan may include recommendations for less than the entire state, may include a phase-in system, and shall include estimates of the cost of each of the alternatives. Each year the office shall provide a status report and provide further recommendations to address the need for guardian ad litem services and related issues.


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9. The office shall develop guidelines to identify any possible conflicts of interest of a guardian ad litem when he or she is being considered for assignment to a child's case. The office may not assign a guardian ad litem for whom a conflict of interest has been identified to a child's case. For purposes of this subparagraph, the term "conflicts of interest" means the guardian ad litem:

a. Has a personal relationship that could influence a recommendation regarding a child whom he or she is serving as a guardian ad litem;

b. Is in a position to derive a personal benefit from his or her role as a guardian ad litem; or

c. Has a particular factor or circumstance, including personal bias or prejudice against a protected class of the child or the child's family, that prevents or substantially impairs his or her ability to fairly and fully discharge the duties of the guardian ad litem.

(c) The Statewide Guardian Ad Litem Office shall identify any guardian ad litem who is experiencing an issue with his or her physical or mental health and who appears to present a danger to any child to whom the guardian ad litem is assigned. As soon as possible after identification, the office must remove such guardian ad litem from all assigned cases, terminate his or her direct child contact volunteer services with the Guardian Ad Litem Program, and disclose such action to the appropriate circuit court. The Statewide Guardian Ad Litem Program may permit a guardian ad litem with physical or mental health issues identified in accordance with this paragraph to work in the office without direct child contact provided such issues do not


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negatively affect his or her ability to perform any required work duties or pose a risk of harm to any children represented by the program. A guardian ad litem who has caused harm to any child during the course of his or her appointment shall not be employed or permitted to volunteer for the program.

Section 7. Section 39.83, Florida Statutes, is created to read:

39.83 Statewide Office of Child Representation; qualifications, appointment, and duties of executive director and attorney for the child.—

(1) STATEWIDE OFFICE OF CHILD REPRESENTATION.—

(a) There is created a Statewide Office of Child Representation within the Justice Administrative Commission. The Justice Administrative Commission shall provide administrative support and services to the statewide office as directed by the executive director within the available resources of the commission. The statewide office is not subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the office are governed by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.

(b) The head of the Statewide Office of Child Representation is the executive director who must be a member of The Florida Bar in good standing for at least 5 years and have knowledge of dependency law and the social service delivery systems available to meet the needs of children who are abused, neglected, or abandoned. The executive director shall be appointed in accordance with the process, and serve in

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accordance with the terms and requirements, provided in s. 39.8296(2)(a) for the head of the Statewide Guardian Ad Litem Office. The appointment for the initial executive director must be completed by January 1, 2022.

(c) The Statewide Office of Child Representation, within available resources of the Justice Administrative Commission, is responsible for oversight of, and for providing technical assistance to, all offices of child representation in this state. The statewide office:

1. Shall identify the resources required to implement methods of collecting, reporting, and tracking reliable and consistent case data;

2. Shall review and collect information relating to offices of child representation and other models of attorney representation of children in other states;

3. In consultation with the regional offices of child representation established under subsection (2), shall develop statewide performance measures and standards;

4. Shall develop a training program for each attorney for the child. To that end, the statewide office shall establish a curriculum committee composed of members including, but not limited to, a dependency judge, a director of circuit guardian ad litem programs, an active certified guardian ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of a domestic violence advocacy group, an individual with at least a Master of Social Work degree, and a social worker experienced in working with victims and perpetrators of child abuse;

5. Shall develop protocols that must be implemented to assist children who are represented by the Statewide Office of Child Representation, regional offices, or its contracted local agencies in meeting eligibility requirements to receive all available federal funding. This subparagraph may not be construed to mean that the protocols may interfere with zealous and effective representation of the children;

6. Shall review the various methods of funding the regional offices, maximize the use of those funding sources to the extent possible, and review the kinds of services being provided by the regional offices;

7. Shall determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights of, and fulfill other needs of, dependent children;

8. Shall establish standards and protocols for representation of children with diminished capacity;

9. Shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court:

a. An interim report describing the progress of the statewide office in meeting the responsibilities described in this paragraph.

b. A proposed plan that includes alternatives for meeting the representation needs of children in this state. The plan may include recommendations for implementation in only a portion of this state or phased-in statewide implementation and must include an estimate of the cost of each such alternative.

c. An annual status report that includes any additional

recommendations for addressing the representation needs of children in this state and related issues.

(d) The department or community-based care lead agency shall take any steps necessary to obtain all available federal funding and maintain compliance with eligibility requirements.

(e) The office may contract with a local nonprofit agency to provide direct attorney representation to a child, including but not limited to representation in the dependency proceeding as provided for in s. 39.831, if the office determines that the contract is the most efficient method to satisfy its statutory duties and if federal funding has been approved for this purpose or the local agency is required in the contract to seek such approval. The office must ensure that reimbursement of any Title IV-E funds is properly documented.

(2) REGIONAL OFFICES OF CHILD REPRESENTATION.—

(a) An office of child representation is created within the area served by each of the five district courts of appeal. The offices shall commence fulfilling their statutory purpose and duties on July 1, 2022.

(b) Each regional office of child representation is assigned to the Justice Administrative Commission for administrative purposes. The commission shall provide administrative support and service to the offices within the available resources of the commission. The offices are not subject to control, supervision, or direction by the commission in the performance of their duties, but the employees of the offices are governed by the classification plan and the salary and benefits plan approved by the commission.

(3) CHILD REPRESENTATION COUNSEL; DUTIES.—The child

representation counsel shall serve on a full-time basis and may not engage in the private practice of law while holding office. Each assistant child representation counsel shall give priority and preference to his or her duties as assistant child representation counsel and may not otherwise engage in the practice of dependency law. However, a part-time child representation counsel may practice dependency law for private payment so long as the representation does not result in a legal or ethical conflict of interest with a case in which the office of child representation is providing representation.

Section 8. Section 39.831, Florida Statutes, is created to read:

39.831 Attorney for the child.—

(1) APPOINTMENT.—

(a) An attorney for the child:

1. Shall be appointed by the court as provided in s. 39.01305(3);

2. Shall be appointed by the court for any child who is placed in out-of-home licensed care on or after July 1, 2022, and who is the subject of a dependency proceeding under this chapter; or

3. May be appointed at the court’s discretion to represent a child who is the subject of a dependency proceeding upon a finding that circumstances exist which require the appointment.

(b) The court shall appoint the Statewide Office of Child Representation unless the child is otherwise represented by counsel.

(c) An attorney for the child appointed pursuant to this section shall represent the child only in the dependency

proceeding, which may include representation in fair hearings and appellate proceedings that are directly related to matters needing resolution for the child to achieve permanency. The Statewide Office of Child Representation or local nonprofit agency appointed to represent a child in the dependency proceeding shall provide representation in fair hearings within the resources allotted for representation in the dependency proceeding. Trained staff of the office of child representation or local nonprofit agency may attend the fair hearings rather than the appointed attorney when appropriate. Trained staff for purposes of this paragraph may include, but is not limited to, social workers, case managers, education advocates, or health care advocates.

(d) Notwithstanding the basis on which an attorney for the child is appointed under paragraph (a), the appointment of the attorney for the child continues in effect until the attorney for the child is allowed to withdraw or is discharged by the court or until the case is dismissed. An attorney for the child who is appointed under this section to represent a child shall provide all required legal services in the dependency proceeding or fair hearings provided for in this section from the time of the child's removal from home or of the attorney for the child's initial appointment through all appellate proceedings. With the permission of the court, the appointed attorney for the child may arrange for supplemental or separate counsel to represent the child in appellate proceedings. A court order appointing an attorney for the child under this section must be in writing.

(e) If, at any time during the representation of two or more children in a dependency proceeding, a child representation

counsel determines that the interests of those clients are so adverse or hostile that they cannot all be counseled by child representation counsel or his or her staff because of a conflict of interest, the child representation counsel shall file a motion to withdraw and move the court to appoint other counsel. Child representation counsel shall not automatically determine the appointment to represent siblings is a conflict of interest. If requested by the Justice Administrative Commission, the child representation counsel shall submit a copy of the motion to the Justice Administrative Commission at the time it is filed with the court. The court shall review and may inquire or conduct a hearing into the adequacy of the child representation counsel's submissions regarding a conflict of interest without requiring the disclosure of any confidential communications. The court shall deny the motion to withdraw if the court finds the grounds for withdrawal are insufficient or the asserted conflict is not prejudicial to the client. If the court grants the motion to withdraw, the court shall appoint one or more private attorneys to represent the person in accordance with the requirements and process provided for in s. 27.40. The clerk of court shall inform the child representation counsel and the commission when the court appoints private counsel.

(f) Unless the attorney has agreed to provide pro bono services, an appointed attorney or organization must be adequately compensated as provided in s. 27.5305. All appointed attorneys and organizations, including pro bono attorneys, must be provided with access to funding for expert witnesses, depositions, and other due process costs of litigation. Payment of attorney fees and case-related due process costs are subject

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to appropriations and review by the Justice Administrative Commission for reasonableness. The Justice Administrative Commission shall contract with attorneys appointed by the court. Attorney fees may not exceed $1,000 per child per year.

(g) In cases in which one or both parents are financially able, the parent or parents, as applicable, of the child shall reimburse the court, in whole or in part, for the cost of services provided under this section; however, reimbursement for services provided by the attorney for the child may not be contingent upon successful collection by the court of reimbursement from the parent or parents.

