

SB 676 by Galvano; Welfare Transition Trust Fund/Department of Education

SB 678 by Hays; Trust Funds within Department of Agriculture and Consumer Services

SB 680 by Hays; (Identical to H 7041) Federal Grants Trust Fund/Department of Business and Professional Regulation

SB 682 by Hays; (Identical to H 7043) Federal Grants Trust Fund/Department of Financial Services

SB 684 by Gardiner; (Identical to H 7053) State Economic Enhancement and Development Trust Fund/Department of Economic Opportunity

SB 686 by Gardiner; (Identical to H 7059) Termination of Trust Funds within Department of Economic Opportunity

SB 688 by Gardiner; (Identical to H 7061) Federal Grants Trust Fund/Executive Office of the Governor

CS/SB 224 by RI, Benacquisto (CO-INTRODUCERS) Latvala, Sobel, Flores, Gibson, Bradley, Dean, Braynon;
(Similar to H 0153) Nicotine Dispensing Devices

755288	D	S	RCS	AP, Benacquisto	Delete everything after	02/20 05:09 PM

SB 360 by Bradley, Evers; (Compare to CS/H 0099) Sentencing for Controlled Substance Violations

125880	PCS	S	FAV	AP		02/21 09:12 AM

CS/SB 522 by CF, Grimsley (CO-INTRODUCERS) Detert; (Compare to H 7013) Involuntary Civil Commitment of Sexually Violent Predators

387996	D	S	RCS	AP, Grimsley	Delete everything after	02/21 09:10 AM
891372	AA	S	RCS	AP, Grimsley	Delete L.54:	02/21 09:10 AM
589588	AA	S	WD	AP, Grimsley	Delete L.63:	02/21 09:10 AM
739700	AA	S	RCS	AP, Grimsley	Delete L.208:	02/21 09:10 AM

SB 524 by Sobel (CO-INTRODUCERS) Detert; (Compare to CS/H 7021) Sexually Violent Predators

115236	D	S	RCS	AP, Sobel	Delete everything after	02/21 09:20 AM
393766	AA	S	RCS	AP, Sobel	Delete L.94:	02/21 09:20 AM

CS/CS/SB 526 by JU, CJ, Bradley; (Compare to H 7017) Sexual Offenses

937698	D	S	RCS	AP, Bradley	Delete everything after	02/21 09:22 AM

CS/SB 528 by JU, Evers; (Similar to CS/H 7025) Sex Offenses

924540	D	S	RCS	AP, Latvala	Delete everything after	02/21 09:32 AM
168646	AA	S	RCS	AP, Latvala	Delete L.206:	02/21 09:32 AM
107130	AA	S	RCS	AP, Latvala	Delete L.972 - 973:	02/21 09:32 AM
783912	AA	S	WD	AP, Latvala	btw L.1685 - 1686:	02/20 11:44 AM

CS/SB 542 by BI, Brandes (CO-INTRODUCERS) Simpson, Benacquisto, Galvano, Bradley, Latvala; (Identical to H 0581) Flood Insurance

409078	PCS	S	FAV	AP		02/21 09:14 AM

SB 696 by TR; (Compare to H 7005) Department of Transportation

968900	A	S	RCS	AP, Hays	Delete L.207 - 246:	02/21 09:16 AM
639220	A	S	RCS	AP, Hays	Delete L.362 - 370:	02/21 09:16 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

APPROPRIATIONS
Senator Negrón, Chair
Senator Benacquisto, Vice Chair

MEETING DATE: Thursday, February 20, 2014

TIME: 1:00 —3:00 p.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Negrón, Chair; Senator Benacquisto, Vice Chair; Senators Bean, Bradley, Galvano, Gardiner, Grimsley, Hays, Hukill, Joyner, Latvala, Lee, Margolis, Montford, Richter, Ring, Smith, Sobel, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 676 Galvano	Welfare Transition Trust Fund/Department of Education; Re-creating the Welfare Transition Trust Fund within the Department of Education without modification; abrogating provisions relating to the termination of the trust fund, to conform, etc. AP 02/20/2014 Favorable	Favorable Yeas 15 Nays 0
2	SB 678 Hays	Trust Funds within Department of Agriculture and Consumer Services; Terminating the Agricultural Law Enforcement Trust Fund, the Market Trade Show Trust Fund, and the Relocation and Construction Trust Fund within the Department of Agriculture and Consumer Services; providing for the disposition of balances in, revenues of, and all outstanding appropriations of the trust funds; providing for the administration and funding of specified trust funds within the department, etc. AP 02/20/2014 Favorable	Favorable Yeas 15 Nays 0
3	SB 680 Hays (Identical H 7041)	Federal Grants Trust Fund/Department of Business and Professional Regulation; Re-creating the Federal Grants Trust Fund within the Department of Business and Professional Regulation without modification; abrogating provisions relating to the termination of the trust fund, to conform, etc. AP 02/20/2014 Favorable	Favorable Yeas 16 Nays 0
4	SB 682 Hays (Identical H 7043)	Federal Grants Trust Fund/Department of Financial Services; Re-creating the Federal Grants Trust Fund within the Department of Financial Services without modification; abrogating provisions relating to the termination of the trust fund, to conform, etc. AP 02/20/2014 Favorable	Favorable Yeas 16 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 20, 2014, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 684 Gardiner (Identical H 7053)	State Economic Enhancement and Development Trust Fund/Department of Economic Opportunity; Re-creating the State Economic Enhancement and Development Trust Fund within the Department of Economic Opportunity without modification; abrogating provisions relating to the termination of the trust fund, to conform, etc. AP 02/20/2014 Favorable	Favorable Yeas 16 Nays 0
6	SB 686 Gardiner (Identical H 7059)	Termination of Trust Funds within Department of Economic Opportunity; Terminating specified trust funds within the Department of Economic Opportunity; providing for the disposition of balances in and revenues of such trust funds; prescribing procedures for the termination of such trust funds, etc. AP 02/20/2014 Favorable	Favorable Yeas 16 Nays 0
7	SB 688 Gardiner (Identical H 7061)	Federal Grants Trust Fund/Executive Office of the Governor; Re-creating the Federal Grants Trust Fund within the Executive Office of the Governor without modification; abrogating provisions relating to the termination of the trust fund, to conform, etc. AP 02/20/2014 Favorable	Favorable Yeas 16 Nays 0
8	CS/SB 224 Regulated Industries / Benacquisto (Similar H 153, Compare H 169)	Nicotine Dispensing Devices; Prohibiting the gift of sample nicotine dispensing devices to persons under 18 years of age; prohibiting the selling, delivering, bartering, furnishing, or giving of nicotine dispensing devices to persons under 18 years of age, to which penalties apply; prohibiting persons under 18 years of age from possessing, purchasing, or misrepresenting their age or military service to purchase nicotine dispensing devices; requiring certain signage where a dealer sells nicotine dispensing devices, etc. RI 11/07/2013 Fav/CS CJ 01/08/2014 Favorable ACJ 02/06/2014 Favorable AP 02/20/2014 Fav/CS	Fav/CS Yeas 16 Nays 0

A proposed committee substitute for the following bill (SB 360) is available:

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 20, 2014, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	SB 360 Bradley / Evers (Compare CS/H 99)	Sentencing for Controlled Substance Violations; Providing that a person who knowingly sells, purchases, manufactures, delivers, or brings into this state specified quantities of oxycodone or hydrocodone, or who is knowingly in actual or constructive possession of specified quantities of oxycodone or hydrocodone, commits the offense of trafficking in illegal prescription drugs, a felony of the first degree; providing criminal penalties, etc. CJ 01/08/2014 Favorable ACJ 02/06/2014 Fav/CS AP 02/20/2014 Fav/CS	Fav/CS Yeas 16 Nays 0
With subcommittee recommendation - Criminal and Civil Justice			
10	CS/SB 522 Children, Families, and Elder Affairs / Grimsley (Compare H 7013, H 7019)	Involuntary Civil Commitment of Sexually Violent Predators; Requiring the agency with jurisdiction over a person who has been convicted of a sexually violent offense to give written notice to the multidisciplinary team as soon as practicable after receipt into custody of such person in a local detention facility; providing for certain released persons to be taken into custody by the Department of Children and Families; requiring the department to provide written notice of placement of a person in the department's custody for a commitment hearing to a victim of such person; requiring the Department of Corrections to collect recidivism information and prepare an annual report by a specified date, etc. CF 01/14/2014 Fav/CS JU 02/04/2014 Favorable AP 02/20/2014 Fav/CS	Fav/CS Yeas 16 Nays 0
11	SB 524 Sobel (Compare H 7021)	Sexually Violent Predators; Citing this act as the "Protecting Our Children from Sexual Predators Act"; requiring the Department of Children and Families to provide training to the members of the multidisciplinary team; limiting the term of contract of multidisciplinary team members who contract with the department to 1 year; providing that such contracts may be renewed; requiring nonpublic colleges, universities, and schools to inform students and employees of the Florida Department of Law Enforcement sexual predator and sexual offender registry website and toll-free number, etc. CF 01/14/2014 Favorable JU 02/04/2014 Favorable AP 02/20/2014 Fav/CS	Fav/CS Yeas 15 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 20, 2014, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	CS/CS/SB 526 Judiciary / Criminal Justice / Bradley (Compare H 7017, H 7027)	Sexual Offenses; Revising and creating offenses involving sexual battery; revising and creating offenses involving lewd or lascivious battery and molestation; assigning new offense severity rankings for lewd or lascivious molestation and sexual battery offenses; providing that sentence points are multiplied for specified sex offenses committed by an adult upon a minor under certain circumstances; authorizing a state attorney to move a court to make a written finding that an offense was a sexually motivated offense under certain circumstances; prohibiting award of gain-time for certain offenses; requiring split sentence for certain sexual offenses, etc. CJ 01/13/2014 Fav/CS JU 02/04/2014 Fav/CS AP 02/20/2014 Fav/CS	Fav/CS Yeas 15 Nays 0
13	CS/SB 528 Judiciary / Evers (Similar CS/H 7025)	Sex Offenses; Requiring the Department of Law Enforcement to inform the clerk of the court if a person petitioning for a name change has registered as a sexual predator or sexual offender; providing that voluntary disclosure of specified information waives a disclosure exemption for such information; adding additional offenses to the list of sexual predator qualifying offenses; requiring disclosure of additional information during the sexual predator registration process; providing criminal penalties for knowingly providing false registration information by act or omission, etc. CJ 01/13/2014 Favorable JU 02/04/2014 Fav/CS AP 02/20/2014 Fav/CS	Fav/CS Yeas 14 Nays 0
A proposed committee substitute for the following bill (CS/SB 542) is available:			
14	CS/SB 542 Banking and Insurance / Brandes (Identical H 581, Compare H 471, CS/H 565, H 879)	Flood Insurance; Adding projected flood losses to the factors that must be considered by the Office of Insurance Regulation in reviewing certain rate filings; increasing the membership of the Florida Commission on Hurricane Loss Projection Methodology to include an engineer who is an expert in floodplain management and a meteorologist who specializes in floods; authorizing insurers to offer flood insurance in this state, etc. BI 01/08/2014 Fav/CS AGG 02/06/2014 Fav/CS AP 02/20/2014 Fav/CS	Fav/CS Yeas 16 Nays 0
With subcommittee recommendation - General Government			

COMMITTEE MEETING EXPANDED AGENDA

Appropriations

Thursday, February 20, 2014, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	SB 696 Transportation (Compare H 7005, S 1048)	Department of Transportation; Increasing the weight used in calculating whether a vehicle equipped with fully functional idle-reduction technology is overweight; revising the authorization of the department to enter into an agreement with an owner of a transportation facility under which the department uses its electronic toll collection and video billing systems to collect for the owner certain charges for use of the owner's transportation facility; requiring the Department of Transportation to include funding for environmental mitigation for projects in its work program, etc. AP 02/20/2014 Fav/CS	Fav/CS Yeas 15 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Committee

BILL: SB 676

INTRODUCER: Senator Galvano

SUBJECT: Welfare Transition Trust Fund/Department of Education

DATE: February 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sikes	Kynoch	AP	Favorable
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____

I. Summary:

SB 676 re-creates, without modification, the Welfare Transition Trust Fund within the Department of Education (department). The bill is effective July 1, 2014, and has no fiscal impact on state or local funds.

II. Present Situation:

Article III, s. 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless the trust fund is exempted by the constitution or operation of law.

The Welfare Transition Trust Fund is scheduled to be terminated on July 1, 2015.

The trust fund was created to provide a depository for federal funds received under the Temporary Assistance for Needy Families (TANF) Program. Funding for the trust fund was authorized by the 2011 Legislature in s. 1001.283, F.S., and consists of funds from the TANF Program.

For Fiscal Year 2013-2014, the Legislature appropriated \$98,277,590 from the Welfare Transition Trust Fund within the department for school readiness.

III. Effect of Proposed Changes:

The Welfare Transition Trust Fund within the department is re-created without modification. Section 1001.283(3), F.S., which terminates the trust fund on July 1, 2015, is repealed.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to Art. III, s. 19(f)(1) of the Florida Constitution, a bill that re-creates a trust fund must pass by a three-fifths vote of the membership of each house in a separate bill for that purpose only.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole, or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals section 1001.283(3) of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.

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

By Senator Galvano

26-00789-14

2014676__

A bill to be entitled

An act relating to trust funds; re-creating the Welfare Transition Trust Fund within the Department of Education without modification; repealing s. 1001.283(3), F.S.; abrogating provisions relating to the termination of the trust fund, to conform; providing an effective date.

WHEREAS, the Legislature wishes to extend the life of the Welfare Transition Trust Fund within the Department of Education, which is otherwise scheduled to be terminated pursuant to constitutional mandate, and

WHEREAS, the Legislature has reviewed the trust fund before its scheduled termination date and has found that it continues to meet an important public purpose, and

WHEREAS, the Legislature has found that existing public policy concerning the trust fund sets adequate parameters for its use, NOW, THEREFORE,

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

Section 1. The Welfare Transition Trust Fund within the Department of Education, FLAIR number 48-2-401, which is to be terminated pursuant to Section 19(f), Article III of the State Constitution on July 1, 2015, is re-created.

Section 2. Subsection (3) of section 1001.283, Florida Statutes, is repealed.

Section 3. This act shall take effect July 1, 2014.

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 Appropriations

BILL: SB 678

INTRODUCER: Senator Hays

SUBJECT: Trust Funds within the Department of Agriculture and Consumer Services

DATE: February 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Blizzard	Kynoch	AP	Favorable
2.				
3.				
4.				

I. Summary:

SB 678: (1) terminates three trust funds within the Department of Agriculture and Consumer Services (department): the Agricultural Law Enforcement Trust Fund, the Market Trade Show Trust Fund, and the Relocation and Construction Trust Fund; (2) codifies in chapter 570, Florida Statutes, the Administrative Trust Fund, the Federal Grants Trust Fund, the Florida Saltwater Products Promotion Trust Fund, the Plant Industry Trust Fund, the Pest Control Trust Fund, the Citrus Inspection Trust Fund, and the Incidental Trust Fund in the department; and (3) makes conforming changes to sections 253.025, 571.24, and 932.7055, Florida Statutes. The bill is effective July 1, 2014, and has no fiscal impact on state or local funds.

II. Present Situation:

Section 215.3208, F.S., requires legislative review of each trust fund at least once every four years. The review schedule is included in the legislative budget instructions developed in accordance with s. 216.023, F.S. The review indicated three trust funds within the department are no longer necessary and where other trust funds within the department could be utilized.

The Agricultural Law Enforcement Trust Fund was originally created as a depository for revenues received as a result of state or federal criminal or forfeiture proceedings. For Fiscal Year 2013-2014, the Legislature appropriated \$23,035 from the trust fund.

The Market Trade Show Trust Fund was originally created to offset costs in promoting and marketing Florida's agricultural products. Revenue is derived from the collection of rental receipts for industry promotions. For Fiscal Year 2013-2014, the Legislature appropriated \$176,601 from the trust fund.

The Relocation and Construction Trust Fund was created for the purpose of achieving the orderly relocation of the forestry fire towers and work centers. The source of revenue for the trust fund is the sale or lease of forestry facilities. For Fiscal Year 2013-2014, the Legislature appropriated \$50,000 from the trust fund.

All of the department's trust funds are established in ch. 570, F.S., except for the Administrative Trust Fund, the Federal Grants Trust Fund, the Florida Saltwater Products Promotion Trust Fund, the Plant Industry Trust Fund, the Pest Control Trust Fund, the Citrus Inspection Trust Fund, and the Incidental Trust Fund. These trust funds were previously created and re-created pursuant to the Florida Constitution, but have never been codified in Florida Statute.

The Administrative Trust Fund was previously re-created in ch. 2004-113, L.O.F. The fund is used as a depository for revenue from other department trust funds to be used for administrative activities that are departmental in nature. For Fiscal Year 2013-2014, the Legislature appropriated \$8.5 million from the trust fund.

The Contracts and Grants Trust Fund was renamed the Federal Grants Trust Fund in ch. 2006-79, L.O.F. The fund was established as a depository for allowable grant activities funded by restricted program revenues from federal sources. For Fiscal Year 2013-2014, the Legislature appropriated \$50.3 million from the trust fund.

