

Tab 1	SB 226 by Powell (CO-INTRODUCERS) Burgess ; (Identical to H 00025) Care for Retired Law Enforcement Dogs						
Tab 2	SB 260 by Pizzo ; Renaming the Criminal Punishment Code						
Tab 3	SB 276 by Rouson ; Sentencing						
Tab 4	SB 342 by Perry (CO-INTRODUCERS) Taddeo ; (Identical to H 00195) Juvenile Diversion Program Expunction						
906740	A	S	RCS	CJ, Perry	Delete L.43 - 45:	11/02 01:28 PM	
Tab 5	SB 344 by Perry ; (Identical to H 00197) Public Records/Nonjudicial Record of the Arrest of a Minor						
768154	A	S	RCS	CJ, Perry	Delete L.53:	11/02 01:28 PM	
Tab 6	SB 360 by Harrell ; (Identical to H 06037) Traveling Across County Lines to Commit a Burglary						
Tab 7	SB 370 by Hooper (CO-INTRODUCERS) Book ; (Identical to H 00351) Offenses Against Firefighters						

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Pizzo, Chair
Senator Brandes, Vice Chair

MEETING DATE: Tuesday, November 2, 2021
TIME: 12:30—3:00 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Building

MEMBERS: Senator Pizzo, Chair; Senator Brandes, Vice Chair; Senators Baxley, Burgess, Gainer, Hooper, Perry, Powell, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 226 Powell (Identical H 25)	Care for Retired Law Enforcement Dogs; Citing this act as 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; specifying requirements for the disbursement of funds for the veterinary care of eligible retired law enforcement dogs, etc. CJ 11/02/2021 Favorable ACJ AP	Favorable Yeas 9 Nays 0
2	SB 260 Pizzo	Renaming the Criminal Punishment Code; Renaming the Criminal Punishment Code as the Criminal Public Safety Code; revising a principle of the Criminal Public Safety Code, etc. CJ 11/02/2021 Favorable JU RC	Favorable Yeas 9 Nays 0
3	SB 276 Rouson	Sentencing; Prohibiting certain persons from being sentenced to mandatory minimum terms of imprisonment for aggravated assault or attempted aggravated assault committed before a specified date; requiring the initial sentencing and the resentencing of certain persons who committed certain violations before a specified date which involved trafficking in hydrocodone or codeine; requiring the initial sentencing and the resentencing of certain persons who committed certain violations before a specified date which involved trafficking in oxycodone, etc. CJ 11/02/2021 Favorable ACJ AP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Tuesday, November 2, 2021, 12:30—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 342 Perry (Identical H 195, Compare H 197, Linked S 344)	Juvenile Diversion Program Expunction; Requiring the Department of Law Enforcement to expunge the nonjudicial arrest record of certain minors who successfully complete a diversion program for specified felony offenses, rather than only for misdemeanor offenses; authorizing a minor who successfully completes a diversion program for any offense, rather than only for a first-time misdemeanor offense, to lawfully deny or fail to acknowledge certain information, etc. CJ 11/02/2021 Fav/CS ACJ AP	Fav/CS Yeas 9 Nays 0
5	SB 344 Perry (Identical H 197, Compare H 195, Linked S 342)	Public Records/Nonjudicial Record of the Arrest of a Minor; Providing an exemption from public records requirements for a nonjudicial record of the arrest of a minor who has successfully completed a diversion program; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CJ 11/02/2021 Fav/CS ACJ AP	Fav/CS Yeas 9 Nays 0
6	SB 360 Harrell (Identical H 6037, Compare S 158)	Traveling Across County Lines to Commit a Burglary; Deleting a requirement that travel across county lines be for a specified purpose in order to reclassify a burglary offense, etc. CJ 11/02/2021 Temporarily Postponed JU RC	Temporarily Postponed
7	SB 370 Hooper (Identical H 351)	Offenses Against Firefighters; Providing enhanced penalties for certain offenses committed against firefighters engaged in the performance of their lawful duties, etc. CJ 11/02/2021 Favorable GO RC	Favorable Yeas 9 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 226

INTRODUCER: Senators Powell and Burgess

SUBJECT: Care for Retired Law Enforcement Dogs

DATE: November 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones	CJ	Favorable
2.			ACJ	
3.			AP	

I. Summary:

SB 226 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 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 requires valid documentation of the dog's retirement from a law enforcement agency the dog served for 5 years or more. If the dog served more than one agency during its career, documentation from two or more agencies showing a total of at least 5 years of service is acceptable. A valid paid invoice from the veterinarian for veterinary care is required in order for reimbursement of veterinary costs to occur.

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, 2022.

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.²

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.³ 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.⁴ All three of the dogs were to stay at home with their handlers as pets.⁵ The veterinary expenses due to complications from law enforcement K-9's injuries, joint problems, or other job-related health problems may be too costly for the former handler.⁶

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 FDLE is directed to contract with a not-for-profit corporation, organized under ch. 617, F.S., to administer and manage the program.⁷ 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.⁸
- 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.

¹ Hillsborough County Sheriff's Office, Operational Support Department, K-9 Unit, *Meet Our Team*; available at <https://www.teamhcsco.com/SpecialtyTeamMember> (last visited October 20, 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 October 20, 2021); Gainesville Police Department, *Patrol Support Bureau, K-9*, available at <http://www.gainesvillepd.org/About-GPD/Operations-Bureau/Patrol-Support-Bureau/K-9> (last visited October 20, 2021).

² For example, in September 2021, three different Law Enforcement K-9s acting in the line of duty were shot by suspects in Florida. *Officials: Florida K-9s shot by carjacking suspect*, September 11, 2021, AP News, available at <https://apnews.com/article/police-florida-carjacking-dogs-02ad82fce042d444f7d067151a3aeb30> (last visited October 20, 2021); *JSO K-9 recovering after being shot during Nassau County manhunt*, Carianne Luter, Social Media Producer, September 27, 2021, News4Jax, available at <https://www.news4jax.com/news/local/2021/09/27/jso-k-9-recovering-after-being-shot-during-nassau-county-manhunt/> (last visited October 20, 2021).

³ Fox 35 Orlando, *Florida K-9 retires on his birthday, officers pay tribute with heartwarming final sign-off*, January 17, 2020, available at <https://www.fox35orlando.com/news/florida-k-9-retires-on-his-birthday-officers-pay-tribute-with-heartwarming-final-sign-off> (last visited October 20, 2021).

⁴ 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 October 20, 2021).

⁵ *Supra* note 3 and 4.

⁶ 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 October 20, 2021); The Canine Bible, *Police Dog Lifespan: How Long K9 Work, Live? Retirement & Adoption*, May 8, 2021, available at <https://www.caninebible.com/police-dog-lifespan/> (last visited October 21, 2021).

⁷ 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.

⁸ *See* 26 U.S.C. s. 501(c)(3).

The program will provide up to \$1,500 annually, per dog, to any former handler or adopter of a retired law enforcement dog for reimbursement of veterinary care for the dog. In order to receive these funds, valid documentation must be received from the agency from which the dog retired verifying the dog's service of 5 years or more with the agency or service of a total of 5 years or more with two or more law enforcement agencies.

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.⁹

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.

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.¹⁰ 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.¹¹ 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;

⁹ National Police Canine Association, available at <http://www.npca.net/> (last visited October 20, 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 October 20, 2021).

¹⁰ 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.

¹¹ Section 474.202(13), F.S.

- Veterinary oncology or other specialty care; and
- Euthanasia and cremation services.

The bill specifies that 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.

The bill includes an appropriation of \$300,000 for FY 2022-2023 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, 2022.

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 2022-2023 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

30-00301-22

2022226__

1 A bill to be entitled
 2 An act relating to care for retired law enforcement
 3 dogs; providing a short title; creating s. 943.69,
 4 F.S.; providing legislative findings; providing
 5 definitions; creating the Care for Retired Law
 6 Enforcement Dogs Program within the Department of Law
 7 Enforcement; requiring the department to contract with
 8 a nonprofit corporation to administer and manage the
 9 program; specifying requirements for the nonprofit
 10 corporation; specifying requirements for the
 11 disbursement of funds for the veterinary care of
 12 eligible retired law enforcement dogs; limiting annual
 13 funding available for an eligible dog; prohibiting the
 14 accumulation of unused funds from a current year for
 15 use in a future year; prohibiting reimbursement in
 16 certain circumstances; providing for use of
 17 appropriated funds for administrative expenses;
 18 requiring the department to adopt rules; providing an
 19 appropriation; providing an effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. This act may be cited as the "Care for Retired
 24 Law Enforcement Dogs Program Act."

25 Section 2. Section 943.69, Florida Statutes, is created to
 26 read:

27 943.69 Care for Retired Law Enforcement Dogs Program.—

28 (1) LEGISLATIVE FINDINGS.—The Legislature finds that:

29 (a) Law enforcement dogs are an integral part of many law

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30 enforcement efforts statewide, including the apprehension of
31 suspects through tracking and searching, evidence location, drug
32 and bomb detection, and search and rescue operations.

33 (b) Law enforcement agencies agree that the use of law
34 enforcement dogs is an extremely cost-effective means of crime
35 control and that these dogs possess skills and abilities that
36 frequently exceed those of existing technology.

37 (c) The service of law enforcement dogs is often dangerous
38 and can expose them to injury at a rate higher than that of
39 nonservice dogs.

40 (d) Law enforcement dogs provide significant contributions
41 to the residents of this state.

42 (2) DEFINITIONS.—As used in this section, the term:

43 (a) "Law enforcement agency" means a lawfully established
44 state or local public agency having primary responsibility for
45 the prevention and detection of crime or the enforcement of
46 penal, traffic, highway, regulatory, game, immigration, postal,
47 customs, or controlled substance laws.

48 (b) "Retired law enforcement dog" means a dog that was
49 previously in the service of or employed by a law enforcement
50 agency in this state for the principal purpose of aiding in the
51 detection of criminal activity, enforcement of laws, or
52 apprehension of offenders and that received certification in
53 obedience and apprehension work from a certifying organization,
54 such as the National Police Canine Association, Inc., or other
55 certifying organization.

56 (c) "Veterinarian" has the same meaning as in s. 474.202.

57 (d) "Veterinary care" means the practice, by a
58 veterinarian, of veterinary medicine as defined in s. 474.202.

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59 The term includes annual wellness examinations, vaccinations,
60 internal and external parasite prevention treatments, testing
61 and treatment of illnesses and diseases, medications, emergency
62 care and surgeries, veterinary oncology or other specialty care,
63 euthanasia, and cremation.

64 (3) ESTABLISHMENT OF PROGRAM.—The Care for Retired Law
65 Enforcement Dogs Program is created within the department to
66 provide a stable funding source for the veterinary care for
67 retired law enforcement dogs.

68 (4) ADMINISTRATION.—The department shall contract with a
69 nonprofit corporation organized under chapter 617 to administer
70 and manage the Care for Retired Law Enforcement Dogs Program.
71 Notwithstanding chapter 287, the department shall select the
72 nonprofit corporation through a competitive grant award process.
73 The nonprofit corporation must meet all of the following
74 criteria:

75 (a) Be dedicated to the protection or care of retired law
76 enforcement dogs.

77 (b) Be exempt from taxation under s. 501(a) of the Internal
78 Revenue Code as an organization described in s. 501(c)(3) of
79 that code.

80 (c) Have maintained such tax-exempt status for at least 5
81 years.

82 (d) Agree to be subject to review and audit at the
83 discretion of the Auditor General in order to ensure accurate
84 accounting and disbursement of state funds.

85 (e) Demonstrate the ability to effectively and efficiently
86 disseminate information and to assist former handlers and
87 adopters of retired law enforcement dogs in complying with this

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2022226__

88 section.

89 (5) FUNDING.—

90 (a) The nonprofit corporation shall be the disbursing
91 authority for funds the Legislature appropriates to the
92 department for the Care for Retired Law Enforcement Dogs
93 Program. These funds must be disbursed to the former handler or
94 the adopter of a retired law enforcement dog that served for 5
95 years or more as a law enforcement dog upon receipt of:

96 1. Valid documentation from the law enforcement agency from
97 which the dog retired which verifies that the dog was in the
98 service of or employed by that agency; and

99 a. That the dog served 5 years or more with that agency; or

100 b. Documentation showing that the dog served a total of 5
101 years or more with two or more law enforcement agencies; and

102 2. A valid invoice from a veterinarian for veterinary care
103 provided in this state to a retired law enforcement dog and
104 documentation establishing payment of the invoice by the former
105 handler or the adopter of the retired law enforcement dog.

106 (b) Annual disbursements to a former handler or an adopter
107 to reimburse him or her for the cost of the retired law
108 enforcement dog's veterinary care may not exceed \$1,500 per dog.
109 A former handler or an adopter of a retired law enforcement dog
110 may not accumulate unused funds from a current year for use in a
111 future year.

112 (c) A former handler or an adopter of a retired law
113 enforcement dog who seeks reimbursement for veterinary care may
114 not receive reimbursement if funds appropriated for the Care for
115 Retired Law Enforcement Dogs Program are depleted in the year
116 for which the reimbursement is sought.

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2022226__

117 (6) ADMINISTRATIVE EXPENSES.—The department shall pay to
118 the nonprofit corporation, and the nonprofit corporation may
119 use, up to 10 percent of appropriated funds for its
120 administrative expenses, including salaries and benefits.

121 (7) RULEMAKING.—The department shall adopt rules to
122 implement this section.

123 Section 3. For the 2022-2023 fiscal year, and each fiscal
124 year thereafter, the sum of \$300,000 in recurring funds is
125 appropriated from the General Revenue Fund to the Department of
126 Law Enforcement for the purpose of implementing and
127 administering the Care for Retired Law Enforcement Dogs Program.

128 Section 4. This act shall take effect July 1, 2022.



The Florida Senate

Committee Agenda Request

To: Senator Jason Pizzo, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: October 14, 2021

I respectfully request that **Senate Bill #226**, relating to **CARE FOR RETIRED LAW ENFORCEMENT DOGS**, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Bobby Powell".

Senator Bobby Powell
Florida Senate, District 30

The Florida Senate
APPEARANCE RECORD

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

11/2/21
Meeting Date

226
Bill Number or Topic

Judiciary
Committee

Amendment Barcode (if applicable)

Name Kate MacFall

Phone 850 508-1001

Address 1206 Walter Pr.
Street

Email Kmacfall@hsus.org

Tallahassee FL
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Humane Society of the United States

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 260

INTRODUCER: Senator Pizzo

SUBJECT: Renaming the Criminal Punishment Code

DATE: November 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<u>Favorable</u>
2.	_____	_____	<u>JU</u>	_____
3.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 260 renames the Criminal Punishment Code (Code), Florida’s primary sentencing policy for noncapital felonies, as the Criminal Public Safety Code.

The Code currently emphasizes that while *rehabilitation* is a desired goal of the criminal justice system, it remains subordinate to the goal of *punishment*. The bill revises this statement to provide that: *rehabilitation*, while a desired goal, is subordinate to the goal of *public safety*. The bill retains the provision of current law which states that the primary purpose of sentencing is to punish the offender.

The bill should not have any prison bed impact because it does not change how sentences are currently calculated under the Code, modify existing penalties, or create new penalties.

The effective date of the bill is July 1, 2022.

II. Present Situation:

In 1997, the Legislature enacted the Criminal Punishment Code¹ (Code) as Florida’s “primary sentencing policy.”² The primary purpose of the Code is to “punish the offender.”³ “Rehabilitation is a desired goal of the criminal justice system but is subordinate to the goal of punishment.”⁴ Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).⁵ Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the level escalates. Points may be added or multiplied for other factors such as victim injury or the

¹ Sections 921.002-921.0027, F.S. The Code is effective for offenses committed on or after October 1, 1998.

² See chs. 97-194 and 98-204, L.O.F.

³ Section 921.002(1)(b), F.S.

⁴ *Id.*

⁵ Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

commission of certain drug trafficking offenses. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence *in prison* months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.⁶

Absent mitigation,⁷ the permissible sentencing range under the Code is generally the scored lowest permissible sentence up to, and including, the maximum sentence provided in s. 775.082, F.S.⁸ However, if the offender's offense has a mandatory minimum term that is greater than the scored lowest permissible sentence, the mandatory minimum term supersedes the lowest permissible sentence scored.⁹ Further, some offenders may qualify for prison diversion under various sections of the Florida Statutes.¹⁰

III. Effect of Proposed Changes:

The bill amends numerous statutes (see "Statutes Affected" section of this analysis) to rename the Criminal Punishment Code (Code), Florida's primary sentencing policy for noncapital felonies, as the Criminal Public Safety Code.

The bill amends s. 921.002, F.S., of the Code, which, in part, specifies that *rehabilitation*, while a desired goal of the criminal justice system, is subordinate to the goal of *punishment*. The bill revises this statement to emphasize that *rehabilitation*, while a desired goal, is subordinate to the goal of *public safety*.

The effective date of the bill is July 1, 2022.

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 Florida Constitution.

⁶ Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

⁷ The court may "mitigate" (reduce) the scored lowest permissible sentence if the court finds a mitigating circumstance. Sections 921.002(1)(g) and (3), 921.0026(1), and 921.00265(1) and (2), F.S. Section 921.0026(2), F.S., provides a list of mitigating circumstances. This type of sentence is often referred to as a "downward departure" sentence.

⁸ Sections 921.002(1)(g) and 921.0024(2), F.S. The sentencing court may impose sentences concurrently or consecutively. A prison sentence must exceed 1 year. If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

⁹ Fla. R. Crim. P. 3.704(d)(26).

¹⁰ See e.g., s. 775.082(10), F.S. (diversion for an offender whose offense is a nonviolent third degree felony and whose total sentence points are 22 points or fewer); s. 921.00241, F.S. (diversion into a Department of Corrections' prison diversion program for certain nonviolent third degree felony offenders); and s. 948.01, F.S. (diversion into a postadjudicatory treatment-based drug court program for certain nonviolent felony offenders).

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 should not have any prison bed impact because it does not change how sentences are currently calculated under the Code, modify existing penalties, or create new penalties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.082, 775.087, 782.051, 817.568, 893.13, 893.20, 910.035, 921.002, 921.0022, 921.0023, 921.0024, 921.0025, 921.0026, 921.0027, 924.06, 924.07, 944.17, 948.01, 948.015, 948.06, 948.20, 948.51, 958.04, and 985.465.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Pizzo

38-00170-22

2022260__

1 A bill to be entitled
 2 An act relating to renaming the Criminal Punishment
 3 Code; amending ss. 775.082, 775.087, 782.051, 817.568,
 4 893.13, 910.035, 921.0022, 921.0023, 921.0024,
 5 921.0025, 921.0026, 921.0027, 924.06, 924.07, 944.17,
 6 948.01, 948.015, 948.06, 948.20, 948.51, 958.04, and
 7 985.465, F.S.; renaming the Criminal Punishment Code
 8 as the Criminal Public Safety Code; amending s.
 9 921.002, F.S.; revising a principle of the Criminal
 10 Public Safety Code; conforming provisions to changes
 11 made by the act; amending s. 893.20, F.S.; conforming
 12 a provision to changes made by the act; making a
 13 technical change; providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Paragraphs (d) and (e) of subsection (8) of
 18 section 775.082, Florida Statutes, are amended to read:

19 775.082 Penalties; applicability of sentencing structures;
 20 mandatory minimum sentences for certain reoffenders previously
 21 released from prison.—

22 (8)

23 (d) The Criminal Public Safety ~~Punishment~~ Code applies to
 24 all felonies, except capital felonies, committed on or after
 25 October 1, 1998. Any revision to the Criminal Public Safety
 26 ~~Punishment~~ Code applies to sentencing for all felonies, except
 27 capital felonies, committed on or after the effective date of
 28 the revision.

29 (e) Felonies, except capital felonies, with continuing

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30 dates of enterprise shall be sentenced under the sentencing
31 guidelines or the Criminal Public Safety ~~Punishment~~ Code in
32 effect on the beginning date of the criminal activity.

33 Section 2. Paragraph (c) of subsection (2) and paragraph
34 (c) of subsection (3) of section 775.087, Florida Statutes, are
35 amended to read:

36 775.087 Possession or use of weapon; aggravated battery;
37 felony reclassification; minimum sentence.-

38 (2)

39 (c) If the minimum mandatory terms of imprisonment imposed
40 pursuant to this section exceed the maximum sentences authorized
41 by s. 775.082, s. 775.084, or the Criminal Public Safety
42 ~~Punishment~~ Code under chapter 921, then the mandatory minimum
43 sentence must be imposed. If the mandatory minimum terms of
44 imprisonment pursuant to this section are less than the
45 sentences that could be imposed as authorized by s. 775.082, s.
46 775.084, or the Criminal Public Safety ~~Punishment~~ Code under
47 chapter 921, then the sentence imposed by the court must include
48 the mandatory minimum term of imprisonment as required in this
49 section.

50 (3)

51 (c) If the minimum mandatory terms of imprisonment imposed
52 pursuant to this section exceed the maximum sentences authorized
53 by s. 775.082, s. 775.084, or the Criminal Public Safety
54 ~~Punishment~~ Code under chapter 921, then the mandatory minimum
55 sentence must be imposed. If the mandatory minimum terms of
56 imprisonment pursuant to this section are less than the
57 sentences that could be imposed as authorized by s. 775.082, s.
58 775.084, or the Criminal Public Safety ~~Punishment~~ Code under

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59 chapter 921, then the sentence imposed by the court must include
60 the mandatory minimum term of imprisonment as required in this
61 section.

62 Section 3. Section 782.051, Florida Statutes, is amended to
63 read:

64 782.051 Attempted felony murder.—

65 (1) Any person who perpetrates or attempts to perpetrate
66 any felony enumerated in s. 782.04(3) and who commits, aids, or
67 abets an intentional act that is not an essential element of the
68 felony and that could, but does not, cause the death of another
69 commits a felony of the first degree, punishable by imprisonment
70 for a term of years not exceeding life, or as provided in s.
71 775.082, s. 775.083, or s. 775.084, which is an offense ranked
72 in level 9 of the Criminal Public Safety ~~Punishment~~ Code. Victim
73 injury points shall be scored under this subsection.

74 (2) Any person who perpetrates or attempts to perpetrate
75 any felony other than a felony enumerated in s. 782.04(3) and
76 who commits, aids, or abets an intentional act that is not an
77 essential element of the felony and that could, but does not,
78 cause the death of another commits a felony of the first degree,
79 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
80 which is an offense ranked in level 8 of the Criminal Public
81 Safety ~~Punishment~~ Code. Victim injury points shall be scored
82 under this subsection.

83 (3) When a person is injured during the perpetration of or
84 the attempt to perpetrate any felony enumerated in s. 782.04(3)
85 by a person other than the person engaged in the perpetration of
86 or the attempt to perpetrate such felony, the person
87 perpetrating or attempting to perpetrate such felony commits a

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88 felony of the second degree, punishable as provided in s.
89 775.082, s. 775.083, or s. 775.084, which is an offense ranked
90 in level 7 of the Criminal Public Safety ~~Punishment~~ Code. Victim
91 injury points shall be scored under this subsection.

92 Section 4. Subsection (3) of section 817.568, Florida
93 Statutes, is amended to read:

94 817.568 Criminal use of personal identification
95 information.—

96 (3) Neither paragraph (2) (b) nor paragraph (2) (c) prevents
97 a court from imposing a greater sentence of incarceration as
98 authorized by law. If the minimum mandatory terms of
99 imprisonment imposed under paragraph (2) (b) or paragraph (2) (c)
100 exceed the maximum sentences authorized under s. 775.082, s.
101 775.084, or the Criminal Public Safety ~~Punishment~~ Code under
102 chapter 921, the mandatory minimum sentence must be imposed. If
103 the mandatory minimum terms of imprisonment under paragraph
104 (2) (b) or paragraph (2) (c) are less than the sentence that could
105 be imposed under s. 775.082, s. 775.084, or the Criminal Public
106 Safety ~~Punishment~~ Code under chapter 921, the sentence imposed
107 by the court must include the mandatory minimum term of
108 imprisonment as required by paragraph (2) (b) or paragraph
109 (2) (c).

110 Section 5. Paragraph (d) of subsection (8) of section
111 893.13, Florida Statutes, is amended to read:

112 893.13 Prohibited acts; penalties.—

113 (8)

114 (d) Notwithstanding paragraph (c), if a prescribing
115 practitioner has violated paragraph (a) and received \$1,000 or
116 more in payment for writing one or more prescriptions or, in the

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117 case of a prescription written for a controlled substance
118 described in s. 893.135, has written one or more prescriptions
119 for a quantity of a controlled substance which, individually or
120 in the aggregate, meets the threshold for the offense of
121 trafficking in a controlled substance under s. 893.135, the
122 violation is reclassified as a felony of the second degree and
123 ranked in level 4 of the Criminal Public Safety ~~Punishment~~ Code.

124 Section 6. Paragraph (f) of subsection (5) of section
125 910.035, Florida Statutes, is amended to read:

126 910.035 Transfer from county for plea, sentence, or
127 participation in a problem-solving court.-

128 (5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.-

129 (f) Upon successful completion of the problem-solving court
130 program, the jurisdiction to which the case has been transferred
131 shall dispose of the case. If the defendant does not complete
132 the problem-solving court program successfully, the jurisdiction
133 to which the case has been transferred shall dispose of the case
134 within the guidelines of the Criminal Public Safety ~~Punishment~~
135 Code.

136 Section 7. Section 921.0022, Florida Statutes, is amended
137 to read:

138 921.0022 Criminal Public Safety ~~Punishment~~ Code; offense
139 severity ranking chart.-

140 (1) The offense severity ranking chart must be used with
141 the Criminal Public Safety ~~Punishment~~ Code worksheet to compute
142 a sentence score for each felony offender whose offense was
143 committed on or after October 1, 1998.

144 (2) The offense severity ranking chart has 10 offense
145 levels, ranked from least severe, which are level 1 offenses, to

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146 most severe, which are level 10 offenses, and each felony
 147 offense is assigned to a level according to the severity of the
 148 offense. For purposes of determining which felony offenses are
 149 specifically listed in the offense severity ranking chart and
 150 which severity level has been assigned to each of these
 151 offenses, the numerical statutory references in the left column
 152 of the chart and the felony degree designations in the middle
 153 column of the chart are controlling; the language in the right
 154 column of the chart is provided solely for descriptive purposes.
 155 Reclassification of the degree of the felony through the
 156 application of s. 775.0845, s. 775.085, s. 775.0861, s.
 157 775.0862, s. 775.0863, s. 775.087, s. 775.0875, s. 794.023, or
 158 any other law that provides an enhanced penalty for a felony
 159 offense, to any offense listed in the offense severity ranking
 160 chart in this section shall not cause the offense to become
 161 unlisted and is not subject to the provisions of s. 921.0023.

162 (3) OFFENSE SEVERITY RANKING CHART

163 (a) LEVEL 1

164

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.

167

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168 212.15(2)(b) 3rd Failure to remit sales taxes, amount \$1,000 or more but less than \$20,000.

169 316.1935(1) 3rd Fleeing or attempting to elude law enforcement officer.

170 319.30(5) 3rd Sell, exchange, give away certificate of title or identification number plate.

171 319.35(1)(a) 3rd Tamper, adjust, change, etc., an odometer.

172 320.26(1)(a) 3rd Counterfeit, manufacture, or sell registration license plates or validation stickers.

173 322.212
(1)(a)-(c) 3rd Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.

322.212(4) 3rd Supply or aid in supplying unauthorized driver license or identification card.

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174

322.212 (5) (a) 3rd False application for driver license or identification card.

175

414.39 (3) (a) 3rd Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.

176

443.071 (1) 3rd False statement or representation to obtain or increase reemployment assistance benefits.

177

509.151 (1) 3rd Defraud an innkeeper, food or lodging value \$1,000 or more.

178

517.302 (1) 3rd Violation of the Florida Securities and Investor Protection Act.

179

713.69 3rd Tenant removes property upon which lien has accrued, value \$1,000 or more.

180

812.014 (3) (c) 3rd Petit theft (3rd conviction); theft of any

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property not specified in
subsection (2).

181

815.04(5)(a)

3rd

Offense against intellectual
property (i.e., computer
programs, data).

182

817.52(2)

3rd

Hiring with intent to
defraud, motor vehicle
services.

183

817.569(2)

3rd

Use of public record or
public records information
or providing false
information to facilitate
commission of a felony.

184

826.01

3rd

Bigamy.

185

828.122(3)

3rd

Fighting or baiting animals.

186

831.04(1)

3rd

Any erasure, alteration,
etc., of any replacement
deed, map, plat, or other
document listed in s. 92.28.

187

831.31(1)(a)

3rd

Sell, deliver, or possess
counterfeit controlled
substances, all but s.

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893.03(5) drugs.

188

832.041(1)

3rd

Stopping payment with intent to defraud \$150 or more.

189

832.05(2)(b) &
(4)(c)

3rd

Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.

190

838.15(2)

3rd

Commercial bribe receiving.

191

838.16

3rd

Commercial bribery.

192

843.18

3rd

Fleeing by boat to elude a law enforcement officer.

193

847.011(1)(a)

3rd

Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).

194

849.09(1)(a)-(d)

3rd

Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.

195

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196	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
197	849.25 (2)	3rd	Engaging in bookmaking.
198	860.08	3rd	Interfere with a railroad signal.
199	860.13 (1) (a)	3rd	Operate aircraft while under the influence.
200	893.13 (2) (a) 2.	3rd	Purchase of cannabis.
201	893.13 (6) (a)	3rd	Possession of cannabis (more than 20 grams).
202	934.03 (1) (a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.

203 (b) LEVEL 2

204	Florida	Felony	
205	Statute	Degree	Description
205	379.2431	3rd	Possession of 11 or fewer marine turtle eggs
	(1) (e) 3.		

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in violation of the
Marine Turtle Protection
Act.

206

379.2431
(1) (e) 4.

3rd

Possession of more than
11 marine turtle eggs in
violation of the Marine
Turtle Protection Act.

207

403.413 (6) (c)

3rd

Dumps waste litter
exceeding 500 lbs. in
weight or 100 cubic feet
in volume or any
quantity for commercial
purposes, or hazardous
waste.

208

517.07 (2)

3rd

Failure to furnish a
prospectus meeting
requirements.

209

590.28 (1)

3rd

Intentional burning of
lands.

210

784.03 (3)

3rd

Battery during a riot or
an aggravated riot.

211

784.05 (3)

3rd

Storing or leaving a
loaded firearm within

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reach of minor who uses
it to inflict injury or
death.

212

787.04(1)

3rd

In violation of court
order, take, entice,
etc., minor beyond state
limits.

213

806.13(1)(b)3.

3rd

Criminal mischief;
damage \$1,000 or more to
public communication or
any other public
service.

214

806.13(3)

3rd

Criminal mischief;
damage of \$200 or more
to a memorial or
historic property.

215

810.061(2)

3rd

Impairing or impeding
telephone or power to a
dwelling; facilitating
or furthering burglary.

216

810.09(2)(e)

3rd

Trespassing on posted
commercial horticulture
property.

217

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218 812.014 (2) (c) 1. 3rd Grand theft, 3rd degree;
\$750 or more but less
than \$5,000.

219 812.014 (2) (d) 3rd Grand theft, 3rd degree;
\$100 or more but less
than \$750, taken from
unenclosed curtilage of
dwelling.

220 812.015 (7) 3rd Possession, use, or
attempted use of an
antishoplifting or
inventory control device
countermeasure.

221 817.234 (1) (a) 2. 3rd False statement in
support of insurance
claim.

222 817.481 (3) (a) 3rd Obtain credit or
purchase with false,
expired, counterfeit,
etc., credit card, value
over \$300.

223 817.52 (3) 3rd Failure to redeliver
hired vehicle.

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224	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
225	817.60 (5)	3rd	Dealing in credit cards of another.
226	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
227	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
228	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
229	831.01	3rd	Forgery.
230	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
	831.07	3rd	Forging bank bills, checks, drafts, or

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231

831.08

3rd

promissory notes.

Possessing 10 or more
forged notes, bills,
checks, or drafts.

232

831.09

3rd

Uttering forged notes,
bills, checks, drafts,
or promissory notes.

233

831.11

3rd

Bringing into the state
forged bank bills,
checks, drafts, or
notes.

234

832.05 (3) (a)

3rd

Cashing or depositing
item with intent to
defraud.

235

843.08

3rd

False personation.

236

893.13 (2) (a) 2.