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

And the title is amended as follows:

Delete lines 7 - 74

and insert:

advocates, and attorney for the child"; amending s. 39.822, F.S.; conforming provisions to changes made by the act; specifying circumstances under which a court is authorized or required, on or after a specified date, to appoint a guardian ad litem; permitting the court to maintain the appointment of a guardian ad litem in specified circumstances; authorizing the court to order that a new guardian ad litem be assigned for a child or discharge a guardian ad litem and appoint an attorney for the child under specified circumstances; amending s. 39.8296, F.S.; renaming the Guardian Ad Litem Qualifications Committee as the Child Well-Being Qualifications Committee; specifying

that the executive director of the Statewide Guardian Ad Litem Office may be reappointed; clarifying that second and subsequent appointments made for the executive director of the office are for 3 years; requiring the office to develop guidelines to identify conflicts of interest of guardians ad litem; prohibiting the office from assigning such guardians; defining the term "conflicts of interest"; requiring the office to identify guardians ad litem who are experiencing health issues and who present a danger to the child to whom the guardian ad litem is assigned; requiring the office to remove such guardians from assigned cases, terminate their volunteer services in specified circumstances, and disclose such actions to the circuit court; creating s. 39.83, F.S.; creating the Statewide Office of Child Representation within the Justice Administration Commission; requiring the commission to provide administrative support and services to the statewide office; providing that the statewide office is not subject to control, supervision, or direction by the commission; providing that employees of the statewide office are governed by the classification plan and salary and benefits plan approved by the commission; providing that the head of the statewide office is the executive director; providing the process for appointment; requiring that the initial executive director be appointed by a specified date; providing responsibilities of the office; authorizing the office to contract with local

nonprofit agencies under certain conditions; creating a regional office of child representation within the boundaries of each of the five district courts of appeal; requiring such offices to commence fulfilling their purpose and duties on a specified date; requiring the commission to provide administrative support to the regional offices; providing that the offices are not subject to control, supervision, or direction by the commission; providing that employees of the offices are governed by the classification plan and salary and benefits plan for the commission; prescribing qualifications for an attorney for the child; providing certain prohibitions; creating s. 39.831, F.S.; specifying when the court is authorized or required to appoint an attorney for the child; requiring the court to appoint the Statewide Office of Child Representation; providing for the scope of representation for court-appointed counsel; limiting resources to be allocated; providing staff may attend fair hearings; providing for the duration of attorney representation; permitting attorney for the child to arrange for supplemental or substitute counsel in specified circumstances; providing for the appointment of private counsel when the office has a conflict of interest; requiring an attorney for the child to be compensated and have access to funding for expenses with specified conditions; providing conditions under which a parent is required to reimburse the court for the cost of the attorney; requiring

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2021	.	
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Appropriations Subcommittee on Criminal and Civil Justice (Book) recommended the following:

Senate Amendment to Amendment (833736)

Delete line 470

and insert:

adequately compensated as provided in s. 27.5304. All appointed

By the Committee on Children, Families, and Elder Affairs; and Senator Book

586-03266-21 20211920c1

A bill to be entitled

An act relating to child welfare; amending s. 39.01, F.S.; defining the term "attorney for the child"; amending ss. 39.013 and 39.01305, F.S.; conforming provisions to changes made by the act; renaming part XI of ch. 39, F.S., as "Guardians ad litem, guardian advocates, and attorney for the child"; amending s. 39.820, F.S.; defining the term "related adoption proceeding"; amending s. 39.822, F.S.; conforming provisions to changes made by the act; specifying circumstances under which a court is required, on or after a specified date, to appoint a guardian ad litem; requiring the court to appoint an attorney for the child to represent a child and to discharge the guardian ad litem under specified circumstances; authorizing the court to order that a new guardian ad litem be assigned for a child or discharge a guardian ad litem and appoint an attorney for the child under specified circumstances; amending s. 39.8296, F.S.; renaming the Guardian Ad Litem Qualifications Committee as the Child Well-Being Qualifications Committee; specifying that the executive director of the Statewide Guardian Ad Litem Office may be reappointed; clarifying that second and subsequent appointments made for the executive director of the office are for 3 years; requiring the office to develop guidelines to identify conflicts of interest of guardians ad litem; prohibiting the office from assigning such guardians; defining the term "conflicts

Florida Senate - 2021 CS for SB 1920

586-03266-21 20211920c1

of interest"; requiring the office to identify guardians ad litem who are experiencing health issues or who present a danger to the child to whom the guardian ad litem is assigned; requiring the office to remove such guardians from assigned cases, terminate their volunteer services, and disclose such actions to the circuit court; creating s. 39.83, F.S.; creating the Statewide Office of Child Representation within the Justice Administration Commission; requiring the commission to provide administrative support and services to the statewide office; providing that the statewide office is not subject to control, supervision, or direction by the commission; providing that employees of the statewide office are governed by the classification plan and salary and benefits plan approved by the commission; providing that the head of the statewide office is the executive director; providing the process for appointment; requiring that the initial executive director be appointed by a specified date; providing responsibilities of the office; authorizing the office to contract with local nonprofit agencies under certain conditions; creating a regional office of child representation within the boundaries of each of the five district courts of appeal; requiring such offices to commence fulfilling their purpose and duties on a specified date; requiring the commission to provide administrative support to the regional offices; providing that the offices are not subject to control, supervision, or

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

direction by the commission; providing that employees of the offices are governed by the classification plan and salary and benefits plan for the commission; prescribing qualifications for an attorney for the child; providing certain prohibitions; creating s. 39.831, F.S.; specifying when the court is authorized or required to appoint an attorney for the child; requiring the court to appoint the Statewide Office of Child Representation; providing for the appointment of private counsel when the office has a conflict of interest; requiring an attorney for the child to be compensated and have access to funding for expenses with specified conditions; providing conditions under which a parent is required to reimburse the court for the cost of the attorney; providing for the scope of representation for court-appointed counsel; requiring agencies, persons, and organizations to allow an attorney for the child to inspect and copy certain records; defining the term "records"; providing requirements for an attorney for the child relating to hearings; requiring the Department of Children and Families to develop procedures to request that a court appoint an attorney for the child; authorizing the department to adopt rules; amending ss. 28.345, 39.001, 39.00145, 39.0132, 39.0139, 39.202, 39.302, 39.402, 39.407, 39.4085, 39.502, 39.521, 39.523, 39.6011, 39.6012, 39.6251, 39.701, 39.702, 39.801, 39.802, 39.808, 39.810, 39.811, 39.812, 43.16, 63.085, 322.09, 394.495, 627.746, 934.255, and 960.065, F.S.;

conforming cross-references and provisions to changes made by the act; providing an effective date.

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

Section 1. Present subsections (9) through (87) of section 39.01, Florida Statutes, are redesignated as subsections (10) through (88), respectively, a new subsection (9) is added to that section, and present subsections (10) and (37) are amended, to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(9) "Attorney for the child" means an attorney providing direct representation to the child, which may include the appointment of the Office of Child Representation, an attorney provided by an entity contracted through the Office of Child Representation to provide direct representation, any privately retained counsel or pro bono counsel, or any other attorney who represents the child under this chapter.

(11) ~~(10)~~ "Caregiver" means the parent, legal custodian, permanent guardian, adult household member, or other person responsible for a child's welfare as defined in subsection (55) ~~(54)~~.

(38) ~~(37)~~ "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a public or private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the

child's welfare as defined in subsection (55) ~~(54)~~.

Section 2. Subsection (13) is added to section 39.013, Florida Statutes, to read:

39.013 Procedures and jurisdiction; right to counsel.—

(13) The court shall appoint an attorney for the child pursuant to s. 39.831.

Section 3. Subsections (4) and (5) of section 39.01305, Florida Statutes, are amended to read:

39.01305 Appointment of an attorney for a dependent child with certain special needs.—

(4)~~(a)~~ An attorney for the child appointed under this section shall be made in accordance with s. 39.831 ~~Before a court may appoint an attorney, who may be compensated pursuant to this section, the court must request a recommendation from the Statewide Guardian Ad Litem Office for an attorney who is willing to represent a child without additional compensation. If such an attorney is available within 15 days after the court's request, the court must appoint that attorney. However, the court may appoint a compensated attorney within the 15-day period if the Statewide Guardian Ad Litem Office informs the court that it will not be able to recommend an attorney within that time period.~~

~~(b) After an attorney is appointed, the appointment continues in effect until the attorney is allowed to withdraw or is discharged by the court or until the case is dismissed. An attorney who is appointed under this section to represent the child shall provide the complete range of legal services, from the removal from home or from the initial appointment through all available appellate proceedings. With the permission of the~~

~~court, the attorney for the dependent child may arrange for supplemental or separate counsel to represent the child in appellate proceedings. A court order appointing an attorney under this section must be in writing.~~

~~(5) Unless the attorney has agreed to provide pro bono services, an appointed attorney or organization must be adequately compensated. All appointed attorneys and organizations, including pro bono attorneys, must be provided with access to funding for expert witnesses, depositions, and other due process costs of litigation. Payment of attorney fees and case-related due process costs are subject to appropriations and review by the Justice Administrative Commission for reasonableness. The Justice Administrative Commission shall contract with attorneys appointed by the court. Attorney fees may not exceed $1,000 per child per year~~.

Section 4. Part XI of chapter 39, Florida Statutes, entitled "GUARDIANS AD LITEM AND GUARDIAN ADVOCATES," is renamed "GUARDIANS AD LITEM, GUARDIAN ADVOCATES, AND ATTORNEY FOR THE CHILD."

Section 5. Subsection (3) is added to section 39.820, Florida Statutes, to read:

39.820 Definitions.—As used in this chapter, the term:

(3) "Related adoption proceeding" means an adoption proceeding under chapter 63 which arises from dependency proceedings under this chapter.

Section 6. Section 39.822, Florida Statutes, is amended to read:

39.822 Appointment of guardian ad litem for abused, abandoned, or neglected child.—

(1)(a) Before July 1, 2022, a guardian ad litem must ~~shall~~ be appointed by the court at the earliest possible time to represent a ~~the~~ child in any child abuse, abandonment, or neglect judicial proceeding, whether civil or criminal.

(b) On or after July 1, 2022, a guardian ad litem:

1. Must be appointed by the court at the earliest possible time to represent a child under the following circumstances:

a. The child is younger than 10 years of age and is the subject of a dependency proceeding under this chapter or a related adoption proceeding;

b. The child is the subject of a dependency proceeding under this chapter or a related adoption proceeding and the subject of a criminal proceeding;

c. The child is the subject of a termination of parental rights proceeding under part X of this chapter; or

d. The child is a dependent child as described in s. 39.01305(3).

2. May be appointed at the court's discretion upon a finding that circumstances exist which require the appointment.

(2) On or after July 1, 2022, the court shall discharge the guardian ad litem program, if appointed, within 60 days after such child reaches 10 years of age unless:

(a) The child meets a criterion specified in sub-subparagraph (1)(b)1.b., c., or d., or subparagraph (1)(b)2. and the court orders the guardian ad litem to remain on the case; or

(b) The child expresses that he or she wishes to remain with the guardian ad litem and the court determines that the expression is voluntary and knowing.

(3) Upon request by a child who is subject to a dependency

proceeding under this chapter or a related adoption proceeding, who is 10 years of age or older, and who has a guardian ad litem assigned, or upon any party presenting evidence that there is reasonable cause to suspect the assigned guardian ad litem has a conflict of interest as defined in s. 39.8296(2)(b)9., the court may:

(a) Order that a new guardian ad litem be assigned; or

(b) Unless otherwise provided by law, discharge the child's current guardian ad litem and appoint an attorney for the child if one is not appointed.

(4) Any person participating in a civil or criminal judicial proceeding resulting from such appointment shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed.

(5)~~(2)~~ In those cases in which the parents are financially able, the parent or parents of the child shall reimburse the court, in part or in whole, for the cost of provision of guardian ad litem services. Reimbursement to the individual providing guardian ad litem services may ~~shall~~ not be contingent upon successful collection by the court from the parent or parents.