The Florida Saltwater Products Promotion Trust Fund was previously re-created in ch. 2004-128, L.O.F. The purpose of the fund is to promote all fish and saltwater products produced in this state. Revenues are derived from wholesale and retail saltwater products dealer licensure fees. For Fiscal Year 2013-2014, the Legislature appropriated \$1.2 million from the trust fund.

The Plant Industry Trust Fund was previously re-created in ch. 2004-124, L.O.F. The fund was established for the regulation of nurseries, plant and apiary inspections, and eradication of insects and diseases for the agricultural industry. The major sources of revenue is inspection and certification fees. For Fiscal Year 2013-2014, the Legislature appropriated \$5.2 million from the trust fund.

The Pest Control Trust Fund was previously re-created in ch. 2004-125, L.O.F., to carry out the provisions of s. 482, F.S., for the licensing of pest control businesses, examinations for operator's certificates, and educational activities of the pest control industry. Revenues sources consist of pest control licensure and examination fees. For Fiscal Year 2013-2014, the Legislature appropriated \$3.5 million from the trust fund.

The Citrus Inspection Trust Fund was previously re-created in ch. 2004-115, L.O.F., for the purpose of regulating and certifying citrus fruit and processed citrus products. Revenues are derived from marketing order assessments, citrus dealer licensure and inspection fees. For Fiscal Year 2013-2014, the Legislature appropriated \$15.9 million from the trust fund.

The Incidental Trust Fund was previously re-created in ch. 2004-121, L.O.F., to promote and encourage proper forest management, including fire protection, stewardship, and management of public lands. The major source of revenue is from the sale of forestry products. For Fiscal Year 2013-2014, the Legislature appropriated \$13.7 million from the trust fund.

III. Effect of Proposed Changes:

The Agricultural Law Enforcement Trust Fund, the Market Trade Show Trust Fund, and the Relocation and Construction Trust Fund, within the department, are terminated.

The bill terminates the Agricultural Law Enforcement Trust Fund, effective July 1, 2014, and transfers all cash balances and revenues to the General Inspection Trust Fund within the department. As of December 31, 2013, the total cash balance in the Agricultural Law Enforcement Trust Fund was \$256,384.

The bill terminates the Market Trade Show Trust Fund, effective July 1, 2014, and transfers all cash balances and revenues to the Florida Agricultural Promotional Campaign Trust Fund within the department. As of December 31, 2013, the total cash balance in the Market Trade Show Trust Fund was \$1,080,413.

The bill terminates the Relocation and Construction Trust Fund, effective July 1, 2014, and transfers all cash balances to the Incidental Trust Fund within the department. As of December 31, 2013, the total cash balance in the Relocation and Construction Trust Fund was \$433,421.

To be consistent with the other trust funds within the department, the bill codifies, in ch. 570, F.S., the Administrative Trust Fund, the Federal Grants Trust Fund, the Florida Saltwater Products Promotion Trust Fund, the Plant Industry Trust Fund, the Pest Control Trust Fund, the Citrus Inspection Trust Fund, and the Incidental Trust Fund.

Additionally, the bill amends s. 571.24, F.S., relating to the Florida Agricultural Promotion Campaign, to include the collection of rental receipts for industry promotions to the list of duties of the department. Previously, these receipts were deposited into the Market Trade Show Trust Fund.

The bill amends s. 253.025, F.S., providing for revenues from the sale or lease of forestry facilities to be deposited into the Incidental Trust Fund within the department. Previously, these revenues were deposited into the Relocation and Construction Trust Fund.

Finally, the bill amends s. 932.7055, F.S., redirecting proceeds accrued pursuant to the Florida Contraband Forfeiture Act from the Agricultural Law Enforcement Trust Fund to the General Inspection Trust Fund.

The bill takes effect on July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole, or on the private sector. The bill terminates three existing state trust funds that have limited use and where other funds within the department may be utilized. All remaining cash balances will be transferred to other trust funds within the department. Additionally, the bill codifies seven trust funds into Florida Statutes for consistency purposes. All seven trust funds have been previously created and re-created pursuant to Article III, section 19(f), of the State Constitution.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 253.025, 571.24, and 932.7055.

This bill creates the following sections of the Florida Statutes: 570.192, 570.193, 570.194, 570.321, 570.441, 570.482, and 570.5481.

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 Hays

11-00761C-14

2014678__

1 A bill to be entitled
 2 An act relating to trust funds; terminating the
 3 Agricultural Law Enforcement Trust Fund, the Market
 4 Trade Show Trust Fund, and the Relocation and
 5 Construction Trust Fund within the Department of
 6 Agriculture and Consumer Services; providing for the
 7 disposition of balances in, revenues of, and all
 8 outstanding appropriations of the trust funds;
 9 prescribing procedures for the termination of the
 10 trust funds; creating s. 570.192, F.S.; providing for
 11 the administration and funding of the Administrative
 12 Trust Fund; creating s. 570.193, F.S.; providing for
 13 the administration and funding of the Federal Grants
 14 Trust Fund; creating s. 570.194, F.S.; providing for
 15 the administration and funding of the Florida
 16 Saltwater Products Promotion Trust Fund; creating s.
 17 570.321, F.S.; providing for the administration and
 18 funding of the Plant Industry Trust Fund; creating s.
 19 570.441, F.S.; providing for the administration and
 20 funding of the Pest Control Trust Fund; creating s.
 21 570.482, F.S.; providing for the administration and
 22 funding of the Citrus Inspection Trust Fund; creating
 23 s. 570.5481, F.S.; providing for the administration
 24 and funding of the Incidental Trust Fund; amending s.
 25 571.24, F.S.; adding collecting rental receipts for
 26 industry promotions to the list of departmental
 27 duties; amending s. 253.025, F.S.; redirecting
 28 proceeds from the Relocation and Construction Trust
 29 Fund to the Incidental Trust Fund; conforming

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2014678__

30 provisions to changes made by the act; amending s.
 31 932.7055, F.S.; redirecting proceeds from the
 32 Agricultural Law Enforcement Trust Fund to the General
 33 Inspection Trust Fund; providing an effective date.

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

37 Section 1. (1) The Agricultural Law Enforcement Trust Fund
 38 within the Department of Agriculture and Consumer Services,
 39 FLAIR number 42-2-025, is terminated.

40 (2) All current balances remaining in, and all revenues of,
 41 the trust fund shall be transferred to the General Inspection
 42 Trust Fund within the Department of Agriculture and Consumer
 43 Services, FLAIR number 42-2-321.

44 (3) The Department of Agriculture and Consumer Services
 45 shall pay any outstanding debts or obligations of the terminated
 46 fund as soon as practicable, and the Chief Financial Officer
 47 shall close out and remove the terminated fund from various
 48 state accounting systems using generally accepted accounting
 49 principles concerning warrants outstanding, assets, and
 50 liabilities.

51 Section 2. (1) The Market Trade Show Trust Fund within the
 52 Department of Agriculture and Consumer Services, FLAIR number
 53 42-2-466, is terminated.

54 (2) All current balances remaining in, and all revenues of,
 55 the trust fund shall be transferred to the Florida Agricultural
 56 Promotional Campaign Trust Fund within the Department of
 57 Agriculture and Consumer Services, FLAIR number 42-2-920.

58 (3) The Department of Agriculture and Consumer Services

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shall pay any outstanding debts or obligations of the terminated fund as soon as practicable, and the Chief Financial Officer shall close out and remove the terminated fund from various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

Section 3. (1) The Relocation and Construction Trust Fund within the Department of Agriculture and Consumer Services, FLAIR number 42-2-584, is terminated.

(2) All current balances remaining in, all revenues of, and all outstanding appropriations of the trust fund shall be transferred to the Incidental Trust Fund within the Department of Agriculture and Consumer Services, FLAIR number 42-2-381.

(3) The Department of Agriculture and Consumer Services shall pay any outstanding debts or obligations of the terminated fund as soon as practicable, and the Chief Financial Officer shall close out and remove the terminated fund from various state accounting systems using generally accepted accounting principles concerning warrants outstanding, assets, and liabilities.

Section 4. Section 570.192, Florida Statutes, is created to read:

570.192 Administrative Trust Fund.—

(1) The Administrative Trust Fund shall be administered by the Department of Agriculture and Consumer Services.

(2) Funds to be credited to and uses of the trust fund shall be administered in accordance with s. 215.32.

(3) Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of a fiscal year shall

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remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.

Section 5. Section 570.193, Florida Statutes, is created to read:

570.193 Federal Grants Trust Fund.—

(1) The Federal Grants Trust Fund shall be administered by the Department of Agriculture and Consumer Services.

(2) Funds to be credited to and uses of the trust fund shall be administered in accordance with s. 215.32.

(3) Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of a fiscal year shall remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.

Section 6. Section 570.194, Florida Statutes, is created to read:

570.194 Florida Saltwater Products Promotion Trust Fund.—

(1) The Florida Saltwater Products Promotion Trust Fund shall be administered by the Department of Agriculture and Consumer Services.

(2) Funds to be credited to and uses of the trust fund shall be administered in accordance with ss. 328.76 and 379.362.

(3) Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of a fiscal year shall remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.

Section 7. Section 570.321, Florida Statutes, is created to read:

570.321 Plant Industry Trust Fund.—

(1) The Plant Industry Trust Fund shall be administered by

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the Department of Agriculture and Consumer Services.

(2) Funds to be credited to and uses of the trust fund shall be administered in accordance with ss. 259.032, 581.031, 581.141, 581.211, 581.212, 586.045, 586.15, 586.16, 593.114, and 593.117.

(3) Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of a fiscal year shall remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.

Section 8. Section 570.441, Florida Statutes, is created to read:

570.441 Pest Control Trust Fund.—

(1) The Pest Control Trust Fund shall be administered by the Department of Agriculture and Consumer Services.

(2) Funds to be credited to and uses of the trust fund shall be administered in accordance with chapter 482.

(3) Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of a fiscal year shall remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.

Section 9. Section 570.482, Florida Statutes, is created to read:

570.482 Citrus Inspection Trust Fund.—

(1) The Citrus Inspection Trust Fund shall be administered by the Department of Agriculture and Consumer Services.

(2) Funds to be credited to and uses of the trust fund shall be administered in accordance with ss. 570.481, 573.118, 581.091, 601.28, 601.281, and 601.59.

(3) Notwithstanding s. 216.301 and pursuant to s. 216.351,

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any balance in the trust fund at the end of a fiscal year shall remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.

Section 10. Section 570.5481, Florida Statutes, is created to read:

570.5481 Incidental Trust Fund.—

(1) The Incidental Trust Fund shall be administered by the Department of Agriculture and Consumer Services.

(2) Funds to be credited to and uses of the trust fund shall be administered in accordance with ss. 125.27, 253.025, 261.12, 317.0010, 317.0016, 589.011, 589.04, 589.11, 589.277, 589.31, 590.02, 590.14, and 590.42.

(3) Notwithstanding s. 216.301 and pursuant to s. 216.351, any balance in the trust fund at the end of a fiscal year shall remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.

Section 11. Present subsections (4) through (9) of section 571.24, Florida Statutes, are redesignated as subsections (5) through (10), respectively, and a new subsection (4) is added to that section, to read:

571.24 Purpose; duties of the department.—The purpose of this part is to authorize the department to establish and coordinate the Florida Agricultural Promotional Campaign. The duties of the department shall include, but are not limited to:

(4) Collecting rental receipts for industry promotions.

Section 12. Paragraphs (b) and (d) of subsection (13) of section 253.025, Florida Statutes, are amended to read:

253.025 Acquisition of state lands for purposes other than preservation, conservation, and recreation.—

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175 (13)

176 (b) In the case of a sale by the Department of Agriculture

177 and Consumer Services of a forestry facility, the proceeds of

178 the sale shall go into the Department of Agriculture and

179 Consumer Services Incidental Relocation and Construction Trust

180 Fund. The Legislature may, at the request of the department,

181 appropriate such money within the trust fund to the department

182 for purchase of land and construction of a facility to replace

183 the disposed facility. All proceeds other than land, from any

184 sale, conveyance, exchange, trade, or transfer conducted as

185 provided for in this subsection shall be placed within the

186 department's Incidental Relocation and Construction Trust Fund.

187 ~~(d) There is hereby created in the Department of~~

188 ~~Agriculture and Consumer Services the Relocation and~~

189 ~~Construction Trust Fund. The trust fund is to be used for the~~

190 ~~sole purpose of effectuating the orderly relocation of the~~

191 ~~forestry fire towers and work centers.~~

192 Section 13. Paragraph (h) of subsection (6) of section

193 932.7055, Florida Statutes, is amended to read:

194 932.7055 Disposition of liens and forfeited property.—

195 (6) If the seizing agency is a state agency, all remaining

196 proceeds shall be deposited into the General Revenue Fund.

197 However, if the seizing agency is:

198 (h) The Department of Agriculture and Consumer Services,

199 the proceeds accrued pursuant to ~~the provisions of~~ the Florida

200 Contraband Forfeiture Act shall be deposited into the General

201 Inspection Agricultural Law Enforcement Trust Fund or into the

202 department's Federal Law Enforcement Trust Fund as provided in

203 s. 570.205, as applicable.

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

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204 Section 14. This act shall take effect July 1, 2014.

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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 Appropriations

BILL: SB 680

INTRODUCER: Senator Hays

SUBJECT: Federal Grants Trust Fund/Department of Business and Professional Regulation

DATE: February 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Kynoch	AP	Favorable
2.				
3.				
4.				

I. Summary:

SB 680 re-creates, without modification, the Federal Grants Trust Fund within the Department of Business and Professional Regulation (department). The bill is effective July 1, 2014, and has no fiscal impact on state or local funds.

II. Present Situation:

Article III, s. 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless the trust fund is exempted by the constitution or operation of law. The Federal Grants Trust Fund within the department is scheduled to be terminated on July 1, 2015.

Pursuant to s. 215.32(2)(b)2.g., F.S., a federal grants trust fund is a depository for funds that must be used for allowable activities funded by restricted program revenues from federal sources, including interest earnings and cash advances from other trust funds. The trust fund was created by ch. 2011-60, L.O.F., to administer grants in the Division of Alcoholic Beverages and Tobacco and the Florida Building Commission. The specific grants have either been completed or transferred to another state agency. Therefore, for Fiscal Year 2013-2014, there is no appropriation from the Federal Grants Trust Fund within the Department of Business and Professional Regulation.

The department does not anticipate receiving any other federal grant funding; however, this trust fund provides the department with the necessary segregation of funds and proper alignment of agency accounts in accordance with the requirements of s. 215.32, F.S.

III. Effect of Proposed Changes:

The Federal Grants Trust Fund within the department is re-created without modification. Section 455.1165(3), F.S., which terminates the trust fund on July 1, 2014, is repealed.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to Art. III, s. 19(f)(1) of the Florida Constitution, a bill that re-creates a trust fund must pass by a three-fifths vote of the membership of each house in a separate bill for that purpose only.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole, or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals section 455.1165(3) of the Florida Statutes.

This bill creates an unnumbered section of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Hays

11-00746-14

2014680__

1 A bill to be entitled
2 An act relating to trust funds; re-creating the
3 Federal Grants Trust Fund within the Department of
4 Business and Professional Regulation without
5 modification; repealing s. 455.1165(3), F.S.;
6 abrogating provisions relating to the termination of
7 the trust fund, to conform; providing an effective
8 date.

9
10 WHEREAS, the Legislature wishes to extend the life of the
11 Federal Grants Trust Fund within the Department of Business and
12 Professional Regulation which is otherwise scheduled to be
13 terminated pursuant to constitutional mandate, and

14 WHEREAS, the Legislature has reviewed the trust fund before
15 its scheduled termination date and has found that it continues
16 to meet an important public purpose, and

17 WHEREAS, the Legislature has found that existing public
18 policy concerning the trust fund sets adequate parameters for
19 its use, NOW, THEREFORE,

20

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

22

23 Section 1. The Federal Grants Trust Fund within the
24 Department of Business and Professional Regulation, FLAIR number
25 79-2-261, which is to be terminated pursuant to Section
26 19(f)(2), Article III of the State Constitution on July 1, 2015,
27 is re-created.

28 Section 2. Subsection (3) of section 455.1165, Florida
29 Statutes, is repealed.

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

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2014680__

30 Section 3. This act shall take effect July 1, 2014.

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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 Appropriations

BILL: SB 682

INTRODUCER: Senator Hays

SUBJECT: Federal Grants Trust Fund/Department of Financial Services

DATE: February 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Betta	Kynoch	AP	Favorable
2.				
3.				
4.				

I. Summary:

SB 682 re-creates, without modification, the Federal Grants Trust Fund within the Department of Financial Services (department). The bill is effective July 1, 2014, and has no fiscal impact on state or local funds.

II. Present Situation:

Article III, s. 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless the trust fund is exempted by the constitution or operation of law. The Federal Grants Trust Fund within the department is scheduled to be terminated on July 1, 2015.