3rd

Purchase of any s.
893.03 (1) (c), (2) (c) 1.,
(2) (c) 2., (2) (c) 3.,
(2) (c) 6., (2) (c) 7.,
(2) (c) 8., (2) (c) 9.,
(2) (c) 10., (3), or (4)
drugs other than
cannabis.

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237
238
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245

893.147(2) 3rd Manufacture or delivery
of drug paraphernalia.

(c) LEVEL 3

Florida	Felony	
Statute	Degree	Description

119.10(2)(b) 3rd Unlawful use of
confidential information
from police reports.

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

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

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

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

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246

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

247

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

248

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

249

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

250

328.05 (2) 3rd Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.

251

328.07 (4) 3rd Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.

252

376.302 (5) 3rd Fraud related to

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reimbursement for cleanup expenses under the Inland Protection Trust Fund.

253

379.2431
(1) (e) 5.

3rd

Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

254

379.2431
(1) (e) 6.

3rd

Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.

255

379.2431
(1) (e) 7.

3rd

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

256

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257 400.9935 (4) (a) 3rd Operating a clinic, or
 or (b) offering services requiring
 licensure, without a
 license.

258 400.9935 (4) (e) 3rd Filing a false license
 application or other
 required information or
 failing to report
 information.

259 440.1051 (3) 3rd False report of workers'
 compensation fraud or
 retaliation for making such
 a report.

260 501.001 (2) (b) 2nd Tampers with a consumer
 product or the container
 using materially
 false/misleading
 information.

261 624.401 (4) (a) 3rd Transacting insurance
 without a certificate of
 authority.

624.401 (4) (b) 1. 3rd Transacting insurance
 without a certificate of
 authority; premium

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collected less than
\$20,000.

262

626.902 (1) (a) &
(b)

3rd

Representing an
unauthorized insurer.

263

697.08

3rd

Equity skimming.

264

790.15 (3)

3rd

Person directs another to
discharge firearm from a
vehicle.

265

806.10 (1)

3rd

Maliciously injure,
destroy, or interfere with
vehicles or equipment used
in firefighting.

266

806.10 (2)

3rd

Interferes with or assaults
firefighter in performance
of duty.

267

810.09 (2) (c)

3rd

Trespass on property other
than structure or
conveyance armed with
firearm or dangerous
weapon.

268

812.014 (2) (c) 2.

3rd

Grand theft; \$5,000 or more
but less than \$10,000.

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269
270
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272
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277

812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
812.015 (8) (b)	3rd	Retail theft with intent to sell; conspires with others.
812.081 (2)	3rd	Theft of a trade secret.
815.04 (5) (b)	2nd	Computer offense devised to defraud or obtain property.
817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
817.233	3rd	Burning to defraud insurer.
817.234 (8) (b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.

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278

817.236

3rd

Filing a false motor vehicle insurance application.

279

817.2361

3rd

Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.

280

817.413(2)

3rd

Sale of used goods of \$1,000 or more as new.

281

817.49(2)(b)1.

3rd

Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.

282

831.28(2)(a)

3rd

Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.

831.29

2nd

Possession of instruments for counterfeiting driver licenses or identification cards.

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283

838.021 (3) (b) 3rd Threatens unlawful harm to public servant.

284

843.19 2nd Injure, disable, or kill police, fire, or SAR canine or police horse.

285

860.15 (3) 3rd Overcharging for repairs and parts.

286

870.01 (2) 3rd Riot.

287

870.01 (4) 3rd Inciting a riot.

288

893.13 (1) (a) 2. 3rd Sell, manufacture, or deliver cannabis (or other s. 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs).

289

893.13 (1) (d) 2. 2nd Sell, manufacture, or deliver s. 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8.,

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(2) (c) 9., (2) (c) 10., (3),
or (4) drugs within 1,000
feet of university.

290

893.13 (1) (f) 2.

2nd

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

291

893.13 (4) (c)

3rd

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

292

893.13 (6) (a)

3rd

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

293

893.13 (7) (a) 8.

3rd

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

294

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295	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
296	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
297	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
298	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a

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controlled substance.

299

893.13 (8) (a) 3.

3rd

Knowingly write a prescription for a controlled substance for a fictitious person.

300

893.13 (8) (a) 4.

3rd

Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

301

918.13 (1) (a)

3rd

Alter, destroy, or conceal investigation evidence.

302

944.47
(1) (a) 1. & 2.

3rd

Introduce contraband to correctional facility.

303

944.47 (1) (c)

2nd

Possess contraband while upon the grounds of a correctional institution.

304

985.721

3rd

Escapes from a juvenile facility (secure detention or residential commitment

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facility).

305
306
307
308
309
310
311

(d) LEVEL 4

Florida
Statute

Felony
Degree

Description

316.1935 (3) (a)

2nd

Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

499.0051 (1)

3rd

Failure to maintain or deliver transaction history, transaction information, or transaction statements.

499.0051 (5)

2nd

Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.

517.07 (1)

3rd

Failure to register

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securities.

312

517.12 (1)

3rd

Failure of dealer,
associated person, or
issuer of securities to
register.

313

784.07 (2) (b)

3rd

Battery of law
enforcement officer,
firefighter, etc.

314

784.074 (1) (c)

3rd

Battery of sexually
violent predators
facility staff.

315

784.075

3rd

Battery on detention or
commitment facility
staff.

316

784.078

3rd

Battery of facility
employee by throwing,
tossing, or expelling
certain fluids or
materials.

317

784.08 (2) (c)

3rd

Battery on a person 65
years of age or older.

318

784.081 (3)

3rd

Battery on specified

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official or employee.

319

784.082 (3)

3rd

Battery by detained person on visitor or other detainee.

320

784.083 (3)

3rd

Battery on code inspector.

321

784.085

3rd

Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.

322

787.03 (1)

3rd

Interference with custody; wrongly takes minor from appointed guardian.

323

787.04 (2)

3rd

Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

324

787.04 (3)

3rd

Carrying child beyond state lines with criminal intent to avoid

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producing child at
custody hearing or
delivering to designated
person.

325

787.07

3rd

Human smuggling.

326

790.115 (1)

3rd

Exhibiting firearm or
weapon within 1,000 feet
of a school.

327

790.115 (2) (b)

3rd

Possessing electric
weapon or device,
destructive device, or
other weapon on school
property.

328

790.115 (2) (c)

3rd

Possessing firearm on
school property.

329

800.04 (7) (c)

3rd

Lewd or lascivious
exhibition; offender
less than 18 years.

330

806.135

2nd

Destroying or
demolishing a memorial
or historic property.

331

810.02 (4) (a)

3rd

Burglary, or attempted

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burglary, of an
unoccupied structure;
unarmed; no assault or
battery.

332

810.02 (4) (b)

3rd

Burglary, or attempted
burglary, of an
unoccupied conveyance;
unarmed; no assault or
battery.

333

810.06

3rd

Burglary; possession of
tools.

334

810.08 (2) (c)

3rd

Trespass on property,
armed with firearm or
dangerous weapon.

335

812.014 (2) (c) 3.

3rd

Grand theft, 3rd degree
\$10,000 or more but less
than \$20,000.

336

812.014
(2) (c) 4.-10.

3rd

Grand theft, 3rd degree;
specified items.

337

812.0195 (2)

3rd

Dealing in stolen
property by use of the
Internet; property
stolen \$300 or more.

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338

817.505 (4) (a) 3rd Patient brokering.

339

817.563 (1) 3rd Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.

340

817.568 (2) (a) 3rd Fraudulent use of personal identification information.

341

817.625 (2) (a) 3rd Fraudulent use of scanning device, skimming device, or reencoder.

342

817.625 (2) (c) 3rd Possess, sell, or deliver skimming device.

343

828.125 (1) 2nd Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.

344

837.02 (1) 3rd Perjury in official

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proceedings.

345

837.021 (1)

3rd

Make contradictory statements in official proceedings.

346

838.022

3rd

Official misconduct.

347

839.13 (2) (a)

3rd

Falsifying records of an individual in the care and custody of a state agency.

348

839.13 (2) (c)

3rd

Falsifying records of the Department of Children and Families.

349

843.021

3rd

Possession of a concealed handcuff key by a person in custody.

350

843.025

3rd

Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.

351

843.15 (1) (a)

3rd

Failure to appear while

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on bail for felony (bond
estreature or bond
jumping).

352

847.0135 (5) (c)

3rd

Lewd or lascivious
exhibition using
computer; offender less
than 18 years.

353

870.01 (3)

2nd

Aggravated rioting.

354

870.01 (5)

2nd

Aggravated inciting a
riot.

355

874.05 (1) (a)

3rd

Encouraging or
recruiting another to
join a criminal gang.

356

893.13 (2) (a) 1.

2nd

Purchase of cocaine (or
other s. 893.03 (1) (a),
(b), or (d), (2) (a),
(2) (b), or (2) (c) 5.
drugs).

357

914.14 (2)

3rd

Witnesses accepting
bribes.

358

914.22 (1)

3rd

Force, threaten, etc.,
witness, victim, or

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informant.

359

914.23 (2)

3rd

Retaliation against a witness, victim, or informant, no bodily injury.

360

916.1085
(2) (c) 1.

3rd

Introduction of specified contraband into certain DCF facilities.

361

918.12

3rd

Tampering with jurors.

362

934.215

3rd

Use of two-way communications device to facilitate commission of a crime.

363

944.47 (1) (a) 6.

3rd

Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.

364

951.22 (1) (h),
(j) & (k)

3rd

Intoxicating drug, instrumentality or other

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device to aid escape, or
cellular telephone or
other portable
communication device
introduced into county
detention facility.

365

366 (e) LEVEL 5

367

Florida
Statute

Felony
Degree

Description

368

316.027(2)(a)

3rd

Accidents involving
personal injuries other
than serious bodily
injury, failure to stop;
leaving scene.

369

316.1935(4)(a)

2nd

Aggravated fleeing or
eluding.

370

316.80(2)

2nd

Unlawful conveyance of
fuel; obtaining fuel
fraudulently.

371

322.34(6)

3rd

Careless operation of
motor vehicle with
suspended license,
resulting in death or

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serious bodily injury.

372

327.30 (5)

3rd

Vessel accidents involving personal injury; leaving scene.

373

379.365 (2) (c) 1.

3rd

Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial

38-00170-22

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harvest of stone crabs
while license is
suspended or revoked.

374

379.367(4)

3rd

Willful molestation of a
commercial harvester's
spiny lobster trap,
line, or buoy.

375

379.407(5)(b)3.

3rd

Possession of 100 or
more undersized spiny
lobsters.

376

381.0041(11)(b)

3rd

Donate blood, plasma, or
organs knowing HIV
positive.

377

440.10(1)(g)

2nd

Failure to obtain
workers' compensation
coverage.

378

440.105(5)

2nd

Unlawful solicitation
for the purpose of
making workers'
compensation claims.

379

440.381(2)

3rd

Submission of false,
misleading, or
incomplete information

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with the purpose of
avoiding or reducing
workers' compensation
premiums.

380

624.401 (4) (b) 2.

2nd

Transacting insurance
without a certificate or
authority; premium
collected \$20,000 or
more but less than
\$100,000.

381

626.902 (1) (c)

2nd

Representing an
unauthorized insurer;
repeat offender.

382

790.01 (2)

3rd

Carrying a concealed
firearm.

383

790.162

2nd

Threat to throw or
discharge destructive
device.

384

790.163 (1)

2nd

False report of bomb,
explosive, weapon of
mass destruction, or use
of firearms in violent
manner.

385

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386	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
387	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
388	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
389	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
390	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
391	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

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392

812.015 3rd Retail theft; property
(8) (a) & (c) - (e) stolen is valued at \$750
or more and one or more
specified acts.

393

812.019 (1) 2nd Stolen property; dealing
in or trafficking in.

394

812.081 (3) 2nd Trafficking in trade
secrets.

395

812.131 (2) (b) 3rd Robbery by sudden
snatching.

396

812.16 (2) 3rd Owning, operating, or
conducting a chop shop.

397

817.034 (4) (a) 2. 2nd Communications fraud,
value \$20,000 to
\$50,000.

398

817.234 (11) (b) 2nd Insurance fraud;
property value \$20,000
or more but less than
\$100,000.

399

817.2341 (1), 3rd Filing false financial
(2) (a) & (3) (a) statements, making false

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entries of material fact
or false statements
regarding property
values relating to the
solvency of an insuring
entity.

400

817.568 (2) (b)

2nd

Fraudulent use of
personal identification
information; value of
benefit, services
received, payment
avoided, or amount of
injury or fraud, \$5,000
or more or use of
personal identification
information of 10 or
more persons.

401

817.611 (2) (a)

2nd

Traffic in or possess 5
to 14 counterfeit credit
cards or related
documents.

402

817.625 (2) (b)

2nd

Second or subsequent
fraudulent use of
scanning device,
skimming device, or
reencoder.

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403

825.1025 (4)

3rd

Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

404

827.071 (4)

2nd

Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

405

827.071 (5)

3rd

Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.

406

828.12 (2)

3rd

Tortures any animal with intent to inflict intense pain, serious physical injury, or death.

407

839.13 (2) (b)

2nd

Falsifying records of an individual in the care

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and custody of a state agency involving great bodily harm or death.

408

843.01

3rd

Resist officer with violence to person; resist arrest with violence.

409

847.0135 (5) (b)

2nd

Lewd or lascivious exhibition using computer; offender 18 years or older.

410

847.0137
(2) & (3)

3rd

Transmission of pornography by electronic device or equipment.

411

847.0138
(2) & (3)

3rd

Transmission of material harmful to minors to a minor by electronic device or equipment.

412

874.05 (1) (b)

2nd

Encouraging or recruiting another to join a criminal gang; second or subsequent offense.

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413

874.05 (2) (a) 2nd Encouraging or recruiting person under 13 years of age to join a criminal gang.

414

893.13 (1) (a) 1. 2nd Sell, manufacture, or deliver cocaine (or other s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 5. drugs).

415

893.13 (1) (c) 2. 2nd Sell, manufacture, or deliver cannabis (or other s. 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

416

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417

893.13(1)(d)1.

1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.

418

893.13(1)(e)2.

2nd

Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

893.13(1)(f)1.

1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public

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housing facility.

419

893.13(4)(b)

2nd

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

420

893.1351(1)

3rd

Ownership, lease, or
rental for trafficking
in or manufacturing of
controlled substance.

421

422

(f) LEVEL 6

423

Florida
Statute

Felony
Degree

Description

424

316.027(2)(b)

2nd

Leaving the scene of a
crash involving serious
bodily injury.

425

316.193(2)(b)

3rd

Felony DUI, 4th or
subsequent conviction.

426

400.9935(4)(c)

2nd

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

427

499.0051(2)

2nd

Knowing forgery of

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transaction history,
transaction information,
or transaction
statement.

428

499.0051 (3)

2nd

Knowing purchase or
receipt of prescription
drug from unauthorized
person.

429

499.0051 (4)

2nd

Knowing sale or transfer
of prescription drug to
unauthorized person.

430

775.0875 (1)

3rd

Taking firearm from law
enforcement officer.

431

784.021 (1) (a)

3rd

Aggravated assault;
deadly weapon without
intent to kill.

432

784.021 (1) (b)

3rd

Aggravated assault;
intent to commit felony.

433

784.041

3rd

Felony battery; domestic
battery by
strangulation.

434

784.048 (3)

3rd

Aggravated stalking;

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credible threat.

435

784.048 (5)

3rd

Aggravated stalking of person under 16.

436

784.07 (2) (c)

2nd

Aggravated assault on law enforcement officer.

437

784.074 (1) (b)

2nd

Aggravated assault on sexually violent predators facility staff.

438

784.08 (2) (b)

2nd

Aggravated assault on a person 65 years of age or older.

439

784.081 (2)

2nd

Aggravated assault on specified official or employee.

440

784.082 (2)

2nd

Aggravated assault by detained person on visitor or other detainee.

441

784.083 (2)

2nd

Aggravated assault on code inspector.

442

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443	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
444	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
445	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
446	790.164 (1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
447	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
447	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual

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activity by custodial
adult.

448

794.05 (1)

2nd

Unlawful sexual activity
with specified minor.

449

800.04 (5) (d)

3rd

Lewd or lascivious
molestation; victim 12
years of age or older
but less than 16 years
of age; offender less
than 18 years.

450

800.04 (6) (b)

2nd

Lewd or lascivious
conduct; offender 18
years of age or older.

451

806.031 (2)

2nd

Arson resulting in great
bodily harm to
firefighter or any other
person.

452

810.02 (3) (c)

2nd

Burglary of occupied
structure; unarmed; no
assault or battery.

453

810.145 (8) (b)

2nd

Video voyeurism; certain
minor victims; 2nd or
subsequent offense.

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454

812.014 (2) (b) 1.

2nd

Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.

455

812.014 (6)

2nd

Theft; property stolen \$3,000 or more; coordination of others.

456

812.015 (9) (a)

2nd

Retail theft; property stolen \$750 or more; second or subsequent conviction.

457

812.015 (9) (b)

2nd

Retail theft; aggregated property stolen within 30 days is \$3,000 or more; coordination of others.

458

812.13 (2) (c)

2nd

Robbery, no firearm or other weapon (strong-arm robbery).

459

817.4821 (5)

2nd

Possess cloning paraphernalia with intent to create cloned cellular telephones.

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460

817.49(2)(b)2. 2nd Willful making of a false report of a crime resulting in death.

461

817.505(4)(b) 2nd Patient brokering; 10 or more patients.

462

825.102(1) 3rd Abuse of an elderly person or disabled adult.

463

825.102(3)(c) 3rd Neglect of an elderly person or disabled adult.

464

825.1025(3) 3rd Lewd or lascivious molestation of an elderly person or disabled adult.

465

825.103(3)(c) 3rd Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.

466

827.03(2)(c) 3rd Abuse of a child.

467

827.03(2)(d) 3rd Neglect of a child.

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468
469
470
471
472
473
474

827.071(2) & (3)

2nd

Use or induce a child in a sexual performance, or promote or direct such performance.

836.05

2nd

Threats; extortion.

836.10

2nd

Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.

843.12

3rd

Aids or assists person to escape.

847.011

3rd

Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.

847.012

3rd

Knowingly using a minor in the production of materials harmful to minors.

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475	847.0135 (2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
476	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
477	944.35 (3) (a) 2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
478	944.40	2nd	Escapes.
479	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
479	944.47 (1) (a) 5.	2nd	Introduction of contraband (firearm, weapon, or explosive)

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into correctional
facility.

480

951.22 (1) (i)

3rd

Firearm or weapon
introduced into county
detention facility.

481

482

(g) LEVEL 7

483

Florida
Statute

Felony
Degree

Description

484

316.027 (2) (c)

1st

Accident involving death,
failure to stop; leaving
scene.

485

316.193 (3) (c) 2.

3rd

DUI resulting in serious
bodily injury.

486

316.1935 (3) (b)

1st

Causing serious bodily
injury or death to another
person; driving at high
speed or with wanton
disregard for safety while
fleeing or attempting to
elude law enforcement
officer who is in a patrol
vehicle with siren and
lights activated.

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487

327.35 (3) (c) 2.

3rd

Vessel BUI resulting in serious bodily injury.

488

402.319 (2)

2nd

Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

489

409.920
(2) (b) 1.a.

3rd

Medicaid provider fraud; \$10,000 or less.

490

409.920
(2) (b) 1.b.

2nd

Medicaid provider fraud; more than \$10,000, but less than \$50,000.

491

456.065 (2)

3rd

Practicing a health care profession without a license.

492

456.065 (2)

2nd

Practicing a health care profession without a license which results in serious bodily injury.

493

458.327 (1)

3rd

Practicing medicine without a license.

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494
495
496
497
498
499
500
501
502

459.013 (1)	3rd	Practicing osteopathic medicine without a license.
460.411 (1)	3rd	Practicing chiropractic medicine without a license.
461.012 (1)	3rd	Practicing podiatric medicine without a license.
462.17	3rd	Practicing naturopathy without a license.
463.015 (1)	3rd	Practicing optometry without a license.
464.016 (1)	3rd	Practicing nursing without a license.
465.015 (2)	3rd	Practicing pharmacy without a license.
466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.

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503 467.201 3rd Practicing midwifery
without a license.

504 468.366 3rd Delivering respiratory
care services without a
license.

505 483.828 (1) 3rd Practicing as clinical
laboratory personnel
without a license.

506 483.901 (7) 3rd Practicing medical physics
without a license.

507 484.013 (1) (c) 3rd Preparing or dispensing
optical devices without a
prescription.

508 484.053 3rd Dispensing hearing aids
without a license.

509 494.0018 (2) 1st Conviction of any
violation of chapter 494
in which the total money
and property unlawfully
obtained exceeded \$50,000
and there were five or
more victims.

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510	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
511	560.125 (5) (a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
512	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
513	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
514	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
	775.21 (10) (g)	3rd	Failure to report or

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providing false
information about a sexual
predator; harbor or
conceal a sexual predator.

515

782.051 (3)

2nd

Attempted felony murder of
a person by a person other
than the perpetrator or
the perpetrator of an
attempted felony.

516

782.07 (1)

2nd

Killing of a human being
by the act, procurement,
or culpable negligence of
another (manslaughter).

517

782.071

2nd

Killing of a human being
or unborn child by the
operation of a motor
vehicle in a reckless
manner (vehicular
homicide).

518

782.072

2nd

Killing of a human being
by the operation of a
vessel in a reckless
manner (vessel homicide).

519

784.045 (1) (a) 1.

2nd

Aggravated battery;

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intentionally causing
great bodily harm or
disfigurement.

520

784.045 (1) (a) 2.

2nd

Aggravated battery; using
deadly weapon.

521

784.045 (1) (b)

2nd

Aggravated battery;
perpetrator aware victim
pregnant.

522

784.048 (4)

3rd

Aggravated stalking;
violation of injunction or
court order.

523

784.048 (7)

3rd

Aggravated stalking;
violation of court order.

524

784.07 (2) (d)

1st

Aggravated battery on law
enforcement officer.

525

784.074 (1) (a)

1st

Aggravated battery on
sexually violent predators
facility staff.

526

784.08 (2) (a)

1st

Aggravated battery on a
person 65 years of age or
older.

527

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528 784.081 (1) 1st Aggravated battery on
specified official or
employee.

529 784.082 (1) 1st Aggravated battery by
detained person on visitor
or other detainee.

530 784.083 (1) 1st Aggravated battery on code
inspector.

531 787.06 (3) (a) 2. 1st Human trafficking using
coercion for labor and
services of an adult.

787.06 (3) (e) 2. 1st Human trafficking using
coercion for labor and
services by the transfer
or transport of an adult
from outside Florida to
within the state.

532 790.07 (4) 1st Specified weapons
violation subsequent to
previous conviction of s.
790.07 (1) or (2).

533 790.16 (1) 1st Discharge of a machine gun
under specified

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circumstances.

534

790.165 (2)

2nd

Manufacture, sell,
possess, or deliver hoax
bomb.

535

790.165 (3)

2nd

Possessing, displaying, or
threatening to use any
hoax bomb while committing
or attempting to commit a
felony.

536

790.166 (3)

2nd

Possessing, selling,
using, or attempting to
use a hoax weapon of mass
destruction.

537

790.166 (4)

2nd

Possessing, displaying, or
threatening to use a hoax
weapon of mass destruction
while committing or
attempting to commit a
felony.

538

790.23

1st, PBL

Possession of a firearm by
a person who qualifies for
the penalty enhancements
provided for in s. 874.04.

539

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	794.08 (4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
540	796.05 (1)	1st	Live on earnings of a prostitute; 2nd offense.
541	796.05 (1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
542	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
543	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
544	800.04 (5) (e)	1st	Lewd or lascivious molestation; victim 12

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years of age or older but
 younger than 16 years;
 offender 18 years or
 older; prior conviction
 for specified sex offense.

545

806.01 (2) 2nd

Maliciously damage
 structure by fire or
 explosive.

546

810.02 (3) (a) 2nd

Burglary of occupied
 dwelling; unarmed; no
 assault or battery.

547

810.02 (3) (b) 2nd

Burglary of unoccupied
 dwelling; unarmed; no
 assault or battery.

548

810.02 (3) (d) 2nd

Burglary of occupied
 conveyance; unarmed; no
 assault or battery.

549

810.02 (3) (e) 2nd

Burglary of authorized
 emergency vehicle.

550

812.014 (2) (a) 1. 1st

Property stolen, valued at
 \$100,000 or more or a
 semitrailer deployed by a
 law enforcement officer;

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property stolen while causing other property damage; 1st degree grand theft.

551

812.014 (2) (b) 2.

2nd

Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.

552

812.014 (2) (b) 3.

2nd

Property stolen, emergency medical equipment; 2nd degree grand theft.

553

812.014 (2) (b) 4.

2nd

Property stolen, law enforcement equipment from authorized emergency vehicle.

554

812.0145 (2) (a)

1st

Theft from person 65 years of age or older; \$50,000 or more.

555

812.019 (2)

1st

Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

556

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557	812.131 (2) (a)	2nd	Robbery by sudden snatching.
558	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
559	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
560	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
561	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
562	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are

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a significant cause of the
insolvency of that entity.

563

817.418 (2) (a)

3rd

Offering for sale or
advertising personal
protective equipment with
intent to defraud.

564

817.504 (1) (a)

3rd

Offering or advertising a
vaccine with intent to
defraud.

565

817.535 (2) (a)

3rd

Filing false lien or other
unauthorized document.

566

817.611 (2) (b)

2nd

Traffic in or possess 15
to 49 counterfeit credit
cards or related
documents.

567

825.102 (3) (b)

2nd

Neglecting an elderly
person or disabled adult
causing great bodily harm,
disability, or
disfigurement.

568

825.103 (3) (b)

2nd

Exploiting an elderly
person or disabled adult
and property is valued at

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\$10,000 or more, but less than \$50,000.

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827.03(2)(b)

2nd

Neglect of a child causing great bodily harm, disability, or disfigurement.

827.04(3)

3rd

Impregnation of a child under 16 years of age by person 21 years of age or older.

837.05(2)

3rd

Giving false information about alleged capital felony to a law enforcement officer.

838.015

2nd

Bribery.

838.016

2nd

Unlawful compensation or reward for official behavior.

838.021(3)(a)

2nd

Unlawful harm to a public servant.

838.22

2nd

Bid tampering.

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577	843.0855 (2)	3rd	Impersonation of a public officer or employee.
578	843.0855 (3)	3rd	Unlawful simulation of legal process.
579	843.0855 (4)	3rd	Intimidation of a public officer or employee.
580	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
581	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
582	872.06	2nd	Abuse of a dead human body.
583	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs,

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manages, or supervises
criminal gang-related
activity.

584

893.13(1)(c)1.

1st

Sell, manufacture, or
deliver cocaine (or other
drug prohibited under s.
893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or
(2)(c)5.) within 1,000
feet of a child care
facility, school, or
state, county, or
municipal park or publicly
owned recreational
facility or community
center.

585

893.13(1)(e)1.

1st

Sell, manufacture, or
deliver cocaine or other
drug prohibited under s.
893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or
(2)(c)5., within 1,000
feet of property used for
religious services or a
specified business site.

586

893.13(4)(a)

1st

Use or hire of minor;

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deliver to minor other
controlled substance.

587

893.135 (1) (a) 1.

1st

Trafficking in cannabis,
more than 25 lbs., less
than 2,000 lbs.

588

893.135
(1) (b) 1.a.

1st

Trafficking in cocaine,
more than 28 grams, less
than 200 grams.

589

893.135
(1) (c) 1.a.

1st

Trafficking in illegal
drugs, more than 4 grams,
less than 14 grams.

590

893.135
(1) (c) 2.a.

1st

Trafficking in
hydrocodone, 28 grams or
more, less than 50 grams.

591

893.135
(1) (c) 2.b.

1st

Trafficking in
hydrocodone, 50 grams or
more, less than 100 grams.

592

893.135
(1) (c) 3.a.

1st

Trafficking in oxycodone,
7 grams or more, less than
14 grams.

593

893.135
(1) (c) 3.b.

1st

Trafficking in oxycodone,
14 grams or more, less

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than 25 grams.

594

893.135
(1) (c) 4.b. (I)

1st

Trafficking in fentanyl, 4 grams or more, less than 14 grams.

595

893.135
(1) (d) 1.a.

1st

Trafficking in phencyclidine, 28 grams or more, less than 200 grams.

596

893.135 (1) (e) 1.

1st

Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.

597

893.135 (1) (f) 1.

1st

Trafficking in amphetamine, 14 grams or more, less than 28 grams.

598

893.135
(1) (g) 1.a.

1st

Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

599

893.135
(1) (h) 1.a.

1st

Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.

600

893.135

1st

Trafficking in 1,4-

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	(1) (j) 1.a.		Butanediol, 1 kilogram or more, less than 5 kilograms.
601	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
602	893.135 (1) (m) 2.a.	1st	Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.
603	893.135 (1) (m) 2.b.	1st	Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.
604	893.135 (1) (n) 2.a.	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
605	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
606	896.101 (5) (a)	3rd	Money laundering,

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financial transactions
 exceeding \$300 but less
 than \$20,000.

607

896.104 (4) (a) 1.

3rd

Structuring transactions
 to evade reporting or
 registration requirements,
 financial transactions
 exceeding \$300 but less
 than \$20,000.

608

943.0435 (4) (c)

2nd

Sexual offender vacating
 permanent residence;
 failure to comply with
 reporting requirements.

609

943.0435 (8)

2nd

Sexual offender; remains
 in state after indicating
 intent to leave; failure
 to comply with reporting
 requirements.

610

943.0435 (9) (a)

3rd

Sexual offender; failure
 to comply with reporting
 requirements.

611

943.0435 (13)

3rd

Failure to report or
 providing false
 information about a sexual

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offender; harbor or
conceal a sexual offender.

612

943.0435 (14)

3rd

Sexual offender; failure
to report and reregister;
failure to respond to
address verification;
providing false
registration information.

613

944.607 (9)

3rd

Sexual offender; failure
to comply with reporting
requirements.

614

944.607 (10) (a)

3rd

Sexual offender; failure
to submit to the taking of
a digitized photograph.

615

944.607 (12)

3rd

Failure to report or
providing false
information about a sexual
offender; harbor or
conceal a sexual offender.

616

944.607 (13)

3rd

Sexual offender; failure
to report and reregister;
failure to respond to
address verification;
providing false

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registration information.

617

985.4815(10)

3rd

Sexual offender; failure to submit to the taking of a digitized photograph.

618

985.4815(12)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

619

985.4815(13)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

620

621 (h) LEVEL 8

622

Florida
Statute

Felony
Degree

Description

623

316.193
(3) (c) 3.a.

2nd

DUI manslaughter.

624

316.1935(4) (b)

1st

Aggravated fleeing or attempted eluding with

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serious bodily injury or death.

625

327.35 (3) (c) 3.

2nd

Vessel BUI manslaughter.

626

499.0051 (6)

1st

Knowing trafficking in contraband prescription drugs.

627

499.0051 (7)

1st

Knowing forgery of prescription labels or prescription drug labels.

628

560.123 (8) (b) 2.

2nd

Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.

629

560.125 (5) (b)

2nd

Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.

630

655.50 (10) (b) 2.

2nd

Failure to report

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financial transactions
 totaling or exceeding
 \$20,000, but less than
 \$100,000 by financial
 institutions.

631

777.03 (2) (a)

1st

Accessory after the fact,
 capital felony.

632

782.04 (4)

2nd

Killing of human without
 design when engaged in
 act or attempt of any
 felony other than arson,
 sexual battery, robbery,
 burglary, kidnapping,
 aggravated fleeing or
 eluding with serious
 bodily injury or death,
 aircraft piracy, or
 unlawfully discharging
 bomb.

633

782.051 (2)

1st

Attempted felony murder
 while perpetrating or
 attempting to perpetrate
 a felony not enumerated
 in s. 782.04(3).

634

782.071 (1) (b)

1st

Committing vehicular

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homicide and failing to
render aid or give
information.

635

782.072 (2)

1st

Committing vessel
homicide and failing to
render aid or give
information.

636

787.06 (3) (a) 1.

1st

Human trafficking for
labor and services of a
child.

637

787.06 (3) (b)

1st

Human trafficking using
coercion for commercial
sexual activity of an
adult.

638

787.06 (3) (c) 2.

1st

Human trafficking using
coercion for labor and
services of an
unauthorized alien adult.

639

787.06 (3) (e) 1.

1st

Human trafficking for
labor and services by the
transfer or transport of
a child from outside
Florida to within the
state.

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640
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644

787.06 (3) (f) 2.

1st

Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state.

790.161 (3)

1st

Discharging a destructive device which results in bodily harm or property damage.

794.011 (5) (a)

1st

Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.

794.011 (5) (b)

2nd

Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.