(6)~~(3)~~ Upon presentation by a guardian ad litem of a court order appointing the guardian ad litem:

(a) An agency, as defined in chapter 119, shall allow the guardian ad litem to inspect and copy records related to the best interests of the child who is the subject of the appointment, including, but not limited to, records made confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of

the State Constitution. The guardian ad litem shall maintain the confidential or exempt status of any records shared by an agency under this paragraph.

(b) A person or organization, other than an agency under paragraph (a), shall allow the guardian ad litem to inspect and copy any records related to the best interests of the child who is the subject of the appointment, including, but not limited to, confidential records.

For the purposes of this subsection, the term "records related to the best interests of the child" includes, but is not limited to, medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records.

(7) ~~(4)~~ The guardian ad litem or the program representative shall review all disposition recommendations and changes in placements, and must be present at all critical stages of the dependency proceeding or submit a written report of recommendations to the court. Written reports must be filed with the court and served on all parties whose whereabouts are known at least 72 hours before ~~prior to~~ the hearing.

Section 7. Subsection (2) of section 39.8296, Florida Statutes, is amended to read:

39.8296 Statewide Guardian Ad Litem Office; legislative findings and intent; creation; appointment of executive director; duties of office.—

(2) STATEWIDE GUARDIAN AD LITEM OFFICE.—There is created a Statewide Guardian Ad Litem Office within the Justice Administrative Commission. The Justice Administrative Commission

shall provide administrative support and service to the office to the extent requested by the executive director within the available resources of the commission. The Statewide Guardian Ad Litem Office is not subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the office are governed by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.

(a) The head of the Statewide Guardian Ad Litem Office is the executive director, who shall be appointed by the Governor from a list of a minimum of three eligible applicants submitted by the Child Well-Being ~~a Guardian Ad Litem~~ Qualifications Committee. The Child Well-Being ~~Guardian Ad Litem~~ Qualifications Committee shall be composed of five persons, two persons appointed by the Governor, two persons appointed by the Chief Justice of the Supreme Court, and one person appointed by the Statewide Guardian Ad Litem Association. The committee shall provide for statewide advertisement and the receiving of applications for the position of executive director. The Governor shall appoint an executive director from among the recommendations, or the Governor may reject the nominations and request the submission of new nominees. The executive director must have knowledge in dependency law and knowledge of social service delivery systems available to meet the needs of children who are abused, neglected, or abandoned. The executive director shall serve on a full-time basis and shall personally, or through representatives of the office, carry out the purposes and functions of the Statewide Guardian Ad Litem Office in accordance with state and federal law. The executive director

shall report to the Governor. The executive director shall serve a 3-year term, subject to removal for cause by the Governor. Any person appointed to serve as the executive director may be reappointed ~~permitted~~ to serve more than one term in accordance with the process provided for in this paragraph. Every second or subsequent appointment shall be for a term of 3 years.

(b) The Statewide Guardian Ad Litem Office shall, within available resources, have oversight responsibilities for and provide technical assistance to all guardian ad litem and attorney ad litem programs located within the judicial circuits.

1. The office shall identify the resources required to implement methods of collecting, reporting, and tracking reliable and consistent case data.

2. The office shall review the current guardian ad litem programs in Florida and other states.

3. The office, in consultation with local guardian ad litem offices, shall develop statewide performance measures and standards.

4. The office shall develop a guardian ad litem training program, which shall include, but is not limited to, training on the recognition of and responses to head trauma and brain injury in a child under 6 years of age. The office shall establish a curriculum committee to develop the training program specified in this subparagraph. The curriculum committee shall include, but not be limited to, dependency judges, directors of circuit guardian ad litem programs, active certified guardians ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of a domestic violence advocacy group, an individual with a

degree in social work, and a social worker experienced in working with victims and perpetrators of child abuse.

5. The office shall review the various methods of funding guardian ad litem programs, maximize the use of those funding sources to the extent possible, and review the kinds of services being provided by circuit guardian ad litem programs.

6. The office shall determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights and fulfill other needs of dependent children.

7. In an effort to promote normalcy and establish trust between a court-appointed volunteer guardian ad litem and a child alleged to be abused, abandoned, or neglected under this chapter, a guardian ad litem may transport a child. However, a guardian ad litem volunteer may not be required or directed by the program or a court to transport a child.

8. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court an interim report describing the progress of the office in meeting the goals as described in this section. The office shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court a proposed plan including alternatives for meeting the state's guardian ad litem and attorney ad litem needs. This plan may include recommendations for less than the entire state, may include a phase-in system, and shall include estimates of the cost of each of the alternatives. Each year the office shall

provide a status report and provide further recommendations to address the need for guardian ad litem services and related issues.

9. The office shall develop guidelines to identify any possible conflicts of interest of a guardian ad litem when he or she is being considered for assignment to a child's case. The office may not assign a guardian ad litem for whom a conflict of interest has been identified to a child's case. For purposes of this subparagraph, the term "conflicts of interest" means the guardian ad litem:

a. Has a personal relationship that could influence a recommendation regarding a child whom he or she is serving as a guardian ad litem;

b. Is in a position to derive a personal benefit from his or her role as a guardian ad litem; or

c. Has a particular factor or circumstance, including personal bias or prejudice against a protected class of the child or the child's family, that prevents or substantially impairs his or her ability to fairly and fully discharge the duties of the guardian ad litem.

(c) The Statewide Guardian Ad Litem Office shall identify any guardian ad litem who is experiencing an issue with his or her physical or mental health or who appears to present a danger to any child to whom the guardian ad litem is assigned. As soon as possible after identification, the office must remove such guardian ad litem from all assigned cases, terminate his or her volunteer services with the Guardian Ad Litem Program, and disclose such action to the appropriate circuit court.

Section 8. Section 39.83, Florida Statutes, is created to

read:

39.83 Statewide Office of Child Representation; qualifications, appointment, and duties of executive director and attorney for the child.—

(1) STATEWIDE OFFICE OF CHILD REPRESENTATION.—

(a) There is created a Statewide Office of Child Representation within the Justice Administrative Commission. The Justice Administrative Commission shall provide administrative support and services to the statewide office as directed by the executive director within the available resources of the commission. The statewide office is not subject to control, supervision, or direction by the Justice Administrative Commission in the performance of its duties, but the employees of the office are governed by the classification plan and salary and benefits plan approved by the Justice Administrative Commission.

(b) The head of the Statewide Office of Child Representation is the executive director who must be a member of The Florida Bar in good standing for at least 5 years and have knowledge of dependency law and the social service delivery systems available to meet the needs of children who are abused, neglected, or abandoned. The executive director shall be appointed in accordance with the process, and serve in accordance with the terms and requirements, provided in s. 39.8296(2)(a) for the head of the Statewide Guardian Ad Litem Office. The appointment for the initial executive director must be completed by January 1, 2022.

(c) The Statewide Office of Child Representation, within available resources of the Justice Administrative Commission, is

responsible for oversight of, and for providing technical assistance to, all offices of child representation in this state. The statewide office:

1. Shall identify the resources required to implement methods of collecting, reporting, and tracking reliable and consistent case data;

2. Shall review and collect information relating to offices of child representation and other models of attorney representation of children in other states;

3. In consultation with the regional offices of child representation established under subsection (2), shall develop statewide performance measures and standards;

4. Shall develop a training program for each attorney for the child. To that end, the statewide office shall establish a curriculum committee composed of members including, but not limited to, a dependency judge, a director of circuit guardian ad litem programs, an active certified guardian ad litem, a mental health professional who specializes in the treatment of children, a member of a child advocacy group, a representative of a domestic violence advocacy group, an individual with at least a Master of Social Work degree, and a social worker experienced in working with victims and perpetrators of child abuse;

5. Shall develop protocols that must be implemented to assist children who are represented by the Statewide Office of Child Representation, regional offices, or its contracted local agencies in meeting eligibility requirements to receive all available federal funding. This subparagraph may not be construed to mean that the protocols may interfere with zealous

and effective representation of the children;

6. Shall review the various methods of funding the regional offices, maximize the use of those funding sources to the extent possible, and review the kinds of services being provided by the regional offices;

7. Shall determine the feasibility or desirability of new concepts of organization, administration, financing, or service delivery designed to preserve the civil and constitutional rights of, and fulfill other needs of, dependent children 10 years of age and older;

8. Shall establish standards and protocols for representation of children with diminished capacity;

9. Shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Justice of the Supreme Court:

a. An interim report describing the progress of the statewide office in meeting the responsibilities described in this paragraph.

b. A proposed plan that includes alternatives for meeting the representation needs of children in this state. The plan may include recommendations for implementation in only a portion of this state or phased-in statewide implementation and must include an estimate of the cost of each such alternative.

c. An annual status report that includes any additional recommendations for addressing the representation needs of children in this state and related issues.

(d) The department or community-based care lead agency shall take any steps necessary to obtain all available federal funding and maintain compliance with eligibility requirements.

(e) The office may contract with a local nonprofit agency to provide direct attorney representation to a child if the office determines that the contract is the most efficient method to satisfy its statutory duties and if federal funding has been approved for this purpose. The office must ensure that reimbursement of any Title IV-E funds is properly documented.

(2) REGIONAL OFFICES OF CHILD REPRESENTATION.—

(a) An office of child representation is created within the area served by each of the five district courts of appeal. The offices shall commence fulfilling their statutory purpose and duties on July 1, 2022.

(b) Each regional office of child representation is assigned to the Justice Administrative Commission for administrative purposes. The commission shall provide administrative support and service to the offices within the available resources of the commission. The offices are not subject to control, supervision, or direction by the commission in the performance of their duties, but the employees of the offices are governed by the classification plan and the salary and benefits plan approved by the commission.

(3) CHILD REPRESENTATION COUNSEL; DUTIES.—The child representation counsel shall serve on a full-time basis and may not engage in the private practice of law while holding office. Each assistant child representation counsel shall give priority and preference to his or her duties as assistant child representation counsel and may not otherwise engage in the practice of dependency law. However, a part-time child representation counsel may practice dependency law for private payment so long as the representation does not result in a legal

or ethical conflict of interest with a case in which the office of child representation is providing representation.

Section 9. Section 39.831, Florida Statutes, is created to read:

39.831 Attorney for the child.—

(1) APPOINTMENT.—

(a) An attorney for the child:

1. Shall be appointed by the court as provided in s. 39.01305(3);

2. Shall be appointed by the court for any child who reaches 10 years of age or older on or after July 1, 2022, and who is the subject of a dependency proceeding under this chapter or a related adoption proceeding; or

3. May be appointed at the court's discretion upon a finding that circumstances exist which require the appointment.

(b) The court shall appoint the Statewide Office of Child Representation unless the child is otherwise represented by counsel.