Pursuant to s. 215.32(2)(b)2.g., F.S., a federal grants trust fund is a depository for funds that must be used for allowable activities funded by restricted program revenues from federal sources, including interest earnings and cash advances from other trust funds. For Fiscal Year 2013-2014, the Legislature appropriated \$2,251,189 from the Federal Grants Trust Fund within the Department of Financial Services for the receipt of federal funds transferred from other state agencies to support the Public Assistance Fraud program.

III. Effect of Proposed Changes:

The Federal Grants Trust Fund within the department is re-created without modification. Section 17.67(3), F.S., which terminates the trust fund on July 1, 2014, is repealed.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to Art. III, s. 19(f)(1) of the Florida Constitution, a bill that re-creates a trust fund must pass by a three-fifths vote of the membership of each house in a separate bill for that purpose only.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole, or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals section 17.67(3) of the Florida Statutes.

This bill creates an undesignated section of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Hays

11-00755A-14

2014682__

A bill to be entitled

An act relating to trust funds; re-creating the Federal Grants Trust Fund within the Department of Financial Services without modification; repealing s. 17.67(3), F.S.; abrogating provisions relating to the termination of the trust fund, to conform; providing an effective date.

WHEREAS, the Legislature wishes to extend the life of the Federal Grants Trust Fund within the Department of Financial Services, which is otherwise scheduled to be terminated pursuant to constitutional mandate, and

WHEREAS, the Legislature has reviewed the trust fund before its scheduled termination date and has found that it continues to serve an important public purpose, and

WHEREAS, the Legislature has found that existing public policy concerning the trust fund sets adequate parameters for its use, NOW, THEREFORE,

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

Section 1. The Federal Grants Trust Fund within the Department of Financial Services, FLAIR number 43-2-261, which is to be terminated pursuant to Section 19(f)(2), Article III of the State Constitution on July 1, 2015, is re-created.

Section 2. Subsection (3) of section 17.67, Florida Statutes, is repealed.

Section 3. This act shall take effect July 1, 2014.

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 Appropriations

BILL: SB 684

INTRODUCER: Senator Gardiner

SUBJECT: State Economic Enhancement and Development Trust Fund/Department of Economic Opportunity

DATE: February 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pingree	Kynoch	AP	Favorable
2.				
3.				
4.				

I. Summary:

SB 684 re-creates, without modification, the State Economic Enhancement and Development (SEED) Trust Fund within the Department of Economic Opportunity (department). The bill is effective July 1, 2014, and has no fiscal impact on state or local funds.

II. Present Situation:

Article III, s. 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless the trust fund is exempted by the constitution or operation of law.

The State Economic Enhancement and Development (SEED) Trust Fund is scheduled to be terminated on July 1, 2015.

The trust fund was created for the purpose of infrastructure and job creation opportunities and for the following purposes or programs:

- Transportation facilities that meet a strategic and essential state interest with respect to the economic development of the state;
- Affordable housing programs and projects in accordance with chapter 420;
- Economic development incentives for job creation and capital investment;
- Workforce training associated with locating a new business or expanding an existing business; and
- Tourism promotion and marketing services, functions, and programs.

Funding for the trust fund was authorized by the 2011 Legislature in s. 288.1201, F.S., and consists of documentary stamp tax proceeds as specified in law, local financial support funds, interest earnings, and cash advances from other trust funds. For Fiscal Year 2013-2014, the Legislature appropriated \$120,016,648 from this trust fund. The trust fund is estimated to receive \$141,082,158 during Fiscal Year 2013-2014 and the fund balance is estimated to be at least \$33,758,042 on June 30, 2014.

III. Effect of Proposed Changes:

The State Economic Enhancement and Development (SEED) Trust Fund within the department is re-created without modification. Section 288.1201(4), F.S., which terminates the trust fund on July 1, 2015, is repealed.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to Art. III, s. 19(f)(1) of the Florida Constitution, a bill that re-creates a trust fund must pass by a three-fifths vote of the membership of each house in a separate bill for that purpose only.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole, or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals section 288.1201(4) of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

By Senator Gardiner

13-00749-14

2014684__

1 A bill to be entitled
2 An act relating to trust funds; re-creating the State
3 Economic Enhancement and Development Trust Fund within
4 the Department of Economic Opportunity without
5 modification; repealing s. 288.1201(4), F.S.;
6 abrogating provisions relating to the termination of
7 the trust fund, to conform; providing an effective
8 date.
9
10 WHEREAS, the Legislature wishes to extend the life of the
11 State Economic Enhancement and Development Trust Fund within the
12 Department of Economic Opportunity which is otherwise scheduled
13 to be terminated pursuant to constitutional mandate, and
14 WHEREAS, the Legislature has reviewed the trust fund before
15 its scheduled termination date and has found that it continues
16 to meet an important public purpose, and
17 WHEREAS, the Legislature has found that existing public
18 policy concerning the trust fund sets adequate parameters for
19 its use, NOW, THEREFORE,
20
21 Be It Enacted by the Legislature of the State of Florida:
22
23 Section 1. The State Economic Enhancement and Development
24 Trust Fund within the Department of Economic Opportunity, FLAIR
25 number 40-2-041, which is to be terminated pursuant to Section
26 19(f), Article III of the State Constitution on July 1, 2015, is
27 re-created.
28 Section 2. Subsection (4) of section 288.1201, Florida
29 Statutes, is repealed.

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30 Section 3. This act shall take effect July 1, 2014.

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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 Appropriations

BILL: SB 686

INTRODUCER: Senator Gardiner

SUBJECT: Termination of Trust Funds within the Department of Economic Opportunity

DATE: February 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pingree	Kynoch	AP	Favorable
2.				
3.				
4.				

I. Summary:

SB 686 terminates four trust funds within the Department of Economic Opportunity (DEO): the Community Services Block Grant Trust Fund; the Energy Consumption Trust Fund; the Low-Income Home Energy Assistance Program Block Grant Trust Fund; and the Economic Development Transportation Trust Fund. The bill is effective July 1, 2014, and has no fiscal impact on state or local funds.

II. Present Situation:

Section 215.3208, Florida Statutes, requires legislative review of each trust fund at least once every four years. The review schedule is included in the legislative budget instructions developed in accordance with s. 216.023, F.S. The review indicated four trust funds within the DEO are inactive and obsolete.

The Community Services Block Grant Trust Fund, the Energy Consumption Trust Fund, and the Low-Income Home Energy Assistance Program Block Grant Trust Fund were originally created in the former Department of Community Affairs (DCA) to administer various federal programs. When these programs were transferred from the DCA to the DEO in October 2011, the revenues that were previously deposited in these funds were deposited in the Federal Grants Trust Fund. Section 215.32(2)(b)2.g., F.S., requires agencies to use the federal grants trust fund as the depository for restricted revenues from federal sources. The trust funds being terminated have no fund balances and no future receipts are anticipated.

The Economic Development Transportation Trust Fund within the DEO was originally created in the former Office of Tourism, Trade, and Economic Development (OTTED) in the Executive Office of the Governor, to account for transfers from the Florida Department of Transportation (FDOT) to fund economic development transportation projects. This fund was transferred from

the OTTED to the DEO in October 2011. In Fiscal Year 2012-2013, the administration of “road fund” projects was transferred from the DEO to the FDOT. The trust fund has no fund balance and no future receipts are anticipated.

III. Effect of Proposed Changes:

The Community Services Block Grant Trust Fund, the Energy Consumption Trust Fund, the Low-Income Home Energy Assistance Program Block Grant Trust Fund, and the Economic Development Transportation Trust Fund, within the DEO, are terminated. Sections 17.61(3)(c), and 420.36(4)(a) & (c), F.S., are amended to conform.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole, or on the private sector. It simply terminates existing state trust funds that are currently inactive within the department.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 17.61(3)(c) and 420.36(4)(a) and (c).

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 Gardiner

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A bill to be entitled

An act relating to trust funds; terminating specified trust funds within the Department of Economic Opportunity; providing for the disposition of balances in and revenues of such trust funds; prescribing procedures for the termination of such trust funds; amending ss. 17.61 and 420.36, F.S.; conforming provisions to changes made by this act; providing an effective date.

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

Section 1. (1) The following trust funds within the Department of Economic Opportunity are terminated:

(a) The Community Services Block Grant Trust Fund, FLAIR number 40-2-118;

(b) The Energy Consumption Trust Fund, FLAIR number 40-2-174; and

(c) The Low-Income Home Energy Assistance Program Block Grant Trust Fund, FLAIR number 40-2-451.

(2) All current balances remaining in, and all the revenues of, the trust funds shall be transferred to the Federal Grants Trust Fund within the Department of Economic Opportunity.

(3) The Department of Economic Opportunity shall pay any outstanding debts and obligations of the terminated trust funds as soon as practicable, and the Chief Financial Officer shall close out and remove the terminated trust funds from the various state accounting systems using generally accepted accounting principles concerning outstanding warrants, assets, and

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liabilities.

Section 2. (1) The Economic Development Transportation Trust Fund within the Department of Economic Opportunity, FLAIR number 40-2-175, is terminated.

(2) All current balances remaining in, and all the revenues of, the trust fund shall be transferred to the State Transportation Trust Fund within the Department of Transportation.

(3) The Department of Economic Opportunity shall pay any outstanding debts and obligations of the terminated trust fund as soon as practicable, and the Chief Financial Officer shall close out and remove the terminated trust fund from the various state accounting systems using generally accepted accounting principles concerning outstanding warrants, assets, and liabilities.

Section 3. Paragraph (c) of subsection (3) of section 17.61, Florida Statutes, is amended to read:

17.61 Chief Financial Officer; powers and duties in the investment of certain funds.—

(3)

(c) Except as provided in this paragraph and except for moneys described in paragraph (d), the following agencies may not invest trust fund moneys as provided in this section, but shall retain such moneys in their respective trust funds for investment, with interest appropriated to the General Revenue Fund, pursuant to s. 17.57:

1. The Agency for Health Care Administration, except for the Tobacco Settlement Trust Fund.

2. The Agency for Persons with Disabilities, except for:

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- 59 a. The Federal Grants Trust Fund.
 60 b. The Tobacco Settlement Trust Fund.
 61 3. The Department of Children and Families ~~Family Services~~,
 62 except for:
 63 a. The Alcohol, Drug Abuse, and Mental Health Trust Fund.
 64 b. The Social Services Block Grant Trust Fund.
 65 c. The Tobacco Settlement Trust Fund.
 66 d. The Working Capital Trust Fund.
 67 4. The Department of Corrections.
 68 5. The Department of Elderly Affairs, except for:
 69 a. The Federal Grants Trust Fund.
 70 b. The Tobacco Settlement Trust Fund.
 71 6. The Department of Health, except for:
 72 a. The Federal Grants Trust Fund.
 73 b. The Grants and Donations Trust Fund.
 74 c. The Maternal and Child Health Block Grant Trust Fund.
 75 d. The Tobacco Settlement Trust Fund.
 76 7. The Department of Highway Safety and Motor Vehicles,
 77 only for the Security Deposits Trust Fund.
 78 8. The Department of Juvenile Justice.
 79 9. The Department of Law Enforcement.
 80 10. The Department of Legal Affairs.
 81 11. The Department of State, only for:
 82 a. The Grants and Donations Trust Fund.
 83 b. The Records Management Trust Fund.
 84 12. The Department of Economic Opportunity, only for+
 85 ~~a. The Economic Development Transportation Trust Fund.~~
 86 ~~b. the Economic Development Trust Fund.~~
 87 13. The Florida Public Service Commission, only for the

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- 88 Florida Public Service Regulatory Trust Fund.
 89 14. The Justice Administrative Commission.
 90 15. The state courts system.
 91 Section 4. Paragraphs (a) and (c) of subsection (4) of
 92 section 420.36, Florida Statutes, are amended to read:
 93 420.36 Low-income Emergency Home Repair Program.—There is
 94 established within the Department of Economic Opportunity the
 95 Low-income Emergency Home Repair Program to assist low-income
 96 persons, especially the elderly and physically disabled, in
 97 making emergency repairs which directly affect their health and
 98 safety.
 99 (4) (a) Funds appropriated to the department for the program
 100 shall be deposited in the Federal Grants ~~Energy Consumption~~
 101 Trust Fund. Administrative and personnel costs incurred by the
 102 department in implementing the provisions of this section may be
 103 paid from the fund.
 104 (c) Funds shall be distributed to grantees and subgrantees
 105 as follows:
 106 1. For each county, a base amount of at least \$3,000 shall
 107 be set aside from the total funds available, and such amount
 108 shall be deducted from the total amount appropriated by the
 109 Legislature.
 110 2. The balance of the funds appropriated by the Legislature
 111 shall be divided by the total poverty population of the state,
 112 and this quotient shall be multiplied by each county's share of
 113 the poverty population. That amount plus the base of at least
 114 \$3,000 constitutes ~~shall constitute~~ each county's share. A
 115 grantee that ~~which~~ serves more than one county shall receive the
 116 base amount plus the poverty population share for each county to

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be served. Contracts with grantees may be renewed annually.

3. The funds allocated to each county shall be offered first to an existing weatherization assistance program grantee in good standing, as determined by the department, which that can provide services to the target population of low-income persons, low-income elderly persons, and low-income physically disabled persons throughout the county.

4. If a weatherization assistance program grantee is not available to serve the entire county area, the funds shall be distributed through the following process:

a. An announcement of funding availability shall be provided to the county. The county may elect to administer the program.

b. If the county elects not to administer the program, the department shall establish rules to address the selection of one or more public or private not-for-profit agencies that are experienced in weatherization, rehabilitation, or emergency repair to administer the program.

5. If no eligible agency agrees to serve a county, the funds for that county shall be distributed to grantees having the best performance record as determined by department rule. At the end of the contract year, any uncontracted or unexpended funds shall be returned to the Federal Grants ~~Energy Consumption~~ Trust Fund and reallocated under the next year's contracting cycle.

Section 5. This act shall take effect July 1, 2014.

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 Appropriations

BILL: SB 688

INTRODUCER: Senator Gardiner

SUBJECT: Federal Grants Trust Fund/Executive Office of the Governor

DATE: February 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pingree	Kynoch	AP	Favorable
2.				
3.				
4.				

I. Summary:

SB 688 re-creates, without modification, the Federal Grants Trust Fund within the Executive Office of the Governor (office) for use by the Division of Emergency Management (division). The bill is effective July 1, 2014, and has no fiscal impact on state or local funds.

II. Present Situation:

Article III, s. 19(f) of the Florida Constitution requires the termination of all state trust funds within four years of their initial creation, unless the trust fund is exempted by the constitution or operation of law.

The Federal Grants Trust Fund is scheduled to be terminated on July 1, 2015.

Pursuant to s. 215.32(2)(b)2.g., F.S., a federal grants trust fund is a depository for funds that must be used for allowable activities funded by restricted program revenues from federal sources, including interest earnings and cash advances from other trust funds. For Fiscal Year 2013-2014, the Legislature appropriated \$36,414,323 from the Federal Grants Trust Fund within the office for various programs administered by the division, including state and local government emergency management, preparedness and mitigation programs, domestic preparedness programs, and hazardous emergency preparedness programs.

III. Effect of Proposed Changes:

The Federal Grants Trust Fund within the department is re-created without modification. Section 14.235(4), F.S., which terminates the trust fund on July 1, 2015, is repealed.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Pursuant to Art. III, s. 19(f)(1) of the Florida Constitution, a bill that re-creates a trust fund must pass by a three-fifths vote of the membership of each house in a separate bill for that purpose only.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill has no fiscal impact on state agencies or state funds, on local governments as a whole, or on the private sector. It simply re-creates, without modification, an existing state trust fund and continues the current use of the fund.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals section 14.235(4) of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

None.

B. Amendments:

None.

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

By Senator Gardiner

13-00788-14

2014688__

A bill to be entitled

An act relating to trust funds; re-creating the Federal Grants Trust Fund within the Executive Office of the Governor without modification; repealing s. 14.235(4), F.S.; abrogating provisions relating to the termination of the trust fund, to conform; providing an effective date.

WHEREAS, the Legislature wishes to extend the life of the Federal Grants Trust Fund within the Executive Office of the Governor, which is otherwise scheduled to be terminated pursuant to constitutional mandate, and

WHEREAS, the Legislature has reviewed the trust fund before its scheduled termination date and has found that it continues to meet an important public purpose, and

WHEREAS, the Legislature has found that existing public policy concerning the trust fund sets adequate parameters for its use, NOW, THEREFORE,

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

Section 1. The Federal Grants Trust Fund within the Executive Office of the Governor, FLAIR number 31-2-261, which is to be terminated pursuant to Section 19(f), Article III of the State Constitution on July 1, 2015, is re-created.

Section 2. Subsection (4) of section 14.235, Florida Statutes, is repealed.

Section 3. This act shall take effect July 1, 2014.

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 Appropriations

BILL: CS/CS/SB 224

INTRODUCER: Appropriations Committee, Regulated Industries Committee and Senator Benacquisto and others

SUBJECT: Nicotine Dispensing Devices

DATE: February 24, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.	Dugger	Cannon	CJ	Favorable
3.	Harkness	Sadberry	ACJ	Favorable
4.	Harkness	Kynoch	AP	Fav/CS
5.				
6.				