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645	794.011 (5) (c)	2nd	Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.
646	794.011 (5) (d)	1st	Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.
647	794.08 (3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
648	800.04 (4) (b)	2nd	Lewd or lascivious battery.
	800.04 (4) (c)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.

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806.01 (1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02 (2) (a)	1st, PBL	Burglary with assault or battery.
810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
812.014 (2) (a) 2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
812.13 (2) (b)	1st	Robbery with a weapon.
812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon,

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or other weapon.

656

817.418 (2) (b)

2nd

Offering for sale or advertising personal protective equipment with intent to defraud; second or subsequent offense.

657

817.504 (1) (b)

2nd

Offering or advertising a vaccine with intent to defraud; second or subsequent offense.

658

817.505 (4) (c)

1st

Patient brokering; 20 or more patients.

659

817.535 (2) (b)

2nd

Filing false lien or other unauthorized document; second or subsequent offense.

660

817.535 (3) (a)

2nd

Filing false lien or other unauthorized document; property owner is a public officer or employee.

661

817.535 (4) (a) 1.

2nd

Filing false lien or other unauthorized

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document; defendant is incarcerated or under supervision.

662

817.535 (5) (a)

2nd

Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.

663

817.568 (6)

2nd

Fraudulent use of personal identification information of an individual under the age of 18.

664

817.611 (2) (c)

1st

Traffic in or possess 50 or more counterfeit credit cards or related documents.

665

825.102 (2)

1st

Aggravated abuse of an elderly person or disabled adult.

666

825.1025 (2)

2nd

Lewd or lascivious battery upon an elderly person or disabled adult.

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667

825.103 (3) (a)

1st

Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.

668

837.02 (2)

2nd

Perjury in official proceedings relating to prosecution of a capital felony.

669

837.021 (2)

2nd

Making contradictory statements in official proceedings relating to prosecution of a capital felony.

670

860.121 (2) (c)

1st

Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.

671

860.16

1st

Aircraft piracy.

672

893.13 (1) (b)

1st

Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).

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893.13 (2) (b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
893.13 (6) (c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
893.135 (1) (a) 2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1) (b) 1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135 (1) (c) 2.c.	1st	Trafficking in hydrocodone, 100 grams or more, less than 300 grams.

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680 893.135 1st Trafficking in oxycodone,
 (1) (c) 3.c. 25 grams or more, less
 than 100 grams.

681 893.135 1st Trafficking in fentanyl,
 (1) (c) 4.b. (II) 14 grams or more, less
 than 28 grams.

682 893.135 1st Trafficking in
 (1) (d) 1.b. phencyclidine, 200 grams
 or more, less than 400
 grams.

683 893.135 1st Trafficking in
 (1) (e) 1.b. methaqualone, 5 kilograms
 or more, less than 25
 kilograms.

684 893.135 1st Trafficking in
 (1) (f) 1.b. amphetamine, 28 grams or
 more, less than 200
 grams.

685 893.135 1st Trafficking in
 (1) (g) 1.b. flunitrazepam, 14 grams
 or more, less than 28
 grams.

893.135 1st Trafficking in gamma-

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(1) (h) 1.b.

hydroxybutyric acid
(GHB), 5 kilograms or
more, less than 10
kilograms.

686

893.135
(1) (j) 1.b.

1st Trafficking in 1,4-
Butanediol, 5 kilograms
or more, less than 10
kilograms.

687

893.135
(1) (k) 2.b.

1st Trafficking in
Phenethylamines, 200
grams or more, less than
400 grams.

688

893.135
(1) (m) 2.c.

1st Trafficking in synthetic
cannabinoids, 1,000 grams
or more, less than 30
kilograms.

689

893.135
(1) (n) 2.b.

1st Trafficking in n-benzyl
phenethylamines, 100
grams or more, less than
200 grams.

690

893.1351 (3)

1st Possession of a place
used to manufacture
controlled substance when
minor is present or

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resides there.

691

895.03 (1)

1st

Use or invest proceeds derived from pattern of racketeering activity.

692

895.03 (2)

1st

Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.

693

895.03 (3)

1st

Conduct or participate in any enterprise through pattern of racketeering activity.

694

896.101 (5) (b)

2nd

Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.

695

896.104 (4) (a) 2.

2nd

Structuring transactions to evade reporting or registration requirements, financial transactions totaling or

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exceeding \$20,000 but
less than \$100,000.

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(i) LEVEL 9

Florida Statute	Felony Degree	Description
316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
499.0051 (8)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by

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money transmitter.

704

560.125 (5) (c)

1st

Money transmitter
business by unauthorized
person, currency, or
payment instruments
totaling or exceeding
\$100,000.

705

655.50 (10) (b) 3.

1st

Failure to report
financial transactions
totaling or exceeding
\$100,000 by financial
institution.

706

775.0844

1st

Aggravated white collar
crime.

707

782.04 (1)

1st

Attempt, conspire, or
solicit to commit
premeditated murder.

708

782.04 (3)

1st, PBL

Accomplice to murder in
connection with arson,
sexual battery, robbery,
burglary, aggravated
fleeing or eluding with
serious bodily injury or
death, and other

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specified felonies.

709

782.051 (1)

1st

Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04 (3).

710

782.07 (2)

1st

Aggravated manslaughter of an elderly person or disabled adult.

711

787.01 (1) (a) 1.

1st, PBL

Kidnapping; hold for ransom or reward or as a shield or hostage.

712

787.01 (1) (a) 2.

1st, PBL

Kidnapping with intent to commit or facilitate commission of any felony.

713

787.01 (1) (a) 4.

1st, PBL

Kidnapping with intent to interfere with performance of any governmental or political function.

714

787.02 (3) (a)

1st, PBL

False imprisonment; child under age 13; perpetrator also commits aggravated

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child abuse, sexual
battery, or lewd or
lascivious battery,
molestation, conduct, or
exhibition.

715

787.06(3)(c)1.

1st

Human trafficking for
labor and services of an
unauthorized alien child.

716

787.06(3)(d)

1st

Human trafficking using
coercion for commercial
sexual activity of an
unauthorized adult alien.

717

787.06(3)(f)1.

1st,PBL

Human trafficking for
commercial sexual
activity by the transfer
or transport of any child
from outside Florida to
within the state.

718

790.161

1st

Attempted capital
destructive device
offense.

719

790.166(2)

1st,PBL

Possessing, selling,
using, or attempting to
use a weapon of mass

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destruction.

720

794.011 (2)

1st

Attempted sexual battery;
victim less than 12 years
of age.

721

794.011 (2)

Life

Sexual battery; offender
younger than 18 years and
commits sexual battery on
a person less than 12
years.

722

794.011 (4) (a)

1st, PBL

Sexual battery, certain
circumstances; victim 12
years of age or older but
younger than 18 years;
offender 18 years or
older.

723

794.011 (4) (b)

1st

Sexual battery, certain
circumstances; victim and
offender 18 years of age
or older.

724

794.011 (4) (c)

1st

Sexual battery, certain
circumstances; victim 12
years of age or older;
offender younger than 18
years.

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794.011 (4) (d)

1st, PBL

Sexual battery, certain circumstances; victim 12 years of age or older; prior conviction for specified sex offenses.

794.011 (8) (b)

1st, PBL

Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.

794.08 (2)

1st

Female genital mutilation; victim younger than 18 years of age.

800.04 (5) (b)

Life

Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.

812.13 (2) (a)

1st, PBL

Robbery with firearm or other deadly weapon.

812.133 (2) (a)

1st, PBL

Carjacking; firearm or other deadly weapon.

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732

812.135 (2) (b) 1st Home-invasion robbery
with weapon.

733

817.535 (3) (b) 1st Filing false lien or
other unauthorized
document; second or
subsequent offense;
property owner is a
public officer or
employee.

734

817.535 (4) (a) 2. 1st Filing false claim or
other unauthorized
document; defendant is
incarcerated or under
supervision.

735

817.535 (5) (b) 1st Filing false lien or
other unauthorized
document; second or
subsequent offense; owner
of the property incurs
financial loss as a
result of the false
instrument.

817.568 (7) 2nd, Fraudulent use of
PBL personal identification
information of an

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individual under the age
of 18 by his or her
parent, legal guardian,
or person exercising
custodial authority.

736

827.03 (2) (a)

1st

Aggravated child abuse.

737

847.0145 (1)

1st

Selling, or otherwise
transferring custody or
control, of a minor.

738

847.0145 (2)

1st

Purchasing, or otherwise
obtaining custody or
control, of a minor.

739

859.01

1st

Poisoning or introducing
bacteria, radioactive
materials, viruses, or
chemical compounds into
food, drink, medicine, or
water with intent to kill
or injure another person.

740

893.135

1st

Attempted capital
trafficking offense.

741

893.135 (1) (a) 3.

1st

Trafficking in cannabis,
more than 10,000 lbs.

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742

893.135 1st Trafficking in cocaine,
 (1) (b) 1.c. more than 400 grams, less
 than 150 kilograms.

743

893.135 1st Trafficking in illegal
 (1) (c) 1.c. drugs, more than 28
 grams, less than 30
 kilograms.

744

893.135 1st Trafficking in
 (1) (c) 2.d. hydrocodone, 300 grams or
 more, less than 30
 kilograms.

745

893.135 1st Trafficking in oxycodone,
 (1) (c) 3.d. 100 grams or more, less
 than 30 kilograms.

746

893.135 1st Trafficking in fentanyl,
 (1) (c) 4.b. (III) 28 grams or more.

747

893.135 1st Trafficking in
 (1) (d) 1.c. phencyclidine, 400 grams
 or more.

748

893.135 1st Trafficking in
 (1) (e) 1.c. methaqualone, 25
 kilograms or more.

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749

893.135 1st Trafficking in
 (1) (f) 1.c. amphetamine, 200 grams or
 more.

750

893.135 1st Trafficking in gamma-
 (1) (h) 1.c. hydroxybutyric acid
 (GHB), 10 kilograms or
 more.

751

893.135 1st Trafficking in 1,4-
 (1) (j) 1.c. Butanediol, 10 kilograms
 or more.

752

893.135 1st Trafficking in
 (1) (k) 2.c. Phenethylamines, 400
 grams or more.

753

893.135 1st Trafficking in synthetic
 (1) (m) 2.d. cannabinoids, 30
 kilograms or more.

754

893.135 1st Trafficking in n-benzyl
 (1) (n) 2.c. phenethylamines, 200
 grams or more.

755

896.101 (5) (c) 1st Money laundering,
 financial instruments
 totaling or exceeding

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\$100,000.

756

896.104 (4) (a) 3.

1st

Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.

757

758

(j) LEVEL 10

759

Florida
Statute

Felony
Degree

Description

760

499.0051 (9)

1st

Knowing sale or purchase of contraband prescription drugs resulting in death.

761

782.04 (2)

1st, PBL

Unlawful killing of human; act is homicide, unpremeditated.

762

782.07 (3)

1st

Aggravated manslaughter of a child.

763

787.01 (1) (a) 3.

1st, PBL

Kidnapping; inflict bodily harm upon or terrorize victim.

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764

787.01(3)(a)

Life

Kidnapping; child under age 13, perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.

765

787.06(3)(g)

Life

Human trafficking for commercial sexual activity of a child under the age of 18 or mentally defective or incapacitated person.

766

787.06(4)(a)

Life

Selling or buying of minors into human trafficking.

767

794.011(3)

Life

Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.

768

812.135(2)(a)

1st, PBL

Home-invasion robbery with firearm or other

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deadly weapon.

769

876.32

1st

Treason against the
state.

770

771 Section 8. Section 921.0023, Florida Statutes, is amended
772 to read:

773 921.0023 Criminal Public Safety ~~Punishment~~ Code; ranking
774 unlisted felony offenses.—A felony offense committed on or after
775 October 1, 1998, that is not listed in s. 921.0022 is ranked
776 with respect to offense severity level by the Legislature,
777 commensurate with the harm or potential harm that is caused by
778 the offense to the community. Until the Legislature specifically
779 assigns an offense to a severity level in the offense severity
780 ranking chart, the severity level is within the following
781 parameters:

- 782 (1) A felony of the third degree within offense level 1.
- 783 (2) A felony of the second degree within offense level 4.
- 784 (3) A felony of the first degree within offense level 7.
- 785 (4) A felony of the first degree punishable by life within
786 offense level 9.
- 787 (5) A life felony within offense level 10.

788 Section 9. Section 921.0024, Florida Statutes, is amended
789 to read:

790 921.0024 Criminal Public Safety ~~Punishment~~ Code; worksheet
791 computations; scoresheets.—

792 (1) (a) The Criminal Public Safety ~~Punishment~~ Code worksheet
793 is used to compute the subtotal and total sentence points as
794 follows:

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FLORIDA Criminal Public Safety ~~Punishment~~ Code

WORKSHEET

OFFENSE SCORE

Primary Offense

Level	Sentence Points		Total
10	116	=
9	92	=
8	74	=
7	56	=
6	36	=
5	28	=
4	22	=
3	16	=
2	10	=
1	4	=

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825
826

Total

Additional Offenses

Level	Sentence Points		Counts		Total
10	58	x	=
9	46	x	=
8	37	x	=
7	28	x	=
6	18	x	=
5	5.4	x	=
4	3.6	x	=
3	2.4	x	=
2	1.2	x	=
1	0.7	x	=

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M	0.2	x	=
					Total
Victim Injury					
Level	Sentence Points		Number		Total
2nd degree murder- death	240	x	=
Death	120	x	=
Severe	40	x	=
Moderate	18	x	=
Slight	4	x	=
Sexual penetration	80	x	=
Sexual	40	x	=

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contact

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855
856

Total

Primary Offense + Additional Offenses + Victim Injury =
TOTAL OFFENSE SCORE

PRIOR RECORD SCORE

Prior Record

Level	Sentence Points		Number		Total
10	29	x	=
9	23	x	=
8	19	x	=
7	14	x	=
6	9	x	=
5	3.6	x	=
4	2.4	x	=

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857	3	1.6	x	=
858	2	0.8	x	=
859	1	0.5	x	=
860	M	0.2	x	=
861						Total
862						
863						TOTAL OFFENSE SCORE.....
864						TOTAL PRIOR RECORD SCORE.....
865						
866						LEGAL STATUS.....
867						COMMUNITY SANCTION VIOLATION.....
868						PRIOR SERIOUS FELONY.....
869						PRIOR CAPITAL FELONY.....
870						FIREARM OR SEMIAUTOMATIC WEAPON.....
871						SUBTOTAL.....
872						
873						PRISON RELEASEE REOFFENDER (no) (yes).....
874						VIOLENT CAREER CRIMINAL (no) (yes).....
875						HABITUAL VIOLENT OFFENDER (no) (yes).....
876						HABITUAL OFFENDER (no) (yes).....
877						DRUG TRAFFICKER (no) (yes) (x multiplier).....
878						LAW ENF. PROTECT. (no) (yes) (x multiplier).....
879						MOTOR VEHICLE THEFT (no) (yes) (x multiplier).....

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880 CRIMINAL GANG OFFENSE (no) (yes) (x multiplier).....

881 DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no) (yes)

882 (x multiplier).....

883 ADULT-ON-MINOR SEX OFFENSE (no) (yes) (x multiplier).....

884

885 TOTAL SENTENCE POINTS.....

(b) WORKSHEET KEY:

888

889 Legal status points are assessed when any form of legal status

890 existed at the time the offender committed an offense before the

891 court for sentencing. Four (4) sentence points are assessed for

892 an offender's legal status.

893

894 Community sanction violation points are assessed when a

895 community sanction violation is before the court for sentencing.

896 Six (6) sentence points are assessed for each community sanction

897 violation and each successive community sanction violation,

898 unless any of the following apply:

899 1. If the community sanction violation includes a new

900 felony conviction before the sentencing court, twelve (12)

901 community sanction violation points are assessed for the

902 violation, and for each successive community sanction violation

903 involving a new felony conviction.

904 2. If the community sanction violation is committed by a

905 violent felony offender of special concern as defined in s.

906 948.06:

907 a. Twelve (12) community sanction violation points are

908 assessed for the violation and for each successive violation of

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909 felony probation or community control where:

910 I. The violation does not include a new felony conviction;
911 and

912 II. The community sanction violation is not based solely on
913 the probationer or offender's failure to pay costs or fines or
914 make restitution payments.

915 b. Twenty-four (24) community sanction violation points are
916 assessed for the violation and for each successive violation of
917 felony probation or community control where the violation
918 includes a new felony conviction.

919

920 Multiple counts of community sanction violations before the
921 sentencing court shall not be a basis for multiplying the
922 assessment of community sanction violation points.

923

924 Prior serious felony points: If the offender has a primary
925 offense or any additional offense ranked in level 8, level 9, or
926 level 10, and one or more prior serious felonies, a single
927 assessment of thirty (30) points shall be added. For purposes of
928 this section, a prior serious felony is an offense in the
929 offender's prior record that is ranked in level 8, level 9, or
930 level 10 under s. 921.0022 or s. 921.0023 and for which the
931 offender is serving a sentence of confinement, supervision, or
932 other sanction or for which the offender's date of release from
933 confinement, supervision, or other sanction, whichever is later,
934 is within 3 years before the date the primary offense or any
935 additional offense was committed.

936

937 Prior capital felony points: If the offender has one or more

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938 prior capital felonies in the offender's criminal record, points
939 shall be added to the subtotal sentence points of the offender
940 equal to twice the number of points the offender receives for
941 the primary offense and any additional offense. A prior capital
942 felony in the offender's criminal record is a previous capital
943 felony offense for which the offender has entered a plea of nolo
944 contendere or guilty or has been found guilty; or a felony in
945 another jurisdiction which is a capital felony in that
946 jurisdiction, or would be a capital felony if the offense were
947 committed in this state.

948
949 Possession of a firearm, semiautomatic firearm, or machine gun:
950 If the offender is convicted of committing or attempting to
951 commit any felony other than those enumerated in s. 775.087(2)
952 while having in his or her possession: a firearm as defined in
953 s. 790.001(6), an additional eighteen (18) sentence points are
954 assessed; or if the offender is convicted of committing or
955 attempting to commit any felony other than those enumerated in
956 s. 775.087(3) while having in his or her possession a
957 semiautomatic firearm as defined in s. 775.087(3) or a machine
958 gun as defined in s. 790.001(9), an additional twenty-five (25)
959 sentence points are assessed.

960
961 Sentencing multipliers:

962
963 Drug trafficking: If the primary offense is drug trafficking
964 under s. 893.135, the subtotal sentence points are multiplied,
965 at the discretion of the court, for a level 7 or level 8
966 offense, by 1.5. The state attorney may move the sentencing

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967 court to reduce or suspend the sentence of a person convicted of
968 a level 7 or level 8 offense, if the offender provides
969 substantial assistance as described in s. 893.135(4).

970
971 Law enforcement protection: If the primary offense is a
972 violation of the Law Enforcement Protection Act under s.
973 775.0823(2), (3), or (4), the subtotal sentence points are
974 multiplied by 2.5. If the primary offense is a violation of s.
975 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
976 are multiplied by 2.0. If the primary offense is a violation of
977 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
978 Protection Act under s. 775.0823(10) or (11), the subtotal
979 sentence points are multiplied by 1.5.

980
981 Grand theft of a motor vehicle: If the primary offense is grand
982 theft of the third degree involving a motor vehicle and in the
983 offender's prior record, there are three or more grand thefts of
984 the third degree involving a motor vehicle, the subtotal
985 sentence points are multiplied by 1.5.

986
987 Offense related to a criminal gang: If the offender is convicted
988 of the primary offense and committed that offense for the
989 purpose of benefiting, promoting, or furthering the interests of
990 a criminal gang as defined in s. 874.03, the subtotal sentence
991 points are multiplied by 1.5. If applying the multiplier results
992 in the lowest permissible sentence exceeding the statutory
993 maximum sentence for the primary offense under chapter 775, the
994 court may not apply the multiplier and must sentence the
995 defendant to the statutory maximum sentence.

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996
997 Domestic violence in the presence of a child: If the offender is
998 convicted of the primary offense and the primary offense is a
999 crime of domestic violence, as defined in s. 741.28, which was
1000 committed in the presence of a child under 16 years of age who
1001 is a family or household member as defined in s. 741.28(3) with
1002 the victim or perpetrator, the subtotal sentence points are
1003 multiplied by 1.5.

1004
1005 Adult-on-minor sex offense: If the offender was 18 years of age
1006 or older and the victim was younger than 18 years of age at the
1007 time the offender committed the primary offense, and if the
1008 primary offense was an offense committed on or after October 1,
1009 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
1010 violation involved a victim who was a minor and, in the course
1011 of committing that violation, the defendant committed a sexual
1012 battery under chapter 794 or a lewd act under s. 800.04 or s.
1013 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
1014 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
1015 800.04; or s. 847.0135(5), the subtotal sentence points are
1016 multiplied by 2.0. If applying the multiplier results in the
1017 lowest permissible sentence exceeding the statutory maximum
1018 sentence for the primary offense under chapter 775, the court
1019 may not apply the multiplier and must sentence the defendant to
1020 the statutory maximum sentence.

1021 (2) The lowest permissible sentence is the minimum sentence
1022 that may be imposed by the trial court, absent a valid reason
1023 for departure. The lowest permissible sentence is any nonstate
1024 prison sanction in which the total sentence points equals or is

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1025 less than 44 points, unless the court determines within its
1026 discretion that a prison sentence, which may be up to the
1027 statutory maximums for the offenses committed, is appropriate.
1028 When the total sentence points exceeds 44 points, the lowest
1029 permissible sentence in prison months shall be calculated by
1030 subtracting 28 points from the total sentence points and
1031 decreasing the remaining total by 25 percent. The total sentence
1032 points shall be calculated only as a means of determining the
1033 lowest permissible sentence. The permissible range for
1034 sentencing shall be the lowest permissible sentence up to and
1035 including the statutory maximum, as defined in s. 775.082, for
1036 the primary offense and any additional offenses before the court
1037 for sentencing. The sentencing court may impose such sentences
1038 concurrently or consecutively. However, any sentence to state
1039 prison must exceed 1 year. If the lowest permissible sentence
1040 under the code exceeds the statutory maximum sentence as
1041 provided in s. 775.082, the sentence required by the code must
1042 be imposed. If the total sentence points are greater than or
1043 equal to 363, the court may sentence the offender to life
1044 imprisonment. An offender sentenced to life imprisonment under
1045 this section is not eligible for any form of discretionary early
1046 release, except executive clemency or conditional medical
1047 release under s. 947.149.

1048 (3) A single digitized scoresheet shall be prepared for
1049 each defendant to determine the permissible range for the
1050 sentence that the court may impose, except that if the defendant
1051 is before the court for sentencing for more than one felony and
1052 the felonies were committed under more than one version or
1053 revision of the guidelines or the code, separate digitized

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1054 scoresheets must be prepared. The scoresheet or scoresheets must
1055 cover all the defendant's offenses pending before the court for
1056 sentencing. The state attorney shall prepare the digitized
1057 scoresheet or scoresheets, which must be presented to the
1058 defense counsel for review for accuracy in all cases unless the
1059 judge directs otherwise. The defendant's scoresheet or
1060 scoresheets must be approved and signed by the sentencing judge.

1061 (4) The Department of Corrections, in consultation with the
1062 Office of the State Courts Administrator, state attorneys, and
1063 public defenders, must develop and submit the revised digitized
1064 Criminal Public Safety ~~Punishment~~ Code scoresheet to the Supreme
1065 Court for approval by June 15 of each year, as necessary. The
1066 digitized scoresheet shall have individual, structured data
1067 cells for each data field on the scoresheet. Upon the Supreme
1068 Court's approval of the revised digitized scoresheet, the
1069 Department of Corrections shall produce and provide the revised
1070 digitized scoresheets by September 30 of each year, as
1071 necessary. Digitized scoresheets must include individual data
1072 cells to indicate whether any prison sentence imposed includes a
1073 mandatory minimum sentence or the sentence imposed was a
1074 downward departure from the lowest permissible sentence under
1075 the Criminal Public Safety ~~Punishment~~ Code.

1076 (5) The Department of Corrections shall make available the
1077 digitized Criminal Public Safety ~~Punishment~~ Code scoresheets to
1078 those persons charged with the responsibility for preparing
1079 scoresheets.

1080 (6) The clerk of the circuit court shall transmit a
1081 complete and accurate digitized copy of the Criminal Public
1082 Safety ~~Punishment~~ Code scoresheet used in each sentencing

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1083 proceeding to the Department of Corrections. Scoresheets must be
1084 electronically transmitted no less frequently than monthly, by
1085 the first of each month, and may be sent collectively.

1086 (7) A digitized sentencing scoresheet must be prepared for
1087 every defendant who is sentenced for a felony offense. The
1088 individual offender's digitized Criminal Public Safety
1089 ~~Punishment~~ Code scoresheet and any attachments thereto prepared
1090 pursuant to Rule 3.701, Rule 3.702, or Rule 3.703, Florida Rules
1091 of Criminal Procedure, or any other rule pertaining to the
1092 preparation and submission of felony sentencing scoresheets,
1093 must be included with the uniform judgment and sentence form
1094 provided to the Department of Corrections.

1095 Section 10. Section 921.0025, Florida Statutes, is amended
1096 to read:

1097 921.0025 Adoption and implementation of revised sentencing
1098 scoresheets.—Rules 3.701, 3.702, 3.703, and 3.988, Florida Rules
1099 of Criminal Procedure, as revised by the Supreme Court, and any
1100 other rule pertaining to the preparation and submission of
1101 felony sentencing scoresheets, are adopted and implemented in
1102 accordance with this chapter for application to the Criminal
1103 Public Safety ~~Punishment~~ Code.

1104 Section 11. Paragraph (m) of subsection (2) of section
1105 921.0026, Florida Statutes, is amended to read:

1106 921.0026 Mitigating circumstances.—This section applies to
1107 any felony offense, except any capital felony, committed on or
1108 after October 1, 1998.

1109 (2) Mitigating circumstances under which a departure from
1110 the lowest permissible sentence is reasonably justified include,
1111 but are not limited to:

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1112 (m) The defendant's offense is a nonviolent felony, the
1113 defendant's Criminal Public Safety ~~Punishment~~ Code scoresheet
1114 total sentence points under s. 921.0024 are 60 points or fewer,
1115 and the court determines that the defendant is amenable to the
1116 services of a postadjudicatory treatment-based drug court
1117 program and is otherwise qualified to participate in the program
1118 as part of the sentence. For purposes of this paragraph, the
1119 term "nonviolent felony" has the same meaning as provided in s.
1120 948.08(6).

1121 Section 12. Section 921.0027, Florida Statutes, is amended
1122 to read:

1123 921.0027 Criminal Public Safety ~~Punishment~~ Code and
1124 revisions; applicability.—The Florida Criminal Public Safety
1125 ~~Punishment~~ Code applies to all felonies, except capital
1126 felonies, committed on or after October 1, 1998. Any revision to
1127 the Criminal Public Safety ~~Punishment~~ Code applies to sentencing
1128 for all felonies, except capital felonies, committed on or after
1129 the effective date of the revision. Felonies, except capital
1130 felonies, with continuing dates of enterprise shall be sentenced
1131 under the Criminal Public Safety ~~Punishment~~ Code in effect on
1132 the beginning date of the criminal activity.

1133 Section 13. Subsection (1) of section 924.06, Florida
1134 Statutes, is amended to read:

1135 924.06 Appeal by defendant.—

1136 (1) A defendant may appeal from:

1137 (a) A final judgment of conviction when probation has not
1138 been granted under chapter 948, except as provided in subsection
1139 (3);

1140 (b) An order granting probation under chapter 948;

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1141 (c) An order revoking probation under chapter 948;
1142 (d) A sentence, on the ground that it is illegal; or
1143 (e) A sentence imposed under s. 921.0024 of the Criminal
1144 Public Safety ~~Punishment~~ Code which exceeds the statutory
1145 maximum penalty provided in s. 775.082 for an offense at
1146 conviction, or the consecutive statutory maximums for offenses
1147 at conviction, unless otherwise provided by law.

1148 Section 14. Paragraph (i) of subsection (1) of section
1149 924.07, Florida Statutes, is amended to read:

1150 924.07 Appeal by state.—

1151 (1) The state may appeal from:

1152 (i) A sentence imposed below the lowest permissible
1153 sentence established by the Criminal Public Safety ~~Punishment~~
1154 Code under chapter 921.

1155 Section 15. Paragraph (c) of subsection (3) and paragraph
1156 (e) of subsection (5) of section 944.17, Florida Statutes, are
1157 amended to read:

1158 944.17 Commitments and classification; transfers.—

1159 (3)

1160 (c)1. When the highest ranking offense for which the
1161 prisoner is convicted is a felony, the trial court shall
1162 sentence the prisoner pursuant to the Criminal Public Safety
1163 ~~Punishment~~ Code in chapter 921.

1164 2. When the highest ranking offense for which the prisoner
1165 is convicted is a misdemeanor, the trial court shall sentence
1166 the prisoner pursuant to s. 775.082(4).

1167 (5) The department shall also refuse to accept a person
1168 into the state correctional system unless the following
1169 documents are presented in a completed form by the sheriff or

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1170 chief correctional officer, or a designated representative, to
1171 the officer in charge of the reception process. The department
1172 may, at its discretion, receive such documents electronically:

1173 (e) A copy of the Criminal Public Safety ~~Punishment~~ Code
1174 scoresheet and any attachments thereto prepared pursuant to Rule
1175 3.701, Rule 3.702, or Rule 3.703, Florida Rules of Criminal
1176 Procedure, or any other rule pertaining to the preparation of
1177 felony sentencing scoresheets.

1178
1179 In addition, the sheriff or other officer having such person in
1180 charge shall also deliver with the foregoing documents any
1181 available presentence investigation reports as described in s.
1182 921.231 and any attached documents. After a prisoner is admitted
1183 into the state correctional system, the department may request
1184 such additional records relating to the prisoner as it considers
1185 necessary from the clerk of the court, the Department of
1186 Children and Families, or any other state or county agency for
1187 the purpose of determining the prisoner's proper custody
1188 classification, gain-time eligibility, or eligibility for early
1189 release programs. An agency that receives such a request from
1190 the department must provide the information requested. The
1191 department may, at its discretion, receive such information
1192 electronically.

1193 Section 16. Paragraph (a) of subsection (7) of section
1194 948.01, Florida Statutes, is amended to read:

1195 948.01 When court may place defendant on probation or into
1196 community control.-

1197 (7) (a) Notwithstanding s. 921.0024 and effective for
1198 offenses committed on or after July 1, 2009, the sentencing

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1199 court may place the defendant into a postadjudicatory treatment-
1200 based drug court program if the defendant's Criminal Public
1201 Safety Punishment Code scoresheet total sentence points under s.
1202 921.0024 are 60 points or fewer, the offense is a nonviolent
1203 felony, the defendant is amenable to substance abuse treatment,
1204 and the defendant otherwise qualifies under s. 397.334(3). The
1205 satisfactory completion of the program shall be a condition of
1206 the defendant's probation or community control. As used in this
1207 subsection, the term "nonviolent felony" means a third degree
1208 felony violation under chapter 810 or any other felony offense
1209 that is not a forcible felony as defined in s. 776.08.

1210 Section 17. Section 948.015, Florida Statutes, is amended
1211 to read:

1212 948.015 Presentence investigation reports.—The circuit
1213 court, when the defendant in a criminal case has been found
1214 guilty or has entered a plea of nolo contendere or guilty and
1215 has a lowest permissible sentence under the Criminal Public
1216 Safety Punishment Code of any nonstate prison sanction, may
1217 refer the case to the department for investigation or
1218 recommendation. Upon such referral, the department shall make
1219 the following report in writing at a time specified by the court
1220 prior to sentencing. The full report shall include:

1221 (1) A complete description of the situation surrounding the
1222 criminal activity with which the offender has been charged,
1223 including a synopsis of the trial transcript, if one has been
1224 made; nature of the plea agreement, including the number of
1225 counts waived, the pleas agreed upon, the sentence agreed upon,
1226 and any additional terms of agreement; and, at the offender's
1227 discretion, his or her version and explanation of the criminal

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1228 activity.

1229 (2) The offender's sentencing status, including whether the
1230 offender is a first offender, a habitual or violent offender, a
1231 youthful offender, or is currently on probation.

1232 (3) The offender's prior record of arrests and convictions.

1233 (4) The offender's educational background.

1234 (5) The offender's employment background, including any
1235 military record, present employment status, and occupational
1236 capabilities.

1237 (6) The offender's financial status, including total
1238 monthly income and estimated total debts.