(c) If, at any time during the representation of two or more children in a dependency or related adoption proceeding, a child representation counsel determines that the interests of those clients are so adverse or hostile that they cannot all be counseled by child representation counsel or his or her staff because of a conflict of interest, the child representation counsel shall file a motion to withdraw and move the court to appoint other counsel. Child representation counsel shall not automatically determine the appointment to represent siblings is a conflict of interest. If requested by the Justice Administrative Commission, the child representation counsel

shall submit a copy of the motion to the Justice Administrative Commission at the time it is filed with the court. The court shall review and may inquire or conduct a hearing into the adequacy of the child representation counsel's submissions regarding a conflict of interest without requiring the disclosure of any confidential communications. The court shall deny the motion to withdraw if the court finds the grounds for withdrawal are insufficient or the asserted conflict is not prejudicial to the client. If the court grants the motion to withdraw, the court shall appoint one or more private attorneys to represent the person in accordance with the requirements and process provided for in s. 27.40. The clerk of court shall inform the child representation counsel and the commission when the court appoints private counsel.

(d) Unless the attorney has agreed to provide pro bono services, an appointed attorney or organization must be adequately compensated as provided in s. 27.5305. All appointed attorneys and organizations, including pro bono attorneys, must be provided with access to funding for expert witnesses, depositions, and other due process costs of litigation. Payment of attorney fees and case-related due process costs are subject to appropriations and review by the Justice Administrative Commission for reasonableness. The Justice Administrative Commission shall contract with attorneys appointed by the court. Attorney fees may not exceed $1,000 per child per year.

(e) In cases in which one or both parents are financially able, the parent or parents, as applicable, of the child shall reimburse the court, in whole or in part, for the cost of services provided under this section; however, reimbursement for

services provided by the attorney for the child may not be contingent upon successful collection by the court of reimbursement from the parent or parents.

(f) An attorney for the child appointed pursuant to this section shall represent the child only in the dependency proceeding or related adoption proceeding. Once an attorney for the child is appointed, the appointment continues in effect until the attorney for the child is allowed to withdraw or is discharged by the court or until the case is dismissed. An attorney for the child who is appointed under this section to represent a child shall provide all required legal services in the dependency proceeding or related adoption proceeding from the time of the child's removal from home or of the attorney for the child's initial appointment through all appellate proceedings. With the permission of the court, the appointed attorney for the child may arrange for supplemental or separate counsel to represent the child in appellate proceedings. A court order appointing an attorney for the child under this section must be in writing.

(2) ACCESS TO RECORDS.—Upon presentation of a court order appointing an attorney for the child:

(a) An agency as defined in chapter 119 must allow the attorney for the child to inspect and copy records related to the child who is the subject of the appointment, including, but not limited to, records made confidential or exempt from s. 119.07(1) or s. 24(a), Art. I of the State Constitution. The attorney for the child shall maintain the confidential or exempt status of any records shared by an agency under this paragraph.

(b) A person or an organization, other than an agency under

paragraph (a), must allow the attorney for the child to inspect and copy any records related to the child who is the subject of the appointment, including, but not limited to, confidential records.

For the purposes of this subsection, the term "records" includes, but is not limited to, medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records.

(3) COURT HEARINGS.—The attorney for the child shall review all disposition recommendations and changes in placements and file all appropriate motions on behalf of the child at least 72 hours before the hearing.

(4) PROCEDURES.—The department shall develop procedures to request that a court appoint an attorney for the child.

(5) RULEMAKING.—The department may adopt rules to implement this section.

Section 10. Subsection (1) of section 28.345, Florida Statutes, is amended to read:

28.345 State access to records; exemption from court-related fees and charges.—

(1) Notwithstanding any other provision of law, the clerk of the circuit court shall, upon request, provide access to public records without charge to the state attorney, public defender, guardian ad litem, public guardian, ~~attorney ad litem,~~ criminal conflict and civil regional counsel, court-appointed attorney for the child, ~~and private court-appointed counsel paid by the state,~~ and to authorized staff acting on their behalf. The clerk of court may provide the requested public record in an

electronic format in lieu of a paper format if the requesting entity is capable of accessing such public record electronically.

Section 11. Paragraph (j) of subsection (3) and paragraph (a) of subsection (10) of section 39.001, Florida Statutes, are amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(3) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(j) The ability to contact their guardian ad litem or attorney for the child ~~attorney ad litem~~, if appointed, by having that individual's name entered on all orders of the court.

(10) PLAN FOR COMPREHENSIVE APPROACH.—

(a) The office shall develop a state plan for the promotion of adoption, support of adoptive families, and prevention of abuse, abandonment, and neglect of children. The Department of Children and Families, the Department of Corrections, the Department of Education, the Department of Health, the Department of Juvenile Justice, the Department of Law Enforcement, and the Agency for Persons with Disabilities shall participate and fully cooperate in the development of the state plan at both the state and local levels. Furthermore, appropriate local agencies and organizations shall be provided an opportunity to participate in the development of the state plan at the local level. Appropriate local groups and organizations shall include, but not be limited to, community

mental health centers; guardian ad litem programs for children under the circuit court; child representation counsel regional offices; the school boards of the local school districts; the Florida local advocacy councils; community-based care lead agencies; private or public organizations or programs with recognized expertise in working with child abuse prevention programs for children and families; private or public organizations or programs with recognized expertise in working with children who are sexually abused, physically abused, emotionally abused, abandoned, or neglected and with expertise in working with the families of such children; private or public programs or organizations with expertise in maternal and infant health care; multidisciplinary Child Protection Teams; child day care centers; law enforcement agencies; and the circuit courts, when guardian ad litem programs and attorney for the child are not available in the local area. The state plan to be provided to the Legislature and the Governor shall include, as a minimum, the information required of the various groups in paragraph (b).

Section 12. Subsections (2) and (4) of 39.00145, Florida Statutes, are amended to read:

39.00145 Records concerning children.—

(2) Notwithstanding any other provision of this chapter, all records in a child's case record must be made available for inspection, upon request, to the child who is the subject of the case record and to the child's caregiver, guardian ad litem, or attorney for the child ~~attorney~~.

(a) A complete and accurate copy of any record in a child's case record must be provided, upon request and at no cost, to the child who is the subject of the case record and to the

child's caregiver, guardian ad litem, or attorney.

(b) The department shall release the information in a manner and setting that are appropriate to the age and maturity of the child and the nature of the information being released, which may include the release of information in a therapeutic setting, if appropriate. This paragraph does not deny the child access to his or her records.

(c) If a child or the child's caregiver, guardian ad litem, or attorney for the child ~~attorney~~ requests access to the child's case record, any person or entity that fails to provide any record in the case record under assertion of a claim of exemption from the public records requirements of chapter 119, or fails to provide access within a reasonable time, is subject to sanctions and penalties under s. 119.10.

(d) For the purposes of this subsection, the term "caregiver" is limited to parents, legal custodians, permanent guardians, or foster parents; employees of a residential home, institution, facility, or agency at which the child resides; and other individuals legally responsible for a child's welfare in a residential setting.

(4) Notwithstanding any other provision of law, all state and local agencies and programs that provide services to children or that are responsible for a child's safety, including the Department of Juvenile Justice, the Department of Health, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Education, the Department of Revenue, the school districts, the Statewide Guardian Ad Litem Office, the Statewide Office of Child Representation, and any provider contracting with such agencies,

may share with each other confidential records or information that are confidential or exempt from disclosure under chapter 119 if the records or information are reasonably necessary to ensure access to appropriate services for the child, including child support enforcement services, or for the safety of the child. However:

(a) Records or information made confidential by federal law may not be shared.

(b) This subsection does not apply to information concerning clients and records of certified domestic violence centers, which are confidential under s. 39.908 and privileged under s. 90.5036.

Section 13. Subsections (3) and (4) of section 39.0132, Florida Statutes, are amended to read:

39.0132 Oaths, records, and confidential information.—

(3) The clerk shall keep all court records required by this chapter separate from other records of the circuit court. All court records required by this chapter shall not be open to inspection by the public. All records shall be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that, subject to the provisions of s. 63.162, a child, ~~and~~ the parents of the child and their attorneys, guardian ad litem, attorney for the child, law enforcement agencies, and the department and its designees shall always have the right to inspect and copy any official record pertaining to the child. The Justice Administrative Commission may inspect court dockets required by this chapter as necessary to audit compensation of court-appointed attorneys. If the docket is insufficient for purposes of the audit, the commission

may petition the court for additional documentation as necessary and appropriate. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court may deem proper, and may punish by contempt proceedings any violation of those conditions.

(4)(a)1. All information obtained pursuant to this part in the discharge of official duty by any judge, employee of the court, authorized agent of the department, correctional probation officer, or law enforcement agent is confidential and exempt from s. 119.07(1) and may not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation officers, law enforcement agents, guardian ad litem, attorney for the child, and others entitled under this chapter to receive that information, except upon order of the court.

2.a. The following information held by a guardian ad litem is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(I) Medical, mental health, substance abuse, child care, education, law enforcement, court, social services, and financial records.

(II) Any other information maintained by a guardian ad litem which is identified as confidential information under this chapter.

b. Such confidential and exempt information may not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, correctional probation

officers, law enforcement agents, guardians ad litem, and others entitled under this chapter to receive that information, except upon order of the court.

(b) The department shall disclose to the school superintendent the presence of any child in the care and custody or under the jurisdiction or supervision of the department who has a known history of criminal sexual behavior with other juveniles; is an alleged juvenile sex offender, as defined in s. 39.01; or has pled guilty or nolo contendere to, or has been found to have committed, a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133, regardless of adjudication. Any employee of a district school board who knowingly and willfully discloses such information to an unauthorized person commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 14. Paragraphs (a) and (b) of subsection (4) of section 39.0139, Florida Statutes, are amended to read:

39.0139 Visitation or other contact; restrictions.—

(4) HEARINGS.—A person who meets any of the criteria set forth in paragraph (3)(a) who seeks to begin or resume contact with the child victim shall have the right to an evidentiary hearing to determine whether contact is appropriate.

(a) Before ~~Prior to~~ the hearing, the court shall appoint an attorney for the child ~~an attorney ad litem~~ or a guardian ad litem, as appropriate, for the child if one has not already been appointed. Any attorney for the child ~~attorney ad litem~~ or guardian ad litem appointed shall have special training in the dynamics of child sexual abuse.

(b) At the hearing, the court may receive and rely upon any

relevant and material evidence submitted to the extent of its probative value, including written and oral reports or recommendations from the Child Protection Team, the child's therapist, or the child's guardian ad litem~~, or the child's attorney ad litem~~, even if these reports, recommendations, and evidence may not be admissible under the rules of evidence.