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 224 extends the current prohibitions related to tobacco products for persons under the age of 18, to prohibit the sale, gifting, possession, or use of nicotine dispensing devices, which include electronic cigarettes (e-cigarettes), to and by persons under the age of 18. (Selling or giving tobacco products to persons under 18 years is currently punishable as a second degree misdemeanor, unless it is a repeat violation within one year of the first violation. If so, it becomes punishable as a first degree misdemeanor. On the other hand, it is a noncriminal violation for persons under 18 years to possess, purchase, or misrepresent their age or military service to obtain such products.)

The bill defines the term “nicotine dispensing devices” to mean any product that can be used to deliver nicotine to an individual by inhaling vaporized nicotine from the product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product and any replacement nicotine cartridge for the device or product.

The bill has an indeterminate, but insignificant, fiscal impact.

The bill provides an effective date of July 1, 2014.

II. Present Situation:

Electronic Cigarettes

Electronic cigarettes, also known as e-cigarettes, are electronic products that permit users to inhale vaporized nicotine, flavor, and other chemicals, without fire, smoke, ash, or carbon dioxide. Electronic cigarettes are manufactured to resemble cigarettes, cigars, or pipes, but some are manufactured to resemble pens and USB memory sticks.¹

Tobacco Regulation in Florida

The Division of Alcoholic Beverage and Tobacco (division) within the Department of Business and Professional Regulation (department) is the state agency responsible for the enforcement of the tobacco product regulation provisions in ch. 569, F.S.

Section 569.002(6), F.S., defines the term “tobacco products” to include:

loose tobacco leaves, and products made from tobacco leaves, in whole or in part, and cigarette wrappers, which can be used for smoking, sniffing, or chewing.

Section 210.25(11), F.S., relating to the tax on tobacco products other than cigarettes or cigars, defines the term “tobacco products” to mean:

loose tobacco suitable for smoking; snuff; snuff flour; cavendish; plug and twist tobacco; fine cuts and other chewing tobaccos; shorts; refuse scraps; clippings, cuttings, and sweepings of tobacco, and other kinds and forms of tobacco prepared in such manner as to be suitable for chewing; but “tobacco products” does not include cigarettes, as defined by s. 210.01(1), or cigars.

Section 569.0075, F.S., prohibits the giving of sample tobacco products to persons under the age of 18.

Section 569.101, F.S., prohibits the sale, delivery, bartering, furnishing or giving of tobacco products to persons under the age of 18. A violation of this prohibition is a second degree misdemeanor.² A second or subsequent violation within one year of the first violation is a first degree misdemeanor.³

¹ What are Electronic Cigarette, Food and Drug Administration, at: <http://www.fda.gov/newsevents/publichealthfocus/ucm172906.htm> (Last visited October 27, 2013), and *Sottera, Inc. v. Food and Drug Administration*, 627 F.3d 891, 893 (D.C. Cir. 2010).

² Section 775.082, F.S., provides that the penalty for a misdemeanor of the second degree is punishable by a term of imprisonment not exceeding 60 days. Section 775.083, F.S. provides that the penalty for a misdemeanor of the second degree is punishable by a fine not to exceed \$500.

³ Section 775.082, F.S., provides that the penalty for a misdemeanor of the first degree is punishable by a term of imprisonment not exceeding one year. Section 775.083, F.S. provides that the penalty for a misdemeanor of the first degree is punishable by a fine not to exceed \$1,000.

Section 569.101(3), F.S., provides a complete defense to a person charged with a violation of this section if the buyer or recipient falsely evidenced that he or she was 18 years of age or older, a prudent person would believe the buyer or recipient to be 18 years of age or older, and the buyer or recipient presented false identification⁴ upon which the person relied upon in good faith.

Section 569.11, F.S., prohibits persons under the age of 18 from possessing, directly or indirectly, any tobacco products. A first violation of this prohibition is a non-criminal violation with a penalty of 16 hours of community service or a \$25 fine, and attendance at a school-approved anti-tobacco program, if locally available. A second violation within 12 weeks of the first violation is punishable with a \$25 fine. A third or subsequent violation within 12 weeks of the first violation requires that the person must be punished with the suspension or revocation of his or her driver's license or driving privilege, as provided in s. 322.056, F.S.

In Fiscal Year 2012-2013, the Department of Highway Safety and Motor Vehicles revoked the driver's license for one person and suspended the driver's license for 561 persons for underage possession of tobacco products, and suspended the driver's license for one underage person for misrepresenting the age to purchase tobacco products.⁵

Section 569.14, F.S., requires that tobacco retailers must post a clear and conspicuous sign that the sale of tobacco products is prohibited to persons under the age of 18 and that proof of age is required for purchase. The division is required to make the signs available to retail tobacco dealers. Retail tobacco dealers must also have instructional material in the form of a calendar or similar format to assist in determining the age of the person attempting to purchase a tobacco product.

It is not clear whether the tobacco prohibitions for minors in current law include e-cigarettes as tobacco products. In an attempt to restrict minors' access to e-cigarettes, the division's Internet site advises tobacco retailers that e-cigarettes containing nicotine from tobacco leaves are tobacco products regulated in the state, and that it is unlawful to sell tobacco products, including electronic cigarettes, to a person under 18 years of age.⁶ According to the division, this statement reflects the consensus among tobacco retailers that e-cigarettes should not be sold to persons under the age of 18. The division further states that the law should be amended to clarify the legal status of e-cigarettes.

Currently, the division's sworn law enforcement officers, as well as the non-sworn inspectors, routinely inspect retail tobacco permit holders for compliance with ch. 569, F.S. The division's sworn law enforcement officers also perform what is termed "surveys," which are undercover operations with underage operatives, as a means of enforcing the prohibitions on the sale of tobacco products to persons less than 18 years of age; and the prohibition on possession of tobacco products by persons less than 18 years of age.⁷

⁴ Identification includes carefully checking "driver's license or an identification card issued by this state or another state of the United States, a passport, or a United States armed services identification card presented by the buyer or recipient and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient in the belief that the buyer or recipient was 18 years of age or older. (See s. 569.101(2)(c), F.S.).

⁵ 2014 Agency Legislative Bill Analysis for SB 224, Department of Highway Safety and Motor Vehicles, October 30, 2013.

⁶ See <http://www.myfloridalicense.com/dbpr/abt/index.html> (Last visited October 31, 2013).

⁷ 2014 Agency Legislative Bill Analysis for SB 224, Department of Business and Professional Regulation, October 30, 2013.

According to the department, for the period of January 1, 2012 through December 28, 2012, the division performed 2,805 visits of retail tobacco dealers to determine compliance with ch. 569, F.S. These inspections resulted in 270 arrests for selling, delivering, furnishing, or giving tobacco products to persons under the age of 18. These visits also found three violations for failure to hold a valid retail tobacco permit.

According to the division, 29 administrative cases were initiated against licensees for selling tobacco products to underage persons and 28 civil penalties were collected. Section 569.008(5), F.S., requires a pattern of three or more violations by the employees of the tobacco dealer permit before a permit holder can be sanctioned for sales made by his or her employee. During this same period, the division also cited 136 persons under the age of 18 for possession of tobacco products.

Federal Regulation of E-Cigarettes

The federal U.S. Food and Drug Administration (FDA) is a federal agency within the Department of Health and Human Services. The FDA's organization consists of the Office of the Commissioner and four directorates overseeing the core functions of the agency: Medical Products and Tobacco, Foods, Global Regulatory Operations and Policy, and Operations.⁸ The Office of Medical Products and Tobacco provides advice and regulatory oversight to the FDA Commissioner through the centers for drug, biologics, medical devices, and tobacco products. The office also oversees the agency's special medical programs.⁹

Electronic cigarettes that are marketed for therapeutic purposes are regulated by the FDA Center for Drug Evaluation and Research (CDER).¹⁰ The FDA Center for Tobacco Products regulates cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco.

The authority of the FDA to regulate e-cigarettes is based on the Family Smoking Prevention and Tobacco Control Act of 2009 (Tobacco Control Act).¹¹ Enacted on June 22, 2009, this act amended the Federal Food, Drug, and Cosmetic Act (FDCA) to authorize the FDA to regulate "tobacco products." The Tobacco Control Act defines the term "tobacco product," in part, as any product "made or derived from tobacco" that is not a "drug," "device," or combination product under the FDCA.

The Food and Drug Administration initially determined that certain e-cigarettes were both a drug and a device under the FDCA.¹² Products that fall under the authority of the FDCA as drugs or

⁸ See <http://www.fda.gov/AboutFDA/CentersOffices/default.htm>. (Last visited November 4, 2013).

⁹ See <http://www.fda.gov/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/default.htm>. (Last visited November 4, 2013).

¹⁰ See <http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm172906.htm>. (Last visited November 4, 2013).

¹¹ Federal Food, Drug, and Cosmetic Act, 21 USC s. 351 et seq.

¹² See Department of Health & Human Service, Food and Drug Administration, Letter to Matt Salmon, President of Electronic Cigarette Association, dated September 8, 2010, available at: <http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/UCM225263.pdf> (Last visited October 10, 2013).

devices must go through a preapproval process before they can be marketed or sold to the consumer. Tobacco products do not have to go through a pre-approval process.

The regulatory classification of e-cigarettes as tobacco products was resolved by the United States Court of Appeals for the District of Columbia Circuit, in *Sottera, Inc. v. Food & Drug Administration*.¹³ The court determined whether the FDA has the authority to regulate e-cigarettes as “tobacco products” under the Family Smoking and Tobacco Control Act of 2009¹⁴ or whether they could be regulated by the FDA as drugs/devices under the FDCA.

The case involved Sottera, Inc., an importer and distributor of e-cigarettes, whose shipment of e-cigarettes had been denied entry by the FDA because, the FDA asserted, they appeared to be adulterated, misbranded, or unapproved drug-device combinations under the FDCA. The company sought an injunction to bar the FDA from denying their e-cigarettes entry into the United States and from regulating e-cigarettes under the drug-device combinations under the FDCA. The United States District Court for the District of Columbia granted the injunction and agreed that e-cigarettes were subject to regulation as tobacco products and were not subject to regulation as drugs/devices under FDCA.¹⁵

On appeal, the United States Court of Appeals for the District of Columbia Circuit held that e-cigarettes and other products made or derived from tobacco should be regulated as “tobacco products,” and not regulated as drugs/devices unless they are marketed for therapeutic purposes.

The FDA did not appeal this decision. The FDA has stated its intent to issue a proposed rule that would extend FDA’s tobacco product regulatory authority to products that meet the statutory definition of “tobacco product.”¹⁶

The National Association of Attorneys General (NAAG) issued a letter to the commissioner of the FDA urging the FDA to immediately regulate the sale and advertising of e-cigarettes as “tobacco products.” The letter was signed by 42 attorneys general, including Florida Attorney General Pam Bondi. The letter noted that, according to the U.S. Centers for Disease Control and Prevention, 1.8 million middle and high school students have said that they had tried e-cigarettes in 2012, which is double the amount for the previous year. The letter noted that e-cigarettes with fruit and candy flavors which appeal to youth and advertising have led consumers to believe that e-cigarettes are a safe alternative to cigarettes. The letter asserted that e-cigarettes are addictive, and regulatory oversight was needed to ensure the safety of e-cigarette ingredients.¹⁷

¹³ *Sottera, Inc. v. Food & Drug Administration*, 627 F.3d 891 (D.C. Cir. 2010).

¹⁴ The Family Smoking and Tobacco Control Act of 2009, Pub.L. 111-31, 123 Stat. 1776.

¹⁵ Another importer of e-cigarettes, Smoking Everywhere, Inc., had sought an injunction to bar the FDA from denying their e-cigarettes entry into the United States and from regulating e-cigarettes under the drug-device combinations under the FDCA. Sottera, Inc., then joined as an intervener-plaintiff and also sought an injunction. Smoking Everywhere, Inc., dismissed its complaint against the FDA while the appeal was pending.

¹⁶ See: Unified Agenda entry describing this rulemaking, Office of Information and Regulatory Affairs, Office of Management and Budget: <http://www.reginfo.gov/public/do/eAgendaViewRule?pubId=201210&RIN=0910-AG38> (Last visited October 31, 2013).

¹⁷ Letter from the National Association of Attorneys General to Margaret Hamburg, Commissioner of the U.S. Food and Drug Administration, October 23, 2013. A copy of the letter is available at: <http://www.naag.org/assets/files/pdf/signons/E%20Cigarette%20Final%20Letter%20w%20Florida.pdf> (Last visited November 1, 2013).

Some e-cigarettes specifically note in their marketing that e-cigarettes have not been evaluated by the Food and Drug Administration, are not intended to help people to stop smoking, and are not intended to treat, prevent or cure any disease or condition. Some retailers also assert that they voluntarily restrict sales to persons who are 18 years of age or older.

As noted above, the Centers for Disease Control and Prevention reported that the number of middle school and high school students in the United States who used electronic cigarettes doubled in 2012 compared to the previous year and that nearly 1.78 million students tried e-cigarettes in 2012 nationwide.¹⁸ In Florida, 4.3 percent of middle school students and 12.1 percent of high school students tried e-cigarettes in 2013. The number of Florida high school students who tried e-cigarettes has increased from 6 percent in 2011 to 12.1 percent in 2013.¹⁹

III. Effect of Proposed Changes:

The bill:

- Extends the current prohibitions related to tobacco products for persons under the age of 18, to prohibit the sale, gifting, possession, or use of nicotine dispensing devices, which include electronic cigarettes (e-cigarettes), to and by persons under the age of 18.
- Creates s. 569.002(8), F.S., to define the term “nicotine dispensing devices” to mean any product that can be used to deliver nicotine to an individual by inhaling vaporized nicotine from the product, including, but not limited to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product and any replacement nicotine cartridge for the device or product.
- Amends s. 569.0075, F.S., to include nicotine dispensing devices in the prohibition against giving a sample of tobacco products to persons under the age of 18.
- Amends s. 569.101, F.S., to include nicotine dispensing devices in the prohibition against the sale, delivery, bartering, furnishing or giving of tobacco products to persons under the age of 18 (currently punishable as a second degree misdemeanor, unless it is a repeat violation within one year of the first violation and then it becomes a first degree misdemeanor).
- Amends s. 569.11, F.S., to include nicotine dispensing devices in the prohibition against persons under the age of 18 from possessing, directly or indirectly, any tobacco products (currently a noncriminal violation) and adds a nicotine component to the anti-tobacco program that a first offender must attend.
- Amends s. 569.19, F.S., to require the department to include the number of violations for selling nicotine dispensing devices to person under age 18 in its annual report.
- Amends s. 569.14, F.S., to include nicotine dispensing devices in the signage requirements.

The bill provides an effective date of July 1, 2014.

¹⁸ See <http://www.cdc.gov/media/releases/2013/p0905-ecigarettes-use.html>. (Last visited November 4, 2013).

¹⁹ See <http://newsroom.doh.state.fl.us/wp-content/uploads/newsroom/2013/05/090613-E-Cigarette-Use-Among-Teens-Doubles.pdf> (Last visited November 5, 2013).

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Tobacco permit holders would be required to replace their point of sale calendars that indicate the date that a person is of legal age to purchase tobacco products to new calendars that reference nicotine dispensing devices, unless the permit holders are using readers, scanners, or other electronic or automated systems. They would also be required to replace signage that gives notice that the sale of tobacco products to persons under the age of 18 is prohibited with signage that also references nicotine dispensing devices. The cost for this requirement is indeterminate.

C. Government Sector Impact:

The Department of Business and Professional Regulation currently conducts surveys (undercover stings) at licensed retail tobacco establishments to enforce existing state law prohibiting tobacco sale to minors. In Fiscal Year 2012-2013, the department performed 2,300 tobacco surveys. In order to conduct surveys at nicotine dispensing establishments, the department could use its existing law enforcement resources resulting in fewer tobacco surveys. If the Legislature wishes to maintain the current level of tobacco surveys, funds for an additional survey team for electronic cigarettes would be required. The department estimates that a new survey team, which consists of two law enforcement officers and one underage operative, can complete an average of three tobacco surveys in a four-hour time period or the equivalent of 1,191.75 surveys per year. The total cost would be \$273,259 in Fiscal Year 2014-2015 and \$176,415 in subsequent years.

The Office of State Courts Administrator indicates that any fiscal impact on expenditures of the State Courts System because of the bill is anticipated to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to the National Conference of State Legislatures, 27 states have banned the sale of electronic cigarettes to minors.²⁰

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 569.002, 569.0075, 569.101, 569.11, 569.14, and 569.19.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

CS/CS by Appropriations on February 20, 2014:

The committee substitute (CS) corrects technical deficiencies, changing “driver’s license” to “driver license” and reenacting section 322.056, F.S., to incorporate the amendment to s. 569.11, F.S. This section provides driver license penalties for persons under eighteen who violate the possession of tobacco prohibition.

CS by Regulated Industries on November 7, 2013:

The committee substitute (CS) amends s. 569.002(8), F.S., to define the term “nicotine dispensing devices.” The CS also replaces the term “alternative nicotine products” with the term “nicotine dispensing devices” in ss. 569.0075, 569.101, 569.11, and 569.14, F.S.