1239 (7) The social history of the offender, including his or
1240 her family relationships, marital status, interests, and
1241 activities.

1242 (8) The residence history of the offender.

1243 (9) The offender's medical history and, as appropriate, a
1244 psychological or psychiatric evaluation.

1245 (10) Information about the environments to which the
1246 offender might return or to which the offender could be sent
1247 should a sentence of nonincarceration or community supervision
1248 be imposed by the court, and consideration of the offender's
1249 plan concerning employment supervision and treatment.

1250 (11) Information about any resources available to assist
1251 the offender, such as:

1252 (a) Treatment centers.

1253 (b) Residential facilities.

1254 (c) Career training programs.

1255 (d) Special education programs.

1256 (e) Services that may preclude or supplement commitment to

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1257 the department.

1258 (12) The views of the person preparing the report as to the
1259 offender's motivations and ambitions and an assessment of the
1260 offender's explanations for his or her criminal activity.

1261 (13) An explanation of the offender's criminal record, if
1262 any, including his or her version and explanation of any
1263 previous offenses.

1264 (14) A statement regarding the extent of any victim's loss
1265 or injury.

1266 (15) A recommendation as to disposition by the court. The
1267 department shall make a written determination as to the reasons
1268 for its recommendation, and shall include an evaluation of the
1269 following factors:

1270 (a) The appropriateness or inappropriateness of community
1271 facilities, programs, or services for treatment or supervision
1272 for the offender.

1273 (b) The ability or inability of the department to provide
1274 an adequate level of supervision for the offender in the
1275 community and a statement of what constitutes an adequate level
1276 of supervision.

1277 (c) The existence of other treatment modalities which the
1278 offender could use but which do not exist at present in the
1279 community.

1280 Section 18. Paragraph (j) of subsection (2) of section
1281 948.06, Florida Statutes, is amended to read:

1282 948.06 Violation of probation or community control;
1283 revocation; modification; continuance; failure to pay
1284 restitution or cost of supervision.—

1285 (2)

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1286 (j)1. Notwithstanding s. 921.0024 and effective for
1287 offenses committed on or after July 1, 2009, the court may order
1288 the defendant to successfully complete a postadjudicatory
1289 treatment-based drug court program if:

1290 a. The court finds or the offender admits that the offender
1291 has violated his or her community control or probation;

1292 b. The offender's Criminal Public Safety ~~Punishment~~ Code
1293 scoresheet total sentence points under s. 921.0024 are 60 points
1294 or fewer after including points for the violation;

1295 c. The underlying offense is a nonviolent felony. As used
1296 in this subsection, the term "nonviolent felony" means a third
1297 degree felony violation under chapter 810 or any other felony
1298 offense that is not a forcible felony as defined in s. 776.08;

1299 d. The court determines that the offender is amenable to
1300 the services of a postadjudicatory treatment-based drug court
1301 program;

1302 e. The court has explained the purpose of the program to
1303 the offender and the offender has agreed to participate; and

1304 f. The offender is otherwise qualified to participate in
1305 the program under the provisions of s. 397.334(3).

1306 2. After the court orders the modification of community
1307 control or probation, the original sentencing court shall
1308 relinquish jurisdiction of the offender's case to the
1309 postadjudicatory treatment-based drug court program until the
1310 offender is no longer active in the program, the case is
1311 returned to the sentencing court due to the offender's
1312 termination from the program for failure to comply with the
1313 terms thereof, or the offender's sentence is completed.

1314 Section 19. Subsection (1) of section 948.20, Florida

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1315 Statutes, is amended to read:

1316 948.20 Drug offender probation.—

1317 (1) If it appears to the court upon a hearing that the
1318 defendant is a chronic substance abuser whose criminal conduct
1319 is a violation of s. 893.13(2)(a) or (6)(a), or other nonviolent
1320 felony if such nonviolent felony is committed on or after July
1321 1, 2009, and notwithstanding s. 921.0024 the defendant's
1322 Criminal Public Safety ~~Punishment~~ Code scoresheet total sentence
1323 points are 60 points or fewer, the court may either adjudge the
1324 defendant guilty or stay and withhold the adjudication of guilt.
1325 In either case, the court may also stay and withhold the
1326 imposition of sentence and place the defendant on drug offender
1327 probation or into a postadjudicatory treatment-based drug court
1328 program if the defendant otherwise qualifies. As used in this
1329 section, the term "nonviolent felony" means a third degree
1330 felony violation under chapter 810 or any other felony offense
1331 that is not a forcible felony as defined in s. 776.08.

1332 Section 20. Paragraph (c) of subsection (2) of section
1333 948.51, Florida Statutes, is amended to read:

1334 948.51 Community corrections assistance to counties or
1335 county consortiums.—

1336 (2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.—A
1337 county, or a consortium of two or more counties, may contract
1338 with the Department of Corrections for community corrections
1339 funds as provided in this section. In order to enter into a
1340 community corrections partnership contract, a county or county
1341 consortium must have a public safety coordinating council
1342 established under s. 951.26 and must designate a county officer
1343 or agency to be responsible for administering community

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1344 corrections funds received from the state. The public safety
1345 coordinating council shall prepare, develop, and implement a
1346 comprehensive public safety plan for the county, or the
1347 geographic area represented by the county consortium, and shall
1348 submit an annual report to the Department of Corrections
1349 concerning the status of the program. In preparing the
1350 comprehensive public safety plan, the public safety coordinating
1351 council shall cooperate with the juvenile justice circuit
1352 advisory board established under s. 985.664 in order to include
1353 programs and services for juveniles in the plan. To be eligible
1354 for community corrections funds under the contract, the initial
1355 public safety plan must be approved by the governing board of
1356 the county, or the governing board of each county within the
1357 consortium, and the Secretary of Corrections based on the
1358 requirements of this section. If one or more other counties
1359 develop a unified public safety plan, the public safety
1360 coordinating council shall submit a single application to the
1361 department for funding. Continued contract funding shall be
1362 pursuant to subsection (5). The plan for a county or county
1363 consortium must cover at least a 5-year period and must include:

1364 (c) Specific goals and objectives for reducing the
1365 projected percentage of commitments to the state prison system
1366 of persons with low total sentencing scores pursuant to the
1367 Criminal Public Safety ~~Punishment~~ Code.

1368 Section 21. Subsection (3) of section 958.04, Florida
1369 Statutes, is amended to read:

1370 958.04 Judicial disposition of youthful offenders.—

1371 (3) The provisions of this section shall not be used to
1372 impose a greater sentence than the permissible sentence range as

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1373 established by the Criminal Public Safety ~~Punishment~~ Code
1374 pursuant to chapter 921 unless reasons are explained in writing
1375 by the trial court judge which reasonably justify departure. A
1376 sentence imposed outside of the code is subject to appeal
1377 pursuant to s. 924.06 or s. 924.07.

1378 Section 22. Subsection (4) of section 985.465, Florida
1379 Statutes, is amended to read:

1380 985.465 Juvenile correctional facilities or juvenile
1381 prison.—A juvenile correctional facility or juvenile prison is a
1382 physically secure residential commitment program with a
1383 designated length of stay from 18 months to 36 months, primarily
1384 serving children 13 years of age to 19 years of age or until the
1385 jurisdiction of the court expires. Each child committed to this
1386 level must meet one of the following criteria:

1387 (4) The child is at least 13 years of age at the time of
1388 the disposition for the current offense, the child is eligible
1389 for prosecution as an adult for the current offense, and the
1390 current offense is ranked at level 7 or higher on the Criminal
1391 Public Safety ~~Punishment~~ Code offense severity ranking chart
1392 pursuant to s. 921.0022.

1393 Section 23. Section 921.002, Florida Statutes, is amended
1394 to read:

1395 921.002 The Criminal Public Safety ~~Punishment~~ Code.—The
1396 Criminal Public Safety ~~Punishment~~ Code shall apply to all felony
1397 offenses, except capital felonies, committed on or after October
1398 1, 1998.

1399 (1) The provision of criminal penalties and of limitations
1400 upon the application of such penalties is a matter of
1401 predominantly substantive law and, as such, is a matter properly

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1402 addressed by the Legislature. The Legislature, in the exercise
1403 of its authority and responsibility to establish sentencing
1404 criteria, to provide for the imposition of criminal penalties,
1405 and to make the best use of state prisons so that violent
1406 criminal offenders are appropriately incarcerated, has
1407 determined that it is in the best interest of the state to
1408 develop, implement, and revise a sentencing policy. The Criminal
1409 Public Safety ~~Punishment~~ Code embodies the principles that:

1410 (a) Sentencing is neutral with respect to race, gender, and
1411 social and economic status.

1412 (b) The primary purpose of sentencing is to punish the
1413 offender. Rehabilitation is a desired goal of the criminal
1414 justice system but is subordinate to the goal of public safety
1415 ~~punishment~~.

1416 (c) The penalty imposed is commensurate with the severity
1417 of the primary offense and the circumstances surrounding the
1418 primary offense.

1419 (d) The severity of the sentence increases with the length
1420 and nature of the offender's prior record.

1421 (e) The sentence imposed by the sentencing judge reflects
1422 the length of actual time to be served, shortened only by the
1423 application of incentive and meritorious gain-time as provided
1424 by law, and may not be shortened if the defendant would
1425 consequently serve less than 85 percent of his or her term of
1426 imprisonment as provided in s. 944.275(4). The provisions of
1427 chapter 947, relating to parole, shall not apply to persons
1428 sentenced under the Criminal Public Safety ~~Punishment~~ Code.

1429 (f) Departures below the lowest permissible sentence
1430 established by the code must be articulated in writing by the

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1431 trial court judge and made only when circumstances or factors
1432 reasonably justify the mitigation of the sentence. The level of
1433 proof necessary to establish facts that support a departure from
1434 the lowest permissible sentence is a preponderance of the
1435 evidence.

1436 (g) The trial court judge may impose a sentence up to and
1437 including the statutory maximum for any offense, including an
1438 offense that is before the court due to a violation of probation
1439 or community control.

1440 (h) A sentence may be appealed on the basis that it departs
1441 from the Criminal Public Safety ~~Punishment~~ Code only if the
1442 sentence is below the lowest permissible sentence or as
1443 enumerated in s. 924.06(1).

1444 (i) Use of incarcerative sanctions is prioritized toward
1445 offenders convicted of serious offenses and certain offenders
1446 who have long prior records, in order to maximize the finite
1447 capacities of state and local correctional facilities.

1448 (2) When a defendant is before the court for sentencing for
1449 more than one felony and the felonies were committed under more
1450 than one version or revision of the former sentencing guidelines
1451 or the code, each felony shall be sentenced under the guidelines
1452 or the code in effect at the time the particular felony was
1453 committed. This subsection does not apply to sentencing for any
1454 capital felony.

1455 (3) A court may impose a departure below the lowest
1456 permissible sentence based upon circumstances or factors that
1457 reasonably justify the mitigation of the sentence in accordance
1458 with s. 921.0026. The level of proof necessary to establish
1459 facts supporting the mitigation of a sentence is a preponderance

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1460 of the evidence. When multiple reasons exist to support the
1461 mitigation, the mitigation shall be upheld when at least one
1462 circumstance or factor justifies the mitigation regardless of
1463 the presence of other circumstances or factors found not to
1464 justify mitigation. Any sentence imposed below the lowest
1465 permissible sentence must be explained in writing by the trial
1466 court judge.

1467 (4) (a) The Department of Corrections shall report on trends
1468 in sentencing practices and sentencing score thresholds and
1469 provide an analysis on the sentencing factors considered by the
1470 courts and shall submit this information to the Legislature by
1471 October 1 of each year.

1472 (b) The Criminal Justice Estimating Conference, with the
1473 assistance of the Department of Corrections, shall estimate the
1474 impact of any proposed change to the Criminal Public Safety
1475 ~~Punishment~~ Code on future rates of incarceration and on the
1476 prison population. The Criminal Justice Estimating Conference
1477 shall base its projections on historical data concerning
1478 sentencing practices which have been accumulated by the
1479 Department of Corrections and other relevant data from other
1480 state agencies and records of the Department of Corrections
1481 which disclose the average time served for offenses covered by
1482 any proposed changes to the Criminal Public Safety ~~Punishment~~
1483 Code.

1484 (c) In order to produce projects that are either required
1485 by law or requested by the Legislature to assist the Legislature
1486 in making modifications to the Criminal Public Safety ~~Punishment~~
1487 Code, the Department of Corrections is authorized to collect and
1488 evaluate Criminal Public Safety ~~Punishment~~ Code scoresheets from

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1489 each of the judicial circuits after sentencing. Beginning in
1490 1999, by October 1 of each year, the Department of Corrections
1491 shall provide an annual report to the Legislature that shows the
1492 rate of compliance of each judicial circuit in providing
1493 scoresheets to the department.

1494 Section 24. Subsection (2) of section 893.20, Florida
1495 Statutes, is amended to read:

1496 893.20 Continuing criminal enterprise.-

1497 (2) A person who commits the offense of engaging in a
1498 continuing criminal enterprise commits ~~is guilty of~~ a life
1499 felony, punishable pursuant to the Criminal Public Safety
1500 ~~Punishment~~ Code and by a fine of \$500,000.

1501 Section 25. This act shall take effect July 1, 2022.

The Florida Senate

APPEARANCE RECORD

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

11-2-21 Meeting Date

Criminal Justice Committee

SB260 Bill Number or Topic

Amendment Barcode (if applicable)

Name Kim White

Phone 512 466-6323

Address 4351 Meadowland Dr. Street

Email texasswimmom@yahoo.com

MH Dora FL 32757 City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

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

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SB260

Bill Number or Topic

Amendment Barcode (if applicable)

11/2/21

Meeting Date

Criminal Justice

Committee

Name

Michelle Rothwell

Phone

727-482-5872

Address

400 Gandy Blvd #1414

Email

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Street

St. Pete

City

FL

State

33702

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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The Florida Senate

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11/2/21

Meeting Date

SB2100

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name

Laurette Philipson

Phone

352-533-7202

Address

7240 Westwind Dr

Email

advocatephilipson@gmail.com

Street

Port Richey FL 34468

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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The Florida Senate
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11/2/21
Meeting Date

Criminal Justice
Committee

SB 260
Bill Number or Topic

Amendment Barcode (if applicable)

Name Christie Arnold

Phone 850-339-0075

Address 201 W. Park Ave
Street

Email carnold@flaccb.org

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: Florida Conference of Catholic Bishops

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

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

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November 2, 2021

The Florida Senate
APPEARANCE RECORD

260

Meeting Date
Criminal Justice

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Bill Number or Topic

Committee
Pamela Burch Fort

Amendment Barcode (if applicable)
850-425-1344

Name
104 South Monroe Street

Phone
TcgLobby@aol.com

Address
Tallahassee **FL** **32301**
City State Zip

Reset Form

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
NAACP Florida State Conference

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11-2-21
Meeting Date

260
Bill Number (if applicable)

Topic Renaming Criminal Punishment Code

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title Lobbyist/Organizer

Address 625 E Brevard St

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Street

Jallahamee

City

FL

State

32308

Zip

Email barbdevane@yahoo.com

Speaking: For Against Information

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

Representing FL NOW

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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The Florida Senate

APPEARANCE RECORD

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11/2/21
Meeting Date

Senators CJ
Committee

260
Bill Number or Topic

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Phone 407 376 4801

Address 134 E. Colonial Dr.
Street

Email ida.eskamani@gmail.com

Orlando FL 32801
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Rising

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

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

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The Florida Senate

APPEARANCE RECORD

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11/2/2021

Meeting Date

260

Bill Number or Topic

Crim Justice

Committee

Amendment Barcode (if applicable)

Name

Karen Woodall

Phone

850-321-9386

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Email

fcfept@yahoo.com

Tallahassee

City

FL

State

32301

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
FL Center for Fiscal & Economic Policy
SPLC Action Fund

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

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

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The Florida Senate

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11/2/21

Meeting Date

Criminal Justice

Committee

260

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Greg Black**

Phone **8505098022**

Address **1727 Highland Place**

Email **Greg@WaypointStrat.com**

Street

Tallahassee

FL

32308

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

R Street Institute

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

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

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The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 276

INTRODUCER: Senator Rouson

SUBJECT: Sentencing

DATE: November 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<u>Favorable</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 276 retroactively applies the 2016 amendments to s. 775.087, F.S., the “10-20-Life” statute, which removed aggravated assault and attempted aggravated assault as predicate offenses for sentencing under that statute. The 2016 amendments were prospective in application and only benefitted offenders who committed those offenses on or after the effective date of the 2016 amendments. Retroactive application of the amendments benefits those offenders subject to the mandatory sentencing provisions of “10-20-Life” based on aggravated assault or attempted aggravated assault committed before the effective date of the 2016 amendments. They would no longer be subject to this statute and its mandatory penalties.

The bill also retroactively applies:

- The 2019 amendments to the gram weight thresholds and ranges applicable to hydrocodone trafficking and codeine trafficking; and
- The 2014 amendments to the gram weight thresholds and ranges applicable to oxycodone trafficking.

These amendments were prospective in application and only benefited those offenders with relevant trafficking offenses committed on or after the effective date of the amendments. Retroactive application of the amendments may benefit those offenders who committed hydrocodone, codeine, or oxycodone trafficking before the effective date of the amendments. Depending on the quantity trafficked, the offenders may no longer be subject to mandatory trafficking penalties or may be subject to reduced mandatory trafficking penalties.

The bill also provides procedures for resentencing eligible offenders.

The Legislature’s Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a “negative indeterminate” prison bed impact (an unquantifiable decrease in prison beds). The Department of Corrections (DOC) estimates that the bill will have an

indeterminate fiscal impact on the department but may require \$17,400 for programming changes to adjust gain-time and identify impacted offenders. See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2022.

II. Present Situation:

2016 Amendments to the “10-20-Life” Statute

Section 775.087, F.S., otherwise known as the “10-20-Life” statute, requires a judge to sentence a person convicted of a specified offense to a minimum term of imprisonment if, while committing the offense, the person possesses or discharges a firearm or destructive device¹ or if the discharge of the firearm results in death or great bodily harm. Specified offenses include such offenses as murder, sexual battery, robbery, and burglary.²

Under s. 775.087, F.S., a person convicted of a specified offense, or the attempt to commit such offense, must be sentenced to the following mandatory minimum term of imprisonment:

- 10 years for possession of a firearm;
- 15 years for possession of a semi-automatic/machine gun;
- 20 years for discharge of a firearm (any type); or
- 25 years to life imprisonment for discharge with great bodily injury or death.³

However, s. 775.087(2)(a)1., F.S., provides for a minimum mandatory sentence of 3 years, instead of 10 years, for the possession of a firearm by a felon or burglary of a conveyance if the possession occurred during the commission of the offense.

A person sentenced under s. 775.087, F.S., is not eligible for statutory gain-time under s. 944.275, F.S.⁴

Section 775.087, F.S., used to include aggravated assault and attempted aggravated assault as predicate offenses for purposes of mandatory minimum sentencing under the statute, until the Legislature removed those offenses from the statute in 2016.⁵ Further, the statute in effect immediately prior to its 2016 amendment also prohibited imposing the mandatory minimum sentence for aggravated assault and attempted aggravated assault if the court made written findings that:

- The defendant had a good faith belief that the aggravated assault was justifiable pursuant to ch. 776, F.S.;
- The aggravated assault was not committed in the course of committing another criminal offense;
- The defendant does not pose a threat to public safety; and

¹ The terms “firearm” and “destructive device” are defined in s. 790.001, F.S.

² For a complete list of offenses, see s. 775.087(3)(a)1., F.S.

³ Section 775.087(2)(a)1.-3. and (3)(a)1.-3., F.S.

⁴ Section 775.087(2)(b) and (3)(b), F.S.

⁵ Chapter 2016-7, L.O.F. (effective July 1, 2016).

- The totality of the circumstances involved in the offense do not justify the imposition of such sentence.⁶

The 2016 legislation had prospective application.

Drug Trafficking Offenses

Drug trafficking, which is punished in s. 893.135, F.S., consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importation), or knowingly being in actual or constructive possession of, certain Schedule I or Schedule II controlled substances in a statutorily-specified quantity. The statute only applies to a limited number of controlled substances, including hydrocodone, codeine, and oxycodone.

Most drug trafficking offenses are first degree felonies⁷ and are subject to a mandatory minimum term of imprisonment and a mandatory fine,⁸ which is determined by the weight or quantity of the substance.⁹ For example, trafficking in 28 grams or more, but less than 200 grams, of cocaine, a first degree felony, is punishable by a 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000.¹⁰ Trafficking in 200 grams or more, but less than 400 grams, of cocaine, a first degree felony, is punishable by a 7-year mandatory minimum term of imprisonment and a mandatory fine of \$100,000.¹¹

Changes have been made over the years to gram weight threshold and ranges for trafficking in hydrocodone, codeine, and oxycodone (described below). As a result of changes to gram weight thresholds, the bar became higher for charging trafficking. As a result of changes to gram weight ranges, some persons were subject to less severe mandatory minimum terms and mandatory fines than they would have been subject to had the law not been changed. All of these changes were prospective in application.

Trafficking in Oxycodone

Prior to the 2014 legislative changes to s. 893.135, F.S., the statute provided for the following gram weight threshold and ranges and mandatory penalties for trafficking in oxycodone, any salt of oxycodone, and any mixture containing oxycodone:

- If 4 grams or more but less than 14 grams, a mandatory minimum term of imprisonment of 3 years and a fine of \$50,000;
- If 14 grams or more but less than 28 grams, a mandatory minimum term of imprisonment of 15 years and a fine of \$100,000; or

⁶ Section 775.087(6), F.S. (2015). This exception to mandatory minimum sentencing was created by ch. 2014-195, L.O.F. (effective June 20, 2014).

⁷ A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

⁸ Section 893.135, F.S., provides for mandatory fines which are greater than the maximum \$10,000 fine prescribed in s. 775.083, F.S., for a first degree felony. However, s. 775.083, F.S., which relates to fines, authorizes any higher amount if specifically authorized by statute.

⁹ See s. 893.135, F.S.

¹⁰ Section 893.135(1)(b)1.a., F.S.

¹¹ Section 893.135(1)(b)1.b., F.S.

- If 28 grams or more but less than 30 kilograms, a mandatory minimum term of imprisonment of 25 years and a fine of \$500,000.¹²

In 2014, the Legislature revised the gram weight threshold and ranges for trafficking in oxycodone, any salt of oxycodone, and any mixture containing oxycodone:

- If 7 grams or more but less than 14 grams, a mandatory minimum term of imprisonment of 3 years and a fine of \$50,000;
- If 14 grams or more but less than 25 grams, a mandatory minimum term of imprisonment of 7 years and a fine of \$100,000;
- If 25 grams or more but less than 100 grams, a mandatory minimum term of imprisonment of 15 years and a fine of \$500,000; or
- If 100 grams or more but less than 30 kilograms, a mandatory minimum term of imprisonment of 25 years and a fine of \$750,000.¹³

Trafficking in Hydrocodone

Prior to the 2014 legislative changes to s. 893.135, F.S., the statute provided the same gram weight threshold and ranges and mandatory penalties for trafficking in hydrocodone, any salt of hydrocodone, and any mixture containing hydrocodone as were provided for trafficking in oxycodone, any salt of oxycodone, and any mixture containing oxycodone (see description above of the oxycodone trafficking offense before the 2014 legislative changes).

The 2014 legislation that amended the oxycodone trafficking offense also revised the gram weight threshold and ranges for trafficking in hydrocodone, any salt of hydrocodone, and any mixture containing hydrocodone:

- If 14 grams or more but less than 28 grams, a mandatory minimum term of imprisonment of 3 years and a fine of \$50,000;
- If 28 grams or more but less than 50 grams, a mandatory minimum term of imprisonment of 7 years and a fine of \$100,000;
- If 50 grams or more but less than 200 grams, a mandatory minimum term of imprisonment of 15 years and a fine of \$500,000; or
- If 200 grams or more but less than 30 kilograms, a mandatory minimum term of imprisonment of 25 years and a fine of \$750,000.¹⁴

In 2019, the Legislature further revised the gram weight threshold and ranges for trafficking in hydrocodone, any salt of hydrocodone, and any mixture containing hydrocodone:

- If 28 grams or more but less than 50 grams, a mandatory minimum term of imprisonment of 3 years and a fine of \$50,000;
- If 50 grams or more but less than 100 grams, a mandatory minimum term of imprisonment of 7 years and a fine of \$100,000;
- If 100 grams or more but less than 300 grams, a mandatory minimum term of imprisonment of 15 years and a fine of \$500,000; or

¹² Section 893.135(1)(c)1., F.S. (2013).

¹³ Chapter 2014-176, L.O.F. (effective July 1, 2014) and s. 893.135(1)(c)3., F.S.

¹⁴ Chapter 2014-176, L.O.F. (effective July 1, 2014) and s. 893.135(1)(c)2., F.S.

- If 300 grams or more but less than 30 kilograms, a mandatory minimum term of imprisonment of 25 years and a fine of \$750,000.¹⁵

Trafficking in Codeine

The offense of trafficking in codeine, which was created in 2017,¹⁶ was also amended by the 2019 legislation that amended the hydrocodone trafficking offense.¹⁷ Prior to the 2019 legislative changes to s. 893.135, F.S., the statute provided for the following gram weight threshold and ranges and mandatory penalties for trafficking in codeine, any salt of codeine, and any mixture containing codeine:

- If 14 grams or more but less than 28 grams, a mandatory minimum term of imprisonment of 3 years and a fine of \$50,000;
- If 28 grams or more but less than 50 grams, a mandatory minimum term of imprisonment of 7 years and a fine of \$100,000;
- If 50 grams or more but less than 200 grams, a mandatory minimum term of imprisonment of 15 years and a fine of \$500,000; and
- If 200 grams or more but less than 30 kilograms, a mandatory minimum term of imprisonment of 25 years and a fine of \$750,000.¹⁸

The 2019 legislation that amended the hydrocodone trafficking offense¹⁹ also revised the gram weight threshold and ranges for trafficking in codeine, and salt of codeine, and any mixture containing codeine in the same manner as for the hydrocodone trafficking offense (see description above of the 2019 legislative changes to the hydrocodone trafficking offense).²⁰

Constitutional and Statutory Savings Clauses

Article X, s. 9, of the Florida Constitution (Florida’s constitutional savings clause) used to expressly prohibit any repeal or amendment of a criminal statute that affected prosecution or punishment for any crime previously committed, and therefore, the Florida Legislature was “powerless to lessen penalties for past transgressions; to do so would require constitutional revision.”²¹

In 2018, voters adopted the following amendment to Article X, s. 9, of the Florida Constitution:

Repeal or amendment of a criminal statute shall not affect prosecution or punishment for any crime previously committed *before such repeal*.

Revised Article X, s. 9, of the Florida Constitution only prohibits applying the repeal of a criminal statute to any crime committed before such repeal if this retroactive application “affects

¹⁵ Chapter 2019-167, L.O.F. (effective Oct. 1, 2019) and s. 893.135(1)(c)2., F.S.

¹⁶ Chapter 2017-197, L.O.F. (effective Oct. 1, 2017) and s. 893.135(1)(c)2., F.S.

¹⁷ Chapter 2019-167, L.O.F. (effective Oct. 1, 2019).

¹⁸ Section 893.135(1)(c)2., F.S. (2018).

¹⁹ Chapter 2019-167, L.O.F. (effective Oct. 1, 2019).

²⁰ Section 893.135(1)(c)2., F.S.

²¹ Comment, *Today’s Law and Yesterday’s Crime: Retroactive Application of Ameliorative Criminal Legislation*, 121 U. Pa. L. Rev. 120, 129 (1972).

prosecution.” The revised constitutional savings clause does not expressly prohibit retroactive application of a repeal that does not affect prosecution, a repeal that affects punishment, or an amendment of a criminal statute that affects prosecution or punishment.

The elimination of the expressed prohibition on certain retroactive applications is not a directive to the Legislature to retroactively apply what was formerly prohibited. As the Florida Supreme Court stated: “... [T]here will no longer be any provision in the Florida Constitution that would prohibit the Legislature from applying an amended criminal statute retroactively to pending prosecutions or sentences. However, nothing in our constitution does or will require the Legislature to do so, and the repeal of the prohibition will not require that they do so.”²²

In 2019, the Legislature created s. 775.022, F.S., a general savings statute for criminal statutes. The statute defines a “criminal statute” as a statute, whether substantive or procedural, dealing in any way with a crime or its punishment, defining a crime or a defense to a crime, or providing for the punishment of a crime.²³

The statute specifies legislative intent to preclude:

- Application of the common law doctrine of abatement to a reenactment or an amendment of a criminal statute; and
- Construction of a reenactment or amendment as a repeal or an implied repeal²⁴ of a criminal statute for purposes of Article X, s. 9, of the Florida Constitution.²⁵

The statute also states that, except as expressly provided in an act of the Legislature or as provided in two specified exceptions, the reenactment or amendment of a criminal statute operates prospectively and does not affect or abate any of the following:

- The prior operation of the statute or a prosecution or enforcement under the criminal statute;
- A violation of the criminal statute based on any act or omission occurring before the effective date of the act; and
- A prior penalty, prior forfeiture, or prior punishment incurred or imposed under the statute.²⁶

The first exception is a retroactive amelioration exception that provides that if a penalty, forfeiture, or punishment for a violation of a criminal statute is reduced by a reenactment or an amendment of a criminal statute, the penalty, forfeiture, or punishment, if not already imposed, must be imposed according to the statute as amended.²⁷ This means the penalty, forfeiture, or punishment reduction must be imposed retroactively *if the sentence has not been imposed*, including the situation in which the sentence is imposed after the effective date of the amendment. However, nothing in the general savings statute precludes the Legislature from providing for a more extensive retroactive application either to legislation in the future or legislation that was enacted prior to the effective date of the general savings statute. This is

²² *Jimenez v. Jones*, 261 So.3d 502, 504 (Fla. 2018).

²³ Section 775.022(2), F.S.

²⁴ The Florida Supreme Court previously indicated that the “standard [is] that implied repeals are disfavored and should only be found in cases where there is a ‘positive repugnancy’ between the two statutes or ‘clear legislative intent’ indicating that the Legislature intended the repeal[.]” *Flo-Sun, Inc. v. Kirk*, 783 So.2d 1029, 1036 (Fla. 2001).

²⁵ Section 775.022(1), F.S.

²⁶ Section 775.022(3), F.S.

²⁷ Section 775.022(4), F.S.

because the general savings statute specifically provides for a legislative exception to the default position of prospectivity. The Legislature only has to “expressly provide” for this retroactive application.²⁸

The second exception relates to defenses and provides that the general savings statute does not limit the retroactive effect of any defense to a criminal statute enacted or amended by the Legislature to any criminal case that has not yet reached final judgment.²⁹

III. Effect of Proposed Changes:

Retroactive Application of Amendments to the “10-20-Life” Statute

The bill creates s. 775.08701, F.S., to retroactively apply the 2016 legislative changes³⁰ to s. 775.087, F.S., the “10-20-Life” statute, which removed aggravated assault and attempted aggravated assault from the list of predicate offenses for mandatory minimum sentencing under the statute. The 2016 legislative changes are retroactively applied in the following manner:

- A person who committed aggravated assault or attempted aggravated assault before July 1, 2016, (the effective date of the 2016 legislation) but was not sentenced under former s. 775.087, F.S., before October 1, 2022 (the effective date of the bill), may not be sentenced for that violation to a mandatory minimum term of imprisonment under former s. 775.087, F.S.
- A person who committed aggravated assault or attempted aggravated assault before July 1, 2016, who was sentenced before October 1, 2022, to a mandatory minimum term of imprisonment pursuant to former s. 775.087, F.S., and who is serving such mandatory minimum term of imprisonment on or after October 1, 2022, must be resentenced in accordance with resentencing procedures (described below) to a sentence without such mandatory minimum term of imprisonment. The new sentence must be as provided in ss. 775.082, 775.083, or 775.084, F.S.

Resentencing must occur in the following manner:

- The DOC must notify the person described above of his or her eligibility to request a sentence review hearing.
- The person seeking sentence review under s. 775.08701, F.S., may submit an application to the court of original jurisdiction requesting that a sentence review hearing be held. The sentencing court retains original jurisdiction for the duration of the sentence for this purpose.
- A person who is eligible for a sentence review hearing under s. 775.08701, F.S., is entitled to be represented by counsel, and the court must appoint a public defender to represent the person if he or she cannot afford an attorney.
- Upon receiving an application from the eligible person, the court of original sentencing jurisdiction must hold a sentence review hearing to determine if the eligible person meets the criteria for resentencing under s. 775.08701, F.S. If the court determines at the sentence review hearing that the eligible person meets the criteria in s. 775.08701, F.S., for resentencing, the court must resentence the person as provided in this statute; however, the

²⁸ Section 775.022(3), F.S.