Section 15. Paragraphs (k) and (t) of subsection (2) of section 39.202, Florida Statutes, are amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of, or other identifying information with respect to, the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(k) Any appropriate official of a Florida advocacy council investigating a report of known or suspected child abuse, abandonment, or neglect; the Auditor General or the Office of Program Policy Analysis and Government Accountability for the purpose of conducting audits or examinations pursuant to law; or the child's guardian ad litem or attorney for the child.

(t) Persons with whom the department is seeking to place the child or to whom placement has been granted, including foster parents for whom an approved home study has been conducted, the designee of a licensed child-caring agency as defined in s. 39.01(42) ~~s. 39.01(41)~~, an approved relative or nonrelative with whom a child is placed pursuant to s. 39.402, preadoptive parents for whom a favorable preliminary adoptive home study has been conducted, adoptive parents, or an adoption

entity acting on behalf of preadoptive or adoptive parents.

Section 16. Subsection (1) of section 39.302, Florida Statutes, is amended to read:

39.302 Protective investigations of institutional child abuse, abandonment, or neglect.—

(1) The department shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the department, or any other entity or person covered by s. 39.01(38) or (55) ~~s. 39.01(37) or (54)~~, acting in an official capacity, has committed an act of child abuse, abandonment, or neglect, the department shall initiate a child protective investigation within the timeframe established under s. 39.201(5) and notify the appropriate state attorney, law enforcement agency, and licensing agency, which shall immediately conduct a joint investigation, unless independent investigations are more feasible. When conducting investigations or having face-to-face interviews with the child, investigation visits shall be unannounced unless it is determined by the department or its agent that unannounced visits threaten the safety of the child. If a facility is exempt from licensing, the department shall inform the owner or operator of the facility of the report. Each agency conducting a joint investigation is entitled to full access to the information gathered by the department in the course of the investigation. A protective investigation must include an interview with the child's parent or legal guardian. The department shall make a full written report to the state attorney within 3 working days after making the oral report. A criminal investigation shall be coordinated,

whenever possible, with the child protective investigation of the department. Any interested person who has information regarding the offenses described in this subsection may forward a statement to the state attorney as to whether prosecution is warranted and appropriate. Within 15 days after the completion of the investigation, the state attorney shall report the findings to the department and shall include in the report a determination of whether or not prosecution is justified and appropriate in view of the circumstances of the specific case.

Section 17. Paragraph (c) of subsection (8) and paragraph (a) of subsection (14) of section 39.402, Florida Statutes, are amended to read:

39.402 Placement in a shelter.—

(8)

(c) At the shelter hearing, the court shall:

1. Appoint a guardian ad litem to represent the best interest of the child or an attorney for the child to provide direct representation as provided in part XI, unless the court finds that such representation is unnecessary;

2. Inform the parents or legal custodians of their right to counsel to represent them at the shelter hearing and at each subsequent hearing or proceeding, and the right of the parents to appointed counsel, pursuant to the procedures set forth in s. 39.013;

3. Give the parents or legal custodians an opportunity to be heard and to present evidence; and

4. Inquire of those present at the shelter hearing as to the identity and location of the legal father. In determining who the legal father of the child may be, the court shall

inquire under oath of those present at the shelter hearing whether they have any of the following information:

a. Whether the mother of the child was married at the probable time of conception of the child or at the time of birth of the child.

b. Whether the mother was cohabiting with a male at the probable time of conception of the child.

c. Whether the mother has received payments or promises of support with respect to the child or because of her pregnancy from a man who claims to be the father.

d. Whether the mother has named any man as the father on the birth certificate of the child or in connection with applying for or receiving public assistance.

e. Whether any man has acknowledged or claimed paternity of the child in a jurisdiction in which the mother resided at the time of or since conception of the child or in which the child has resided or resides.

f. Whether a man is named on the birth certificate of the child pursuant to s. 382.013(2).

g. Whether a man has been determined by a court order to be the father of the child.

h. Whether a man has been determined to be the father of the child by the Department of Revenue as provided in s. 409.256.

(14) The time limitations in this section do not include:

(a) Periods of delay resulting from a continuance granted at the request or with the consent of the attorney for the child or the child's ~~counsel or the child's~~ guardian ad litem, if one has been appointed by the court, or, if the child is of

sufficient capacity to express reasonable consent, at the request or with the consent of the attorney for the child ~~child's attorney~~ or the child's guardian ad litem~~, if one has been appointed by the court,~~ and the child.

Section 18. Paragraphs (e) and (f) of subsection (3) and subsection (6) of section 39.407, Florida Statutes, are amended to read:

39.407 Medical, psychiatric, and psychological examination and treatment of child; physical, mental, or substance abuse examination of person with or requesting child custody.—

(3)

(e)1. If the child's prescribing physician or psychiatric nurse, as defined in s. 394.455, certifies in the signed medical report required in paragraph (c) that delay in providing a prescribed psychotropic medication would more likely than not cause significant harm to the child, the medication may be provided in advance of the issuance of a court order. In such event, the medical report must provide the specific reasons why the child may experience significant harm and the nature and the extent of the potential harm. The department must submit a motion seeking continuation of the medication and the physician's or psychiatric nurse's medical report to the court, the child's guardian ad litem or the attorney for the child, and all other parties within 3 working days after the department commences providing the medication to the child. The department shall seek the order at the next regularly scheduled court hearing required under this chapter, or within 30 days after the date of the prescription, whichever occurs sooner. If any party objects to the department's motion, the court shall hold a

hearing within 7 days.

2. Psychotropic medications may be administered in advance of a court order in hospitals, crisis stabilization units, and in statewide inpatient psychiatric programs. Within 3 working days after the medication is begun, the department must seek court authorization as described in paragraph (c).

(f)1. The department shall fully inform the court of the child's medical and behavioral status as part of the social services report prepared for each judicial review hearing held for a child for whom psychotropic medication has been prescribed or provided under this subsection. As a part of the information provided to the court, the department shall furnish copies of all pertinent medical records concerning the child which have been generated since the previous hearing. On its own motion or on good cause shown by any party, including any guardian ad litem~~,~~ or the child ~~attorney, or attorney ad litem who has been appointed to represent the child or the child's interests,~~ the court may review the status more frequently than required in this subsection.

2. The court may, in the best interests of the child, order the department to obtain a medical opinion addressing whether the continued use of the medication under the circumstances is safe and medically appropriate.

(6) Children who are in the legal custody of the department may be placed by the department, without prior approval of the court, in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395 for residential mental health treatment only pursuant to this section or may be placed by the court in accordance with an order of involuntary

examination or involuntary placement entered pursuant to s. 394.463 or s. 394.467. All children placed in a residential treatment program under this subsection must be appointed ~~have~~ a guardian ad litem and an attorney for the child ~~appointed~~.

(a) As used in this subsection, the term:

1. "Residential treatment" means placement for observation, diagnosis, or treatment of an emotional disturbance in a residential treatment center licensed under s. 394.875 or a hospital licensed under chapter 395.

2. "Least restrictive alternative" means the treatment and conditions of treatment that, separately and in combination, are no more intrusive or restrictive of freedom than reasonably necessary to achieve a substantial therapeutic benefit or to protect the child or adolescent or others from physical injury.

3. "Suitable for residential treatment" or "suitability" means a determination concerning a child or adolescent with an emotional disturbance as defined in s. 394.492(5) or a serious emotional disturbance as defined in s. 394.492(6) that each of the following criteria is met:

a. The child requires residential treatment.

b. The child is in need of a residential treatment program and is expected to benefit from mental health treatment.

c. An appropriate, less restrictive alternative to residential treatment is unavailable.

(b) Whenever the department believes that a child in its legal custody is emotionally disturbed and may need residential treatment, an examination and suitability assessment must be conducted by a qualified evaluator who is appointed by the Agency for Health Care Administration. This suitability

assessment must be completed before the placement of the child in a residential treatment center for emotionally disturbed children and adolescents or a hospital. The qualified evaluator must be a psychiatrist or a psychologist licensed in Florida who has at least 3 years of experience in the diagnosis and treatment of serious emotional disturbances in children and adolescents and who has no actual or perceived conflict of interest with any inpatient facility or residential treatment center or program.

(c) Before a child is admitted under this subsection, the child shall be assessed for suitability for residential treatment by a qualified evaluator who has conducted a personal examination and assessment of the child and has made written findings that:

1. The child appears to have an emotional disturbance serious enough to require residential treatment and is reasonably likely to benefit from the treatment.

2. The child has been provided with a clinically appropriate explanation of the nature and purpose of the treatment.

3. All available modalities of treatment less restrictive than residential treatment have been considered, and a less restrictive alternative that would offer comparable benefits to the child is unavailable.

A copy of the written findings of the evaluation and suitability assessment must be provided to the department, to the guardian ad litem and attorney for the child, and, if the child is a member of a Medicaid managed care plan, to the plan that is

financially responsible for the child's care in residential treatment, all of whom must be provided with the opportunity to discuss the findings with the evaluator.

(d) Immediately upon placing a child in a residential treatment program under this section, the department must notify the guardian ad litem, the attorney for the child, and the court having jurisdiction over the child and must provide the guardian ad litem, the attorney for the child, and the court with a copy of the assessment by the qualified evaluator.

(e) Within 10 days after the admission of a child to a residential treatment program, the director of the residential treatment program or the director's designee must ensure that an individualized plan of treatment has been prepared by the program and has been explained to the child, to the department, ~~and~~ to the guardian ad litem, and to the attorney for the child, and submitted to the department. The child must be involved in the preparation of the plan to the maximum feasible extent consistent with his or her ability to understand and participate, and the guardian ad litem, the attorney for the child, and the child's foster parents must be involved to the maximum extent consistent with the child's treatment needs. The plan must include a preliminary plan for residential treatment and aftercare upon completion of residential treatment. The plan must include specific behavioral and emotional goals against which the success of the residential treatment may be measured. A copy of the plan must be provided to the child, to the guardian ad litem, to the attorney for the child, and to the department.

(f) Within 30 days after admission, the residential

treatment program must review the appropriateness and suitability of the child's placement in the program. The residential treatment program must determine whether the child is receiving benefit toward the treatment goals and whether the child could be treated in a less restrictive treatment program. The residential treatment program shall prepare a written report of its findings and submit the report to the guardian ad litem, to the attorney for the child, and to the department. The department must submit the report to the court. The report must include a discharge plan for the child. The residential treatment program must continue to evaluate the child's treatment progress every 30 days thereafter and must include its findings in a written report submitted to the department. The department may not reimburse a facility until the facility has submitted every written report that is due.