The CS does not create s. 569.002(1)(a), F.S., to define the term “alternative nicotine product,” and to provide an exemption from the meaning of that term for tobacco products; a product that is a drug, as defined in 21 U.S.C. s. 37321(g)(1), a product that is a device as defined in 21 U.S.C. s. 39321(h); and a combination product that is a device regulated under 21 U.S.C. s. 353(g).

The CS also does not create s. 569.002(1)(c), F.S., to define the term “electronic cigarette.”

The CS amends s. 569.19, F.S., to require the department to include the number of violations for selling nicotine dispensing devices to person under age 18 in its annual report.

²⁰ Those states are: AK (products containing nicotine other than cigs), AL (age 19), AZ, AR, CA, CO, HI, ID, IL (signed August 2013) IN, KS, MD, MN, MS, NV (definition includes “or derived from tobacco”), NH, NJ (age 19), NY, NC, OR (All sales banned, ordered by DOJ), SC, TN, UT (age 19), VT, WA, WI, WY.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (8) is added to section 569.002,
Florida Statutes, to read:

569.002 Definitions.—As used in this chapter, the term:
(8) "Nicotine dispensing devices" means any product that
can be used to deliver nicotine to an individual by inhaling
vaporized nicotine from the product, including, but not limited



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to, an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or other similar device or product and any replacement nicotine cartridge for the device or product.

Section 2. Section 569.0075, Florida Statutes, is amended to read:

569.0075 Gift of sample tobacco products or sample nicotine dispensing devices prohibited.—The gift of sample tobacco products or sample nicotine dispensing devices to any person under the age of 18 by an entity licensed or permitted under the provisions of chapter 210 or this chapter, or by an employee of such entity, is prohibited and is punishable as provided in s. 569.101.

Section 3. Subsections (1) and (3) of section 569.101, Florida Statutes, are amended to read:

569.101 Selling, delivering, bartering, furnishing, or giving tobacco products or nicotine dispensing devices to persons under 18 years of age; criminal penalties; defense.—

(1) It is unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, to any person who is under 18 years of age, any tobacco product or nicotine dispensing device.

(3) A person charged with a violation of subsection (1) has a complete defense if, at the time the tobacco product or nicotine dispensing device was sold, delivered, bartered, furnished, or given:

(a) The buyer or recipient falsely evidenced that she or he was 18 years of age or older;

(b) The appearance of the buyer or recipient was such that a prudent person would believe the buyer or recipient to be 18



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years of age or older; and

(c) Such person carefully checked a driver ~~driver's~~ license or an identification card issued by this state or another state of the United States, a passport, or a United States armed services identification card presented by the buyer or recipient and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient in the belief that the buyer or recipient was 18 years of age or older.

Section 4. Subsections (1), (2), (5), and (6) of section 569.11, Florida Statutes, are amended to read:

569.11 Possession, misrepresenting age or military service to purchase, and purchase of tobacco products or nicotine dispensing devices by persons under 18 years of age prohibited; penalties; jurisdiction; disposition of fines.—

(1) It is unlawful for any person under 18 years of age to knowingly possess any tobacco product or nicotine dispensing device. Any person under 18 years of age who violates the provisions of this subsection commits a noncriminal violation as provided in s. 775.08(3), punishable by:

(a) For a first violation, 16 hours of community service or, instead of community service, a \$25 fine. In addition, the person must attend a school-approved anti-tobacco and nicotine program, if locally available;

(b) For a second violation within 12 weeks of the first violation, a \$25 fine; or

(c) For a third or subsequent violation within 12 weeks of the first violation, the court must direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend or revoke the person's driver ~~driver's~~ license or



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driving privilege, as provided in s. 322.056.

Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation.

(2) It is unlawful for any person under 18 years of age to misrepresent his or her age or military service for the purpose of inducing a dealer or an agent or employee of the dealer to sell, give, barter, furnish, or deliver any tobacco product or nicotine dispensing device, or to purchase, or attempt to purchase, any tobacco product or nicotine dispensing device from a person or a vending machine. Any person under 18 years of age who violates a provision of this subsection commits a noncriminal violation as provided in s. 775.08(3), punishable by:

(a) For a first violation, 16 hours of community service or, instead of community service, a \$25 fine and, in addition, the person must attend a school-approved anti-tobacco and nicotine program, if available;

(b) For a second violation within 12 weeks of the first violation, a \$25 fine; or

(c) For a third or subsequent violation within 12 weeks of the first violation, the court must direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend or revoke the person's driver ~~driver's~~ license or driving privilege, as provided in s. 322.056.

Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a



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first violation.

(5)(a) If a person under 18 years of age is found by the court to have committed a noncriminal violation under this section and that person has failed to complete community service, pay the fine as required by paragraph (1)(a) or paragraph (2)(a), or attend a school-approved anti-tobacco program, if locally available, the court must direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend the driver ~~driver's~~ license or driving privilege of that person for ~~a period of~~ 30 consecutive days.

(b) If a person under 18 years of age is found by the court to have committed a noncriminal violation under this section and that person has failed to pay the applicable fine as required by paragraph (1)(b) or paragraph (2)(b), the court must direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend the driver ~~driver's~~ license or driving privilege of that person for ~~a period of~~ 45 consecutive days.

(6) Eighty percent of all civil penalties received by a county court pursuant to this section shall be remitted by the clerk of the court to the Department of Revenue for transfer to the Department of Education to provide for teacher training and for research and evaluation to reduce and prevent the use of tobacco products or nicotine dispensing devices by children. The remaining 20 percent of civil penalties received by a county court pursuant to this section shall remain with the clerk of the county court to cover administrative costs.

Section 5. Subsections (1), (2), and (3) of section 569.14, Florida Statutes, are amended to read:

569.14 Posting of a sign stating that the sale of tobacco



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products or nicotine dispensing devices to persons under 18 years of age is unlawful; enforcement; penalty.—

(1) Any dealer that sells tobacco products or nicotine dispensing devices shall post a clear and conspicuous sign in each place of business where such products are sold which substantially states the following:

THE SALE OF TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

(2) The division shall make available to dealers of tobacco products or nicotine dispensing devices signs that meet the requirements of subsection (1).

(3) Any dealer that sells tobacco products or nicotine dispensing devices shall provide at the checkout counter in a location clearly visible to the dealer, the dealer's agent or employee, instructional material in a calendar format or similar format to assist in determining whether a person is of legal age to purchase tobacco products or nicotine dispensing devices. This point of sale material must contain substantially the following language:

IF YOU WERE NOT BORN BEFORE THIS DATE

(insert date and applicable year)

YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.

Upon approval by the division, in lieu of a calendar a dealer may use card readers, scanners, or other electronic or automated



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systems that can verify whether a person is of legal age to purchase tobacco products or nicotine dispensing devices. Failure to comply with the provisions contained in this subsection shall result in imposition of administrative penalties as provided in s. 569.006.

Section 6. Subsection (3) of section 569.19, Florida Statutes, is amended to read:

569.19 Annual report.—The division shall report annually with written findings to the Legislature and the Governor by December 31, on the progress of implementing the enforcement provisions of this chapter. This must include, but is not limited to:

(3) The number of violations for selling tobacco products or nicotine dispensing devices to persons under age 18, and the results of administrative hearings on the above and related issues.

Section 7. For the purpose of incorporating the amendments made by this act to section 569.11, Florida Statutes, in a reference thereto, subsections (2) and (3) of section 322.056, Florida Statutes, are reenacted and amended to read:

322.056 Mandatory revocation or suspension of, or delay of eligibility for, driver ~~driver's~~ license for persons under age 18 found guilty of certain alcohol, drug, or tobacco offenses; prohibition.—

(2) If a person under 18 years of age is found by the court to have committed a noncriminal violation under s. 569.11 and that person has failed to comply with the procedures established in that section by failing to fulfill community service requirements, failing to pay the applicable fine, or failing to



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attend a locally available school-approved anti-tobacco program,
and:

(a) The person is eligible by reason of age for a driver
~~driver's~~ license or driving privilege, the court shall direct
the department to revoke or to withhold issuance of his or her
driver ~~driver's~~ license or driving privilege as follows:

1. For the first violation, for 30 days.

2. For the second violation within 12 weeks of the first
violation, for 45 days.

(b) The person's driver ~~driver's~~ license or driving
privilege is under suspension or revocation for any reason, the
court shall direct the department to extend the period of
suspension or revocation by an additional period as follows:

1. For the first violation, for 30 days.

2. For the second violation within 12 weeks of the first
violation, for 45 days.

(c) The person is ineligible by reason of age for a driver
~~driver's~~ license or driving privilege, the court shall direct
the department to withhold issuance of his or her driver
~~driver's~~ license or driving privilege as follows:

1. For the first violation, for 30 days.

2. For the second violation within 12 weeks of the first
violation, for 45 days.

Any second violation of s. 569.11 not within the 12-week period
after the first violation will be treated as a first violation
and in the same manner as provided in this subsection.

(3) If a person under 18 years of age is found by the court
to have committed a third violation of s. 569.11 within 12 weeks



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of the first violation, the court must direct the Department of Highway Safety and Motor Vehicles to suspend or withhold issuance of his or her driver ~~driver's~~ license or driving privilege for 60 consecutive days. Any third violation of s. 569.11 not within the 12-week period after the first violation will be treated as a first violation and in the same manner as provided in subsection (2).

Section 8. This act shall take effect July 1, 2014.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to nicotine dispensing devices;
amending s. 569.002, F.S.; providing a definition;
amending s. 569.0075, F.S.; prohibiting the gift of
sample nicotine dispensing devices to persons under 18
years of age; amending s. 569.101, F.S.; prohibiting
the selling, delivering, bartering, furnishing, or
giving of nicotine dispensing devices to persons under
18 years of age, to which penalties apply; amending s.
569.11, F.S.; prohibiting persons under 18 years of
age from possessing, purchasing, or misrepresenting
their age or military service to purchase nicotine
dispensing devices; providing civil penalties;
amending s. 569.14, F.S.; requiring certain signage
where a dealer sells nicotine dispensing devices;
amending s. 569.19, F.S.; requiring the Division of



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243 Alcoholic Beverages and Tobacco of the Department of
244 Business and Professional Regulation to submit the
245 number of violations for selling nicotine dispensing
246 devices in its annual report; reenacting and amending
247 s. 322.056(2) and (3), F.S., relating to mandatory
248 driver license revocation or suspension for persons
249 younger than 18 years of age who commit certain
250 offenses, to incorporate the amendments to s. 569.11,
251 F.S., in a reference thereto; making editorial
252 changes; providing an effective date.

By the Committee on Regulated Industries; and Senators
Benacquisto, Latvala, Sobel, and Flores

580-00643-14

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A bill to be entitled

An act relating to nicotine dispensing devices;
amending s. 569.002, F.S.; providing a definition;
amending s. 569.0075, F.S.; prohibiting the gift of
sample nicotine dispensing devices to persons under 18
years of age; amending s. 569.101, F.S.; prohibiting
the selling, delivering, bartering, furnishing, or
giving of nicotine dispensing devices to persons under
18 years of age, to which penalties apply; amending s.
569.11, F.S.; prohibiting persons under 18 years of
age from possessing, purchasing, or misrepresenting
their age or military service to purchase nicotine
dispensing devices; providing civil penalties;
amending s. 569.14, F.S.; requiring certain signage
where a dealer sells nicotine dispensing devices;
amending s. 569.19, F.S.; requiring the Division of
Alcoholic Beverages and Tobacco of the Department of
Business and Professional Regulation to submit the
number of violations for selling nicotine dispensing
devices in its annual report; providing an effective
date.

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

Section 1. Subsection (8) is added to section 569.002,
Florida Statutes, to read:

569.002 Definitions.—As used in this chapter, the term:

(8) "Nicotine dispensing devices" mean any product that can
be used to deliver nicotine to an individual by inhaling

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

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vaporized nicotine from the product, including, but not limited
to, an electronic cigarette, electronic cigar, electronic
cigarillo, electronic pipe, or other similar device or product
and any replacement nicotine cartridge for the device or
product.

Section 2. Section 569.0075, Florida Statutes, is amended
to read:

569.0075 Gift of sample tobacco products or sample nicotine
dispensing devices prohibited.—The gift of sample tobacco
products or sample nicotine dispensing devices to any person
under the age of 18 by an entity licensed or permitted under the
provisions of chapter 210 or this chapter, or by an employee of
such entity, is prohibited and is punishable as provided in s.
569.101.

Section 3. Subsections (1) and (3) of section 569.101,
Florida Statutes, are amended to read:

569.101 Selling, delivering, bartering, furnishing, or
giving tobacco products or nicotine dispensing devices to
persons under 18 years of age; criminal penalties; defense.—

(1) It is unlawful to sell, deliver, barter, furnish, or
give, directly or indirectly, to any person who is under 18
years of age, any tobacco product or nicotine dispensing device.

(3) A person charged with a violation of subsection (1) has
a complete defense if, at the time the tobacco product or
nicotine dispensing device was sold, delivered, bartered,
furnished, or given:

(a) The buyer or recipient falsely evidenced that she or he
was 18 years of age or older;

(b) The appearance of the buyer or recipient was such that

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

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a prudent person would believe the buyer or recipient to be 18 years of age or older; and

(c) Such person carefully checked a driver's license or an identification card issued by this state or another state of the United States, a passport, or a United States armed services identification card presented by the buyer or recipient and acted in good faith and in reliance upon the representation and appearance of the buyer or recipient in the belief that the buyer or recipient was 18 years of age or older.

Section 4. Subsections (1), (2), and (6) of section 569.11, Florida Statutes, are amended to read:

569.11 Possession, misrepresenting age or military service to purchase, and purchase of tobacco products or nicotine dispensing devices by persons under 18 years of age prohibited; penalties; jurisdiction; disposition of fines.—

(1) It is unlawful for any person under 18 years of age to knowingly possess any tobacco product or nicotine dispensing device. Any person under 18 years of age who violates the provisions of this subsection commits a noncriminal violation as provided in s. 775.08(3), punishable by:

(a) For a first violation, 16 hours of community service or, instead of community service, a \$25 fine. In addition, the person must attend a school-approved anti-tobacco and nicotine program, if locally available;

(b) For a second violation within 12 weeks of the first violation, a \$25 fine; or

(c) For a third or subsequent violation within 12 weeks of the first violation, the court must direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or

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suspend or revoke the person's driver's license or driving privilege, as provided in s. 322.056.

Any second or subsequent violation not within the 12-week time period after the first violation is punishable as provided for a first violation.

(2) It is unlawful for any person under 18 years of age to misrepresent his or her age or military service for the purpose of inducing a dealer or an agent or employee of the dealer to sell, give, barter, furnish, or deliver any tobacco product or nicotine dispensing device, or to purchase, or attempt to purchase, any tobacco product or nicotine dispensing device from a person or a vending machine. Any person under 18 years of age who violates a provision of this subsection commits a noncriminal violation as provided in s. 775.08(3), punishable by:

(a) For a first violation, 16 hours of community service or, instead of community service, a \$25 fine and, in addition, the person must attend a school-approved anti-tobacco and nicotine program, if available;

(b) For a second violation within 12 weeks of the first violation, a \$25 fine; or

(c) For a third or subsequent violation within 12 weeks of the first violation, the court must direct the Department of Highway Safety and Motor Vehicles to withhold issuance of or suspend or revoke the person's driver's license or driving privilege, as provided in s. 322.056.

Any second or subsequent violation not within the 12-week time

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period after the first violation is punishable as provided for a first violation.

(6) Eighty percent of all civil penalties received by a county court pursuant to this section shall be remitted by the clerk of the court to the Department of Revenue for transfer to the Department of Education to provide for teacher training and for research and evaluation to reduce and prevent the use of tobacco products or nicotine dispensing devices by children. The remaining 20 percent of civil penalties received by a county court pursuant to this section shall remain with the clerk of the county court to cover administrative costs.

Section 5. Subsections (1), (2), and (3) of section 569.14, Florida Statutes, are amended to read:

569.14 Posting of a sign stating that the sale of tobacco products or nicotine dispensing devices to persons under 18 years of age is unlawful; enforcement; penalty.—

(1) Any dealer that sells tobacco products or nicotine dispensing devices shall post a clear and conspicuous sign in each place of business where such products are sold which substantially states the following:

THE SALE OF TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES TO PERSONS UNDER THE AGE OF 18 IS AGAINST FLORIDA LAW. PROOF OF AGE IS REQUIRED FOR PURCHASE.

(2) The division shall make available to dealers of tobacco products or nicotine dispensing devices signs that meet the requirements of subsection (1).

(3) Any dealer that sells tobacco products or nicotine

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dispensing devices shall provide at the checkout counter in a location clearly visible to the dealer, the dealer's agent or employee, instructional material in a calendar format or similar format to assist in determining whether a person is of legal age to purchase tobacco products or nicotine dispensing devices. This point of sale material must contain substantially the following language:

IF YOU WERE NOT BORN BEFORE THIS DATE

(insert date and applicable year)

YOU CANNOT BUY TOBACCO PRODUCTS OR NICOTINE DISPENSING DEVICES.