²⁹ Section 775.022(5), F.S.

³⁰ Chapter 2016-7, L.O.F. (effective July 1, 2016).

new sentence may not exceed the person's original sentence with credit for time served. If the court determines that such person does not meet the criteria for resentencing under s. 775.08701, F.S., the court must provide written reasons why such person does not meet such criteria.

A person sentenced or resentenced (as described above) is eligible to receive any gain-time pursuant to s. 944.275, F.S., which he or she was previously ineligible to receive because of the imposition of the mandatory minimum term of imprisonment.

Retroactive Application of Changes to the Hydrocodone Trafficking and Codeine Trafficking Offenses

The bill creates s. 893.13501, F.S., to retroactively apply the 2019 legislative changes to the gram weight threshold and ranges for trafficking in hydrocodone, codeine, any salt of hydrocodone or codeine, and any mixture containing either controlled substance.³¹ The 2019 legislative changes are reflected in current law.³² The retroactive application does not change the felony degree of the trafficking offense (first degree felony), because the 2019 legislation, did not change the felony degree.

The retroactive application applies to the following persons:

- A person who committed a first degree felony violation involving trafficking in hydrocodone, codeine, any salt of hydrocodone or codeine, or any mixture containing either controlled substance before October 1, 2019 (the effective date of the 2019 legislation) but who was not sentenced for such violation before October 1, 2022, must be sentenced as described below.
- A person who committed a previously-described trafficking violation involving hydrocodone, codeine, etc., before October 1, 2019, and who is serving a mandatory minimum term of imprisonment for such violation on or after October 1, 2022, must be resentenced as described below and in accordance with resentencing procedures (also described below).

The bill provides that if the person trafficked in hydrocodone, codeine, any salt of hydrocodone or codeine, or any mixture containing either substance, in a quantity of:

- 4 grams or more but less than 28 grams, the person must be sentenced or resentenced as provided in ss. 775.082, 775.083, or 775.084, F.S.;
- 28 grams or more but less than 50 grams, the person must be sentenced or resentenced to a mandatory minimum term of imprisonment of 3 years and ordered to pay a fine of \$50,000;
- 50 grams or more but less than 100 grams, the person must be sentenced or resentenced to a mandatory minimum term of imprisonment of 7 years and pay a fine of \$100,000;
- 100 grams or more but less than 300 grams, the person must be sentenced or resentenced to a mandatory minimum term of imprisonment of 15 years and pay a fine of \$500,000; and
- 300 grams or more but less than 30 kilograms, the person must be sentenced or resentenced to a mandatory minimum term of imprisonment of 25 years and pay a fine of \$500,000 if the trafficking involves hydrocodone, any salt thereof, or any mixture containing hydrocodone,

³¹ Chapter 2019-167, L.O.F. (effective Oct. 1, 2019).

³² Section 893.135(1)(c)2., F.S.

or \$750,000, if the trafficking involves codeine, or any salt thereof, or any mixture containing codeine.³³

Resentencing must occur in the following manner:

- The DOC must notify the person described above of his or her eligibility to request a sentence review hearing.
- The person seeking sentence review under s. 893.13501, F.S., may submit an application to the court of original jurisdiction requesting that a sentence review hearing be held. The sentencing court retains original jurisdiction for the duration of the sentence for this purpose.
- A person who is eligible for a sentence review hearing under s. 893.13501, F.S., is entitled to be represented by counsel, and the court must appoint a public defender to represent the person if he or she cannot afford an attorney.
- Upon receiving an application from the eligible person, the court of original sentencing jurisdiction must hold a sentence review hearing to determine if the eligible person meets the criteria for resentencing under s. 893.13501, F.S. If the court determines at the sentence review hearing that the eligible person meets the criteria in s. 893.13501, F.S., for resentencing, the court must resentence the person as provided in this statute; however, the new sentence may not exceed the person's original sentence with credit for time served. If the court determines that such person does not meet the criteria for resentencing under s. 893.13501, F.S., the court must provide written reasons why such person does not meet such criteria.

Retroactive Application of Amendments to the Oxycodone Trafficking Offense

Section 893.13501, F.S., also retroactively applies the 2014 legislative changes to the gram weight thresholds and ranges for trafficking in oxycodone, any salt thereof, and a mixture containing oxycodone.³⁴ The 2014 legislative changes are reflected in current law.³⁵ The retroactive application does not change the felony degree of the trafficking offense (first degree felony), because the 2014 legislation, did not change the felony degree.

The retroactive application applies to the following persons:

- A person who committed a first degree felony violation of former s. 893.135(1)(c)1., F.S., before July 1, 2014 (the effective date of the 2014 legislation), which involved trafficking in oxycodone, any salt of oxycodone, or any mixture containing oxycodone, but who was not sentenced for such violation before October 1, 2022, must be sentenced as described below.
- A person who was sentenced before October 1, 2022, for a first degree felony violation of former s. 893.135(1)(c)1., F.S., which was committed before July 1, 2014, and which involved trafficking in oxycodone, any salt of oxycodone, or any mixture containing oxycodone, must be resented as described below and in accordance with resentencing procedures (see description above of resentencing procedures relating to hydrocodone trafficking and codeine trafficking).

³³ The highest level codeine trafficking offense, which was created in 2017, has always been subject to the \$750,000 mandatory fine. *See* ch. 2017-197, L.O.F. (effective Oct. 1, 2017).

³⁴ Chapter 2014-176, L.O.F. (effective July 1, 2014).

³⁵ Section 893.135(1)(c)3., F.S.

The bill provides that if the person trafficked in oxycodone, any salt of oxycodone, or any mixture containing oxycodone, in a quantity of:

- 4 grams or more but less than 7 grams, the person must be sentenced or resentenced as provided in ss. 775.082, 775.083, or 775.084, F.S.;
- 7 grams or more but less than 14 grams, the person must be sentenced or resentenced to a mandatory minimum term of imprisonment of 3 years and pay a fine of \$50,000;
- 14 grams or more but less than 25 grams, of oxycodone, any salt thereof, or an oxycodone mixture, the person must be sentenced or resentenced to a mandatory minimum term of imprisonment of 7 years and pay a fine of \$100,000;
- 25 grams or more but less than 100 grams, the person must be sentenced or resentenced to a mandatory minimum term of imprisonment of 15 years and a fine of \$500,000; and
- 100 grams or more but less than 30 kilograms, the person must be sentenced or resentenced to a mandatory minimum term of imprisonment of 25 years and a fine of \$500,000.

Resentencing occurs in the same manner as previously described for resentencing in cases involving retroactive application of changes involving trafficking in hydrocodone or codeine.

Effective Date

The bill takes effect October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The EDR preliminarily estimates that the bill will have a “negative indeterminate” prison bed impact (an unquantifiable decrease in prison beds).³⁶

The EDR provided the following additional information regarding Section 1 of the bill, which creates s. 775.08701, F.S., to provide for retroactive application of amendments to s. 775.087, F.S. (the “10-20-Life” statute):

Per DOC, there are currently 141 cases eligible under this criteria, though it is unknown how their new sentences would be structured. Furthermore, it is not known how many offenders committed their offenses prior to July 1, 2016 and have yet to be sentenced.³⁷

The EDR provided the following additional information regarding Section 2 of the bill, which creates s. 893.13501, F.S., to provide for retroactive application of amendments to s. 893.135, F.S., relating to trafficking in hydrocodone, oxycodone, and codeine:

Per DOC, as of September 30, 2021, there were 666 offenders incarcerated for trafficking in illegal drugs with an offense committed before July 1, 2014. For the 4 or more, but less than 14 gram threshold group, of the 183 incarcerated, there were no offenders with sentence lengths less than 3 years, though this is likely the outcome of when the offenses were committed, since most offenders with smaller sentences would no longer be incarcerated over six years after committing an offense. For the 14 or more, but less than 28 gram threshold group, of the 220 incarcerated, there are some with sentence lengths less than 15 years (27, 12.27%), with 127 (57.73%) having sentences of exactly fifteen years. Finally, for the 28 or more, but less than 30 kilogram threshold group, of the 263 incarcerated, there is also a large number with sentence lengths less than 25 years (99, 37.64%), with 99 (37.64%) having sentences of exactly 25 years. Though it is possible that those offenders clustered around the mandatory minimum sentences could see an impact from this bill, it is not known how many of these offenders would be eligible for resentencing since DOC does not have information on how many were

³⁶ The EDR estimate of SB 276 is on file with the Senate Committee on Criminal Justice.

³⁷ *Id.*

incarcerated for hydrocodone/codeine or oxycodone prior to July 1, 2014. It is also not known how many additional offenders have yet to be sentenced who committed their offenses prior to October 1, 2022.

There has been one commitment to prison since the change in hydrocodone/codeine thresholds on October 1, 2019. This was for an offense under the 28 or more, but less than 50 grams threshold, and this person received a sentence below the 3 year mandatory minimum (13 months). Furthermore, there are currently 49 offenders incarcerated under the hydrocodone/codeine thresholds prior to that date. For the 14 or more, but less than 28 gram threshold group, of the 23 incarcerated, there is one with a sentence length less than 3 years (1, 4.35%), with 3 (13.04%) having sentences of exactly three years. Finally, for the 28 or more, but less than 50 grams threshold group, of the 16 incarcerated, there are also a few with sentence lengths less than 7 years (4, 25%), with 6 (37.50%) having sentences of exactly 7 years. There are only 10 incarcerated at higher thresholds, and only 2 are at or above the mandatory minimums for these thresholds. Given the new thresholds for hydrocodone/codeine removing the 3 year mandatory minimum for more than 14 and less than 28 grams, as well as reducing the mandatory minimum from 7 years to 3 years for more than 28 and less than 50 grams, these two incarcerated groups, especially the 9 offenders with sentence lengths that line up with mandatory minimums, could possibly be impacted by this language. However, it is also not known how many additional offenders have yet to be sentenced who committed their offenses prior to October 1, 2022.

Since hydrocodone and oxycodone were initially recorded under trafficking in illegal drugs, it is not known how many would be eligible for resentencing, nor is it known how offenders are currently sentenced when hydrocodone and oxycodone fall below their trafficking thresholds. However, both sentence length and incarceration rates are significantly lower for offenses under s. 893.13, F.S. when compared to the trafficking in illegal drugs threshold where these drug types initially were (4 grams or more, less than 14 grams), and could impact resentencing decisions for those who are eligible.³⁸

The DOC estimates that the bill will have an indeterminate fiscal impact on the department but may require \$17,400 for programming changes to adjust gain-time and identify impacted offenders.³⁹

VI. Technical Deficiencies:

None.

³⁸ *Id.*

³⁹ 2022 Agency Legislative Bill Analysis (SB 276) (Oct. 26, 2021), Department of Corrections (on file with the Senate Committee on Criminal Justice).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 775.08701 and 893.13501.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Rouson

19-00097-22

2022276__

1 A bill to be entitled
2 An act relating to sentencing; creating s. 775.08701,
3 F.S.; providing legislative intent; providing for the
4 retroactive applicability of s. 775.087, F.S.;
5 prohibiting certain persons from being sentenced to
6 mandatory minimum terms of imprisonment for aggravated
7 assault or attempted aggravated assault committed
8 before a specified date; requiring resentencing for
9 persons who committed such violations before a
10 specified date and are serving mandatory minimum terms
11 of imprisonment; specifying procedures for such
12 resentencing; providing eligibility for gain-time for
13 such sentenced or resentenced persons; creating s.
14 893.13501, F.S.; providing legislative intent;
15 providing for the retroactive applicability of s.
16 893.135, F.S.; requiring the initial sentencing and
17 the resentencing of certain persons who committed
18 certain violations before a specified date which
19 involved trafficking in hydrocodone or codeine;
20 providing criminal penalties for such violations that
21 are subject to an initial sentencing or a
22 resentencing; providing legislative intent; providing
23 for the retroactive applicability of s. 893.135, F.S.;
24 requiring the initial sentencing and the resentencing
25 of certain persons who committed certain violations
26 before a specified date which involved trafficking in
27 oxycodone; providing criminal penalties for such
28 violations that are subject to an initial sentencing
29 or a resentencing; specifying procedures for such

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30 resentencing; providing an effective date.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Section 775.08701, Florida Statutes, is created
35 to read:

36 775.08701 Retroactive application relating to s. 775.087;
37 legislative intent; prohibiting mandatory minimum sentencing for
38 certain offenses; resentencing procedures.-

39 (1) It is the intent of the Legislature to retroactively
40 apply chapter 2016-7, Laws of Florida, only as provided in this
41 section, to persons who committed aggravated assault or
42 attempted aggravated assault before July 1, 2016, the effective
43 date of chapter 2016-7, Laws of Florida, which amended s.
44 775.087 to remove aggravated assault and attempted aggravated
45 assault from the list of predicate offenses for mandatory
46 minimum terms of imprisonment under that section.

47 (2) As used in this section, a reference to "former s.
48 775.087" is a reference to s. 775.087 as it existed at any time
49 before its amendment by chapter 2016-7, Laws of Florida.

50 (3) (a) A person who committed aggravated assault or
51 attempted aggravated assault before July 1, 2016, but was not
52 sentenced under former s. 775.087 before October 1, 2022, may
53 not be sentenced for that violation to a mandatory minimum term
54 of imprisonment under former s. 775.087.

55 (b) A person who committed aggravated assault or attempted
56 aggravated assault before July 1, 2016, who was sentenced before
57 October 1, 2022, to a mandatory minimum term of imprisonment
58 pursuant to former s. 775.087, and who is serving such mandatory

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59 minimum term of imprisonment on or after October 1, 2022, must
60 be resentenced in accordance with paragraph (c) to a sentence
61 without such mandatory minimum term of imprisonment. The new
62 sentence must be as provided in s. 775.082, s. 775.083, or s.
63 775.084.

64 (c) Resentencing under this section must occur in the
65 following manner:

66 1. The Department of Corrections shall notify the person
67 described in paragraph (b) of his or her eligibility to request
68 a sentence review hearing.

69 2. The person seeking sentence review under this section
70 may submit an application to the court of original jurisdiction
71 requesting that a sentence review hearing be held. The
72 sentencing court retains original jurisdiction for the duration
73 of the sentence for this purpose.

74 3. A person eligible for a sentence review hearing under
75 this section is entitled to be represented by counsel, and the
76 court shall appoint a public defender to represent the person if
77 he or she cannot afford an attorney.

78 4. Upon receiving an application from an eligible person,
79 the court of original sentencing jurisdiction shall hold a
80 sentence review hearing to determine if the eligible person
81 meets the criteria for resentencing under this section. If the
82 court determines at the sentence review hearing that the
83 eligible person meets the criteria in this section for
84 resentencing, the court must resentence the person as provided
85 in this section; however, the new sentence may not exceed the
86 person's original sentence with credit for time served. If the
87 court determines that such person does not meet the criteria for

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88 resentencing under this section, the court must provide written
89 reasons why such person does not meet such criteria.

90 (d) A person sentenced or resentenced pursuant to this
91 section is eligible to receive any gain-time pursuant to s.
92 944.275 which he or she was previously ineligible to receive
93 because of the imposition of the mandatory minimum term of
94 imprisonment pursuant to former s. 775.087.

95 Section 2. Section 893.13501, Florida Statutes, is created
96 to read:

97 893.13501 Retroactive application relating to s. 893.135;
98 legislative intent; sentencing or resentencing for trafficking
99 in hydrocodone, codeine, or oxycodone; penalties; resentencing
100 procedures.-

101 (1) It is the intent of the Legislature to retroactively
102 apply changes to gram-weight thresholds and ranges and to
103 penalties for trafficking in hydrocodone or codeine which are
104 applicable to offenders who committed these offenses on or after
105 October 1, 2019, the effective date of amendments to s. 893.135
106 by chapter 2019-167, Laws of Florida.

107 (a) If a violation of s. 893.135(1)(c) involving
108 trafficking in hydrocodone, as described in s. 893.03(2)(a)1.k.;
109 trafficking in codeine, as described in s. 893.03(2)(a)1.g.; or
110 trafficking in any salt of hydrocodone or of codeine or any
111 mixture containing any such substance, as described in s.
112 893.03(2)(a)2., was committed before October 1, 2019, and was
113 punishable as a felony of the first degree at the time the
114 violation was committed, the changes must be retroactively
115 applied as provided in this subsection.

116 (b) A person who committed a trafficking violation

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117 described in paragraph (a) before October 1, 2019, but who was
118 not sentenced for such violation before October 1, 2022, must be
119 sentenced as provided in paragraph (d).

120 (c) A person who committed a trafficking violation
121 described in paragraph (a) before October 1, 2019, and who is
122 servicing a mandatory minimum term of imprisonment for such
123 violation on or after October 1, 2022, must be resentenced as
124 provided in paragraph (d) and in accordance with subsection (3).

125 (d)1. A violation described in paragraph (a) for which the
126 person is to be sentenced or resentenced pursuant to this
127 subsection is a felony of the first degree, punishable as
128 provided in s. 775.082, s. 775.083, or s. 775.084.

129 2. If the quantity of hydrocodone, as described in s.
130 893.03(2)(a)1.k., codeine, as described in s. 893.03(2)(a)1.g.,
131 any salt thereof, or any mixture containing any such substance
132 involved in the violation of s. 893.135:

133 a. Was 4 grams or more, but less than 28 grams, such person
134 must be sentenced or resentenced as provided in s. 775.082, s.
135 775.083, or s. 775.084.

136 b. Was 28 grams or more, but less than 50 grams, such
137 person must be sentenced or resentenced to a mandatory minimum
138 term of imprisonment of 3 years and ordered to pay a fine of
139 \$50,000.

140 c. Was 50 grams or more, but less than 100 grams, such
141 person must be sentenced or resentenced to a mandatory minimum
142 term of imprisonment of 7 years and ordered to pay a fine of
143 \$100,000.

144 d. Was 100 grams or more, but less than 300 grams, such
145 person must be sentenced or resentenced to a mandatory minimum

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146 term of imprisonment of 15 years and ordered to pay a fine of
147 \$500,000.

148 e. Was 300 grams or more, but less than 30 kilograms, such
149 person must be sentenced or resentenced to a mandatory minimum
150 term of imprisonment of 25 years and ordered to pay a fine of
151 \$500,000 if the trafficking involves hydrocodone, any salt
152 thereof, or any mixture containing hydrocodone; or to pay a fine
153 of \$750,000 if the trafficking involves codeine, any salt
154 thereof, or any mixture containing codeine.

155 (2) It is the intent of the Legislature to retroactively
156 apply the changes to gram-weight thresholds and ranges and to
157 penalties for trafficking in oxycodone which are applicable to
158 offenders who committed this offense on or after July 1, 2014,
159 the effective date of amendments to s. 893.135 by chapter 2014-
160 176, Laws of Florida.

161 (a) If a violation of s. 893.135(1)(c) involving
162 trafficking in oxycodone, as described in s. 893.03(2)(a)1.g.,
163 any salt thereof, or any mixture containing any such substance
164 was committed before July 1, 2014, and was punishable as a
165 felony of the first degree at the time the violation was
166 committed, the changes must be retroactively applied as provided
167 in this subsection.

168 (b) A person who committed a trafficking violation
169 described in paragraph (a) before July 1, 2014, but who was not
170 sentenced for such violation before October 1, 2022, must be
171 sentenced as provided in paragraph (d).

172 (c) A person who committed a trafficking violation
173 described in paragraph (a) before July 1, 2014, and who is
174 -serving a mandatory minimum term of imprisonment for such

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175 violation on or after October 1, 2022, must be resentenced as
176 provided in paragraph (d) and in accordance with subsection (3).

177 (d)1. A violation described in paragraph (a) for which the
178 person is to be sentenced or resentenced pursuant to this
179 subsection is a felony of the first degree, punishable as
180 provided in s. 775.082, s. 775.083, or s. 775.084.

181 2. If the quantity of oxycodone, as described in s.
182 893.03(2)(a)1.g., any salt thereof, or any mixture containing
183 any such substance involved in the violation of s. 893.135:

184 a. Was 4 grams or more, but less than 7 grams, such person
185 must be sentenced or resentenced as provided in s. 775.082, s.
186 775.083, or s. 775.084.

187 b. Was 7 grams or more, but less than 14 grams, such person
188 must be sentenced or resentenced to a mandatory minimum term of
189 imprisonment of 3 years and ordered to pay a fine of \$50,000.

190 c. Was 14 grams or more, but less than 25 grams, such
191 person must be sentenced or resentenced to a mandatory minimum
192 term of imprisonment of 7 years and ordered to pay a fine of
193 \$100,000.

194 d. Was 25 grams or more, but less than 100 grams, such
195 person must be sentenced or resentenced to a mandatory minimum
196 term of imprisonment of 15 years and ordered to pay a fine of
197 \$500,000.

198 e. Was 100 grams or more, but less than 30 kilograms, such
199 person must be sentenced or resentenced to a mandatory minimum
200 term of imprisonment of 25 years and ordered to pay a fine of
201 \$500,000.

202 (3) Resentencing under this section must occur in the
203 following manner:

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204 (a) The Department of Corrections shall notify the person
205 described in paragraph (1)(c) or paragraph (2)(c) of his or her
206 eligibility to request a sentence review hearing.

207 (b) The person seeking sentence review under this section
208 may submit an application to the court of original jurisdiction
209 requesting that a sentence review hearing be held. The
210 sentencing court retains original jurisdiction for the duration
211 of the sentence for this purpose.

212 (c) A person eligible for a sentence review hearing under
213 this section is entitled to be represented by counsel, and the
214 court shall appoint a public defender to represent the person if
215 he or she cannot afford an attorney.

216 (d) Upon receiving an application from the eligible person,
217 the court of original sentencing jurisdiction shall hold a
218 sentence review hearing to determine if the eligible person
219 meets the criteria for resentencing under this section. If the
220 court determines at the sentence review hearing that the
221 eligible person meets the criteria in this section for
222 resentencing, the court must resentence the person as provided
223 in this section; however, the new sentence may not exceed the
224 person's original sentence with credit for time served. If the
225 court determines that such person does not meet the criteria for
226 resentencing under this section, the court must provide written
227 reasons why such person does not meet such criteria.

228 Section 3. This act shall take effect October 1, 2022.

SB 276 – Sentencing

This bill creates s. 775.08701, F.S., retroactively applying “chapter 2016-7, Laws of Florida, only as provided in this section, to persons who committed aggravated assault or attempted aggravated assault before July 1, 2016, the effective date of chapter 2016-7, Laws of Florida, which amended s. 775.087, F.S. to remove aggravated assault and attempted aggravated assault from the list of predicate offenses for mandatory minimum terms of imprisonment under that section.” This would apply to those who committed their offenses before July 1, 2016 and had not yet been sentenced, as well as someone sentenced before October 1, 2022, but who committed these offenses before July 1, 2016, and received a mandatory minimum term of imprisonment. The first group would be sentenced under current law and the group who have already been sentenced to a mandatory minimum term of imprisonment under prior law “must be resentenced...to a sentence without such mandatory minimum term of imprisonment” and will be “eligible to receive any gain-time pursuant to s. 944.275, F.S. which he or she was previously ineligible to receive because of the imposition of the mandatory minimum term of imprisonment.” However, ultimately it is up to the individual offender to seek a sentence review hearing once DOC informs the person of eligibility, and the court might determine that a person does not meet the criteria for resentencing.

Per DOC, there are currently 141 cases eligible under this criteria, though it is unknown how their new sentences would be structured. Furthermore, it is not known how many offenders committed their offenses prior to July 1, 2016 and have yet to be sentenced.

EDR PROPOSED ESTIMATE: Negative Indeterminate

This bill also creates s. 893.13501, F.S., establishing that someone who committed trafficking offenses involving hydrocodone/codeine and oxycodone must be resentenced if the offender was serving a mandatory minimum prison sentence under prior weight thresholds that were changed on July 1, 2014 for both of these drugs and changed once more on October 1, 2019 for hydrocodone. If the offense was committed before either one of these dates and the person had not been sentenced as of October 1, 2022, those offenders would also be subject to the new weight thresholds. However, ultimately it is up to the individual offender to seek a sentence review hearing once DOC informs the person of eligibility, and the court might determine that a person does not meet the criteria for resentencing.

Under prior law (before July 1, 2014), hydrocodone/codeine and oxycodone were included under trafficking in illegal drugs with the following thresholds:

- 4 grams or more, less than 14 grams – Level 7, 1st degree felony; 3 year mandatory minimum
- 14 grams or more, less than 28 grams – Level 8, 1st degree felony; 15 year mandatory minimum
- 28 grams or more, less than 30 kilograms – Level 9, 1st degree felony; 25 year mandatory minimum

Under current law for hydrocodone/codeine (thresholds most recently increased on October 1, 2019):

- 28 grams or more, less than 50 grams – Level 7, 1st degree felony; 3 year mandatory minimum
- 50 grams or more, less than 100 grams – Level 7, 1st degree felony; 7 year mandatory minimum
- 100 grams or more, less than 300 grams – Level 8, 1st degree felony; 15 year mandatory minimum
- 300 grams or more, less than 30 kilograms – Level 9, 1st degree felony; 25 year mandatory minimum

Under current law for oxycodone (thresholds most recently increased on July 1, 2014):

- 7 grams or more, less than 14 grams – Level 7, 1st degree felony; 3 year mandatory minimum
- 14 grams or more, less than 25 grams – Level 7, 1st degree felony; 7 year mandatory minimum
- 25 grams or more, less than 100 grams – Level 8, 1st degree felony; 15 year mandatory minimum
- 100 grams or more, less than 30 kilograms – Level 9, 1st degree felony; 25 year mandatory minimum

Per DOC, as of September 30, 2021, there were 666 offenders incarcerated for trafficking in illegal drugs with an offense committed before July 1, 2014. For the 4 or more, but less than 14 gram threshold group, of the 183 incarcerated, there were no offenders with sentence lengths less than 3 years, though this is likely the outcome of when the offenses were committed, since most offenders with smaller sentences would no longer be incarcerated over six years after committing an offense. For the 14 or more, but less than 28 gram threshold group, of the 220 incarcerated, there are some with sentence lengths less than 15 years (27, 12.27%), with 127 (57.73%) having sentences of exactly fifteen years. Finally, for the 28 or more, but less than 30 kilogram threshold group, of the 263 incarcerated, there is also a large number with sentence lengths less than 25 years (99, 37.64%), with 99 (37.64%) having sentences of exactly 25 years. Though it is possible that those offenders clustered around the mandatory minimum sentences could see an impact from this bill, it is not known how many of these offenders would be eligible for resentencing since DOC does not have information on how many were incarcerated for hydrocodone/codeine or oxycodone prior to July 1, 2014. It is also not known how many additional offenders have yet to be sentenced who committed their offenses prior to October 1, 2022.

There has been one commitment to prison since the change in hydrocodone/codeine thresholds on October 1, 2019. This was for an offense under the 28 or more, but less than 50 grams threshold, and this person received a sentence below the 3 year

mandatory minimum (13 months). Furthermore, there are currently 49 offenders incarcerated under the hydrocodone/codeine thresholds prior to that date. For the 14 or more, but less than 28 gram threshold group, of the 23 incarcerated, there is one with a sentence length less than 3 years (1, 4.35%), with 3 (13.04%) having sentences of exactly three years. Finally, for the 28 or more, but less than 50 grams threshold group, of the 16 incarcerated, there are also a few with sentence lengths less than 7 years (4, 25%), with 6 (37.50%) having sentences of exactly 7 years. There are only 10 incarcerated at higher thresholds, and only 2 are at or above the mandatory minimums for these thresholds. Given the new thresholds for hydrocodone/codeine removing the 3 year mandatory minimum for more than 14 and less than 28 grams, as well as reducing the mandatory minimum from 7 years to 3 years for more than 28 and less than 50 grams, these two incarcerated groups, especially the 9 offenders with sentence lengths that line up with mandatory minimums, could possibly be impacted by this language. However, it is also not known how many additional offenders have yet to be sentenced who committed their offenses prior to October 1, 2022.

Since hydrocodone and oxycodone were initially recorded under trafficking in illegal drugs, it is not known how many would be eligible for resentencing, nor is it known how offenders are currently sentenced when hydrocodone and oxycodone fall below their trafficking thresholds. However, both sentence length and incarceration rates are significantly lower for offenses under s. 893.13, F.S. when compared to the trafficking in illegal drugs threshold where these drug types initially were (4 grams or more, less than 14 grams), and could impact resentencing decisions for those who are eligible.

EDR PROPOSED ESTIMATE: Negative Indeterminate

EDR PROPOSED ESTIMATE FOR ENTIRE BILL: Negative Indeterminate

Requested by: Senate



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Corrections

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 276
BILL TITLE:	Sentencing
BILL SPONSOR:	Senator Rouson
EFFECTIVE DATE:	October 1, 2022

<u>COMMITTEES OF REFERENCE</u>
1) Criminal Justice
2) Appropriations Subcommittee on Criminal and Civil Justice
3) Appropriations
4)
5)

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

<u>CURRENT COMMITTEE</u>

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

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

Is this bill part of an agency package?
No.

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	October 26, 2021
LEAD AGENCY ANALYST:	Michelle Palmer
ADDITIONAL ANALYST(S):	Mary Le
LEGAL ANALYST:	Amy Matlock and Ryan Orbe
FISCAL ANALYST:	Tommy Milito

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill creates s. 775.08701, Florida Statutes providing legislative intent; requiring retroactive application of 2016-17 Laws of Florida for s. 775.087, F.S., as it relates to minimum mandatory sentencing under s. 775.087, F.S. for aggravated assault convictions; prohibits minimum mandatory sentencing under 10-20-Life for aggravated assault convictions before a specified date; requires resentencing for persons who committed those violations before a specified date and are serving mandatory minimum terms of imprisonment; specifying procedure for such resentencing; providing eligibility for gain time upon resentencing.

The bill creates s. 893.13501, F.S.; providing legislative intent; providing for sentencing or resentencing for persons who committed certain violations before a specified date which involved trafficking in hydrocodone or codeine; requiring resentencing for persons who committed those violations before a specified date and are serving mandatory minimum terms of imprisonment; providing criminal penalties for such violations that are subject to resentencing; providing legislative intent; requiring sentencing or resentencing for persons who committed certain violations before a specified date which involved trafficking in oxycodone; providing criminal penalties for such violations that are subject to resentencing; specifying the procedures for such resentencing; providing an effective date.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 1

Section 775.087(1), F.S. provides for the upward re-classification of felony degree for carrying, displaying, using or threatening to use a weapon during commission of a felony when the weapon is not an essential element of the crime.

Section 775.087(2)(a)1, F.S. requires a court to impose a sentence of either 3 or 10 years for possession of a firearm or destructive device during commission of an enumerated offense. For offenses committed on or after July 1, 2016, aggravated assault was removed from the list of enumerated offenses in s.775.087, F.S., no longer requiring a mandatory minimum sentencing.

Subsection 2 requires imposition of a sentence of 20 years for discharging a firearm or destructive device during commission of an enumerated offense. Subsection 3 requires imposition of a sentence of 25 years to life for discharging a firearm or destructive device resulting in death or great bodily harm during commission of an enumerated offense.

Section 775.087(3) , F.S. repeats the same pattern as section (2), mandating minimum sentences of 15, 20 or 25 years to life when “a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun” is possessed, discharged, or discharged resulting in death or great bodily harm during commission of an enumerated crime.

An inmate is ineligible to earn gain time prior to serving the mandatory minimum sentence.

Prior to July 1, 2016, s. 775.087(6) , F.S., provided that the mandatory sentence shall not be imposed upon a conviction for aggravated assault if the court makes written findings that:

- (a) The defendant had a good faith belief that the aggravated assault was justifiable pursuant to chapter 776, F.S.
- (b) The aggravated assault was not committed in the course of committing another criminal offense.
- (c) The defendant does not pose a threat to public safety.
- (d) The totality of the circumstances involved in the offense do not justify the imposition of such sentence.

Section 27.366, F.S. provides State Attorneys discretion over seeking the mandatory minimum sentence “in those cases in which the offenders’ possession of the firearm is incidental to the commission of a crime and not used in furtherance of the crime, used in order to commit the crime, or used in preparation to commit the crime.”

In 2016, s. 775.087, F.S. was amended to remove aggravated assault from the list of crimes for which 10-20-Life minimum mandatory provisions apply. This change to statute was prospective only.