(g)1. The department must submit, at the beginning of each month, to the court having jurisdiction over the child, a written report regarding the child's progress toward achieving the goals specified in the individualized plan of treatment.

2. The court must conduct a hearing to review the status of the child's residential treatment plan no later than 60 days after the child's admission to the residential treatment program. An independent review of the child's progress toward achieving the goals and objectives of the treatment plan must be completed by a qualified evaluator and submitted to the court before its 60-day review.

3. For any child in residential treatment at the time a judicial review is held pursuant to s. 39.701, the child's continued placement in residential treatment must be a subject

of the judicial review.

4. If at any time the court determines that the child is not suitable for continued residential treatment, the court shall order the department to place the child in the least restrictive setting that is best suited to meet his or her needs.

(h) After the initial 60-day review, the court must conduct a review of the child's residential treatment plan every 90 days.

(i) The department must adopt rules for implementing timeframes for the completion of suitability assessments by qualified evaluators and a procedure that includes timeframes for completing the 60-day independent review by the qualified evaluators of the child's progress toward achieving the goals and objectives of the treatment plan which review must be submitted to the court. The Agency for Health Care Administration must adopt rules for the registration of qualified evaluators, the procedure for selecting the evaluators to conduct the reviews required under this section, and a reasonable, cost-efficient fee schedule for qualified evaluators.

Section 19. Subsections (20) and (21) of section 39.4085, Florida Statutes, are amended to read:

39.4085 Legislative findings and declaration of intent for goals for dependent children.—The Legislature finds and declares that the design and delivery of child welfare services should be directed by the principle that the health and safety of children should be of paramount concern and, therefore, establishes the following goals for children in shelter or foster care:

(20) To have a guardian ad litem appointed to represent, within reason, their best interests; and, as appropriate, have an attorney for the child ~~and, where appropriate, an attorney ad litem~~ appointed to represent their legal interests.~~,~~ The guardian ad litem and attorney for the child ~~attorney ad litem~~ shall have immediate and unlimited access to the children they represent.

(21) To have all their records available for review by their guardian ad litem or attorney for the child, as applicable, ~~and attorney ad litem~~ if they deem such review necessary.

The provisions of this section establish goals and not rights. Nothing in this section shall be interpreted as requiring the delivery of any particular service or level of service in excess of existing appropriations. No person shall have a cause of action against the state or any of its subdivisions, agencies, contractors, subcontractors, or agents, based upon the adoption of or failure to provide adequate funding for the achievement of these goals by the Legislature. Nothing herein shall require the expenditure of funds to meet the goals established herein except funds specifically appropriated for such purpose.

Section 20. Subsections (8), (12), (13), (14), and (17) of section 39.502, Florida Statutes, are amended to read:

39.502 Notice, process, and service.—

(8) It is not necessary to the validity of a proceeding covered by this part that the parents be present if their identity or residence is unknown after a diligent search has been made, but in this event the petitioner shall file an

affidavit of diligent search prepared by the person who made the search and inquiry, and the court may appoint a guardian ad litem for the child or an attorney for the child, as appropriate.

(12) All process and orders issued by the court shall be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the department or the guardian ad litem or attorney for the child, as applicable.

(13) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding and, in addition, may be served by authorized agents of the department or the guardian ad litem or attorney for the child, as applicable.

(14) No fee shall be paid for service of any process or other papers by an agent of the department or the guardian ad litem or attorney for the child, as applicable. If any process, orders, or any other papers are served or executed by any sheriff, the sheriff's fees shall be paid by the county.

(17) The parent or legal custodian of the child, the attorney for the department, the guardian ad litem or attorney for the child, as applicable, the foster or preadoptive parents, and all other parties and participants shall be given reasonable notice of all proceedings and hearings provided for under this part. All foster or preadoptive parents must be provided with at least 72 hours' notice, verbally or in writing, of all proceedings or hearings relating to children in their care or children they are seeking to adopt to ensure the ability to provide input to the court.

Section 21. Paragraphs (c) and (e) of subsection (1) of section 39.521, Florida Statutes, are amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(c) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal guardian or the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The order may be made only upon good cause shown and pursuant to notice and procedural requirements provided under the Florida Rules of Juvenile Procedure. The mental health assessment or evaluation must be administered by a qualified professional as defined in s. 39.01, and the substance abuse assessment or evaluation must be administered by a qualified professional as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with

a mental health court program established under chapter 394 or a treatment-based drug court program established under s. 397.334. Adjudication of a child as dependent based upon evidence of harm as defined in s. 39.01(36)(g) ~~s. 39.01(35)(g)~~ demonstrates good cause, and the court shall require the parent whose actions caused the harm to submit to a substance abuse disorder assessment or evaluation and to participate and comply with treatment and services identified in the assessment or evaluation as being necessary. In addition to supervision by the department, the court, including the mental health court program or the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. Protective

supervision continues until the court terminates it or until the child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department must set forth the powers of the custodian of the child and include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, further judicial reviews are not required if permanency has been established for the child.

4. Determine whether the child has a strong attachment to the prospective permanent guardian and whether such guardian has a strong commitment to permanently caring for the child.

(e) The court shall, in its written order of disposition, include all of the following:

1. The placement or custody of the child.

2. Special conditions of placement and visitation.

3. Evaluation, counseling, treatment activities, and other actions to be taken by the parties, if ordered.

4. The persons or entities responsible for supervising or monitoring services to the child and parent.

5. Continuation or discharge of the guardian ad litem or attorney for the child if appointed, as appropriate.

6. The date, time, and location of the next scheduled

review hearing, which must occur within the earlier of:

a. Ninety days after the disposition hearing;

b. Ninety days after the court accepts the case plan;

c. Six months after the date of the last review hearing; or

d. Six months after the date of the child's removal from his or her home, if no review hearing has been held since the child's removal from the home.

7. If the child is in an out-of-home placement, child support to be paid by the parents, or the guardian of the child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child. The court may exercise jurisdiction over all child support matters, shall adjudicate the financial obligation, including health insurance, of the child's parents or guardian, and shall enforce the financial obligation as provided in chapter 61. The state's child support enforcement agency shall enforce child support orders under this section in the same manner as child support orders under chapter 61. Placement of the child shall not be contingent upon issuance of a support order.

8.a. If the court does not commit the child to the temporary legal custody of an adult relative, legal custodian, or other adult approved by the court, the disposition order must include the reasons for such a decision and shall include a determination as to whether diligent efforts were made by the department to locate an adult relative, legal custodian, or other adult willing to care for the child in order to present that placement option to the court instead of placement with the department.

b. If no suitable relative is found and the child is placed

with the department or a legal custodian or other adult approved by the court, both the department and the court shall consider transferring temporary legal custody to an adult relative approved by the court at a later date, but neither the department nor the court is obligated to so place the child if it is in the child's best interest to remain in the current placement.

For the purposes of this section, "diligent efforts to locate an adult relative" means a search similar to the diligent search for a parent, but without the continuing obligation to search after an initial adequate search is completed.

9. Other requirements necessary to protect the health, safety, and well-being of the child, to preserve the stability of the child's child care, early education program, or any other educational placement, and to promote family preservation or reunification whenever possible.

Section 22. Paragraph (a) of subsection (2) of section 39.523, Florida Statutes, is amended to read:

39.523 Placement in out-of-home care.—

(2) ASSESSMENT AND PLACEMENT.—When any child is removed from a home and placed into out-of-home care, a comprehensive placement assessment process shall be completed to determine the level of care needed by the child and match the child with the most appropriate placement.

(a) The community-based care lead agency or subcontracted agency with the responsibility for assessment and placement must coordinate a multidisciplinary team staffing with any available individual currently involved with the child, including, but not

limited to, a representative from the department and the case manager for the child; a therapist, ~~attorney ad litem,~~ a guardian ad litem, an attorney for the child, teachers, coaches, and Children's Medical Services; and other community providers of services to the child or stakeholders as applicable. The team may also include clergy, relatives, and fictive kin if appropriate. Team participants must gather data and information on the child which is known at the time including, but not limited to:

1. Mental, medical, behavioral health, and medication history;

2. Community ties and school placement;

3. Current placement decisions relating to any siblings;

4. Alleged type of abuse or neglect including sexual abuse and trafficking history; and

5. The child's age, maturity, strengths, hobbies or activities, and the child's preference for placement.

Section 23. Paragraph (a) of subsection (1) of section 39.6011, Florida Statutes, is amended to read:

39.6011 Case plan development.—

(1) The department shall prepare a draft of the case plan for each child receiving services under this chapter. A parent of a child may not be threatened or coerced with the loss of custody or parental rights for failing to admit in the case plan of abusing, neglecting, or abandoning a child. Participating in the development of a case plan is not an admission to any allegation of abuse, abandonment, or neglect, and it is not a consent to a finding of dependency or termination of parental rights. The case plan shall be developed subject to the

following requirements:

(a) The case plan must be developed in a face-to-face conference with the parent of the child, any court-appointed guardian ad litem or attorney for the child, and, if appropriate, the child and the temporary custodian of the child.

Section 24. Paragraph (c) of subsection (1) of section 39.6012, Florida Statutes, is amended to read:

39.6012 Case plan tasks; services.—

(1) The services to be provided to the parent and the tasks that must be completed are subject to the following:

(c) If there is evidence of harm as defined in s. 39.01(36)(g) ~~s. 39.01(35)(g)~~, the case plan must include as a required task for the parent whose actions caused the harm that the parent submit to a substance abuse disorder assessment or evaluation and participate and comply with treatment and services identified in the assessment or evaluation as being necessary.

Section 25. Subsection (8) of section 39.6251, Florida Statutes, is amended to read:

39.6251 Continuing care for young adults.—

(8) During the time that a young adult is in care, the court shall maintain jurisdiction to ensure that the department and the lead agencies are providing services and coordinate with, and maintain oversight of, other agencies involved in implementing the young adult's case plan, individual education plan, and transition plan. The court shall review the status of the young adult at least every 6 months and hold a permanency review hearing at least annually. If the young adult is appointed a guardian under chapter 744 or a guardian advocate

under s. 393.12, at the permanency review hearing the court shall review the necessity of continuing the guardianship and whether restoration of guardianship proceedings are needed when the young adult reaches 22 years of age. The court may appoint an attorney for the child ~~a guardian ad litem~~ or continue the appointment of a guardian ad litem or an attorney for the child, as applicable, with the young adult's consent. The young adult or any other party to the dependency case may request an additional hearing or review.