Upon approval by the division, in lieu of a calendar a dealer may use card readers, scanners, or other electronic or automated systems that can verify whether a person is of legal age to purchase tobacco products or nicotine dispensing devices. Failure to comply with the provisions contained in this subsection shall result in imposition of administrative penalties as provided in s. 569.006.

Section 6. Subsection (3) of section 569.19, Florida Statutes, is amended to read:

569.19 Annual report.—The division shall report annually with written findings to the Legislature and the Governor by December 31, on the progress of implementing the enforcement provisions of this chapter. This must include, but is not limited to:

(3) The number of violations for selling tobacco products or nicotine dispensing devices to persons under age 18, and the results of administrative hearings on the above and related

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175 issues.

176 Section 7. This act shall take effect July 1, 2014.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Banking and Insurance
Education
Ethics and Elections
Gaming
Governmental Oversight and Accountability
Rules

SENATOR LIZBETH BENACQUISTO

Majority Leader
30th District

February 10, 2013

The Honorable Joe Negron
Senate Appropriations, Chair
412 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 224 – Relating to Alternative Nicotine Products

Dear Mr. Chair:

Please allow this letter to serve as my respectful request to agenda SB 224, Relating to Nicotine Dispensing Devices, for a public hearing at your earliest convenience.

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

Sincerely,



Lizbeth Benacquisto
Senate District 30

Cc: Cindy Kynoch

REPLY TO:

- ☐ 1926 Victoria Ave, 2nd Floor, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 330 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5030

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

712-N @ 1:00PM
2-20-2014

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

2-20-2014

Date

WAIVE TIME
IN SUPPORT

SB 224

Bill Number

Barcode

Name STEPHEN R. WINN

Phone 878-7364

Address 2007 APALACHEE PARKWAY

E-mail

Street

TALLAHASSEE

FL

32301

City

State

Zip

Job Title EX. DIR.

Speaking: ☒ For ☐ Against ☐ Information

Appearing at request of Chair ☐

Subject NICOTINE DISPENSING DEVICES

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Lobbyist registered with Legislature: ☒ Yes

☐ No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

S-001 (04/14/10)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic Nicotine Dispensing Devices Bill Number 224
Name Beth LABASKY Amendment Barcode _____ (if applicable)
Job Title Consultant (if applicable)
Address 13211 Boney Rd. Phone 850 322 7335
Street JACKSONVILLE E-mail bethlabasky@aol.com
City _____ *State* _____ *Zip* _____
Speaking: ☒ For ☐ Against ☐ Information
Representing COPD FOUNDATION / ALPHA 1 FOUNDATION
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

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 Appropriations

BILL: PCS/CS/SB 360 (125880)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice), Senators Bradley and Evers

SUBJECT: Sentencing for Controlled Substance Violations

DATE: February 6, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Erickson	Cannon	CJ	Fav/CS
2. Clodfelter	Sadberry	ACJ	Fav/CS
3. Clodfelter	Kynoch	AP	Pre-Meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 360 increases the minimum weight threshold for trafficking in oxycodone and hydrocodone (prescription painkillers) under section 893.135, Florida Statutes, the drug trafficking statute. As a result of this change, persons who unlawfully possess, sell, etc., relatively small quantities of oxycodone or hydrocodone will no longer be punished for drug trafficking. The current minimum weight threshold for trafficking in either drug is 4 grams. The bill increases the threshold for oxycodone to 7 grams and the threshold for hydrocodone to 14 grams. Persons who have less than the threshold amount still may be punished under section 893.13, Florida Statutes, for unlawful acts involving controlled substances, but the penalties are not as significant as drug trafficking penalties. Further, some persons who meet the revised weight threshold for trafficking in oxycodone or hydrocodone will receive a shorter mandatory minimum term than under current law.

Increasing weight thresholds for trafficking in prescription painkillers is an option that the Office of Program Policy Analysis and Government Accountability proposed in a 2012 report.

The bill provides that trafficking in less than 30 kilograms of oxycodone or hydrocodone is a first degree felony and is subject to the following mandatory minimum terms and fines:

- Trafficking in 7 grams or more, but less than 14 grams, of oxycodone or 14 grams or more, but less than 28 grams, of hydrocodone: 3-year mandatory minimum term and \$50,000 fine.

(Current law: 3-year mandatory minimum term/\$50,000 fine for trafficking in 4 grams or more, but less than 14 grams, of oxycodone or hydrocodone.)

- Trafficking in 14 grams or more, but less than 25 grams, of oxycodone, or 28 grams or more, but less than 50 grams, of hydrocodone: 7-year mandatory minimum term and \$100,000 fine. (Current law: 15-year mandatory minimum term/\$100,000 fine for trafficking in 14 grams or more, but less than 28 grams, of oxycodone or hydrocodone.)
- Trafficking in 25 grams or more, but less than 100 grams, of oxycodone, or 50 grams or more, but less than 200 grams, of hydrocodone: 15-year mandatory minimum term and \$500,000 fine. (Current law: 25-year mandatory minimum term/\$500,000 fine for trafficking in 28 grams or more, but less than 30 kilograms, of oxycodone or hydrocodone.)
- Trafficking in 200 grams or more, but less than 30 kilograms, of oxycodone, or 100 grams or more, but less than 30 kilograms, of hydrocodone: 25-year mandatory minimum term and \$750,000 fine. (Current law: 25-year mandatory minimum term/\$500,000 fine for trafficking in 28 grams or more, but less than 30 kilograms, of oxycodone or hydrocodone.)

The Criminal Justice Impact Conference (CJIC) considered SB 360, as filed, and found that the increase in the minimum weight threshold for trafficking in oxycodone and hydrocodone (from 4 grams to 14 grams) would have resulted in the need for 465 fewer prison beds cumulatively by Fiscal Year 2018-2019, resulting in a cumulative savings of \$16,148,092 in operating costs. The CJIC projected that the bill would have resulted in a need for one less prison bed in Fiscal Year 2014-2015, reducing operating costs by \$8,949.

The CJIC estimate does not reflect the change to the minimum weight threshold for trafficking in oxycodone from 14 grams (in SB 360, as filed) to 7 grams (in PCS/CS/SB 360). Although savings from the reduced minimum weight thresholds in PCS/CS/SB 360 would likely occur, the Legislature's Office of Economic and Demographic Research indicates that it cannot project the amount of savings. See Section V.

II. Present Situation:

Unlawful activities involving controlled substance (e.g., possession or sale of controlled substances) are punishable under s. 893.13, F.S. (prohibited acts involving controlled substances), and s. 893.135, F.S. (drug trafficking). Oxycodone and hydrocodone are opioid prescription painkillers and Schedule II controlled substances, though materials, compounds, mixtures, or preparations containing limited quantities of hydrocodone are Schedule III controlled substances.¹

Drug Trafficking/Oxycodone and Hydrocodone

“Drug trafficking” consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state, or knowingly being in actual or constructive possession² of, certain controlled substances in a statutorily-specified quantity.

¹ Schedule III: not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium or with recognized therapeutic amounts of one or more active ingredients which are not controlled substances. Section 893.03(3)(c)3. and 4., F.S.

² One important and unique feature of the drug trafficking statute is that the prosecutor is not required to prove that the possession of the controlled substance was with the intent to sell, deliver, manufacture, etc., the substance.

Whether a person is charged with drug trafficking depends, in part, on the type of controlled substance possessed, sold, etc. Only a limited number of controlled substances are covered under s. 893.135, F.S. Oxycodone and hydrocodone are covered drugs. Specifically, s. 893.135(1)(c), F.S., punishes “trafficking in illegal drugs.” The relevant “illegal drugs” include morphine, opium, oxycodone, hydrocodone, hydromorphone, and salts, derivatives, isomers, and salts of isomers of these substances, including heroin, and mixtures containing any of these substances.

The quantity of a covered controlled substance must also meet a minimum weight threshold prescribed in s. 893.135, F.S. Most drug trafficking offenses are first degree felonies and are subject to mandatory minimum terms.³ Section 893.135, F.S., establishes escalating weight ranges. The mandatory minimum term applicable to a drug trafficking act depends upon which weight range is applicable to the quantity of the controlled substances that are possessed, sold, etc.

Trafficking in oxycodone and hydrocodone (first degree felony)

Section 893.135(1)(c)1., F.S., provides, in part, that it is a first degree felony⁴ to traffic in 4 grams⁵ or more of oxycodone or hydrocodone.

If the quantity involved:

- Is 4 grams or more, but less than 14 grams, the offender is subject to a mandatory minimum term of imprisonment of 3 years and a fine of \$50,000.⁶
- Is 14 grams or more, but less than 28 grams, the offender is subject to a mandatory minimum term of imprisonment of 15 years and a fine of \$100,000.⁷
- Is 28 grams or more, but less than 30 kilograms, the offender is subject to a mandatory minimum term of imprisonment of 25 calendar years and a fine of \$500,000.⁸

³ Most drug offenses under s. 893.13, F.S., are not subject to mandatory minimum terms.

⁴ A first degree felony is generally punishable by up to 30 years in state prison. Section 775.082, F.S. Repeat offender sanctions may be available under ss. 775.082 and 775.084, F.S.

⁵ For purpose of comparison, the approximate weight of a U.S. currency note, regardless of denomination, is one gram. This information is available at <http://www.moneyfactory.gov/faqlibrary.html> (last visited on December 13, 2013).

⁶ Section 893.135(1)(c)1.a., F.S. This offense is ranked in Level 7 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(g), F.S.

⁷ Section 893.135(1)(c)1.b., F.S. This offense is ranked in Level 8 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(h), F.S.

⁸ Section 893.135(1)(c)1.c., F.S. This offense is ranked in Level 9 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(i), F.S.

Trafficking in oxycodone or hydrocodone (first degree felony punishable by life imprisonment)

Section 893.135(1)(c)2., F.S., provides, in part, that it is a first degree felony punishable by life imprisonment⁹ and a fine of \$500,000 to traffic in 30 kilograms or more of oxycodone or hydrocodone. A person convicted of this offense is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149, F.S.

Trafficking in oxycodone or hydrocodone (capital felony)

Section 893.135(1)(c)2., F.S., provides, in part, that it is a capital felony¹⁰ to traffic in 30 kilograms or more of oxycodone or hydrocodone if:

- The offender intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result.
- The offender's conduct in committing that act led to a natural, though not inevitable, lethal result.

The offender is also subject to a fine of \$500,000.

Capital importation of oxycodone or hydrocodone (capital felony)

Section 893.135(1)(c)3., F.S., provides, in part, that it is a capital felony to knowingly bring into this state ("import") 60 kilograms or more of oxycodone or hydrocodone, knowing that the probable result of such importation would be the death of any person. The offender is also subject to a fine of \$500,000.

"Opioid" Medications and Drug Trafficking

Medications that contain oxycodone or hydrocodone ("opioid" medications) are within the ambit of s. 893.135(1)(c), F.S., which also covers "mixtures" containing these substances. Trafficking weight involving pills containing either of these controlled substances is determined by the total weight of each pill multiplied by the number of pills possessed, sold, etc. The total weight of a pill includes the weight of the controlled substance in the pill (e.g., hydrocodone) and the weight of noncontrolled substances or matter in the pill, such as coating, binders, and nonprescription drugs (e.g., acetaminophen).¹¹ A relatively small number of pills may meet the 4 gram threshold for trafficking.

In a 2012 report, the Office of Program Policy Analysis and Government Accountability (OPPAGA) provided a table¹² indicating how many hydrocodone and oxycodone pills would be

⁹ As previously indicated, in general, a first degree felony is punishable by up to 30 years in state prison under s. 775.082, F.S. However, this section also provides that a first degree felony may be punished by a term of years not exceeding life imprisonment when specifically provided by statute.

¹⁰ A capital felony is punishable by life imprisonment or death. Section 775.082, F.S. See s. 921.142, F.S. (further proceedings to determine sentence for capital trafficking felonies).

¹¹ See ss. 893.02(16) and 893.135(6), F.S.

¹² *Opinions Are Mixed About Sentencing Laws for Painkiller Trafficking*, Report No. 12-02 (January 2012), at p. 5 (Exhibit 6), Office of Program Policy Analysis and Government Accountability, available at

necessary to meet the threshold gram weight for each gram weight range in s. 893.135(1)(c)1.a.-c., F.S. The weight ranges are:

- 4 grams or more, but less than 14 grams.
- 14 grams or more, but less than 28 grams.
- 28 grams or more, but less than 30 kilograms.

The table is based on a hydrocodone pill that weighs 0.65 grams with 10 mg. of hydrocodone and an oxycodone pill that weighs 0.13 grams with 30 mg. of oxycodone. Due to the different compositions of prescription opioids, noncontrolled substances may add significantly to the total weight of the pill or tablet as, for example, is the case with medication that contains hydrocodone and acetaminophen. Provided is the information from OPPAGA's table and the mandatory minimum term applicable to the threshold weight for each gram weight range in s. 893.135(1)(c)1.a.-c., F.S. (i.e., 4 grams, 14 grams, and 28 grams):

Number of Pills and Gram Weight Thresholds to Meet Mandatory Minimum Term				
Prescription Drug	Pill Weight	3-year mandatory minimum term	15-year mandatory minimum term	25-year mandatory minimum term
Hydrocodone (10 mg.)	0.65 grams	7 pills (4 grams)	22 pills (14 grams)	44 pills (28 grams)
Oxycodone (30 mg.)	0.13 grams	31 pills (4 grams)	108 pills (14 grams)	215 pills (28 grams)

OPPAGA Report No. 12-02: Prison Admissions for Opioid Trafficking and Profile of Opioid Trafficking Offenders

Using Department of Corrections' data for Fiscal Year 2006-2007 to Fiscal Year 2010-2011, the OPPAGA found prescription admissions for trafficking quadrupled over those five fiscal years. According to the OPPAGA, this substantial increase in admissions was primarily attributable to oxycodone trafficking convictions:

Department of Corrections data shows that prison admissions for trafficking in opioids have more than quadrupled over the past five years, from 262 admissions in Fiscal Year 2006-07 to 1,200 in Fiscal Year 2010-11.... This data does not distinguish among the types of opioids, and as a result, offenses involving heroin are grouped with those involving prescription painkillers. This is because these two controlled substances are addressed in the same section of the drug trafficking statute, and thus subject to the same weight thresholds and minimum mandatory sentences.

To evaluate the factors leading to the recent increase in prison admissions for trafficking in opioids, we reviewed data for a statewide random sample

of 194 offenders admitted to prison for this offense during Fiscal Year 2010-11. We determined the type and amount of drugs involved in their offenses and the circumstances surrounding their arrests and convictions. Our analyses found that the recent increase in prison admissions for opioid trafficking was primarily due to convictions for prescription painkillers rather than heroin....¹³

A noteworthy postscript to the OPPAGA report is that the quadrupled prison admissions for trafficking in opioids began to wane in Fiscal Year 2011-2012. Between Fiscal Year 2010-2011 and Fiscal Year 2011-2012 there was a 14.1 percent decline in prison admissions for trafficking in opioids.¹⁴ Although the cause of this decline is empirically unknown, it is most likely attributable to a number of measures taken by Florida to reduce prescription drug abuse, such as removing so-called “pill mills” in the state.

The OPPAGA analyzed arrest reports for the sample 194 offenders and determined that “almost all (93%) were convicted of trafficking in prescription painkillers.... [A]rrests most commonly involved oxycodone (73%) or hydrocodone (28%). In comparison, 6% of the offenders were convicted of trafficking in heroin.”¹⁵

The OPPAGA provided the following information regarding how most of these arrests occurred:

Most offenders in our sample (62%) were arrested for selling prescription painkillers to an undercover law enforcement officer or confidential informant.... In these cases, officers worked undercover to buy drugs from known dealers or monitored confidential informants during meetings they arranged to make purchases. In other cases, offenders were arrested for trafficking after a traffic stop or other law enforcement contact, or after being reported by a pharmacist for possible prescription fraud.¹⁶

The majority of the offenders in the OPPAGA’s sample illegally possessed or sold 30 to 90 pills:

For most of the offenders convicted of trafficking in oxycodone or hydrocodone, their convictions were based on the illegal possession or sale of a number of pills equivalent to one or two prescriptions. For those offenders sentenced for trafficking in hydrocodone, 50% were arrested for possessing or selling fewer than 30 pills and 25% were arrested for fewer than 15 pills. For offenders sentenced for trafficking in oxycodone, offenders possessed or sold a median number of 91 pills at the time of their arrests.

Following accepted medical practice, physicians may prescribe 30 or more prescription painkillers for patients with chronic pain or recovering from surgery. For example, a patient recovering from surgery may receive a

¹³ OPPAGA Report, at pp. 2-3 (footnotes omitted).

¹⁴ Information provided on April 4, 2013, to staff (via e-mail) by the Office of Economic and Demographic Research.

¹⁵ OPPAGA Report, at p. 3.