Section 2

Section 893.135, F.S. prohibits trafficking in specified quantities of various substances and upon conviction requires imposition of minimum terms of imprisonment, based on the type of drug and the quantity trafficked. All of the trafficking crimes in this section are at least first degree felonies, which are punishable by up to 30 years in prison.

These crimes are also at least level 7 offenses, which score, at minimum, 56 points on the Criminal Punishment Code Scoresheet. If the primary offense is drug trafficking, the subtotal sentencing points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5.

Section 893.135(3), F.S. provides, "Notwithstanding the provisions of s. 948.01, , F.S. with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum term of imprisonment prescribed by this section."

Section 893.135(4) F.S. provides that, "The state attorney may move the sentencing court to reduce or suspend the sentence of any person who is convicted of a violation of this section and who provides substantial assistance in the identification, arrest, or conviction of any of that person's accomplices, accessories, coconspirators, or principals or of any other person engaged in trafficking in controlled substances." Under current law the trial court may not impose less than the mandatory without the state's recommendation.

Prior to 2014, oxycodone and hydrocodone were lumped under s. 893.135(1)(c)(1) , F.S. with other opioids and those criminal penalties associated with same as follows:

Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4. , F.S., or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs," punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S. If the quantity involved:

- a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and the defendant shall be ordered to pay a fine of \$50,000. Level 7 offense.
- b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years, and the defendant shall be ordered to pay a fine of \$100,000. Level 8 offense.
- c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of \$500,000. Level 9 offense.

It should be noted that while the 25-year mandatory minimum term of imprisonment outlined above was already required under s. 893.135(1)(c)(1), F.S., the 3 year and 15 year mandatory minimum terms as outlined above were added in 1999 as part of the Three-Strike Violent Felony Offender Act.

Effective July 1, 2014, hydrocodone and oxycodone were disassociated with other opioids under s. 893.135(1)(c)(1), for offenses under 30 kilograms and gram weight thresholds were revised. Sections 893.135(1)(c)(2) and (3) were created as follows:

Hydrocodone-

Section 893.135(1)(c)(2) , F.S. - A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of hydrocodone, or any salt, derivative, isomer, or salt of an isomer thereof, or 14 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in hydrocodone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S. If the quantity involved:

- a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of \$50,000. Level 7 offense.
- b. Is 28 grams or more, but less than 50 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of \$100,000. Level 7 offense.
- c. Is 50 grams or more, but less than 200 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of \$500,000. Level 8 offense.
- d. Is 200 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of \$750,000. Level 9 offense.

Oxycodone-

Section 893.135(1)(c)(3) , F.S. - A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 7 grams or more of oxycodone, or any salt, derivative, isomer, or salt of an isomer thereof, or 7 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in oxycodone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S. If the quantity involved:

- a. Is 7 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of \$50,000. Level 7 offense.
- b. Is 14 grams or more, but less than 25 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of \$100,000. Level 7 offense.
- c. Is 25 grams or more, but less than 100 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of \$500,000. Level 8 offense.
- d. Is 100 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of \$750,000. Level 9 offense.

In 2019 (effective October 1, 2019), s. 893.135(1)(c)(2), F.S. was again amended to revise the threshold amounts for trafficking in hydrocodone, codeine, or trafficking in any salt of hydrocodone or of codeine, or any mixture containing any such substance to bring them in line with similar controlled substances as follows:

- 28 grams or more, less than 50 grams – Level 7 offense, 1st degree felony; 3-year mandatory minimum; \$50,000 fine.
- 50 grams or more, less than 100 grams – Level 7 offense, 1st degree felony; 7-year mandatory minimum, \$100,000 fine.
- 100 grams or more, less than 300 grams – Level 8 offense, 1st degree felony; 15-year mandatory minimum, \$500,000 fine.
- 300 grams or more, less than 30 kilograms – Level 9 offense, 1st degree felony; 25-year mandatory minimum, \$750,000 fine.

The threshold amount for trafficking in hydrocodone was raised from 14 grams to 28 grams, 28 to less than 50 to less than 100, 100 to less than 300, and 300 to less than 30 kilograms.

Mandatory minimum terms of imprisonment for drug trafficking do not prohibit the earning of gain-time while in service of the mandatory minimum term (see *Mastay v. McDonough*, 928 So. 2d 512 (1st DCA 2006)).

The statutory amendments outlined in both Section 1 and Section 2 were prospective; therefore, only persons who committed offenses on or after the effective date of the amendments benefitted from these changes. In 2018, voters approved Amendment 11 which modified the “savings clause” in significant ways and led to the creation of s.775.022, F.S. This allows the Legislature to amend the punishment for a crime retroactively through amendments if expressly provided in an act of the Legislature.

The Department is obligated to record the sentence and any additional provisions as reflected on the sentencing orders. If the inmate does not agree with the order of the court, they must contact the sentencing court or go through an appeal process to address any concerns.

2. EFFECT OF THE BILL:

Section 1

Bill creates s. 775.08701, F.S., providing for retroactive application of the 2016-7, Laws of Florida as it relates to s. 775.087, F.S., (10-20-Life) (which removed aggravated assault and attempted aggravated assault from the list of predicate offenses for mandatory minimum terms of imprisonment under that section) to persons who committed aggravated assault or attempt before July 1, 2016.

The bill states that persons who committed aggravated assault or attempted aggravated assault before July 1, 2016 but were not sentenced until after October 1, 2022, may not be sentenced for that violation to a mandatory minimum term of imprisonment under the former s. 775.087, F.S.

The bill mandates resentencing without a mandatory minimum for any person who committed an aggravated assault or attempted aggravated assault before July 1, 2016, and who was sentenced before October 1, 2022 to a mandatory minimum term of imprisonment pursuant to former s.775.087, F.S. and who is serving such mandatory minimum term of imprisonment on or after October 1, 2022 (the effective date of the bill).

The language “who is serving such mandatory minimum term of imprisonment” may be open to interpretation as an inmate may have other sentences unrelated to minimum mandatory sentence as part of the overall prison sentence but may have satisfied the minimum mandatory portion of the sentence; therefore, they are not technically in service of the minimum mandatory. In addition, the inmate may have a sentence greater than the minimum mandatory provision and may have satisfied the minimum mandatory portion but still be in service of the sentence.

The Department's role is limited to identifying inmates who may be eligible for resentencing and notifying them of their eligibility to request a hearing. This would require minor data base programming.

In order to be resentenced, the inmate would have to apply to the court of original jurisdiction, requesting a sentence review hearing. Once received, the court is required to conduct a sentence review hearing to determine if the inmate

meets the criteria for resentencing. If it is determined the inmate meets the criteria, the court must resentence the inmate in accordance with s. 775.082, F.S., or s. 775.083, F.S., or s. 775.084, F.S., without the minimum mandatory. The new sentence may not exceed the original sentence with credit for time served. If the court determines the inmate is not eligible for resentencing, the court must provide written reasons as to their findings.

The bill also provides for retroactive application of eligible gain-time for any inmate who is sentence or resented pursuant to this section for which he or she was previously ineligible to receive due to imposition of the mandatory minimum term under the former s. 775.087, F.S. When the Department receives sentencing orders and/or sentencing modifications, a review of gain-time eligibility is conducted to ensure the inmate is receiving the lawful amount of gain-time. Should this bill pass, upon the receipt of the resentencing orders, the Department would remove any minimum mandatory term and apply any eligible gain-time.

There are approximately 1400 inmates who appear to meet the criteria for resentencing as outlined in the bill. Some inmates may not receive an overall benefit from a resentencing, as they may be serving sentences unrelated to the aggravated assault/minimum mandatory sentence, that control the overall release date.

Section 2

The bill creates s. 893.13501, F.S., providing for retroactive application of the 2014-176 (separating oxycodone, hydrocodone and codeine from other opioids and revising gram-weight thresholds) and 2019-167 (which again revised gram-weight thresholds for hydrocodone and codeine), Laws of Florida, in which the gram-weight thresholds and ranges to penalties for trafficking in oxycodone, any salt thereof, or any mixture containing any such substance, as well as for trafficking in hydrocodone, codeine, any salt thereof, or any mixture containing any such substance were changed as indicated in the present situation of this analysis.

The bill makes changes as follows:

- For any person who committed an offense of trafficking in hydrocodone, codeine, or trafficking in any salt of hydrocodone or of codeine, or any mixture containing any such substance, if the violation was committed before October 1, 2019, but the person was not sentenced prior to October 1, 2022, he or she must be sentenced as provided in s. 893.135(1)(c)(2), F.S. as amended effective October 1, 2019.
- For any person who was convicted of trafficking in hydrocodone, codeine, or trafficking in any salt of hydrocodone or of codeine, or any mixture containing any such substance, if the violation was committed before October 1, 2019, and the person is serving a mandatory minimum term of imprisonment on or after October 1, 2022, the person must be resented as provided in s. 893.135(1)(c)(2), F.S. as amended effective October 1, 2019.

If the quantity involved was:

- 4 grams or more, but less than 28 grams – must be sentenced or resented as provided in s. 775.082, F.S., s. 775.083, F.S. or s. 775.084, F.S.
 - 28 grams or more but less than 50 grams – must be sentenced or resented to a 3-year mandatory minimum and ordered to pay a fine of \$50,000.
 - 50 grams or more, but less than 100 grams – must be sentenced or resented to a 7-year mandatory minimum and ordered to pay a fine of \$100,000 fine.
 - 100 grams or more, but less than 300 grams – must be sentenced or resented to a 15-year mandatory minimum and ordered to pay a fine of \$500,000.
 - 300 grams or more, but less than 30 kilograms – must be sentenced or resented to a 25-year mandatory minimum ordered to pay a fine of \$500,000 if the offense involved trafficking of hydrocodone, any salt thereof or any mixture containing hydrocodone or ordered to pay a fine of \$750,000 if the offense involved trafficking of codeine, any salt thereof or any mixture containing codeine. This would reduce the mandatory fine as current outlined in s. 893.135(1)(c)(2), if the substance involved was hydrocodone, any salt thereof or any mixture containing hydrocodone.
- For any person who committed an offense of trafficking in oxycodone, any salt thereof, or any mixture containing any such substance, if the offense was committed before July 1, 2014, but the person was not sentenced prior to October 1, 2022, he or she must be sentenced as provided in 893.135(1)(c)(3) , F.S.
 - For any person who was convicted of trafficking in oxycodone, any salt thereof, or any mixture containing any such substance, if the offense was committed before July 1, 2014, and who is serving a mandatory minimum term of imprisonment on or after October 1, 2022, the person must be resented to a sentence as provided in 893.135(1)(c)(3) , F.S.

If the quantity involved was:

- 4 grams or more, but less than 7 grams – must be sentenced or resentenced as provided in s. 775.082, F.S., s. 775.083, F.S. or s. 775.084, F.S.
- 7 grams or more but less than 14 grams – must be sentenced or resentenced to a 3-year mandatory minimum and ordered to pay a fine of \$50,000.
- 14 grams or more, but less than 25 grams – must be sentenced or resentenced to a 7-year mandatory minimum and ordered to pay a fine of \$100,000.
- 25 grams or more, but less than 100 grams – must be sentenced or resentenced to a 15-year mandatory minimum and ordered to pay a fine of \$500,000.
- 100 grams or more, but less than 30 kilograms – must be sentenced or resentenced to a 25-year mandatory minimum and ordered to pay a fine of \$500,000.

As the trafficking offenses outlined in this bill are first degree felonies and are punishable by a term of imprisonment not to exceed 30 years, as provided in s. 775.082, F.S., an inmate may be serving an overall term of incarceration greater than the mandatory minimum specific to the gram-weight thresholds. The language in the bill as it relates to eligibility for resentencing requires that the person be “serving a mandatory minimum term of imprisonment”. If the inmate has already satisfied the mandatory minimum portion of the sentence and is in custody serving the balance of the overall sentence, it is unclear if he/she would be eligible for resentencing under the language of the bill.

For those inmates already serving an overall term greater than the drug trafficking mandatory minimum, it is not known if the court will reduce the overall term as a result of resentencing or if only the mandatory minimum will be reduced.

As drug trafficking mandatory minimums do not prohibit the earning of gain-time, should a person’s drug trafficking mandatory minimum term be reduced as a result of a resentencing, he or she would not receive a benefit of additional gain-time being applied.

The Department’s role in the resentencing process is limited to identifying inmates who may be eligible for resentencing and notifying them of their eligibility to request a hearing. This would require minor data base programming.

In order to be resentenced, the inmate would have to apply to the court of original jurisdiction requesting a sentence review hearing. Once received, the court is required to conduct a sentence review hearing to determine if the inmate meets the criteria for resentencing. If it is determined the inmate meets the criteria, the court must resentence the inmate in accordance with s. 775.082, F.S., or s. 775.083, F.S., or s. 775.084, F.S; however, the new sentence may not exceed the original sentence with credit for time served. If the court determines the inmate is not eligible for resentencing, the court must provide written reasons as to their findings.

Prior to July 1, 2014, all opioids were lumped together under s. 893.135(1)(c)(1), F.S. In order to determine which inmates would be eligible for resentencing under this bill, a manual review of each inmate’s sentencing orders would be required to determine if the offenses involved oxycodone, hydrocodone or codeine, as the Department’s records do not separate these specific drugs.

There are approximately 809 inmates in custody that will require a manual review as outlined above. A temporary taskforce will need to be created in order to review the information for each case. There are approximately 67 inmates whose offense dates are between July 1, 2014 and September 30, 2019 who will require a notice without manual review.

While it is anticipated there will be an increased need for Correctional Probation Officers to supervise those resentenced to supervision and because it is unknown how many resentencing requests will be submitted and to what impact that will have on increasing the supervision population, a clear projection of increased staffing needs cannot be provided.

The overall impact of the bill is indeterminate as it is unknown how the resentencing will impact the overall inmate sentence or how many inmates will apply for the sentencing review.

The bill provides an effective date of October 1, 2022.

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

If yes, explain:	
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Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

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

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

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

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

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

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

FISCAL ANALYSIS

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

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

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

Revenues:	Unknown
Expenditures:	<p>The overall fiscal impact to the inmate and community supervision population is indeterminate.</p> <p>However, when inmate population is impacted in small increments statewide, the FY 19-20 inmate variable per diem of \$22.29 is the most appropriate to use. This per diem includes costs more directly aligned with individual inmate care such as medical, food, inmate clothing, personal care items, etc. The Department's FY 19-20 average per diem for community supervision was \$6.01.</p> <p>In addition, there is an expected cost related to technology requirements, this cost is projected at \$17,400.</p>
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

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

Revenues:	Unknown
Expenditures:	Unknown
Other:	

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

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

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

<p>If yes, describe the anticipated impact to the agency including any fiscal impact.</p>	<p>The impact on OBIS is indeterminate. However, it may require programming to the gain time adjustment (inmate calculator) and programming to identify those impacted inmates/offenders.</p> <p>Cost Estimate: Estimated Hours: 200 Estimated Cost Per Hour: \$87.00 Estimated Total Cost: \$17,400</p>
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FEDERAL IMPACT

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

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

ADDITIONAL COMMENTS

N/A

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

<p>Issues/concerns/comments:</p>	<p>SB 276 impacts the Department by requiring the Department to identify and notify inmates who are eligible for resentencing under the new statutes. Section 1 of the bill would also require the Department to award gain-time to inmates who have been resentenced under the newly created section 775.08701, F.S., and who were previously ineligible for gain-time due to mandatory minimums.</p> <p>Section 1 creates section 775.08701, F.S. for retroactive application relating to existing section 775.087, F.S. to prohibit mandatory minimum sentencing for aggravated assault or attempted aggravated assault. [Lines 34-38] Per subsection (1), the statute would apply to persons who committed the enumerated offenses before July 1, 2016. [Lines 39-46]</p> <p>Section 2 of the bill creates section 893.13501, F.S. for retroactive application relating to existing section 893.135, F.S. to make changes to gram-weight thresholds and ranges and to penalties for trafficking in hydrocodone, codeine, and oxycodone.</p>
----------------------------------	---

Subsection (1) deals with offenses involving trafficking in hydrocodone and codeine that occurred before October 1, 2019. [lines 101-154]. Subsection (1)(a) provides that the changes shall be retroactively applied for offenses committed before October 1, 2019, that were punishable as a felony of the first degree at the time the offense was committed. Subsection (1)(d)2- For quantities of 4 grams or more but less than 28 grams, inmates must be sentenced or resentenced as provided in sections 775.082, 770.083, and 775.084, F.S. Existing section 893.135 does not provide penalties for these quantities. For 28 grams or more but less than 50 grams, a mandatory minimum of 3 years applies. For 50 grams or more but less than 100 grams, a mandatory minimum of 7 years applies. For 100 grams or more but less than 300 grams, a mandatory minimum of 15 years applies. For 300 grams or more but less than 30 kilograms, a mandatory minimum of 25 years applies. These quantities and mandatory minimums remain unchanged from existing section 893.135, F.S.

Subsection (2) deals with offenses involving the trafficking of oxycodone [lines 155-201]. Subsection (2)(a) provides that for offenses committed before July 1, 2014, that were punishable as a felony of the first degree at the time the offense was committed, the changes in this section must be retroactively applied. These offenders must be resentenced under this section. The offenses remain felonies of the first degree. Subsection (2)(d)1. - For quantities of 4 grams or more but less than 7 grams, inmates must be sentenced or resentenced as provided in s. 775.082, 770.083, and 775.084, F.S. Existing section 893.135 does not provide a penalty for these quantities. For quantities of 7 grams or more but less than 14 grams, a mandatory minimum of 3 years applies. For 14 grams or more but less than 25 grams, a mandatory minimum of 7 years applies. For 25 grams or more but less than 100 grams, a mandatory minimum of 15 years applies. For 100 grams or more but less than 30 kg, a mandatory minimum of 25 years applies. These quantities and mandatory minimums remain unchanged from the existing statute; however, the fine for 100g to less than 30kg has been reduced from \$750,000 to \$500,000.

Subsection (3)(a) requires the Department to notify inmates of their eligibility to request a sentence review hearing under the new statute. [Lines 204-20] Subsection (3)(d) provides that inmates resentenced under this section will be able to receive gain-time that they were previously ineligible to receive due to mandatory minimum terms of imprisonment. [Lines 90-94] This section does not provide for a change in gain-time eligibility, and because inmates who were previously serving mandatory minimums under the existing statute would be resentenced to the same mandatory minimums, the Department does not anticipate any effect on gain-time awards for section 2 of the bill. However, the section 2 would still require the Department to identify and notify inmates eligible for resentencing.



The Florida Senate

Committee Agenda Request

To: Senator Jason Pizzo, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: October 18, 2021

I respectfully request that **Senate Bill #276**, relating to Sentencing, be placed on the:

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

A handwritten signature in green ink that reads "Darryl Ervin Rouson".

Senator Darryl Ervin Rouson
Florida Senate, District 19

11/2/21

Meeting Date

Criminal Justice

Committee

Name Jessica Yeary

Address 301 S. Monroe St.

Street

Tallahassee

City

FI

State

32301

Zip

The Florida Senate

APPEARANCE RECORD

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

276

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 850-606-1000

Email jessica.yeary@flpd2.com

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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The Florida Senate

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11-22-21

Meeting Date

SB 276

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Kim White

Phone 512 466-6323

Address 4351 Meadowland Dr

Email texasswimmom@yahoo.com

Mt. Dora FL 32757

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

PLEASE CHECK ONE OF THE FOLLOWING:

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

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

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The Florida Senate

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11/21/21

Meeting Date

SB 276

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name michelle fothwell

Phone 727-482-5892

Address 1400 Gandy Blvd #1416

Email mfothwell@gottmc.com

Street

St. Pete

City

FL

State

33702

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11-2-21
Meeting Date

276
Bill Number (if applicable)

Topic Sentencing

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title Lobbyist/Organizer

Address 625 E. Brevard St

Phone 251-4282

Tallahassee FL 32308
City State Zip

Email barbaradevane1@yahoo.com

Speaking: For Against Information

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

Representing FL NOW

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.

November 2, 2021

The Florida Senate
APPEARANCE RECORD

276

Meeting Date
Criminal Justice

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

Bill Number or Topic

Committee
Pamela Burch Fort

Name

Amendment Barcode (if applicable)
850-425-1344

Phone

Address
104 South Monroe Street

Email
TcgLobby@aol.com

Street

City

Tallahassee

State

FL

Zip

32301

Reset Form

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

NAACP Florida State Conference

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

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

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The Florida Senate

APPEARANCE RECORD

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11/2/21 Meeting Date

SB 274 Bill Number or Topic

Criminal Justice Committee

Amendment Barcode (if applicable)

Name LAURETTA PHILIPSEN

Phone 352-533-7202

Address 7240 Westwind Dr Street

Email advocatephilip@ gmail.com

Port Richey FL 34668 City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

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

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The Florida Senate

APPEARANCE RECORD

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11/2/21

Meeting Date

SB 276

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Christie Arnold

Phone 850-339-0075

Address 201 West Park Avenue

Email carnold@flaccb.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: Florida Conference of Catholic Bishops

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

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

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The Florida Senate

APPEARANCE RECORD

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11/2/2021

Meeting Date

Criminal Justice

Committee

276

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Karen Woodall

Phone

850-321-9386

Address

579 E. Call St.

Street

Email

fcfc@jybar.com

Tallahassee FL

City

State

32301

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Center for Fiscal & Economic Policy & SFLC Action Fund

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

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

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The Florida Senate

APPEARANCE RECORD

11/2/21

Meeting Date

276

Bill Number or Topic

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

Senate CJ

Committee

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Phone 407 376 4801

Address 134 E. Wornial Dr

Email ida.eskamani@gmail.com

Street

Orlando

FL

32801

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

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

Florida Rising

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

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The Florida Senate

APPEARANCE RECORD

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

276

Bill Number or Topic

11/2/2021

Meeting Date

Comm Justice

Committee

Amendment Barcode (if applicable)

(850) 681-0024

Name

Jorge Chamito

Phone

Address

108 South Monroe St.

Email

jorge@flapattus.com

Street

Tallahassee FL 32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FACDL

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 342

INTRODUCER: Criminal Justice Committee and Senators Perry and Taddeo

SUBJECT: Juvenile Diversion Program Expunction

DATE: November 3, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 342 amends s. 943.0582, F.S., to permit a juvenile who completed a diversion program for misdemeanor and felony offenses, other than a forcible felony, to apply to have the nonjudicial arrest record expunged. This expands the current law, which only permits juvenile diversion expunction for a misdemeanor offense.

Additionally, this bill amends s. 985.126, F.S., to permit a juvenile who completes a diversion program and who has been granted an expunction under s. 943.0582, F.S., to lawfully deny or fail to acknowledge his or her participation in the program and such expunction of the nonjudicial arrest record. This expands the current law, which only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

This bill may have a negative fiscal impact on the Florida Department of Law Enforcement (FDLE). See Section V. Fiscal Impact Statement.

This bill is effective on July 1, 2022.

II. Present Situation:

Juvenile Criminal History Records

In contrast to adult criminal history records,¹ which are generally accessible to the public, Florida law treats juvenile offender records that are in the jurisdiction of juvenile courts differently, making such records confidential and exempt from public disclosure.²

Such records that contain confidential and exempt information may be disclosed only to:

- Authorized personnel of the court;
- The Department of Juvenile Justice (DJJ) and its designees;
- The Department of Corrections;
- The Florida Commission on Offender Review;
- Law enforcement agents;
- School superintendents and their designees;
- Any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile; and
- Others entitled under ch. 985, F.S., to receive that information, or upon order of the court.³

However, the following exceptions apply:

- The name, photograph, address, and crime or arrest report of a juvenile is not considered confidential and exempt if the juvenile has been:
 - Taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony;
 - Charged with a violation of law which, if committed by an adult, would be a felony;
 - Found to have committed an offense which, if committed by an adult, would be a felony;or
 - Transferred to adult court pursuant to part X of ch. 985, F.S.;
- A law enforcement agency may release a copy of the juvenile offense report to the victim of the offense;⁴
- A law enforcement agency must notify the superintendent of schools that a juvenile is alleged to have committed a delinquent act when a juvenile of any age is taken into custody for an offense that would have been a felony if committed by an adult, or a crime of violence;⁵

¹ “Criminal history record” means any nonjudicial record maintained by a criminal justice agency containing criminal history information. Section 943.045(6), F.S.

² Section 985.04(1)(a), F.S. Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.

³ Section 985.04(1)(b), F.S.

⁴ Information gained by the victim pursuant to ch. 985, F.S., including the next of kin of a homicide victim, regarding any case handled in juvenile court, must not be revealed to any outside party, except as is reasonably necessary in pursuit of legal remedies. Section 985.04(3), F.S.

⁵ When a juvenile of any age is formally charged by a state attorney with a felony or a delinquent act that would be a felony if committed by an adult, the state attorney must notify the superintendent of the juvenile’s school that the juvenile has been charged with such felony or delinquent act. The information obtained by the superintendent of schools must be released within 48 hours after receipt to appropriate school personnel, including the principal of the school of the juvenile and the director of transportation. The principal must immediately notify the juvenile’s classroom teachers, the juvenile’s assigned bus driver, and any other school personnel whose duties include direct supervision of the juvenile. Section 985.04(4)(b), F.S.

- Records maintained by the DJJ, including copies of records maintained by the court, which pertain to a juvenile found to have committed a delinquent act which, if committed by an adult, would be a crime specified in s. 435.04, F.S., may not be destroyed for 25 years after the juvenile's final referral to the DJJ, except in cases of the death of the juvenile; and
- Records in the custody of the DJJ may be inspected only upon order of the Secretary or his or her authorized agent by persons who have sufficient reason and upon such conditions for their use and disposition as the secretary or his or her authorized agent deems proper.⁶

In these instances, the criminal history information⁷ of a juvenile will be available to:

- A criminal justice agency for criminal justice purposes on a priority basis and free of charge;
- The person to whom the record relates, or his or her attorney;
- The parent, guardian, or legal custodian of the person to whom the record relates, provided such person has not reached the age of majority, been emancipated by a court, or been legally married; or
- An agency or entity specified in ss. 943.0585(4) or 943.059(4), F.S., for the purposes specified therein, and to any person within such agency or entity who has direct responsibility for employment, access authorization, or licensure decisions.⁸

Records pertaining to juveniles committed to or supervised by the DJJ are retained until a juvenile reaches the age of 24 years or 26 years in the case of a serious or habitual delinquent child, and the destruction of such records are governed by ch. 943, F.S.⁹

Juvenile Diversion Program Expunction

The exceptions to accessibility of a criminal history record do not apply if the record has been sealed¹⁰ or expunged.¹¹ The expunction of a criminal history record is the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency having custody of the record.¹² The following are authorized expungement processes for the criminal history record of a juvenile:

- Juvenile diversion;¹³
- Automatic juvenile;¹⁴ and

⁶ Section 985.04, F.S.

⁷ "Criminal history information" means information collected by criminal justice agencies on persons, which information consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges and the disposition thereof. The term does not include identification information, such as biometric records, if the information does not indicate involvement of the person in the criminal justice system. Section 943.045(5), F.S.

⁸ Section 943.053(3)(c)1.a.-d., F.S.

⁹ Section 985.04(7)(b), F.S.

¹⁰ "Sealing of a criminal history record" means the preservation of a record under such circumstances that it is secure and inaccessible to any person not having a legal right of access to the record or the information contained and preserved therein. Section 943.045(19), F.S.

¹¹ Section 943.053(3)(b), F.S.

¹² Criminal history records in the custody of the FDLE must be retained in all cases for purposes of evaluating subsequent requests by the subject of the record for sealing or expunction, or for purposes of recreating the record in the event an order to expunge is vacated by a court of competent jurisdiction. Section 943.045(16), F.S.

¹³ Section 943.0582, F.S.

¹⁴ Section 943.0515, F.S.

- Early juvenile.¹⁵

Diversion refers to a program that is designed to keep a juvenile from entering the juvenile justice system through the legal process.¹⁶ The term diversion has been broadly used over the years, but typically refers to the placement of an individual on a track that is less restrictive and affords more opportunities for rehabilitation and restoration. Whether it is a prearrest or postarrest diversion program, the goal of the program is to maximize the opportunity for success and minimize the likelihood of recidivism.¹⁷

There are certain enumerated diversion programs eligible for diversion expunction under s. 943.0582, F.S. The following eligible programs are:

- Civil citation or similar pre-arrest diversion (s. 985.12, F.S.).
- Pre-arrest or post-arrest diversion programs (s. 985.125, F.S.).
- Neighborhood restorative justice programs (s. 985.155, F.S.).
- Community arbitration programs (s. 985.16, F.S.).
- Another program to which a referral is made by the state attorney (s. 985.15, F.S.).

The decision to refer a juvenile to a diversion program is at the discretion of either the law enforcement officer that confronted the juvenile at the time of the incident or the state attorney that has been referred the case. While participation in a diversion program may be restricted to misdemeanor offenses, there are some programs that enable a juvenile who has committed a felony to participate. In FY 2019-20, 2,770 juveniles were referred to diversion programs for felony offenses.¹⁸

After completing an eligible diversion program, a juvenile seeking to have his or her nonjudicial arrest record expunged must:

- Submit an application for diversion expunction to the FDLE.
- Submit, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that:
 - He or she has completed the diversion program;
 - The arrest was for a misdemeanor; and
 - He or she has not otherwise been charged by the state attorney with or have been found to have committed, any criminal offense or comparable ordinance violation.
- Have not, before the application for expunction, been charged by the state attorney with, or found to have committed, any criminal offense or comparable ordinance violation.¹⁹

¹⁵ Section 943.0515(1)(b)2., F.S.

¹⁶ Florida Department of Juvenile Justice, *Glossary*, available at <http://www.djj.state.fl.us/youth-families/glossary> (last accessed October 21, 2021).

¹⁷ Center for Health & Justice at TASC, *A National Survey of Criminal Justice Diversion Programs and Initiatives*, pg. 6, (December 2013), available at https://www.centerforhealthandjustice.org/chjweb/tertiary_page.aspx?id=77&title=No-Entry:-A-National-Survey-of-Criminal-Justice-Diversion-Programs-and-Initiatives (last accessed October 21, 2021).

¹⁸ Florida Department of Juvenile Justice, *Delinquency Profile 2020, Statewide Diversion – Felony Youth*, available at <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/delinquency-profile/delinquency-profile-dashboard> (last accessed October 21, 2021).

¹⁹ Section 943.0582(3), F.S.

If the juvenile meets such criteria and submits the appropriate documentation, the FDLE must expunge the nonjudicial arrest record of the juvenile.²⁰

A criminal history record that is expunged under this section is only available to criminal justice agencies²¹ for the purpose of determining eligibility for diversion programs, a criminal investigation, or making a prosecutorial decision.²² Records maintained by local criminal justice agencies in the county where the arrest occurred that are eligible for expunction under this section must be sealed.²³ A record sealed under s. 943.059, F.S., is available only to specified persons or entities, including criminal justice agencies for their respective purposes and when the subject of the record is a candidate for employment with a criminal justice agency.²⁴ A juvenile who successfully completes a diversion program for a first time misdemeanor offense may lawfully deny or fail to acknowledge his or her participation in the program and the expunction of the nonjudicial arrest record, unless the inquiry is made by a criminal justice agency for one of the purposes stated above.²⁵

A juvenile who receives an expunction under this section is not prevented from petitioning for the expunction or sealing of a later criminal history record for human trafficking victim expunction,²⁶ court ordered expunction,²⁷ or court ordered sealing,²⁸ if the juvenile is otherwise eligible for relief under those sections.²⁹

Forcible Felonies

Section 776.08, F.S., provides that a forcible felony is:

- Treason;
- Murder;
- Manslaughter;
- Sexual battery;
- Carjacking;
- Home-invasion robbery;
- Robbery;
- Burglary;
- Arson;
- Kidnapping;
- Aggravated assault;

²⁰ Section 943.0582(3), F.S.

²¹ “Criminal justice agency” means: a court; the FDLE; the DJJ; the protective investigations component of the Department of Children and Families, which investigates the crimes of abuse and neglect; and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice. Section 942.045(11), F.S.

²² Section 943.0582(2)(b)1., F.S.

²³ Section 943.0582(2)(b)2., F.S.

²⁴ Section 943.059(6), F.S.

²⁵ Section 985.126(5), F.S.

²⁶ Section 943.0583, F.S.

²⁷ Section 943.0585, F.S.

²⁸ Section 943.059, F.S.

²⁹ Section 943.0582, F.S.