Section 26. Paragraph (b) of subsection (1) and paragraph (b) of subsection (2) of section 39.701, Florida Statutes, are amended to read:

39.701 Judicial review.—

(1) GENERAL PROVISIONS.—

(b)1. The court shall retain jurisdiction over a child returned to his or her parents for a minimum period of 6 months following the reunification, but, at that time, based on a report of the social service agency and the guardian ad litem or attorney for the child, if one has been appointed, and any other relevant factors, the court shall make a determination as to whether supervision by the department and the court's jurisdiction shall continue or be terminated.

2. Notwithstanding subparagraph 1., the court must retain jurisdiction over a child if the child is placed in the home with a parent or caregiver with an in-home safety plan and such safety plan remains necessary for the child to reside safely in the home.

(2) REVIEW HEARINGS FOR CHILDREN YOUNGER THAN 18 YEARS OF AGE.—

(b) *Submission and distribution of reports.*—

1. A copy of the social service agency's written report and the written report of the guardian ad litem, and a report of the attorney for the child, if he or she has prepared one, must be served on all parties whose whereabouts are known; to the foster parents or legal custodians; and to the citizen review panel, at least 72 hours before the judicial review hearing or citizen review panel hearing. The requirement for providing parents with a copy of the written report does not apply to those parents who have voluntarily surrendered their child for adoption or who have had their parental rights to the child terminated.

2. In a case in which the child has been permanently placed with the social service agency, the agency shall furnish to the court a written report concerning the progress being made to place the child for adoption. If the child cannot be placed for adoption, a report on the progress made by the child towards alternative permanency goals or placements, including, but not limited to, guardianship, long-term custody, long-term licensed custody, or independent living, must be submitted to the court. The report must be submitted to the court at least 72 hours before each scheduled judicial review.

3. In addition to or in lieu of any written statement provided to the court, the foster parent or legal custodian, or any preadoptive parent, shall be given the opportunity to address the court with any information relevant to the best interests of the child at any judicial review hearing.

Section 27. Paragraph (g) of subsection (5) of section 39.702, Florida Statutes, is amended to read:

39.702 Citizen review panels.—

(5) The independent not-for-profit agency authorized to administer each citizen review panel shall:

(g) Establish policies to ensure adequate communication with the parent, the foster parent or legal custodian, the guardian ad litem or attorney for the child, and any other person deemed appropriate.

Section 28. Paragraph (a) of subsection (3) and subsections (5), (6), and (7) of section 39.801, Florida Statutes, are amended to read:

39.801 Procedures and jurisdiction; notice; service of process.—

(3) Before the court may terminate parental rights, in addition to the other requirements set forth in this part, the following requirements must be met:

(a) Notice of the date, time, and place of the advisory hearing for the petition to terminate parental rights and a copy of the petition must be personally served upon the following persons, specifically notifying them that a petition has been filed:

1. The parents of the child.

2. The legal custodians of the child.

3. If the parents who would be entitled to notice are dead or unknown, a living relative of the child, unless upon diligent search and inquiry no such relative can be found.

4. Any person who has physical custody of the child.

5. Any grandparent entitled to priority for adoption under s. 63.0425.

6. Any prospective parent who has been identified under s. 39.503 or s. 39.803, unless a court order has been entered

pursuant to s. 39.503(4) or (9) or s. 39.803(4) or (9) which indicates no further notice is required. Except as otherwise provided in this section, if there is not a legal father, notice of the petition for termination of parental rights must be provided to any known prospective father who is identified under oath before the court or who is identified by a diligent search of the Florida Putative Father Registry. Service of the notice of the petition for termination of parental rights is not required if the prospective father executes an affidavit of nonpaternity or a consent to termination of his parental rights which is accepted by the court after notice and opportunity to be heard by all parties to address the best interests of the child in accepting such affidavit.

7. The guardian ad litem for the child or the representative of the guardian ad litem program, if the program has been appointed.

8. The attorney for the child, if appointed.

The document containing the notice to respond or appear must contain, in type at least as large as the type in the balance of the document, the following or substantially similar language: "FAILURE TO PERSONALLY APPEAR AT THIS ADVISORY HEARING CONSTITUTES CONSENT TO THE TERMINATION OF PARENTAL RIGHTS OF THIS CHILD (OR CHILDREN). IF YOU FAIL TO APPEAR ON THE DATE AND TIME SPECIFIED, YOU MAY LOSE ALL LEGAL RIGHTS AS A PARENT TO THE CHILD OR CHILDREN NAMED IN THE PETITION ATTACHED TO THIS NOTICE."

(5) All process and orders issued by the court must be served or executed as other process and orders of the circuit

court and, in addition, may be served or executed by authorized agents of the department, ~~or~~ the guardian ad litem, or the attorney for the child.

(6) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding and, in addition, may be served or executed by authorized agents of the department, ~~or~~ of the guardian ad litem, or of the attorney for the child.

(7) A fee may not be paid for service of any process or other papers by an agent of the department, ~~or~~ the guardian ad litem, or the attorney for the child. If any process, orders, or other papers are served or executed by any sheriff, the sheriff's fees must be paid by the county.

Section 29. Subsection (1) of section 39.802, Florida Statutes, is amended to read:

39.802 Petition for termination of parental rights; filing; elements.—

(1) All proceedings seeking an adjudication to terminate parental rights pursuant to this chapter must be initiated by the filing of an original petition by the department, the guardian ad litem, the attorney for the child, or any other person who has knowledge of the facts alleged or is informed of them and believes that they are true.

Section 30. Subsection (2) of section 39.808, Florida Statutes, is amended to read:

39.808 Advisory hearing; pretrial status conference.—

(2) At the hearing the court shall inform the parties of their rights under s. 39.807, shall appoint counsel for the parties in accordance with legal requirements, and shall appoint

a guardian ad litem or an attorney for the child as provided for in s. 39.831 to represent the interests of the child if one has not already been appointed.

Section 31. Subsection (11) of section 39.810, Florida Statutes, is amended to read:

39.810 Manifest best interests of the child.—In a hearing on a petition for termination of parental rights, the court shall consider the manifest best interests of the child. This consideration shall not include a comparison between the attributes of the parents and those of any persons providing a present or potential placement for the child. For the purpose of determining the manifest best interests of the child, the court shall consider and evaluate all relevant factors, including, but not limited to:

(11) The recommendations for the child provided by the child's guardian ad litem ~~or legal representative~~.

Section 32. Subsection (9) of section 39.811, Florida Statutes, is amended to read:

39.811 Powers of disposition; order of disposition.—

(9) After termination of parental rights, the court shall retain jurisdiction over any child for whom custody is given to a social service agency until the child is adopted. The court shall review the status of the child's placement and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the attorney for the child or guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child.

Section 33. Subsection (4) of section 39.812, Florida

Statutes, is amended to read:

39.812 Postdisposition relief; petition for adoption.—

(4) The court shall retain jurisdiction over any child placed in the custody of the department until the child is adopted. After custody of a child for subsequent adoption has been given to the department, the court has jurisdiction for the purpose of reviewing the status of the child and the progress being made toward permanent adoptive placement. As part of this continuing jurisdiction, for good cause shown by the attorney for the child or guardian ad litem for the child, the court may review the appropriateness of the adoptive placement of the child. When a licensed foster parent or court-ordered custodian has applied to adopt a child who has resided with the foster parent or custodian for at least 6 months and who has previously been permanently committed to the legal custody of the department and the department does not grant the application to adopt, the department may not, in the absence of a prior court order authorizing it to do so, remove the child from the foster home or custodian, except when:

(a) There is probable cause to believe that the child is at imminent risk of abuse or neglect;

(b) Thirty days have expired following written notice to the foster parent or custodian of the denial of the application to adopt, within which period no formal challenge of the department's decision has been filed; or

(c) The foster parent or custodian agrees to the child's removal.

Section 34. Subsections (5), (6), and (7) of section 43.16, Florida Statutes, are amended to read:

43.16 Justice Administrative Commission; membership, powers and duties.—

(5) The duties of the commission shall include, but not be limited to, the following:

(a) The maintenance of a central state office for administrative services and assistance when possible to and on behalf of the state attorneys and public defenders of Florida, the capital collateral regional counsel of Florida, the criminal conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem Program, and the Statewide Office of Child Representation.

(b) Each state attorney, public defender, ~~and~~ criminal conflict and civil regional counsel, ~~and~~ the Guardian Ad Litem Program, and the Statewide Office of Child Representation shall continue to prepare necessary budgets, vouchers that represent valid claims for reimbursement by the state for authorized expenses, and other things incidental to the proper administrative operation of the office, such as revenue transmittals to the Chief Financial Officer and automated systems plans, but will forward such items to the commission for recording and submission to the proper state officer. However, when requested by a state attorney, a public defender, a criminal conflict and civil regional counsel, ~~or~~ the Guardian Ad Litem Program, or the Statewide Office of Child Representation, the commission will either assist in the preparation of budget requests, voucher schedules, and other forms and reports or accomplish the entire project involved.

(6) The commission, each state attorney, each public defender, the criminal conflict and civil regional counsel, the capital collateral regional counsel, ~~and~~ the Guardian Ad Litem

Program, and the Statewide Office of Child Representation shall establish and maintain internal controls designed to:

(a) Prevent and detect fraud, waste, and abuse as defined in s. 11.45(1).

(b) Promote and encourage compliance with applicable laws, rules, contracts, grant agreements, and best practices.

(c) Support economical and efficient operations.

(d) Ensure reliability of financial records and reports.

(e) Safeguard assets.

(7) The provisions contained in this section shall be supplemental to those of chapter 27, relating to state attorneys, public defenders, criminal conflict and civil regional counsel, and capital collateral regional counsel; to those of chapter 39, relating to the Guardian Ad Litem Program and the Statewide Office of Child Representation; or to other laws pertaining hereto.

Section 35. Paragraph (a) of subsection (2) of section 63.085, Florida Statutes, is amended to read:

63.085 Disclosure by adoption entity.—

(2) DISCLOSURE TO ADOPTIVE PARENTS.—

(a) At the time that an adoption entity is responsible for selecting prospective adoptive parents for a born or unborn child whose parents are seeking to place the child for adoption or whose rights were terminated pursuant to chapter 39, the adoption entity must provide the prospective adoptive parents with information concerning the background of the child to the extent such information is disclosed to the adoption entity by the parents, legal custodian, or the department. This subsection applies only if the adoption entity identifies the prospective

adoptive parents and supervises the placement of the child in the prospective adoptive parents' home. If any information cannot be disclosed because the records custodian failed or refused to produce the background information, the adoption entity has a duty to provide the information if it becomes available. An individual or entity contacted by an adoption entity to obtain the background information must release the requested information to the adoption entity without the necessity of a subpoena or a court order. In all cases, the prospective adoptive parents must receive all available information by the date of the final hearing on the petition for adoption. The information to be disclosed includes:

1. A family social and medical history form completed pursuant to s. 63.162(6).

2. The biological mother's medical records documenting her prenatal care and the birth and delivery of the child.

3. A complete set of the child's medical records documenting all medical treatment and care since the child's birth and before placement.