¹⁶ *Id.*

one-time prescription of 30 to 60 hydrocodone or oxycodone pills, often in forms that also contain acetaminophen. Illegal possession of such an amount could trigger a minimum mandatory sentence.¹⁷

Most of the offenders in the OPPAGA sample did not have a prior drug trafficking record and were determined by prison staff to need substance abuse treatment:

Our analysis of Department of Corrections data on the 1,200 offenders admitted to prison for opioid trafficking in Fiscal Year 2010-11 found that 74% had not previously been admitted to prison.... Half had either never been on probation or had been on probation solely for drug possession, and 81% did not have a prior history of offenses involving selling or trafficking drugs. Most (84%) had no current or past violent offenses.

These offenders tended to have substance abuse problems and were at low risk for recidivism. Prison staff assessments determined that 65% of these offenders needed substance abuse treatment and 61% were at low risk for recidivism.¹⁸

Drug Trafficking Sentencing

The Criminal Punishment Code (Code)¹⁹ is Florida's framework or mechanism for determining permissible sentencing ranges for noncapital felonies. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). Points are assigned and accrue based upon the level ranking (sentence points escalate as the level escalates) assigned to the primary offense, additional offenses, and prior offenses. Points may be added or multiplied for other factors. For example, if the primary offense is drug trafficking, the subtotal sentence points are multiplied, at the discretion of the court, for a Level 7 or Level 8 offense, by 1.5.²⁰

Total sentence points are entered into a mathematical calculation (specified in statute) to determine the lowest permissible sentence. The permissible sentencing range is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S., for the primary offense and any additional offenses before the court for sentencing. The court is permitted to impose sentences concurrently or consecutively.

The Code includes a list of 'mitigating' factors. If a mitigating factor is found by the sentencing court, the court may decrease an offender's sentence below the lowest permissible sentence (a "downward departure"). A mandatory minimum term is not subject to these mitigating factors.²¹

¹⁷ OPPAGA Report, at p. 4. In a footnote (n. 7, at p. 4) at the end of the second paragraph of this quote, the OPPAGA noted: "Law enforcement and other stakeholders reported that pain clinics they would consider as being 'pill mills' routinely prescribe much higher amounts of prescription painkillers, such as 180 oxycodone pills per month."

¹⁸ *Id.* In a footnote (n. 8, at p. 4) at the end of the second paragraph of this quote, the OPPAGA noted: "Prison staff assessed offenders' risk of recidivism using the risk assessment instrument developed by the Department of Corrections. Recidivism is defined as return to prison within three years of release."

¹⁹ Sections 921.002 - 921.0027, F.S.

²⁰ Section 921.0024(1)(b), F.S.

²¹ See *State v. Vanderhoff*, 14 So.3d 1185 (Fla. 5th DCA 2009).

Most of the mandatory minimum terms found in Florida law involve drug trafficking offenses. Mandatory minimum terms impact Code sentencing. “If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence. If the lowest permissible sentence exceeds the mandatory sentence, the requirements of the ... Code and any mandatory minimum penalties apply.”²²

A mandatory minimum sentence is often longer than a prison sentence scored as the lowest permissible sentence under the Code, so the sentencing range is narrowed. Further, with few exceptions, the sentencing court must impose the mandatory minimum term.²³

Mandatory minimums terms are not uniform for all controlled substances covered under s. 893.135, F.S. Further, the quantity of the controlled substance that will trigger mandatory minimum terms depends upon the controlled substance trafficked, as illustrated in the table below.

COMPARISON OF TRAFFICKING WEIGHT RANGES AND MANDATORY MINIMUM TERMS FOR CERTAIN CONTROLLED SUBSTANCES			
Trafficking Provision	First Weight Range	Second Weight Range	Third Weight Range
Trafficking in illegal drugs (includes prescription opioids) (s. 893.135(1)(c)1., F.S.)	3-year mandatory minimum term (4 grams to less than 14 grams)	15-year mandatory minimum term (14 grams to less than 28 grams)	25-year mandatory minimum term (28 grams to less than 30 kilograms)
Trafficking in cocaine (s. 893.135(1)(b)1., F.S.)	3-year mandatory minimum term (28 grams to less than 200 grams)	7-year mandatory minimum term (200 grams to less than 400 grams)	15-year mandatory minimum term (400 grams to less than 150 kilograms)
Trafficking in phencyclidine (s. 893.135(1)(d)1., F.S.)	3-year mandatory minimum term (28 grams to less than 200 grams)	7-year mandatory minimum term (200 grams to less than 400 grams)	15-year mandatory minimum term (400 grams or more)

²² Rule 3.704(26) (“The Criminal Punishment Code”), Florida Rules of Criminal Procedure. A trafficking mandatory minimum term is a minimum sentencing ‘floor’ for the court and there is no prohibition to gain-time. If the court only sentences the defendant to the mandatory term specified by statute, the Department of Corrections (DOC) establishes an 85% minimum service date on the term and the offender is subject to s. 944.275(4)(b)3., F.S., which does not allow release prior to serving a minimum of 85% of the sentence. If the court imposes a sentence that exceeds the mandatory term specified by statute, the DOC establishes an 85% minimum service date on the sentence. *See Mastay v. McDonough*, 928 So.2d 512 (Fla. 1st DCA 2006) (Section 893.135, F.S., does not preclude earning gain-time during the mandatory term as long as it does not result in the prisoner’s release prior to serving a minimum of 85% of the sentence).

²³ Staff found only two circumstances in which a sentencing court is authorized by law to impose a sentence below the mandatory minimum term. The first circumstance is when the court sentences a defendant as a youthful offender. Section 958.04, F.S. *See Christian v. State*, 84 So.3d 437 (Fla. 5th DCA 2012). The second circumstance is when the court grants a motion from the state attorney to reduce or suspend a sentence based upon substantial assistance rendered by the defendant. Section 893.135(4), F.S.

COMPARISON OF TRAFFICKING WEIGHT RANGES AND MANDATORY MINIMUM TERMS FOR CERTAIN CONTROLLED SUBSTANCES			
Trafficking Provision	First Weight Range	Second Weight Range	Third Weight Range
Trafficking in methaqualone (s. 893.135(1)(e)1., F.S.)	3-year mandatory minimum term (200 grams to less than 5 kilograms)	7-year mandatory minimum term (5 kilograms to less than 25 kilograms)	15-year mandatory minimum term (25 kilograms or more)
Trafficking in amphetamine or methamphetamine (s. 893.135(1)(f)1., F.S.)	3-year mandatory minimum term (14 grams to less than 28 grams)	7-year mandatory minimum term (28 grams to less than 200 grams)	15-year mandatory minimum term (200 grams or more)

OPPAGA Report No. 12-02: Increasing Weight Thresholds for Trafficking in Prescription Painkillers is an Option

In its report the OPPAGA provided a number of options for addressing trafficking in prescription painkillers. One of those options was to “[r]evise Florida statutes to increase the weight thresholds for prescription painkillers so that it would take more pills to be charged with drug trafficking offenses subject to minimum mandatory sentences.”²⁴

III. Effect of Proposed Changes:

The bill increases the minimum weight threshold for trafficking in oxycodone and hydrocodone (prescription painkillers) under s. 893.135, F.S., the drug trafficking statute. As a result of this change, persons who unlawfully possess, sell, etc., relatively small quantities of oxycodone or hydrocodone will no longer be punished for drug trafficking. They still may be punished under s. 893.13, F.S., for unlawful acts involving controlled substances, but the penalties are not as significant as drug trafficking penalties. Further, some persons who meet the revised weight threshold for trafficking in oxycodone or hydrocodone will receive a shorter mandatory minimum term than under current law.

The bill removes reference to “oxycodone” and “hydrocodone” wherever those words appear in s. 893.135(1)(c)1., F.S. (which punishes trafficking in opium, morphine, heroin, hydromorphone, oxycodone, and hydrocodone, and other substances).

The bill creates two new subparagraphs in s. 893.135(1)(c), F.S., to punish “trafficking in illegal prescription drugs” as a first degree felony. The trafficking provision in new subparagraph 2 only applies to 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 14 grams or more of any mixture containing hydrocodone. The trafficking provision in new subparagraph 3. only applies to a person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive

²⁴ OPPAGA Report, at p. 8.

possession of 7 grams or more of oxycodone, or 7 grams or more of any mixture containing oxycodone.

Under the new trafficking provision, the minimum gram weight threshold for trafficking in oxycodone (7 grams) or hydrocodone (14 grams), differs from current law in which the minimum gram weight threshold for trafficking in either of these substances is 4 grams. Gram weight ranges and applicable mandatory minimum terms differ from current law.²⁵

CURRENT LAW AND SB 360 ON MANDATORY MINIMUM TERMS			
Drug Trafficking Mandatory Minimum Term	Quantity/Weight Required for Hydrocodone and Oxycodone Under Current Law	Quantity/Weight Required for Hydrocodone Under SB 360	Quantity/Weight Required for Oxycodone Under SB 360
3 years	4 grams or more but less than 14 grams	14 grams or more but less than 28 grams	7 grams or more but less than 14 grams
7 years	N/A	28 grams or more but less than 50 grams	14 grams or more but less than 25 grams
15 years	14 grams or more but less than 28 grams	50 grams or more but less than 200 grams	25 grams or more but less than 100 grams
25 years	28 grams or more but less than 30 kilograms	200 grams or more but less than 30 kilograms	100 grams or more but less than 30 kilograms
Life	30 kilograms or more	30 kilograms or more	30 kilograms or more

Section 893.135(1)(c), F.S., also currently includes two capital felonies (s. 893.135(1)(c)2. and 3., F.S.). These penalties would still apply to trafficking in oxycodone and hydrocodone.

The bill amends s. 921.022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to rank the offenses relating to trafficking in oxycodone and hydrocodone that have been removed from s. 893.135(1)(c)1. and 2., F.S., and placed in their own subparagraphs. The offenses are ranked as follows:

- Level 7: Trafficking in 14 grams or more, but less than 28 grams, of hydrocodone; trafficking in 28 grams or more, but less than 50 grams, of hydrocodone; trafficking in 7 grams or more, but less than 14 grams, of oxycodone; trafficking in 14 grams or more, but less than 25 grams, of oxycodone.

²⁵ Fines are the same as current law with one exception. The bill provides for a \$750,000 fine for trafficking in 200 grams or more of oxycodone or hydrocodone. Current law provides for a \$500,000 fine for trafficking in the same quantity of oxycodone or hydrocodone. Section 893.135(1)(c)1.c., F.S.

- Level 8: Trafficking in 50 grams or more, but less than 200 grams, of hydrocodone; trafficking in 25 grams or more, but less than 100 grams, of oxycodone.
- Level 9: Trafficking in 200 grams or more, but less than 30 kilograms, of hydrocodone; trafficking in 100 grams or more, but less than 30 kilograms, of oxycodone.

The bill reenacts ss. 787.087(2)(a) and (3)(a) and 782.04(1)(a), (3), and (4), F.S., to incorporate the amendments made to s. 893.135, F.S., in references to that statute.

The effective date of the bill is July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will result in a positive fiscal impact (cost avoidance) in several ways. First, drug offenders who are convicted of possessing, selling, etc., less than 7 grams of oxycodone or less than 14 grams of hydrocodone will no longer be subject to the drug trafficking 3-year mandatory minimum term, but instead will be sentenced under the Criminal Punishment Code (based on a conviction for a drug offense under s. 893.13, F.S.).

The Criminal Justice Impact Conference considered SB 360, as filed, and found that the reductions to the minimum threshold weights for trafficking in oxycodone and hydrocodone to 14 grams would result in the need for one less prison bed in Fiscal Year 2014-2015 and 465 fewer prison beds cumulatively by Fiscal Year 2018-2019, with a cumulative savings of \$48,387,615, including both operating costs and fixed capital outlay costs. However, the current prison bed surplus makes it unlikely that there will actually be any fixed capital outlay cost savings. Therefore, a more realistic projection of

the savings from SB 360, as filed, would be a cumulative savings of \$16,930,000 in operations costs over the next five fiscal years.

The following table summarizes this projected fiscal impact:

Fiscal Impact of SB 360, AS FILED Increasing from 4 Grams to 14 Grams the Threshold for the 3-Year Minimum Mandatory for Trafficking in Hydrocodone or Oxycodone For offenses after July 1, 2014						
Fiscal Year	Projected Cumulative Prison Beds Required	Projected Additional Annual Prison Beds Required	FUNDS REQUIRED			
			Annual Operating Costs	Annual Fixed Capital Outlay Costs	TOTAL Annual Funds	TOTAL Cumulative Funds
2014-2015	-1	-1	(\$9,434)	(\$2,543,927)	(\$2,553,361)	(\$2,553,361)
2015-2016	-41	-40	(\$402,570)	(\$9,440,046)	(\$9,842,616)	(\$12,395,977)
2016-2017	-188	-147	(\$2,234,468)	(\$13,002,052)	(\$15,236,520)	(\$27,632,497)
2017-2018	-384	-196	(\$5,681,676)	(\$5,502,330)	(\$11,184,006)	(\$38,816,503)
2018-2019	-465	-81	(\$8,602,068)	(\$969,080)	(\$9,571,148)	(\$48,387,651)
TOTAL	-465	-465	(\$16,930,216)	(\$31,457,435)	(\$48,387,651)	(\$48,387,651)

Prepared by Florida Legislature, Office of Economic and Demographic Research, November 13, 2013

The EDR noted that this impact statement does not represent the direct appropriations impact of SB 360, as filed. Rather, it provided a stand-alone estimate of the prison bed need under SB 360, as filed. Cost data were included to allow a comparison of the impact of SB 360, as filed, with other proposed legislation. The actual appropriation associated with passage of SB 360, as filed, would depend on a number of factors, including the existing inventory of prison beds.

The CJIC was able to quantify its projection of savings that would have resulted from the original bill because the raised minimum weight thresholds lined up with existing weight thresholds that carried a higher penalty. Therefore, data exists which reflects actual convictions related to less than 14 grams of hydrocodone or oxycodone, but not other quantities.

The CJIC estimate does not reflect the change to the minimum weight threshold for trafficking in oxycodone from 14 grams (in SB 360, as filed) to 7 grams (in PCS/CS/SB 360). Although savings from the reduced minimum weight thresholds in PCS/CS/SB 360 would likely occur, the Legislature's Office of Economic and Demographic Research cannot project the amount of those savings because it does not have data for convictions related to less than 7 grams of oxycodone. Furthermore, a separate estimate for the reduction in the minimum weight trafficking threshold for hydrocondone cannot be made because the data available does not differentiate between convictions related to hydrocodone and those related to oxycodone.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 893.135 and 921.0022.

This bill reenacts provisions of the following sections of the Florida Statutes: 775.087 and 782.04.

IX. Additional Information:

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

Recommended CS by Criminal and Civil Justice Appropriations on February 6, 2014:

The committee substitute reduces the minimum weight threshold for trafficking in oxycodone from 14 grams in the bill, as filed, to 7 grams, and makes revisions to the weight ranges for trafficking in larger amounts of oxycodone. Also, the committee substitute revises the offense severity ranking of the new offenses for trafficking in hydrocodone or oxycodone, and retains the life imprisonment penalties for trafficking in 30 kilograms or more of either hydrocodone or oxycodone.

- B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on Criminal and Civil Justice)

A bill to be entitled

An act relating to sentencing for controlled substance violations; amending s. 893.135, F.S.; providing that a person who knowingly sells, purchases, manufactures, delivers, or brings into this state specified quantities of hydrocodone or a mixture containing hydrocodone or who is knowingly in actual or constructive possession of specified quantities of hydrocodone or a mixture containing hydrocodone commits the offense of trafficking in hydrocodone; providing criminal penalties; providing that a person who knowingly sells, purchases, manufactures, delivers, or brings into this state specified quantities of oxycodone or a mixture containing oxycodone or who is knowingly in actual or constructive possession of specified quantities of oxycodone or a mixture containing oxycodone commits the offense of trafficking in oxycodone; providing criminal penalties; amending s. 921.0022, F.S.; ranking the offenses of trafficking in hydrocodone and trafficking in oxycodone for purposes of the criminal punishment code; reenacting s. 775.087(2)(a) and (3)(a), F.S., relating to mandatory minimum sentences for the possession or use of a weapon during the commission of certain offenses, to incorporate the amendments made to s. 893.135, F.S., in a reference thereto; reenacting s. 782.04(1)(a), (3), and (4),



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F.S., relating to the classification of a murder committed during the commission of certain offenses, to incorporate the amendments made to s. 893.135, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 893.135, Florida Statutes, is amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(c)1. ~~A~~ 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., 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. 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



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\$50,000.

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.

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 shall be ordered to pay a fine of \$500,000.

2. 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 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. 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.

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.

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.

d. Is 200 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of



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imprisonment of 25 years and shall be ordered to pay a fine of \$750,000.

3. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 7 grams or more of oxycodone, or 7 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in oxycodone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 7 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of \$50,000.

b. Is 14 grams or more, but less than 25 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of \$100,000.

c. Is 25 grams or more, but less than 100 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of \$500,000.

d. Is 100 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of \$750,000.