- Aggravated battery;
- Aggravated stalking;
- Aircraft piracy;
- Unlawful throwing, placing, or discharging of a destructive device or bomb; and
- Any other felony which involves the use or threat of physical force or violence against any individual.

III. Effect of Proposed Changes:

This bill amends s. 943.0582, F.S., to permit a juvenile who completed a diversion program for misdemeanor and felony offenses, other than a forcible felony, to apply to have the nonjudicial arrest record expunged. This expands the current law, which only permits juvenile diversion expunction for a misdemeanor offense.

Additionally, this bill amends s. 985.126, F.S., to permit a juvenile who completes a diversion program and who has been granted an expunction under s. 943.0582, F.S., to lawfully deny or fail to acknowledge his or her participation in the program and such expunction of the nonjudicial arrest record. This expands the current law, which only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

This bill is effective on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDLE may see an increase in applications for diversion expunction from juveniles who have completed diversion for a permissible felony offense. The FDLE is requesting two positions (Criminal Justice Information Analyst I and II) totaling \$142,011 (\$132,921 recurring) to address the increased workload. Additionally, the FDLE estimates a \$24,050 nonrecurring cost to make modifications to existing IT systems.³⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 943.0582 and 985.126.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Criminal Justice on November 2, 2021:

The committee substitute clarifies that only a minor who has completed a diversion program and who has been granted an expunction under s. 943.0582, F.S., may lawfully deny participation in the diversion program and such expunction.

B. Amendments:

None.

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

³⁰ Florida Department of Law Enforcement, *2022 Agency Analysis of SB 342* (October 27, 2021), at 3. On file with the Senate Committee on Criminal Justice.



906740

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/02/2021	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 43 - 45

and insert:

and has been granted an expunction under s. 943.0582, ~~for a first-time misdemeanor offense~~ may lawfully deny or fail to acknowledge his or her participation in the program and such an expunction of a nonjudicial arrest record ~~under s. 943.0582,~~

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



11 And the title is amended as follows:
12 Delete line 10
13 and insert:
14 diversion program and is granted an expunction for any
15 offense, rather than only

By Senator Perry

8-00370B-22

2022342__

1 A bill to be entitled
2 An act relating to juvenile diversion program
3 expunction; amending s. 943.0582, F.S.; requiring the
4 Department of Law Enforcement to expunge the
5 nonjudicial arrest record of certain minors who
6 successfully complete a diversion program for
7 specified felony offenses, rather than only for
8 misdemeanor offenses; amending s. 985.126, F.S.;
9 authorizing a minor who successfully completes a
10 diversion program for any offense, rather than only
11 for a first-time misdemeanor offense, to lawfully deny
12 or fail to acknowledge certain information; providing
13 an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsection (1) and paragraph (b) of subsection
18 (3) of section 943.0582, Florida Statutes, are amended to read:

19 943.0582 Diversion program expunction.—

20 (1) Notwithstanding any law dealing generally with the
21 preservation and destruction of public records, the department
22 shall adopt rules to provide for the expunction of a nonjudicial
23 record of the arrest of a minor who has successfully completed a
24 diversion program ~~for a misdemeanor offense~~.

25 (3) The department shall expunge the nonjudicial arrest
26 record of a minor who has successfully completed a diversion
27 program if that minor:

28 (b) Submits to the department, with the application, an
29 official written statement from the state attorney for the

8-00370B-22

2022342__

30 county in which the arrest occurred certifying that the minor ~~he~~
31 ~~or she~~ has successfully completed that county's diversion
32 program;~~;~~ that the minor's ~~his or her~~ participation in the
33 program was based on an arrest for a misdemeanor offense or for
34 a felony offense other than a forcible felony as defined in s.
35 776.08;~~;~~ and that the minor ~~he or she~~ has not otherwise been
36 charged by the state attorney with, or found to have committed,
37 any criminal offense or comparable ordinance violation.

38 Section 2. Subsection (5) of section 985.126, Florida
39 Statutes, is amended to read:

40 985.126 Diversion programs; data collection; denial of
41 participation or expunged record.—

42 (5) A minor who successfully completes a diversion program
43 ~~for a first-time misdemeanor offense~~ may lawfully deny or fail
44 to acknowledge his or her participation in the program and an
45 expunction of a nonjudicial arrest record under s. 943.0582,
46 unless the inquiry is made by a criminal justice agency, as
47 defined in s. 943.045, for a purpose described in s.
48 943.0582(2)(b)1.

49 Section 3. This act shall take effect July 1, 2022.



2022 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION	
BILL NUMBER:	SB 342
BILL TITLE:	Juvenile Diversion Program Expunction
BILL SPONSOR:	Senator Perry
EFFECTIVE DATE:	July 1, 2022

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

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS	
BILL NUMBER:	
SPONSOR:	

IDENTICAL BILLS	
BILL NUMBER:	HB 195
SPONSOR:	Rep. Smith

PREVIOUS LEGISLATION	
BILL NUMBER:	SB 274 ER
SPONSOR:	Perry
YEAR:	2021
LAST ACTION:	Vetoed by Governor

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
DATE OF ANALYSIS:	October 27, 2021
LEAD AGENCY ANALYST:	Charles Schaeffer, Robin Sparkman
ADDITIONAL ANALYST(S):	Mary Jackson, Becky Bezemek
LEGAL ANALYST:	Jim Martin, Wes Petkovsek
FISCAL ANALYST:	Cynthia Barr

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Amends s. 943.0582, FS, deleting the requirement which limits diversion program expunction to programs for misdemeanor offenses. It also amends s. 985.126, FS, removing the provision that the diversion program is only for a misdemeanor offense.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Under current law, an individual who has gone through a juvenile diversion program for a misdemeanor offense may apply to have the record expunged from the Computerized Criminal History (CCH) repository. FDLE's Seal and Expunge section has received 566 juvenile diversion expunction applications between January 2018 – September 2021.
2. **EFFECT OF THE BILL:** Amends s. 943.0582, FS, by removing the requirement limiting the diversion program expunction to programs for misdemeanor offenses. The proposed language will further allow individuals who complete a juvenile diversion program for felonies or comparable ordinance violations to apply for the juvenile diversion expunction with the exception of forcible felonies as defined in s. 776.08, FS. There is no fee associated with the juvenile diversion application process. There is no specification on retroactive applications.
3. **DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES?** Y N

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

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

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

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

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

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

Board:	
Board Purpose:	
Who Appointments:	

Appointee Term:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

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

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

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

Revenues:	Should the department adopt the same rules and procedures currently in place for the processing of juvenile diversion expunction applications, there would be no impact to revenue. Currently, the \$75 non-refundable processing fee associated with the submission of an application for a certificate of eligibility is not assessed on juvenile diversion applications.
Expenditures:	<ul style="list-style-type: none"> As of September 2021, the Computerized Criminal History (CCH) repository contains 93,374 unique SIDs with 221,353 juvenile non-forcible felony arrest charges with or without a disposition which may qualify for juvenile diversion expunction. Assuming 10 percent of eligible persons apply for a juvenile diversion expunction, the department would receive an additional 9,337 new applications for processing. The unit responsible for sealing and expunging of records currently averages 12 weeks to process requests. Without additional resources, the resulting new workload could significantly increase the processing time for all applicants. The department is requesting two FTE positions (Criminal Justice Information Analyst I and II) totaling \$142,011 (\$132,921 recurring) to address the new workload. Implementation would also require modifications to existing IT systems with an estimated nonrecurring cost of \$24,050 (see Technology Impact below). <p>TOTAL FDLE Fiscal: \$166,061 (\$132,92 recurring)</p>
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

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

Revenues:	
Expenditures:	

Other:	

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

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

TECHNOLOGY IMPACT

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

If yes, describe the anticipated impact to the agency including any fiscal impact.	<p>The department estimates \$24,050 to make programmatic changes to CCH including analysis, development, integration testing and deployment. This does not include any non-functional testing and support time. The implication of the legislation will have an effect on CCH in the following capacities:</p> <ul style="list-style-type: none"> • The Juvenile Diversion Expunction application located on the Intake Web will require a verbiage change and once edited, the application will need to be integrated. • The Reason for Denial "Charge requested is a Felony or Violent Misdemeanor" under the Precertification Outcome section will need to be altered to reflect forcible felonies as defined in s. 776.08, FS. or a violent misdemeanor.
--	---

FEDERAL IMPACT

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

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

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	<p>The bill could be interpreted as requiring the subject of the juvenile record to be a minor at the time of application for relief. This interpretation comes about as the result of substituting "the minor" for "his or her" or "he or she" in the bill language. Stated differently, this change can be read as referring to "the minor" in the present tense rather than referring to the fact that the person was a minor at the time of arrest. FDLE requests clarification on the intent of the bill.</p>
--	--

ADDITIONAL COMMENTS

The bill states it goes into effect July 1, 2022. However, it does not explicitly state if this change is applicable to charges retroactively or only to charges that occur after the effective date.

11/2/21

The Florida Senate APPEARANCE RECORD

SB 342

CS

Meeting Date

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Carrie Boyd

Phone

850 570 8560

Address

106 E College

Email

Street

Tallahassee

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

SPCC Action Fund

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

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

The Florida Senate

APPEARANCE RECORD

SB 342

10/2/21
Meeting Date

Bill Number or Topic

Criminal Justice
Committee

Deliver both copies of this form to
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Amendment Barcode (if applicable)

Name Christian Minor

Phone (321) 223-4232

Address 1300 N Adams St.
Street

Email

Tallahassee FL 32303
City State Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Juvenile Justice Association

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

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

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The Florida Senate

APPEARANCE RECORD

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342

Bill Number or Topic

11/2/2021

Meeting Date

Crim. Justice

Committee

Amendment Barcode (if applicable)

(850) 681-0024

Name

Jorge Chamizo

Phone

Address

108 S. Monroe St

Email

jorge@flapartners.com

Street

Tallahassee FL 32307

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FACDL

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

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

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11/2/21

Meeting Date

Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

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342

Bill Number or Topic

Amendment Barcode (if applicable)

Name Greg Black

Phone 8505098022

Address 1727 Highland Place

Email Greg@WaypointStrat.com

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
R Street Institute

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

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

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S-001 (08/10/2021)

11/2/21
Meeting Date

The Florida Senate APPEARANCE RECORD

8B 342
Bill Number or Topic

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Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name Lauren Gallo

Phone 880 - 224 - 1660

Address 106 E College Ave
Street

Email _____

Tammy FL 32307
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

League of women voters

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

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

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November 2, 2021

Meeting Date

Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

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342

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jasmyne Henderson

Phone 8502161002

Address 1028 East Park Avenue

Email jasmyne@pittman-law.com

Street

Tallahassee

Fl

32301

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Broward County

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

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

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S-001 (08/10/2021)

The Florida Senate

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11/2/2021 Meeting Date

342 Bill Number or Topic

Criminal Justice Committee

Amendment Barcode (if applicable)

Name Karen Woodell

Phone 850-321-9386

Address 579 E. Call St. Street

Email fstep@yahoo.com

Tallahassee, FL 32301 City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: FI Center for Fiscal & Economic Policy & PEC Action Fund

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

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

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11/02/21
Meeting Date

The Florida Senate APPEARANCE RECORD

SB-342

Bill Number or Topic

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Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Richard Clemons / FPCA
Police
Chiefs

Phone

305 335 6497

Address

1100 Washington Ave
Street

Email

rickclemons@miamibeachfl.gov

Miami Beach
City

FL
State

33139
Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

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

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

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The Florida Senate

APPEARANCE RECORD

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11/2/2021 Meeting Date

342 Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Phone 407 376 4801

Address 134 E. Colonial Dr Street

Email ida.eskamani@gmail.com

Orlando FL 32801 City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

Florida Rising

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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11/2/21

Meeting Date

342

Bill Number (if applicable)

Topic Juvenile Diversion Program Expunction

Amendment Barcode (if applicable)

Name Phillip Suderman

Job Title Policy Director

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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11/2/21

Meeting Date

Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

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342

Bill Number or Topic

Amendment Barcode (if applicable)

Name JessicaYeary

Phone 850-606-1000

Address 301 S. Monroe St.

Email jessica.yeary@flpd2.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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11/2/21

Meeting Date

SB 342

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name

Christie Arnold

Phone

850-339-0075

Address

201 W. Park Ave

Email

carnold@flaccb.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Conference of Catholic Bishops

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11-2-21
Meeting Date

342
Bill Number (if applicable)

Topic Juvenile Diversion Program Expansion

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title Lobbyist

Address 625 E Brevard St

Phone 251-4280

Street

Tallahassee FL 32308

Email barbaradevane1@xohio.com

City

State

Zip

Speaking: For Against Information

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

Representing FL NOW

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.

November 2, 2021

Meeting Date

Senate Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

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342 Juvenile Diversion Program

Bill Number or Topic

Amendment Barcode (if applicable)

Name Allie McNair

Phone 850-877-2165

Address 2167 Mahan Dr
Street

Email amcnair@flsheriffs.org

Tallahassee

FL

32308

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Sheriffs Association

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

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

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November 2, 2021

The Florida Senate
APPEARANCE RECORD

342

Meeting Date
Criminal Justice

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Bill Number or Topic

Committee
Pamela Burch Fort
Name

Amendment Barcode (if applicable)
850-425-1344
Phone

Address
104 South Monroe Street
Street
Tallahassee **FL** **32301**
City *State* *Zip*

TcgLobby@aol.com
Email

Reset Form

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

NAACP Florida State Conference

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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11/2/21

Meeting Date

SB 342

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name michelle dothwell

Phone 27-482-5872

Address 1400 Gandy Blvd #1416

Email mrothwell@gaffmc.com

Street

St. Pete

City

FL 33702

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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The Florida Senate

APPEARANCE RECORD

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11-2-21

Meeting Date

SB 342

Bill Number or Topic

criminal justice

Committee

Amendment Barcode (if applicable)

Name Kim White

Phone 512 466-6323

Address 4351 Meadowland Dr

Street

Email texasswimmom@

yahoo.com

Mt. Dora

FL

32757

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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11/2/21

Meeting Date

SB 342

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Laurette Philipsen

Phone 352-533-7202

Address 2240 Westwind Dr
Street

Email advocatephilipsen@gmail.com

POTS Richey FL 34468
City State Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

11/2/21

Meeting Date

Criminal Justice

Committee

Name Brita "Breeta" Lincoln

Address 1747 Orlando Central Parkway

Street

Orlando

City

FL

State

32809

Zip

Phone 813-541-6256

Email bwilkinslincoln@gmail.com

The Florida Senate APPEARANCE RECORD

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

SB 342

Bill Number or Topic

Amendment Barcode (if applicable)

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

Florida PTA

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

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 344

INTRODUCER: Criminal Justice Committee and Senator Perry

SUBJECT: Public Records/Nonjudicial Record of the Arrest of a Minor

DATE: November 2, 2021 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 344 is the public records exemption linked to CS/SB 342. This bill provides that a nonjudicial record of the arrest of a minor who has successfully completed a diversion program and is eligible for expunction is made confidential and exempt from public disclosure, except that the record must be made available only to criminal justice agencies for specified purposes.

CS/SB 342 amends s. 943.0582, F.S., to permit a juvenile who completed a diversion program for misdemeanor and felony offenses, other than a forcible felony, to apply to have the nonjudicial arrest record expunged. This expands the current law, which only permits juvenile diversion expunction for a misdemeanor offense.

Additionally, CS/SB 342 amends s. 985.126, F.S., to permit a juvenile who completes a diversion program and who has been granted an expunction under s. 943.0582, F.S., to lawfully deny or fail to acknowledge his or her participation in the program and such expunction of the nonjudicial arrest record. This expands the current law, which only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2027, unless reviewed and saved from the repeal through reenactment by the Legislature.

Because this bill creates a public records exemption, it will require a two-thirds vote of each house in order to pass.

This bill takes effect on the same date as CS/SB 342 or similar legislation takes effect. CS/SB 342 is effective on July 1, 2022.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁶ The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁷

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2020-2022) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2020-2022).

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person's right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

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.¹⁴ Custodians of records designated as "confidential and exempt" may not disclose the record except under circumstances specifically defined by the Legislature.¹⁵

Open Government Sunset Review Act

The Open Government Sunset Review Act¹⁶ (the Act) prescribes a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁹

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹² *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

¹⁵ *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provides that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰ An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.²⁶

Juvenile Diversion Program Expunction

The exceptions to accessibility of a criminal history record do not apply if the record has been sealed²⁷ or expunged.²⁸ The expunction of a criminal history record is the court-ordered physical destruction or obliteration of a record or portion of a record by any criminal justice agency

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

²⁶ Section 119.15(7), F.S.

²⁷ "Sealing of a criminal history record" means the preservation of a record under such circumstances that it is secure and inaccessible to any person not having a legal right of access to the record or the information contained and preserved therein. Section 943.045(19), F.S.

²⁸ Section 943.053(3)(b), F.S.

having custody of the record.²⁹ The following are authorized expungement processes for the criminal history record of a juvenile:

- Juvenile diversion;³⁰
- Automatic juvenile;³¹ and
- Early juvenile.³²

Diversion refers to a program that is designed to keep a juvenile from entering the juvenile justice system through the legal process.³³

The decision to refer a juvenile to a diversion program is at the discretion of either the law enforcement officer that confronted the juvenile at the time of the incident or the state attorney that has been referred the case. While participation in a diversion program may be restricted to misdemeanor offenses, there are some programs that enable a juvenile who has committed a felony to participate. In FY 2019-20, there were 2,770 juveniles who were referred to diversion programs for felony offenses.³⁴

After completing an eligible diversion program, a juvenile seeking to have his or her nonjudicial arrest record expunged must:

- Submit an application for diversion expunction to the Florida Department of Law Enforcement (FDLE).
- Submit, with the application, an official written statement from the state attorney for the county in which the arrest occurred certifying that:
 - He or she has completed the diversion program;
 - The arrest was for a misdemeanor; and
 - He or she has not otherwise been charged by the state attorney with or have been found to have committed, any criminal offense or comparable ordinance violation.
- Have not, before the application for expunction, been charged by the state attorney with, or found to have committed, any criminal offense or comparable ordinance violation.³⁵

If the juvenile meets such criteria and submits the appropriate documentation, the FDLE must expunge the nonjudicial arrest record of the juvenile.³⁶

²⁹ Criminal history records in the custody of the FDLE must be retained in all cases for purposes of evaluating subsequent requests by the subject of the record for sealing or expunction, or for purposes of recreating the record in the event an order to expunge is vacated by a court of competent jurisdiction. Section 943.045(16), F.S.

³⁰ Section 943.0582, F.S.

³¹ Section 943.0515, F.S.

³² Section 943.0515(1)(b)2., F.S.

³³ Florida Department of Juvenile Justice, *Glossary*, available at <http://www.djj.state.fl.us/youth-families/glossary> (last accessed October 21, 2021).

³⁴ Florida Department of Juvenile Justice, *Delinquency Profile 2020, Statewide Diversion – Felony Youth*, available at <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/delinquency-profile/delinquency-profile-dashboard> (last accessed October 21, 2021).

³⁵ Section 943.0582(3), F.S.

³⁶ Section 943.0582(3), F.S.

A criminal history record that is expunged under this section is only available to criminal justice agencies³⁷ for the purpose of determining eligibility for diversion programs, a criminal investigation, or making a prosecutorial decision. Records maintained by local criminal justice agencies in the county where the arrest occurred that are eligible for expunction under this section must be sealed.³⁸ A record sealed under s. 943.059, F.S., is available only to specified persons or entities, including criminal justice agencies for their respective purposes and when the subject of the record is a candidate for employment with a criminal justice agency.³⁹ A juvenile who successfully completes a diversion program for a first-time misdemeanor offense may lawfully deny or fail to acknowledge his or her participation in the program and the expunction of the nonjudicial arrest record, unless the inquiry is made by a criminal justice agency for one of the purposes stated above.⁴⁰

A juvenile who receives an expunction under this section is not prevented from petitioning for the expunction or sealing of a later criminal history record for human trafficking victim expunction,⁴¹ court ordered expunction,⁴² or court ordered sealing,⁴³ if the juvenile is otherwise eligible for relief under those sections.⁴⁴

III. Effect of Proposed Changes:

CS/SB 344 is the public records exemption linked to CS/SB 342. This bill provides that a nonjudicial record of the arrest of a minor who has successfully completed a diversion program and is eligible for expunction is made confidential and exempt from public disclosure, except that the record must be made available only to criminal justice agencies for specified purposes.

CS/SB 342 amends s. 943.0582, F.S., to permit a juvenile who completed a diversion program for misdemeanor and felony offenses, other than a forcible felony, to apply to have the nonjudicial arrest record expunged. This expands the current law, which only permits juvenile diversion expunction for a misdemeanor offense.

Additionally, CS/SB 342 amends s. 985.126, F.S., to permit a juvenile who completes a diversion program and who has been granted an expunction under s. 943.0582, F.S., to lawfully deny or fail to acknowledge his or her participation in the program and such expunction of the nonjudicial arrest record. This expands the current law, which only permits a juvenile who completes diversion for a first-time misdemeanor offense to lawfully deny or fail to acknowledge his or her participation in the program and the expunction.

³⁷ "Criminal justice agency" means: a court; the FDLE; the DJJ; the protective investigations component of the Department of Children and Families, which investigates the crimes of abuse and neglect; and any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice. Section 942.045(11), F.S.

³⁸ Section 943.0582(2)(b)2., F.S.

³⁹ Section 943.059(6), F.S.

⁴⁰ Section 985.126(5), F.S.

⁴¹ Section 943.0583, F.S.

⁴² Section 943.0585, F.S.

⁴³ Section 943.059, F.S.

⁴⁴ Section 943.0582, F.S.

This bill is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2027, unless reviewed and saved from the repeal through reenactment by the Legislature.

This bill provides a public necessity statement as required by Article I, s. 24(c) of the State Constitution. The public necessity statement provides that:

The Legislature finds that it is a public necessity that the nonjudicial record of the arrest of a minor who successfully completed a diversion program for minors, which is sealed or expunged pursuant to s. 943.0582, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The purpose of diversion programs is to redirect youth from the justice system with opportunities for programming, rehabilitation, and restoration. This purpose will be undermined if the nonjudicial record of arrest is not confidential and exempt. The presence of a nonjudicial record of arrest of a minor who completed a diversion program can jeopardize his or her ability to obtain education, employment, and other opportunities necessary to become a productive, contributing, self-sustaining member of society. Such negative consequences are unwarranted in cases in which the minor was successfully diverted from further delinquency proceedings through the completion of a diversion program. For these reasons, the Legislature finds that it is a public necessity that the criminal history records of minors which have received an expunction due to the successful completion of a diversion program be confidential and exempt from public records requirements.

This bill takes effect on the same date as CS/SB 342 or similar legislation takes effect. As filed, CS/SB 342 is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records or public meeting exemption. The bill creates a public record exemption for a nonjudicial record of arrest of a juvenile who has successfully completed a diversion program that is sealed or expunged and therefore requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public record or public exemption. The bill creates a public record exemption for a nonjudicial record of arrest of a juvenile who has successfully completed a diversion program that is sealed or expunged. Section 2 of the bill provides a public necessity statement.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill makes confidential and exempt limited types of nonjudicial arrest records. The exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

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:

Indeterminate. The private sector will be subject to the cost associated with an agency making redactions in response to a public records request.

C. Government Sector Impact:

Indeterminate. The FDLE will incur minor costs relating to the redaction of exempt records.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 943.0582 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on November 2, 2021:
The committee substitute links this bill to CS/SB 342.

- B. **Amendments:**

None.



768154

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
11/02/2021	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 53
and insert:
SB 342 or similar legislation takes effect, if such legislation

1
2
3
4
5
6

By Senator Perry

8-00333-22

2022344__

1 A bill to be entitled
2 An act relating to public records; amending s.
3 943.0582, F.S.; providing an exemption from public
4 records requirements for a nonjudicial record of the
5 arrest of a minor who has successfully completed a
6 diversion program; providing for retroactive
7 application; providing for future legislative review
8 and repeal of the exemption; providing a statement of
9 public necessity; providing a contingent effective
10 date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Subsection (5) is added to section 943.0582,
15 Florida Statutes, to read:

16 943.0582 Diversion program expunction.—

17 (5) A nonjudicial record of the arrest of a minor who has
18 successfully completed a diversion program which is sealed or
19 expunged under this section and which is retained by the
20 department is confidential and exempt from s. 119.07(1) and s.
21 24(a), Art. I of the State Constitution, except that the record
22 may be made available to criminal justice agencies only for the
23 purposes specified in subparagraph (2)(b)1. The exemption under
24 this subsection applies to records held by the department
25 before, on, or after July 1, 2022. This subsection is subject to
26 the Open Government Sunset Review Act in accordance with s.
27 119.15 and shall stand repealed on October 2, 2027, unless
28 reviewed and saved from repeal through reenactment by the
29 Legislature.

8-00333-22

2022344__

30 Section 2. The Legislature finds that it is a public
31 necessity that the nonjudicial record of the arrest of a minor
32 who successfully completed a diversion program for minors which
33 is sealed or expunged pursuant to s. 943.0582, Florida Statutes,
34 be made confidential and exempt from s. 119.07(1), Florida
35 Statutes, and s. 24(a), Article I of the State Constitution. The
36 purpose of diversion programs is to redirect youth from the
37 justice system with opportunities for programming,
38 rehabilitation, and restoration. This purpose is undermined if
39 the nonjudicial record of arrest is not confidential and exempt.
40 The presence of a nonjudicial record of arrest of a minor who
41 completed a diversion program can jeopardize his or her ability
42 to obtain education, employment, and other opportunities
43 necessary to become a productive, contributing, self-sustaining
44 member of society. Such negative consequences are unwarranted in
45 cases in which the minor was successfully diverted from further
46 delinquency proceedings through the completion of a diversion
47 program. For these reasons, the Legislature finds that it is a
48 public necessity that the criminal history records of minors
49 which have received an expunction due to the successful
50 completion of a diversion program be confidential and exempt
51 from public records requirements.

52 Section 3. This act shall take effect on the same date that
53 SB ____ or similar legislation takes effect, if such legislation
54 is adopted in the same legislative session or an extension
55 thereof and becomes a law.

The Florida Senate

APPEARANCE RECORD

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

11-2-21

Meeting Date

50344

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Kim White

Phone 512 466-6323

Address 4351 Meadowland Dr.

Street

Email texasswimmom@yahoo.com

Mt. Dora FL 32757

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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The Florida Senate

APPEARANCE RECORD

SB 344

11/2/21

Meeting Date

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Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name michelle gothwell

Phone 727-482-5872

Address 1400 Gandy Blvd #1416

Email mrothwell@gottme.com

Street

ST. Pete FL 33702

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

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

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The Florida Senate

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11/2/21

Meeting Date

SB344

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name LAurette Philipson

Phone 352-533-7202

Address 7240 Westwind drive

Email advocate.philipson@gmail.com

PORT RICHIEY FL 34108

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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11/2/21

Meeting Date

Criminal Justice

Committee

Name Brita "Breeta" Lincoln

Phone 813-541-6256

Address 1747 Orlando Central Parkway

Email bwilkinslincoln@gmail.com

Street

Orlando

FL

32809

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Florida PTA

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

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November 2, 2021

Meeting Date

Senate Criminal Justice

Committee

Name Allie McNair

Phone 850-877-2165

Address 2167 Mahan Dr
Street

Email amcnair@flsheriffs.org

Tallahassee
City

FL
State

32308
Zip

The Florida Senate

APPEARANCE RECORD

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

344 PR/Nonjudicial Record Arrest of a Minor

Bill Number or Topic

Amendment Barcode (if applicable)

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

Florida Sheriffs Association

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

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

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November 2, 2021

The Florida Senate
APPEARANCE RECORD

344

Meeting Date
Criminal Justice

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

Bill Number or Topic

Committee
Pamela Burch Fort

Amendment Barcode (if applicable)

Name

850-425-1344

Phone

Address
104 South Monroe Street

TcgLobby@aol.com

Email

Street

Tallahassee

FL

32301

City

State

Zip

Reset Form

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

NAACP Florida State Conference

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

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

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

5-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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

11/2/21

Meeting Date

SB 344

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Christie Arnold

Phone 850-339-0075

Address 201 W. Park Ave

Email carnold@flaccb.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: Florida Conference of Catholic Bishops

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

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

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11/2/21

Meeting Date

Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

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

344

Bill Number or Topic

Amendment Barcode (if applicable)

Name JessicaYeary

Phone 850-606-1000

Address 301 S. Monroe St.

Email jessica.yeary@flpd2.com

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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S-001 (08/10/2021)

THE FLORIDA SENATE

APPEARANCE RECORD

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

11/21/21

Meeting Date

344

Bill Number (if applicable)

Topic Public Records / Nonjudicial Record of the Arrest of a Minor Amendment Barcode (if applicable)

Name Phillip Swiderman

Job Title Policy Director

Address Street

Phone

City State Zip

Email

Speaking: [] For [] Against [] Information

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

Representing Americans for Prosperity

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] 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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The Florida Senate

APPEARANCE RECORD

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

11/2/2021

Meeting Date

344

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Karen Woodell

Phone 850-321-9386

Address 579 E. Call St.

Email fctep@yahoo.com

Street

Tallahassee, FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: FI Center for Fiscal & Economic Policy SPLCAction Fund

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

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

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The Florida Senate

APPEARANCE RECORD

11/21/2021

Meeting Date

344

Bill Number or Topic

Senate Criminal Justice

Committee

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

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Phone 407 3764801

Address 134 E. Colonial Dr

Email ida.eskamani@gmail.com

Orlando FL 32801

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Florida Rising

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

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The Florida Senate

APPEARANCE RECORD

344

11/2/21

Meeting Date

Criminal Justice

Committee

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

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Greg Black**

Phone **8505098022**

Address **1727 Highland Place**

Email **Greg@WaypointStrat.com**

Street

Tallahassee

FL

32308

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

R Street Institute

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

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

344

Bill Number or Topic

11/2/21

Meeting Date

CT

Committee

Amendment Barcode (if applicable)

Name

Carrie Boyd

Phone

850 570 9560

Address

106 E. College

Email

Street

Tallahassee

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

SPLC
Action

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

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

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

S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 360

INTRODUCER: Senator Harrell

SUBJECT: Traveling Across County Lines to Commit a Burglary

DATE: November 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	Pre-meeting
2.			JU	
3.			RC	

I. Summary:

SB 360 amends s. 843.22, F.S., which provides an enhancement for persons who travel across county lines with the intent to commit a burglary. This bill removes the requirement that the purpose of the travel must have been to thwart law enforcement attempts to track the items stolen in the burglary.

This bill may have a positive indeterminate prison bed impact. See Section V. Fiscal Impact Statement.

This bill is effective October 1, 2022.

II. Present Situation:

Organized theft is a growing problem across the country. Offenders who travel for the purpose of theft, fraud, and ID theft are often referred to as “felony lane gangs.” Felony lane gangs originated in south Florida, and according to the FBI, these gangs often commit bank fraud after smash-and-grab theft of identity documents.¹ This type of crime scheme has not only occurred throughout Florida, but has become an interstate criminal organization. Recently, several members of the felony lane gang based in Florida were arrested in Oregon after they traveled for the purpose burgling vehicles and committing fraud.²

¹ South Florida Sun Sentinel, *Is the Felony Lane Gang at it again? Man held in ID theft heist*, Mario Ariza, September 17, 2019, available at <https://www.sun-sentinel.com/news/crime/fl-ne-felony-lane-gang-again-20190917-xnbass6zhbbbvipdb4hhcw5qui-story.html> (last visited October 21, 2021).

² The Department of Justice, United States Attorney’s Office, District of Oregon, *Felony Lane Gang Member Sentenced in Bank Fraud Scheme*, May 3, 2021, available at <https://www.justice.gov/usao-or/pr/felony-lane-gang-member-sentenced-bank-fraud-scheme> (last visited October 21, 2021).