4. All mental health, psychological, and psychiatric records, reports, and evaluations concerning the child before placement.

5. The child's educational records, including all records concerning any special education needs of the child before placement.

6. Records documenting all incidents that required the department to provide services to the child, including all orders of adjudication of dependency or termination of parental rights issued pursuant to chapter 39, any case plans drafted to

address the child's needs, all protective services investigations identifying the child as a victim, and all guardian ad litem reports or attorney for the child reports filed with the court concerning the child.

7. Written information concerning the availability of adoption subsidies for the child, if applicable.

Section 36. Subsection (4) of section 322.09, Florida Statutes, is amended to read:

322.09 Application of minors; responsibility for negligence or misconduct of minor.—

(4) Notwithstanding subsections (1) and (2), if a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01(56) ~~s. 39.01(55)~~, an authorized representative of a residential group home at which such a minor resides, the caseworker at the agency at which the state has placed the minor, or a guardian ad litem specifically authorized by the minor's caregiver to sign for a learner's driver license signs the minor's application for a learner's driver license, that caregiver, group home representative, caseworker, or guardian ad litem does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor by reason of having signed the application. Before signing the application, the caseworker, authorized group home representative, or guardian ad litem shall notify the caregiver or other responsible party of his or her intent to sign and verify the application.

Section 37. Paragraph (p) of subsection (4) of section 394.495, Florida Statutes, is amended to read:

394.495 Child and adolescent mental health system of care;

programs and services.—

(4) The array of services may include, but is not limited to:

(p) Trauma-informed services for children who have suffered sexual exploitation as defined in s. 39.01(78)(g) ~~s. 39.01(77)(g)~~.

Section 38. Section 627.746, Florida Statutes, is amended to read:

627.746 Coverage for minors who have a learner's driver license; additional premium prohibited.—An insurer that issues an insurance policy on a private passenger motor vehicle to a named insured who is a caregiver of a minor who is under the age of 18 years and is in out-of-home care as defined in s. 39.01(56) ~~s. 39.01(55)~~ may not charge an additional premium for coverage of the minor while the minor is operating the insured vehicle, for the period of time that the minor has a learner's driver license, until such time as the minor obtains a driver license.

Section 39. Paragraph (c) of subsection (1) of section 934.255, Florida Statutes, is amended to read:

934.255 Subpoenas in investigations of sexual offenses.—

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

(c) "Sexual abuse of a child" means a criminal offense based on any conduct described in s. 39.01(78) ~~s. 39.01(77)~~.

Section 40. Subsection (5) of section 960.065, Florida Statutes, is amended to read:

960.065 Eligibility for awards.—

(5) A person is not ineligible for an award pursuant to paragraph (2)(a), paragraph (2)(b), or paragraph (2)(c) if that

person is a victim of sexual exploitation of a child as defined in s. 39.01(78)(g) ~~s. 39.01(77)(g)~~.

Section 41. This act shall take effect July 1, 2021.

The Florida Senate

Committee Agenda Request

To: Senator Keith Perry, Chair
Appropriations Subcommittee on Criminal and Civil Justice

Subject: Committee Agenda Request

Date: March 17, 2021

I respectfully request that **Senate Bill 1920**, relating to Child Welfare, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Thank you for your consideration.

Lauren Book

Senator Lauren Book
Florida Senate, District 32

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

7/16/21
Meeting Date

SB 1920
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Support of Bill

Name Gerry Glynn

Job Title Attorney - Child Advocate

Address 503 Florida St
Street

Orlando, FL 32806
City *State* *Zip*

Phone 407-896-0514

Email gerardfglynn3@gmail.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing National Assoc of Counsel for Children and Florida Bar Public Interest Law Section

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/08/2021
Meeting Date

1920
Bill Number (if applicable)

Topic Guardian ad Litem changes

Amendment Barcode (if applicable)

Name Allyne Smith

Job Title Guardian ad Litem

Address 2060 Delta Way
Street

Phone (850) 443-9630

Tallahassee FL 32303
City *State* *Zip*

Email asmith@onfc.com

Speaking: ☐ For ☑ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/2021
Meeting Date

SB 1920
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 1920

Name Sean Ruane

Job Title Guardian ad litem

Address 3607 Altoona Drive
Street

Phone 850 510-8900

Tallahassee FL 32309
City *State* *Zip*

Email seanruane@hotmail.com

Speaking: ☐ For ☐ Against ☑ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

April 8, 2021 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB 1920

Meeting Date *Bill Number (if applicable)*

Topic Child Welfare *Amendment Barcode (if applicable)*

Name Terry Rigsby

Job Title Retired

Address 750 Middlewood Drive Phone 850-510-8800

Street

Tallahassee FL 32312 Email rterryrigsby@gmail.com

City *State* *Zip*

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

(The Chair will read this information into the record.)

Representing GAL

Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/21
Meeting Date

CS/SB 1920
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Guardian ad Litem program

Name Krista Killius

Job Title Guardian ad Litem volunteer

Address 2222 Ellicot Drive
Street

Phone 850-509-1474

Tallahassee FL 32308
City *State* *Zip*

Email galkkillius@gmail.com

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Guardian ad Litem Program

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/21
Meeting Date

SB1920
Bill Number (if applicable)

Topic Support for SB1920

Amendment Barcode (if applicable)

Name Tim Stevens

Job Title Staff Attorney

Address 12168 146th PL N
Street
PBG FL 33418
City *State* *Zip*

Phone 561-386-3056

Email tstevens@legalaidpbc.org

Speaking: ☑ For ☐ Against ☐ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Appropriations Subcommittee on Criminal and Civil Justice, *Vice Chair*
Criminal Justice, *Vice Chair*
Appropriations
Banking and Insurance
Rules

SELECT COMMITTEE:
Select Committee on Pandemic Preparedness and Response

SENATOR JEFF BRANDES
24th District

April 8, 2021

Chair Perry,

I am writing to respectfully request that I be excused from the Appropriations Subcommittee on Criminal and Civil Justice on April 8th due to a prior commitment.

If you have any questions regarding this request, please feel free to contact my office or myself. Thank you for your time and consideration of this matter.

Kind Regards,

Jeff Brandes

REPLY TO:
❒ 9800 4th Street North, Suite 200, St. Petersburg, Florida 33702 (727) 563-2100
❒ 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: *www.flsenate.gov*

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: SB 37 **Case No.:** **Type:**
Caption: Appropriations Subcommittee on Criminal and Civil Justice Committee **Judge:**

Started: 4/8/2021 11:33:41 AM
Ends: 4/8/2021 1:12:59 PM Length: 01:39:19

11:33:41 AM Sen. Perry (Chair)
11:34:33 AM S 1810
11:34:39 AM Sen. Powell
11:35:28 AM Kate MacFall, State Director, Humane Society of the United States (waives in support)
11:35:38 AM Travis Moore, Animal Legal Defense Fund (waives in support)
11:35:54 AM Sen. Pizzo
11:36:10 AM Sen. Powell
11:36:15 AM Sen. Torres
11:37:32 AM Sen. Powell
11:38:43 AM Sen. Bracy (Chair)
11:38:49 AM S 1032
11:39:07 AM Sen. Perry
11:39:44 AM Am. 862400
11:40:15 AM Sen. Perry
11:41:03 AM Ingrid Delgado, Associate Director for Social Concerns & Respect Life, Florida Conference of Catholic Bishops
11:41:34 AM Sheriff Bobby Schultz, President, Florida Sheriffs Association (waives in opposition)
11:41:41 AM Jorge Chamizo, Attorney, Florida Association of Criminal Defense Lawyers (waives in support)
11:41:51 AM Mary Kuntz, Incarcerated Citizens
11:45:42 AM Pamela Nesmith, Incarcerated Citizens
11:48:49 AM Laurette Philipsen, Incarcerated Citizens
11:51:22 AM Teresa Haack, Incarcerated Citizens
11:53:57 AM Carrie Boyd, Policy Counsel, Southern Poverty Law Center Action Fund (waves in support)
11:54:10 AM Christian Camara, Institute for Justice (waives in support)
11:55:09 AM Ron Book, The GEO Group
11:57:47 AM Ida Eskamani, Florida Rising and the Florida Immigrant Coalition
11:58:15 AM Sen. Torres
11:59:49 AM Sen. Pizzo
12:02:23 PM Sen. Baxley
12:05:55 PM Sen. Bracy
12:07:20 PM Sen. Perry
12:11:20 PM Sen. Perry (Chair)
12:11:31 PM S 402
12:11:38 PM Sen. Rodrigues
12:14:02 PM Am. 304210
12:14:11 PM Sen. Rodrigues
12:16:38 PM **********
12:21:41 PM Bryan Boukari, Publisher/Attorney, Alachua County Today Newspaper
12:22:58 PM Jim Fogler, President, Florida Press Association
12:25:28 PM Sen. Bracy
12:25:48 PM J. Fogler
12:26:43 PM S 1002
12:26:51 PM Sen. Stewart
12:29:20 PM Am. 6024988
12:29:27 PM Sen. Stewart
12:30:05 PM Am. 901148
12:30:13 PM Sen. Stewart
12:30:53 PM Gail Gardner, Advocate, Survivors For System Change/Joyful Heart Foundation
12:35:31 PM Jennifer L. Dritt, Executive Director, Florida Council Against Sexual Violence
12:37:24 PM Sen. Torres
12:37:43 PM Sen. Stewart
12:38:33 PM Sen. Torres

12:39:35 PM Sen. Baxley
12:40:36 PM Sen. Stewart
12:42:06 PM S 1530
12:42:14 PM Sen. Book
12:42:26 PM Am. 156864
12:44:28 PM Jennifer L. Dritt, Executive Director, Florida Council Against Sexual Violence
12:45:36 PM S 1920
12:45:40 PM Sen. Book
12:47:32 PM Am. 833736
12:47:39 PM Sen. Book
12:49:06 PM Am. 381004
12:49:14 PM Sen. Book
12:50:04 PM Sen. Baxley
12:51:02 PM Sen. Book
12:51:59 PM Gerry Glynn, Attorney - Child Advocate, National Association of Counsel for Children and Florida Bar Public Interest Law Section
12:53:40 PM Allyne Smith, Guardian ad Litem
12:57:17 PM Sean Ruane, Guardian ad Litem
12:59:12 PM Terry Rigsby, Guardian ad Litem
1:01:32 PM Krista Killius, Volunteer, Guardian ad Litem Program
1:05:13 PM Tim Stevens, Staff Attorney
1:08:37 PM Sen. Baxley
1:10:35 PM Sen. Book