Similarly, organized retail theft continues to be a problem. A crime and safety analyst for News4Jax has stated that it is difficult to track down retail theft suspects because “they’re always in motion. They’re always moving. . . You have to have a defined suspect, basically, have them on surveillance more than once.”³ In 2019, the Florida Department of Law Enforcement (FDLE) agents arrested three individuals suspected of an elaborate scheme stealing thousands from retailers across the southeastern U.S., including more than 100 thefts in 23 Florida counties. Grand theft was among the charges filed against at least one of the suspects.⁴

Burglary

Section 810.02(1), F.S., provides that a person commits burglary by:

- Entering a dwelling,⁵ structure,⁶ or conveyance⁷ with the intent to commit an offense therein, unless the premises are open to the public or the person’s entry is licensed or invited; or
- Notwithstanding a licensed or invited entry, remaining in a dwelling, structure, or conveyance:
 - Surreptitiously, with the intent to commit an offense therein;
 - After permission to remain is withdrawn, with the intent to commit an offense therein; or
 - To commit or attempt to commit a forcible felony.⁸

³ News4Jax, *Theft ring stole at least \$83K in merchandise from home improvement stores*, Allyson Henning, June 20, 2019, available at [https://www.news4jax.com/news/2019/06/21/theft-ring-stole-at-least-83k-in-merchandise-from-home-improvement-stores/#:~:text=Theft%20ring%20stole%20at%20least%20\\$83K%20in%20merchandise,stores%20between%202017%20and%202019,%20police%20reports%20show](https://www.news4jax.com/news/2019/06/21/theft-ring-stole-at-least-83k-in-merchandise-from-home-improvement-stores/#:~:text=Theft%20ring%20stole%20at%20least%20$83K%20in%20merchandise,stores%20between%202017%20and%202019,%20police%20reports%20show) (last visited October 21, 2021).

⁴ News4Jax, *FDLE busts multi-state organized retail theft ring*, Steve Patrick, November 25, 2019, available at <https://www.news4jax.com/news/2019/11/25/fdle-arrests-3-for-multi-state-organized-theft-ring/> (last visited October 21, 2021).

⁵ Section 810.011(2), F.S., defines “dwelling,” to mean a building or conveyance of any kind, including any attached porch, whether such building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term includes such portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof.

⁶ Section 810.011(1), F.S., defines “structure,” to mean a building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term means a building of any kind or such portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof.

⁷ Section 810.011(3), F.S., defines “conveyance,” to mean any motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car; and “to enter a conveyance” includes taking apart any portion of the conveyance. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term “conveyance” means a motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car or such portions thereof as exist.

⁸ A “forcible felony” is treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual. Section 776.08, F.S.

A burglary is a felony offense classified according to the offense's specific circumstances, as follows:

- Unarmed burglary of an unoccupied structure or unoccupied conveyance (no assault or battery) is a Level 4 third degree felony.⁹
- Unarmed burglary of an occupied structure (no assault or battery) is a Level 6 second degree felony.¹⁰
- Unarmed burglary of a dwelling, an occupied conveyance, or an authorized emergency vehicle (no assault or battery) is a Level 7 second degree felony.¹¹
- Burglary is a Level 8 first degree felony punishable by a terms of years not exceeding life imprisonment if, in the course of committing the offense, the offender:
 - Makes an assault or battery upon any person;
 - Is or becomes armed within the dwelling, structure, or conveyance, with explosives or a dangerous weapon; or
 - Enters an occupied or unoccupied dwelling or structure, and:
 - Uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense, and thereby damages the dwelling or structure; or
 - Causes damage to the dwelling or structure, or to property within the dwelling or structure in excess of \$1,000.¹²

Traveling Across County Lines

In 2014, as a response to a “wave” of burglaries in Florida, the Legislature enacted laws to reclassify the crime of burglary to a higher degree when the offender traveled to commit the crime. The Sheriff of Martin County in 2013 stated that traditional law enforcement methods, “such as using local pawn shop databases, confidential informants, proactive police patrols, and targeted patrols,” become less effective with these crimes. According to the Sheriff, it is difficult for law enforcement to establish a pattern and track criminals when they travel from their home county to neighboring counties to commit crimes.¹³

Section 843.22, F.S., provides that 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 is 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.¹⁴

County of residence is the county within this state that a person resides. Evidence of a person's county of residence includes, but is not limited to:

- The address on a person's driver license or state identification card;
- Records of real property or mobile home ownership;
- Records of a lease agreement for residential property;

⁹ Sections 810.02(4)(a) and (b) and 921.0022(3)(d), F.S.

¹⁰ Sections 810.02(3)(c) and 921.0022(3)(f), F.S.

¹¹ Sections 810.02(3)(a), (b), (d), and (e) and 921.0022(3)(g), F.S.

¹² Sections 810.02(2)(a)2. and 921.0022(3)(h), F.S.

¹³ WFSU News, *Sheriff Enlists Legislative Help to Crack Down on Growing Problem: 'Pillowcase Burglars,'* Sascha Corder, December 18, 2013, available at <https://news.wfsu.org/state-news/2013-12-18/sheriff-enlists-legislative-help-to-crack-down-on-growing-problem-pillowcase-burglars> (last visited October 21, 2021).

¹⁴ Section 843.22(2), F.S.

- The county in which a person's motor vehicle is registered;
- The county in which a person is enrolled in an educational institution; and
- The county in which a person is employed.¹⁵

For purposes of sentencing, a burglary that is reclassified under this section is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023, F.S., for the offense committed.¹⁶

Severity Ranking Chart

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

Reclassification

Florida currently has various statutes that reclassify criminal offenses under specified circumstances. Generally, criminal laws provide for reclassification to the next highest degree. Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.¹⁷

Examples of criminal offenses that provide for such reclassification include, in part:

- A violation of driving while license suspended is a second degree misdemeanor for a first offense.¹⁸ A second or subsequent conviction is reclassified from a second degree misdemeanor to a first degree misdemeanor.¹⁹ Further, a third or subsequent conviction is

¹⁵ Section 843.22(1)(a), F.S.

¹⁶ Section 843.22(2), F.S.

¹⁷ Section 775.082, F.S. (maximum penalties). Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.082, F.S., provides the following maximum fines: \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

¹⁸ Section 322.34(2)(a), F.S.

¹⁹ Section 322.34(2)(b), F.S.

reclassified to a third degree felony if the violation or the most recent prior conviction is related to a violation of specified driving offenses.²⁰

- A violation of the theft statute under s. 812.014, F.S., for petit theft offenses are reclassified when a person has prior theft convictions.²¹ For example, a petit theft where the property is valued at more than \$100, but less than \$750, is a first degree misdemeanor²² but a person who commits petit theft and who previously was convicted two or more times for a theft commits a third degree felony.²³

III. Effect of Proposed Changes:

This bill amends s. 843.22, F.S., which provides an enhancement for persons who travel across county lines with the intent to commit a burglary. This bill removes the requirement that the purpose of the travel must have been to thwart law enforcement attempts to track the items stolen in the burglary.

This bill is effective October 1, 2022.

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.

²⁰ Section 322.34(2)(c), F.S. The enumerated specified offenses include driving under the influence; refusal to submit to a urine, breath-alcohol, or blood alcohol test; a traffic offense causing death or serious bodily injury; or fleeing and eluding.

²¹ Sections 812.014(3)(b), and (c), F.S.

²² Section 812.014(2)(e), F.S.

²³ Section 812.04(3)(c), F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) has not reviewed this legislation. However, this bill may have a positive indeterminate prison bed impact due to the increased number of offenders who may be sentenced to prison under this enhancement. Removing the requirement to prove that purpose of the travel must have been to thwart law enforcement attempts to track the items stolen may increase the number of offenders who qualify for this enhancement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 843.22 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 Harrell

25-00578-22

2022360__

1 A bill to be entitled
2 An act relating to traveling across county lines to
3 commit a burglary; amending s. 843.22, F.S.; deleting
4 a requirement that travel across county lines be for a
5 specified purpose in order to reclassify a burglary
6 offense; providing an effective date.
7

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

10 Section 1. Subsection (2) of section 843.22, Florida
11 Statutes, is amended to read:

12 843.22 Traveling across county lines with intent to commit
13 a burglary.—

14 (2) If a person who commits a burglary travels any distance
15 with the intent to commit the burglary in a county in this state
16 other than the person's county of residence, the degree of the
17 burglary shall be reclassified to the next higher degree ~~if the~~
18 ~~purpose of the person's travel is to thwart law enforcement~~
19 ~~attempts to track the items stolen in the burglary.~~ For purposes
20 of sentencing under chapter 921 and determining incentive gain-
21 time eligibility under chapter 944, a burglary that is
22 reclassified under this section is ranked one level above the
23 ranking specified in s. 921.0022 or s. 921.0023 for the burglary
24 committed.

25 Section 2. This act shall take effect October 1, 2022.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GAYLE HARRELL
25th District

COMMITTEES:
Transportation, *Chair*
Military and Veterans Affairs, Space,
and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Finance and Tax
Reapportionment

SELECT SUBCOMMITTEE:
Select Subcommittee on Congressional
Reapportionment

October 18, 2021

Senator Jason Pizzo
405 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Pizzo,

I respectfully request that **SB 360** – Traveling Across County Lines with Intent to Commit a Felony be placed on the next available agenda for the Criminal Justice Committee Meeting.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink that reads "Gayle".

Senator Gayle Harrell
Senate District 25

Cc: Lauren Jones, Staff Director
Sue Arnold, Committee Administrative Assistant

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- 322 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

11-2-2021 Meeting Date

SB 360 Bill Number or Topic

Criminal Justice Committee

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

Amendment Barcode (if applicable)

Name Kim White

Phone 512 466-6323

Address 4351 Meadowland Dr Street

Email texasswimmom@yahoo.com

Mt. Dora FL 32757 City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

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

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The Florida Senate

APPEARANCE RECORD

SB 360

11/2/21

Meeting Date

Bill Number or Topic

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Criminal Justice

Committee

Amendment Barcode (if applicable)

Name LAurette Philipson

Phone 352-533-7207

Address 7240 Westwind Dr

Email advocatephilipson@gmail.com

Street

Port Richey FL 33408

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

November 2, 2021

Meeting Date

Senate Criminal Justice

Committee

Name Allie McNair

Phone 850-877-2165

Address 2167 Mahan Dr

Email amcnair@flsheriffs.org

Street

Tallahassee

FL

32308

City

State

Zip

The Florida Senate

APPEARANCE RECORD

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360 Traveling Across County Lines

Bill Number or Topic

Amendment Barcode (if applicable)

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Sheriffs Association

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 360

11/2/21

Meeting Date

Bill Number or Topic

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Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Michelle Rothwell

Phone 727-482-5872

Address 1400 Gandy Blvd #1416

Email mrothwell@gaffmc.com

Street

St. Pete

FL

33702

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

11-2-21
Meeting Date

360
Bill Number (if applicable)

Topic Traveling Across County Lines

Amendment Barcode (if applicable)

Name Barbara Devane

Job Title Lobbyist

Address 625 E. Brevard St

Phone 251-4280

Jallahance FL 32308
City State Zip

Email barbadevane1@yahoo.com

Speaking: For Against Information

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

Representing FL NOW

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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November 2, 2021

The Florida Senate
APPEARANCE RECORD

360

Meeting Date
Criminal Justice

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Senate professional staff conducting the meeting

Bill Number or Topic

Committee
Pamela Burch Fort
Name

Amendment Barcode (if applicable)
850-425-1344
Phone

Address **104 South Monroe Street**
Street
Tallahassee **FL** **32301**
City *State* *Zip*

Email **TcgLobby@aol.com**

Reset Form

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
NAACP Florida State Conference

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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11/2/21 Meeting Date

360 Bill Number or Topic

Senate (S) Committee

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Phone 407 376 4801

Address 134 E Colonial Street

Email ida.eskamani@gmail.com

Orlando FL 32801 City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[X] I am a registered lobbyist, representing:

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

Florida Rising

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

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The Florida Senate

APPEARANCE RECORD

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11/2/2021

Meeting Date

360

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Karen Woodall

Phone 850-321-9386

Address 579 E. Call St.

Email fctep@yahoo.com

Street

Tallahassee FL 32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: FI Center for Fiscal & Economic Policy, SPLC Action Fund

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

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

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S-001 (08/10/2021)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 370

INTRODUCER: Senators Hooper and Book

SUBJECT: Offenses Against Firefighters

DATE: November 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	Favorable
2.			GO	
3.			RC	

I. Summary:

SB 370 amends s. 782.065, F.S., to require that a defendant be sentenced to life imprisonment without eligibility for release if the victim of the defendant’s offense is a firefighter and the offense committed by the defendant is:

- First degree murder and a death sentence was not imposed;
- Second or third degree murder;
- Attempted first degree murder involving “premeditated design”;
- Attempted second degree murder involving an “imminently dangerous” act evincing a “depraved mind”; or
- Attempted felony murder in violation of s. 782.051, F.S.

The Legislature’s Office of Economic and Demographic Research (EDR) preliminarily estimates that the bill will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds). See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2022.

II. Present Situation:

Definition of “Firefighter”

Section 633.102(9), F.S., defines a “firefighter” as an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the State Fire Marshal under s. 633.408, F.S.

Data on On-Duty Firefighter Fatalities from Violent Acts

Based on information from the U.S. Fire Administration and the National Fire Protection Association, there appears to be at least 25 firefighter fatalities by gunshot in the United States from 1986 to 2019 (the most recent year for which such information could be obtained). These are not self-inflicted gunshot fatalities.¹

Life Imprisonment for Murder of a Law Enforcement Officer and other Specified Officers

Section 782.065, F.S., requires that a defendant be sentenced to life imprisonment without eligibility for early release² upon findings by the trier of fact that, beyond a reasonable doubt:

- The defendant committed:
 - First degree murder in violation of s. 782.04(1), F.S., and a death sentence was not imposed;
 - Second or third degree murder in violation of s. 782.04(2), (3), or (4), F.S.;
 - Attempted first or second degree murder in violation of s. 782.04(1)(a)1. or (2), F.S.; or
 - Attempted felony murder in violation of s. 782.051, F.S.; and
- The victim of any of these described offenses was a law enforcement officer, part-time law enforcement officer, auxiliary law enforcement officer, correctional officer, part-time correctional officer, auxiliary correctional officer, correctional probation officer, part-time correctional probation officer, or auxiliary correctional probation officer as those terms are defined in s. 943.10, F.S., engaged in the lawful performance of a legal duty.

First Degree Murder

Section 782.04(1)(a)1., F.S., punishes the unlawful killing of a human being when perpetrated from premeditated design to effect the death of the person killed or any human being.

Section 782.04(1)(a)2., F.S., punishes the unlawful killing of a human being when committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any:

- Drug trafficking,
- Arson,
- Sexual battery,
- Robbery,
- Burglary,
- Kidnapping,

¹ Information on firefighter fatalities by gunshot in the United States for 1986 to 2002: Hank Przybylowicz, Line of Duty Research Service, cited at p. 23 in *Firefighter Fatalities in the United States in 2002*, FA-260 (July 2003), U.S. Fire Administration, available at <https://www.usfa.fema.gov/downloads/pdf/publications/fa-260.pdf> (last visited on Oct. 26, 2021). Information on firefighter fatalities by gunshot in the United States for 2002-2018: U.S. Fire Administration reports on firefighter fatalities in the United States for 2002-2018, available at https://www.usfa.fema.gov/data/statistics/ff_fatalities_reports.html (last visited on Oct. 26, 2021). Information on firefighter fatalities by gunshot in the United States for 2019: Rita F. Fahy, Jay T. Petrillo and Joseph L. Molis, *Firefighter Fatalities in the US – 2019* (July 2020), National Fire Protection Association, available at <https://www.nfpa.org/-/media/Files/News-and-Research/Fire-statistics-and-reports/Emergency-responders/osFFF.pdf> (last visited on Oct. 26, 2021). The U.S. Fire Administration data and National Fire Protection Association data in their fatality reports are not broken down by states.

² Section 944.275(4)(f), F.S., also mandates that prisoners sentenced to life imprisonment be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

- Escape,
- Aggravated child abuse,
- Aggravated abuse of an elderly person or disabled adult,
- Aircraft piracy,
- Unlawful throwing, placing, or discharging of a destructive device or bomb,
- Carjacking,
- Home-invasion robbery,
- Aggravated stalking,
- Murder of another human being,
- Resisting an officer with violence to his or her person,
- Aggravated fleeing or eluding with serious bodily injury or death,
- Felony that is an act of terrorism or is in furtherance of an act of terrorism, or
- Human trafficking.

Section 782.04(1)(a)3., F.S., punishes the unlawful killing of a human being which resulted from the unlawful distribution by a person 18 years of age or older of any Schedule I controlled substance, cocaine, specified opiates or opioids, fentanyl and specified fentanyl derivatives, and analogs of any of these controlled substances.

First degree murder is a capital felony, punishable by death or life imprisonment.³

Second Degree Murder

Section 782.04(2), F.S., punishes the unlawful killing of a human being when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual.

Section 782.04(3), F.S., provides that when a person is killed in the perpetration of, or in the attempt to perpetrate, any of the same felony offenses previously described for first degree murder in violation of s. 782.04(1)(a)2., F.S., excluding human trafficking, by a person other than the person engaged in the perpetration of or in the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony commits second degree murder.

Second degree murder is a first degree felony punishable by a term of years not exceeding life or as provided in ss. 775.082, 775.083, or 775.084, F.S.⁴

Third Degree Murder

Section 782.04(4), F.S., punishes the unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt

³ Section 782.082, F.S.

⁴ Generally, a first degree felony is punishable by up to 30 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S. However, when specifically provided by statute, a first degree felony may be punished by a term of years not exceeding life, and a person convicted under s. 782.04, F.S., of a first degree felony punishable by a term of years not exceeding life may be punished by a term equal to life imprisonment if the judge conducts a sentence hearing in accordance with s. 921.1401, F.S., and finds that such sentence is appropriate. Section 775.082, F.S. Section 775.084, F.S., provides enhanced penalties for qualifying repeat offenders.

to perpetrate, any felony other than any of the felony offenses previously described for first degree murder in violation of s. 782.04(1)(a)2., F.S., excluding human trafficking.

Third degree murder is a second degree felony punishable as provided in ss. 775.082, 775.083, or 775.084, F.S.⁵

Criminal Attempt

Unless otherwise provided by law, s. 777.04(4)(b)-(d), F.S., determines the felony degree of criminal attempt when the offense attempted is a capital felony, first degree felony, or second degree felony. If the offense attempted is a:

- Capital felony, the offense of criminal attempt is a first degree felony;
- First degree felony, the offense of criminal attempt is a second degree felony; and
- Second degree felony, the offense of criminal attempt is a third degree felony.

Attempted Felony Murder

Section 782.051(1), F.S., provides that any person who perpetrates or attempts to perpetrate any felony enumerated in s. 782.04(3), F.S., and who commits, aids, or abets an intentional act that is not an essential element of the felony and that could, but does not, cause the death of another commits a first degree felony, punishable by imprisonment for a term of years not exceeding life, or as provided in ss. 775.082, 775.083, or 775.084, F.S.⁶

Section 782.051(2), F.S., provides that any person who perpetrates or attempts to perpetrate any felony other than a felony enumerated in s. 782.04(3), F.S., and who commits, aids, or abets an intentional act that is not an essential element of the felony and that could, but does not, cause the death of another commits a first degree felony.⁷

Section 782.051(3), F.S., provides that when a person is injured during the perpetration of or the attempt to perpetrate any felony enumerated in s. 782.04(3), F.S., by a person other than the person engaged in the perpetration of or the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony commits a second degree felony.⁸

III. Effect of Proposed Changes:

The bill amends s. 782.065, F.S., to require that a defendant be sentenced to life imprisonment without eligibility for release if the victim of the defendant's offense is a firefighter and the offense committed by the defendant is:

- First degree murder (s. 782.04(1), F.S.) and a death sentence was not imposed;
- Second or third degree murder (s. 782.04(2), (3), or (4), F.S.);
- Attempted first degree murder involving "premeditated design" (s. 782.04(1)(a)1., F.S.);

⁵ A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S. Section 775.084, F.S., provides enhanced penalties for qualifying repeat offenders.

⁶ See footnote 4.

⁷ *Id.*

⁸ See footnote 5.

- Attempted second degree murder involving an “imminently dangerous” act evincing a “depraved mind” (s. 782.04(2), F.S.); or
- Attempted felony murder (s. 782.051, F.S.).

The bill takes effect October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill. The EDR preliminarily estimates that the bill will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds).⁹

⁹ The EDR’s estimate is on file with the Senate Committee on Criminal Justice.

The EDR provided the following additional information regarding the bill:

Per ... [Department of Corrections (DOC)], in FY 18-19, 923 offenders were admitted to prison for committing murder. There were 722 offenders admitted to prison in FY 19-20 and 463 offenders admitted to prison in FY 20-21. Due to data limitations, the number of offenders in this group who are eligible for such enhancements is not known. Average sentence length was 292.9 months (24.4 years) in FY 18-19, and one offender was admitted to prison for manslaughter of law enforcement/EMT/firefighter (16 years). Average sentence length was 294.4 months (24.5 years) in FY 19-20 and 232.1 months (19.3 years) in FY 20-21. Per ... [Federal Bureau of Investigation (FBI)], in CY 2018, 4 law enforcement officers were feloniously killed in Florida. There were no law enforcement officers feloniously killed in Florida in CY 2019. While it is not known how many offenders currently receive this enhanced penalty, nor is it known how many additional offenders would receive this enhancement under the amended bill, the rarity of murder and the long sentences associated with such an offense would likely prevent a significant impact on prison beds from occurring.¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 782.065 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

¹⁰ *Id.*

By Senator Hooper

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A bill to be entitled
 An act relating to offenses against firefighters;
 amending s. 782.065, F.S.; providing enhanced
 penalties for certain offenses committed against
 firefighters engaged in the performance of their
 lawful duties; providing an effective date.

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

Section 1. Section 782.065, Florida Statutes, is amended to read:

782.065 Murder; law enforcement officer, correctional officer, correctional probation officer, firefighter.—
 Notwithstanding ss. 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant shall be sentenced to life imprisonment without eligibility for release upon findings by the trier of fact that, beyond a reasonable doubt:

(1) The defendant committed murder in the first degree in violation of s. 782.04(1) and a death sentence was not imposed; murder in the second or third degree in violation of s. 782.04(2), (3), or (4); attempted murder in the first or second degree in violation of s. 782.04(1)(a)1. or (2); or attempted felony murder in violation of s. 782.051; and

(2) The victim of any offense described in subsection (1) was a law enforcement officer, part-time law enforcement officer, auxiliary law enforcement officer, correctional officer, part-time correctional officer, auxiliary correctional officer, correctional probation officer, part-time correctional probation officer, or auxiliary correctional probation officer,

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30 as those terms are defined in s. 943.10, or was a firefighter as
31 defined in s. 633.102, engaged in the lawful performance of a
32 legal duty.

33 Section 2. This act shall take effect October 1, 2022.

SB 370 – Offenses Against Firefighters (Identical HB 351)

This bill amends s. 782.065, F.S., adding “firefighter as defined in s. 633.102, F.S.” to the enhanced penalty for murder of a law enforcement officer, correctional officer, or correctional probation officer. The enhanced penalty states that “a defendant shall be sentenced to life imprisonment without eligibility for release upon findings by the trier of fact that, beyond a reasonable doubt” that a murder or attempted murder took place, with a list of victims that would make the offender eligible for such an enhancement.

Per DOC, in FY 18-19, 923 offenders were admitted to prison for committing murder. There were 722 offenders admitted to prison in FY 19-20 and 463 offenders admitted to prison in FY 20-21. Due to data limitations, the number of offenders in this group who are eligible for such enhancements is not known. Average sentence length was 292.9 months (24.4 years) in FY 18-19, and one offender was admitted to prison for manslaughter of law enforcement/EMT/firefighter (16 years). Average sentence length was 294.4 months (24.5 years) in FY 19-20 and 232.1 months (19.3 years) in FY 20-21. Per FBI, in CY 2018, 4 law enforcement officers were feloniously killed in Florida. There were no law enforcement officers feloniously killed in Florida in CY 2019.

While it is not known how many offenders currently receive this enhanced penalty, nor is it known how many additional offenders would receive this enhancement under the amended bill, the rarity of murder and the long sentences associated with such an offense would likely prevent a significant impact on prison beds from occurring.

EDR PROPOSED ESTIMATE: Positive Insignificant

Requested by: Senate



The Florida Senate

Committee Agenda Request

To: Senator Jason W. B. Pizzo, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: October 14, 2021

I respectfully request that **Senate Bill 370**, relating to Offenses Against Firefighters, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ed Hooper", written over a horizontal line.

Senator Ed Hooper
Florida Senate, District 16

The Florida Senate

APPEARANCE RECORD

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

NOV 2, 2021

Meeting Date

SB 370

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Chief Ray Colburn

Phone 407-468-6622

Address 1018 LK Elsie Dr.

Email ray@ffca.org
FLORIDA Fire Chiefs' Association

Street

TAVARES FL 32778

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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

11/2/21
Meeting Date

The Florida Senate APPEARANCE RECORD

SB 370
Bill Number or Topic

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

Committee

Amendment Barcode (if applicable)

Name Randy Wyse Phone 904 334-8470

Address 625 Stockton St Email rwyse@comcast.net
Street

Jax FL 32204
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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

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

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

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Criminal Justice Committee

Judge:

Started: 11/2/2021 12:32:06 PM

Ends: 11/2/2021 12:55:58 PM

Length: 00:23:53

12:32:05 PM Meeting called to order by Chair Pizzo
12:32:07 PM Roll call by CAA Sue Arnold
12:32:14 PM Quorum present
12:32:22 PM Comments from Chair Pizzo
12:32:43 PM SB 360 by Senator Harrell will be temporarily postponed
12:32:59 PM Introduction of Tab 1, SB 226 by Senator Pizzo
12:33:04 PM Explanation of SB 226, Care for Retired law Enforcement Dogs by Senator Powell
12:34:03 PM Comments from Chair Pizzo
12:34:16 PM Kate MacFall, Humane Society of the United States waives in support
12:34:31 PM Senator Powell waives closure
12:34:35 PM Roll call by CAA
12:34:43 PM SB 226 reported favorably
12:34:51 PM Introduction of Tab 4, SB 342 by Chair Pizzo
12:35:08 PM Explanation of SB 342, Juvenile Diversion Program Expunction by Senator Perry
12:35:33 PM Introduction of Amendment Barcode Number 906740 by Chair Pizzo
12:35:37 PM Explanation of Amendment by Senator Perry
12:35:52 PM Comments from Chair Pizzo
12:35:57 PM Senator Perry waives closure
12:36:00 PM Amendment Barcode Number 906740 adopted
12:36:03 PM Comments from Chair Perry
12:36:11 PM Brita Lincoln, Florida PTA waives in support
12:36:15 PM Laurette Philipson waives in support
12:36:19 PM Kim White waives in support
12:36:22 PM Michelle Rothwell waives in support
12:36:24 PM Pamela Burch Fort, NAACP Florida State Conference waives in support
12:36:27 PM Allie McNair, Florida Sheriffs Association waives in support
12:36:31 PM Barbara DeVane, FL NOW waives in support
12:36:38 PM Christie Arnold, Florida Conference of Catholic Bishops waives in support
12:36:44 PM Jessica Yeary waives in support
12:36:49 PM Phillip Suderman, Americans for Prosperity waives in support
12:36:52 PM Ida Eskamani, Florida Rising waives in support
12:36:57 PM Richard Clements waives in support
12:37:01 PM Karen Woodall, Florida Center for Fiscal & Economic Policy, SPLC Action Fund waives in support
12:37:06 PM Jasmyne Henderson, Broward County waives in support
12:37:10 PM Lauren Gallo, League of Women Voters waives in support
12:37:14 PM Greg Black, R Street Institute waives in support
12:37:17 PM Jorge Chamizo, FACDL waives in support
12:37:24 PM Christian Minor, FL Juvenile Justice Association waives in support
12:37:28 PM Carrie Boyd, SPLC Action Fund waives in support
12:37:50 PM Comments from Chair Pizzo
12:37:59 PM Closure by Senator Perry
12:38:03 PM Roll call by CAA
12:38:09 PM CS/SB 342 reported favorably
12:38:19 PM Introduction of Tab 5, SB 344 by Chair Pizzo
12:38:27 PM Explanation of SB 344, Public Records/Nonjudicial Record of the Arrest of a Minor by Senator Perry
12:38:34 PM Introduction of Amendment Barcode Number 768154 by Chair Pizzo
12:38:37 PM Explanation of Amendment by Senator Perry
12:38:42 PM Comments from Chair Pizzo
12:38:47 PM Senator Perry waives closure
12:38:49 PM Amendment Barcode Number 768154 adopted
12:38:52 PM Comments from Chair Pizzo
12:38:59 PM Michelle Rothwell waives in support

12:39:00 PM Laurette Philipsen waives in support
12:39:01 PM Brita Lincoln, Florida PTA waives in support
12:39:02 PM Karen Woodall, Florida Center for Fiscal Economic Policy, SPLC Action Fund waives in support
12:39:03 PM Allie McNair, Florida Sheriffs Association waives in support
12:39:04 PM Kim White waives in support
12:39:05 PM Christie Arnold, Florida Conference of Catholic Bishops waives in support
12:39:06 PM Jessica Yeary waives in support
12:39:08 PM Phillip Suderman, Americas for Prosperity waives in support
12:39:09 PM Pamela Burch Fort, NAACP Florida State Conference waives in support
12:39:11 PM Ida Eskamani, Florida Rising waives in support
12:39:13 PM Greg Black, R Street Institute waives in support
12:39:16 PM Carrie Boyd, SPLC Action waives in support
12:39:21 PM Senator Perry waives closure
12:39:23 PM Roll call by CAA
12:39:30 PM CS/SB 344 reported favorably
12:39:42 PM Introduction of Tab 3, SB 276 by Chair Pizzo
12:39:55 PM Explanation of SB 276, Sentencing by Senator Rouson
12:42:05 PM Question from Chair Pizzo
12:42:18 PM Response from Senator Rouson
12:42:35 PM Barbara DeVane, FL NOW waives in support
12:42:36 PM Karen Woodall, Florida Center for Fiscal & Economic Policy, SPLC Action Fund waives in support
12:42:37 PM Pamela Burch Fort, NAACP Florida State Conference waives in support
12:42:41 PM Laurette Philipsen waives in support
12:42:42 PM Ida Eskamani, Florida Rising waives in support
12:42:42 PM Christie Arnold, Florida Conference of Catholic Bishops waives in support
12:42:44 PM Jorge Chamizo, FACDL waives in support
12:43:07 PM Speaker Michelle Rothwell in support
12:44:08 PM Question from Chair Pizzo
12:45:07 PM Response from Ms. Rothwell
12:45:31 PM Question from Senator Gainer
12:45:39 PM Response from Ms. Rothwell
12:45:54 PM Speaker Kim White in support
12:47:00 PM Jessica Yeary waives in support
12:47:18 PM Comments from Chair Pizzo
12:48:09 PM Closure by Senator Rouson
12:48:15 PM Roll call by CAA
12:48:39 PM SB 276 reported favorably
12:48:55 PM Introduction of Tab 7, SB 370 by Chair Pizzo
12:49:11 PM Explanation of SB 370, Offenses Against Firefighters by Senator Hooper
12:50:01 PM Comments from Chair Pizzo
12:50:09 PM Question from Senator Brandes
12:50:13 PM Response from Senator Hooper
12:50:32 PM Chief Ray Colburn, Florida Fire Chiefs' Association waives in support
12:50:44 PM Speaker Randy Wyse, Florida Professional Firefighters in support
12:52:24 PM Comments from Chair Pizzo
12:52:47 PM Senator Hooper in closure
12:52:53 PM Roll call by CAA
12:53:03 PM SB 370 reported favorably
12:53:17 PM Chair turned over to Senator Brandes
12:53:32 PM Introduction of Tab 2, SB 260 by Chair Brandes
12:53:39 PM Explanation of SB 260, Renaming the Criminal Punishment Code by Senator Pizzo
12:53:55 PM Comments from Chair Brandes
12:54:00 PM Kim White waives in support
12:54:07 PM Michelle Rothwell waives in support
12:54:13 PM Laurette Philipsen waives in support
12:54:20 PM Christie Arnold, Florida Conference of Catholic Bishops waives in support
12:54:25 PM Pamela Burch Fort, NAACP Florida State Conference waives in support
12:54:31 PM Barbara DeVane, FL NOW waives in support
12:54:35 PM Ida Eskamani, Florida Rising waives in support
12:54:39 PM Karen Woodall, Florida Center for Fiscal & Economic Policy, SPLC Action Fund waives in support
12:54:47 PM Greg Black, R Street Institute waives in support
12:54:54 PM Comments from Chair Brandes

12:55:03 PM Senator Pizzo waives closure
12:55:05 PM Roll call by CAA
12:55:11 PM SB 260 reported favorably
12:55:25 PM Chair returned to Chair Pizzo
12:55:32 PM Senator Baxley moves to give staff license to make technical and conforming changes to the Committee
Substitutes
12:55:40 PM Senator Taddeo moves to adjourn
12:55:48 PM Meeting adjourned