4.2- A Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an



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115 isomer thereof, including heroin, as described in s.
116 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
117 more of any mixture containing any such substance, commits the
118 first degree felony of trafficking in illegal drugs. A person
119 who has been convicted of the first degree felony of trafficking
120 in illegal drugs under this subparagraph shall be punished by
121 life imprisonment and is ineligible for any form of
122 discretionary early release except pardon or executive clemency
123 or conditional medical release under s. 947.149. However, if the
124 court determines that, in addition to committing any act
125 specified in this paragraph:

126 a. The person intentionally killed an individual or
127 counseled, commanded, induced, procured, or caused the
128 intentional killing of an individual and such killing was the
129 result; or

130 b. The person's conduct in committing that act led to a
131 natural, though not inevitable, lethal result,
132
133 such person commits the capital felony of trafficking in illegal
134 drugs, punishable as provided in ss. 775.082 and 921.142. ~~A Any~~
135 person sentenced for a capital felony under this paragraph shall
136 also be sentenced to pay the maximum fine provided under
137 subparagraph 1.

138 ~~5.3-~~ ~~A Any~~ person who knowingly brings into this state 60
139 kilograms or more of any morphine, opium, oxycodone,
140 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
141 salt of an isomer thereof, including heroin, as described in s.
142 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
143 more of any mixture containing any such substance, and who knows



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144 that the probable result of such importation would be the death
145 of ~~a any~~ person, commits capital importation of illegal drugs, a
146 capital felony punishable as provided in ss. 775.082 and
147 921.142. ~~A Any~~ person sentenced for a capital felony under this
148 paragraph shall also be sentenced to pay the maximum fine
149 provided under subparagraph 1.

150 Section 2. Paragraphs (g) through (i) of subsection (3) of
151 section 921.0022, Florida Statutes, are amended to read:

152 921.0022 Criminal Punishment Code; offense severity ranking
153 chart.-

154 (3) OFFENSE SEVERITY RANKING CHART

155 (g) LEVEL 7

156

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or



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160

attempting to elude law
enforcement officer who
is in a patrol vehicle
with siren and lights
activated.

161

327.35(3)(c)2.

3rd

Vessel BUI resulting in
serious bodily injury.

162

402.319(2)

2nd

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

163

409.920
(2)(b)1.a.

3rd

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

164

409.920
(2)(b)1.b.

2nd

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

165

456.065(2)

3rd

Practicing a health care
profession without a
license.

456.065(2)

2nd

Practicing a health care
profession without a



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license which results in
serious bodily injury.

167

458.327(1)

3rd

Practicing medicine
without a license.

168

459.013(1)

3rd

Practicing osteopathic
medicine without a
license.

169

460.411(1)

3rd

Practicing chiropractic
medicine without a
license.

170

461.012(1)

3rd

Practicing podiatric
medicine without a
license.

171

462.17

3rd

Practicing naturopathy
without a license.

172

463.015(1)

3rd

Practicing optometry
without a license.

173

464.016(1)

3rd

Practicing nursing
without a license.

465.015(2)

3rd

Practicing pharmacy
without a license.



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466.026(1) 3rd Practicing dentistry or
dental hygiene without a
license.

175

467.201 3rd Practicing midwifery
without a license.

176

468.366 3rd Delivering respiratory
care services without a
license.

177

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

178

483.901(9) 3rd Practicing medical
physics without a
license.

179

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

180

484.053 3rd Dispensing hearing aids
without a license.

181

494.0018(2) 1st Conviction of any
violation of ss. 494.001-



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494.0077 in which the
total money and property
unlawfully obtained
exceeded \$50,000 and
there were five or more
victims.

560.123(8)(b)1. 3rd Failure to report
currency or payment
instruments exceeding
\$300 but less than
\$20,000 by a money
services business.

183

560.125(5)(a) 3rd Money services business
by unauthorized person,
currency or payment
instruments exceeding
\$300 but less than
\$20,000.

184

655.50(10)(b)1. 3rd Failure to report
financial transactions
exceeding \$300 but less
than \$20,000 by financial
institution.

185

775.21(10)(a) 3rd Sexual predator; failure
to register; failure to



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186

renew ~~driver~~ ~~driver's~~
license or identification
card; other registration
violations.

187

775.21 (10) (b)

3rd

Sexual predator working
where children regularly
congregate.

188

775.21 (10) (g)

3rd

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

189

782.051 (3)

2nd

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

190

782.07 (1)

2nd

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

782.071

2nd

Killing of a human being



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191

or viable fetus by the
operation of a motor
vehicle in a reckless
manner (vehicular
homicide).

192

782.072

2nd

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

193

784.045 (1) (a) 1.

2nd

Aggravated battery;
intentionally causing
great bodily harm or
disfigurement.

194

784.045 (1) (a) 2.

2nd

Aggravated battery; using
deadly weapon.

195

784.045 (1) (b)

2nd

Aggravated battery;
perpetrator aware victim
pregnant.

196

784.048 (4)

3rd

Aggravated stalking;
violation of injunction
or court order.

784.048 (7)

3rd

Aggravated stalking;
violation of court order.



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197

784.07(2)(d) 1st Aggravated battery on law
enforcement officer.

198

784.074(1)(a) 1st Aggravated battery on
sexually violent
predators facility staff.

199

784.08(2)(a) 1st Aggravated battery on a
person 65 years of age or
older.

200

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

201

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

202

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

203

787.06(3)(a) 1st Human trafficking using
coercion for labor and
services.

204

787.06(3)(e) 1st Human trafficking using



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coercion for labor and
services by the transfer
or transport of any
individual from outside
Florida to within the
state.

205

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

206

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

207

790.165(2) 2nd Manufacture, sell,
possess, or deliver hoax
bomb.

208

790.165(3) 2nd Possessing, displaying,
or threatening to use any
hoax bomb while
committing or attempting
to commit a felony.

209

790.166(3) 2nd Possessing, selling,
using, or attempting to
use a hoax weapon of mass



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210

destruction.

790.166(4)

2nd

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

211

790.23

1st,PBL

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

212

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.

213

796.03

2nd

Procuring any person
under 16 years for
prostitution.

214

800.04(5)(c)1.

2nd

Lewd or lascivious
molestation; victim less



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215

than 12 years of age;
offender less than 18
years.

800.04(5)(c)2.

2nd

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

216

806.01(2)

2nd

Maliciously damage
structure by fire or
explosive.

217

810.02(3)(a)

2nd

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

218

810.02(3)(b)

2nd

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

219

810.02(3)(d)

2nd

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

220

810.02(3)(e)

2nd

Burglary of authorized
emergency vehicle.



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221

812.014 (2) (a) 1. 1st Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.

222

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

223

812.014 (2) (b) 3. 2nd Property stolen, emergency medical equipment; 2nd degree grand theft.

224

812.014 (2) (b) 4. 2nd Property stolen, law enforcement equipment from authorized emergency vehicle.

225

812.0145 (2) (a) 1st Theft from person 65 years of age or older; \$50,000 or more.

226



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812.019 (2) 1st Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

227

812.131 (2) (a) 2nd Robbery by sudden snatching.

228

812.133 (2) (b) 1st Carjacking; no firearm, deadly weapon, or other weapon.

229

817.034 (4) (a) 1. 1st Communications fraud, value greater than \$50,000.

230

817.234 (8) (a) 2nd Solicitation of motor vehicle accident victims with intent to defraud.

231

817.234 (9) 2nd Organizing, planning, or participating in an intentional motor vehicle collision.

232

817.234 (11) (c) 1st Insurance fraud; property value \$100,000 or more.

233



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817.2341

1st

Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.

(2) (b) & (3) (b)

817.535(2) (a)

3rd

Filing false lien or other unauthorized document.

825.102(3) (b)

2nd

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

825.103(2) (b)

2nd

Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.

827.03(2) (b)

2nd

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



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disfigurement.

827.04(3)

3rd

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

837.05(2)

3rd

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

838.015

2nd

Bribery.

838.016

2nd

Unlawful compensation or reward for official behavior.

838.021(3) (a)

2nd

Unlawful harm to a public servant.

838.22

2nd

Bid tampering.

843.0855(2)

3rd

Impersonation of a public officer or employee.

843.0855(3)

3rd

Unlawful simulation of legal process.



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843.0855(4)	3rd	Intimidation of a public officer or employee.
247		
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
248		
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
249		
872.06	2nd	Abuse of a dead human body.
250		
874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
251		
874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
252		
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other



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			drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
253			
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)4., within 1,000 feet of property used for religious services or a specified business site.	
254			
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).	
255			
893.135(1)(a)1.	1st	Trafficking in cannabis,	



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more than 25 lbs., less
than 2,000 lbs.

256

893.135
(1) (b) 1.a.

1st

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

257

893.135
(1) (c) 1.a.

1st

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

258

893.135(1) (c) 2.a.

1st

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

259

893.135(1) (c) 2.b.

1st

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

260

893.135(1) (c) 3.a.

1st

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

261

893.135(1) (c) 3.b.

1st

Trafficking in oxycodone,
14 grams or more, less
than 25 grams.

262



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893.135(1) (d) 1.

1st

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

263

893.135(1) (e) 1.

1st

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

264

893.135(1) (f) 1.

1st

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

265

893.135
(1) (g) 1.a.

1st

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

266

893.135
(1) (h) 1.a.

1st

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

267

893.135
(1) (j) 1.a.

1st

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



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268	576-01691-14		
	893.135	1st	Trafficking in
	(1) (k) 2.a.		Phenethylamines, 10 grams
			or more, less than 200
			grams.
269	893.1351 (2)	2nd	Possession of place for
			trafficking in or
			manufacturing of
			controlled substance.
270	896.101 (5) (a)	3rd	Money laundering,
			financial transactions
			exceeding \$300 but less
			than \$20,000.
271	896.104 (4) (a) 1.	3rd	Structuring transactions
			to evade reporting or
			registration
			requirements, financial
			transactions exceeding
			\$300 but less than
			\$20,000.
272	943.0435 (4) (c)	2nd	Sexual offender vacating
			permanent residence;
			failure to comply with
			reporting requirements.
273			



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	943.0435 (8)	2nd	Sexual offender; remains
			in state after indicating
			intent to leave; failure
			to comply with reporting
			requirements.
274	943.0435 (9) (a)	3rd	Sexual offender; failure
			to comply with reporting
			requirements.
275	943.0435 (13)	3rd	Failure to report or
			providing false
			information about a
			sexual offender; harbor
			or conceal a sexual
			offender.
276	943.0435 (14)	3rd	Sexual offender; failure
			to report and reregister;
			failure to respond to
			address verification.
277	944.607 (9)	3rd	Sexual offender; failure
			to comply with reporting
			requirements.
278	944.607 (10) (a)	3rd	Sexual offender; failure
			to submit to the taking
			of a digitized



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photograph.

279

944.607(12)

3rd

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

280

944.607(13)

3rd

Sexual offender; failure
to report and reregister;
failure to respond to
address verification.

281

985.4815(10)

3rd

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

282

985.4815(12)

3rd

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

283

985.4815(13)

3rd

Sexual offender; failure
to report and reregister;
failure to respond to



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address verification.

284

285

286

287

(h) LEVEL 8

Florida
Statute

Felony
Degree

Description

288

316.193

2nd

DUI manslaughter.

289

(3) (c) 3.a.

316.1935(4) (b)

1st

Aggravated fleeing or
attempted eluding with
serious bodily injury or
death.

290

327.35(3) (c) 3.

2nd

Vessel BUI manslaughter.

291

499.0051(7)

1st

Knowing trafficking in
contraband prescription
drugs.

292

499.0051(8)

1st

Knowing forgery of
prescription labels or
prescription drug
labels.

293

560.123(8) (b) 2.

2nd

Failure to report
currency or payment



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instruments totaling or
exceeding \$20,000, but
less than \$100,000 by
money transmitter.

294

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.

295

655.50 (10) (b) 2.

2nd

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

296

777.03 (2) (a)

1st

Accessory after the
fact, capital felony.

297

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,



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aggravated fleeing or
eluding with serious
bodily injury or death,
aircraft piracy, or
unlawfully discharging
bomb.

298

782.051 (2)

1st

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

299

782.071 (1) (b)

1st

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

300

782.072 (2)

1st

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

301

787.06 (3) (b)

1st

Human trafficking using
coercion for commercial
sexual activity.

302

787.06 (3) (c)

1st

Human trafficking using
coercion for labor and



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services of an
unauthorized alien.

303

787.06(3)(f)

1st

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

304

790.161(3)

1st

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

305

794.011(5)

2nd

Sexual battery, victim
12 years or over,
offender does not use
physical force likely to
cause serious injury.

306

794.08(3)

2nd

Female genital
mutilation, removal of a
victim younger than 18
years of age from this
state.

307

800.04(4)

2nd

Lewd or lascivious



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battery.

308

806.01(1)

1st

Maliciously damage
dwelling or structure by
fire or explosive,
believing person in
structure.

309

810.02(2)(a)

1st,PBL

Burglary with assault or
battery.

310

810.02(2)(b)

1st,PBL

Burglary; armed with
explosives or dangerous
weapon.

311

810.02(2)(c)

1st

Burglary of a dwelling
or structure causing
structural damage or
\$1,000 or more property
damage.

312

812.014(2)(a)2.

1st

Property stolen; cargo
valued at \$50,000 or
more, grand theft in 1st
degree.

313

812.13(2)(b)

1st

Robbery with a weapon.

314

812.135(2)(c)

1st

Home-invasion robbery,



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315

no firearm, deadly
weapon, or other weapon.

817.535(2)(b)

2nd

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

316

817.535(3)(a)

2nd

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

317

817.535(4)(a)1.

2nd

Filing false lien or
other unauthorized
document; defendant is
incarcerated or under
supervision.

318

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.

319

817.568(6)

2nd

Fraudulent use of



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320

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

825.102(2)

1st

Aggravated abuse of an
elderly person or
disabled adult.

321

825.1025(2)

2nd

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

322

825.103(2)(a)

1st

Exploiting an elderly
person or disabled adult
and property is valued
at \$100,000 or more.

323

837.02(2)

2nd

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

324

837.021(2)

2nd

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



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325

860.121(2)(c) 1st Shooting at or throwing
any object in path of
railroad vehicle
resulting in great
bodily harm.

326

860.16 1st Aircraft piracy.

327

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).

328

893.13(2)(b) 1st Purchase in excess of 10
grams of any substance
specified in s.
893.03(1)(a) or (b).

329

893.13(6)(c) 1st Possess in excess of 10
grams of any substance
specified in s.
893.03(1)(a) or (b).

330

893.135(1)(a)2. 1st Trafficking in cannabis,
more than 2,000 lbs.,
less than 10,000 lbs.

331



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332

893.135 1st Trafficking in cocaine,
(1)(b)1.b. more than 200 grams,
less than 400 grams.

333

893.135 1st Trafficking in illegal
(1)(c)1.b. drugs, more than 14
grams, less than 28
grams.

334

893.135(1)(c)2.c. 1st Trafficking in
hydrocodone, 50 grams or
more, less than 200
grams.

335

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

336

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

337

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



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

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

893.135 1st Trafficking in gamma-
(1) (h) 1.b. hydroxybutyric acid
(GHB), 5 kilograms or
more, less than 10
kilograms.

893.135 1st Trafficking in 1,4-
(1) (j) 1.b. Butanediol, 5 kilograms
or more, less than 10
kilograms.

893.135 1st Trafficking in
(1) (k) 2.b. Phenethylamines, 200
grams or more, less than
400 grams.

893.1351(3) 1st Possession of a place
used to manufacture
controlled substance



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when minor is present or
resides there.

895.03(1) 1st Use or invest proceeds
derived from pattern of
racketeering activity.

895.03(2) 1st Acquire or maintain
through racketeering
activity any interest in
or control of any
enterprise or real
property.

895.03(3) 1st Conduct or participate
in any enterprise
through pattern of
racketeering activity.

896.101(5) (b) 2nd Money laundering,
financial transactions
totaling or exceeding
\$20,000, but less than
\$100,000.

896.104(4) (a) 2. 2nd Structuring transactions
to evade reporting or
registration
requirements, financial



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

348

349

350

(i) LEVEL 9

351

Florida
Statute

Felony
Degree

Description

352

316.193
(3) (c) 3.b.

1st

DUI manslaughter;
failing to render aid or
give information.

353

327.35 (3) (c) 3.b.

1st

BUI manslaughter;
failing to render aid or
give information.

354

409.920
(2) (b) 1.C.

1st

Medicaid provider fraud;
\$50,000 or more.

355

499.0051 (9)

1st

Knowing sale or purchase
of contraband
prescription drugs
resulting in great
bodily harm.

356

560.123 (8) (b) 3.

1st

Failure to report
currency or payment



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instruments totaling or
exceeding \$100,000 by
money transmitter.

357

560.125 (5) (c)

1st

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

358

655.50 (10) (b) 3.

1st

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

359

775.0844

1st

Aggravated white collar
crime.

360

782.04 (1)

1st

Attempt, conspire, or
solicit to commit
premeditated murder.

361

782.04 (3)

1st, PBL

Accomplice to murder in
connection with arson,
sexual battery, robbery,
burglary, aggravated
fleeing or eluding with



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serious bodily injury or
death, and other
specified felonies.

782.051(1)

1st

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

782.07(2)

1st

Aggravated manslaughter
of an elderly person or
disabled adult.

787.01(1)(a)1.

1st,PBL

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

787.01(1)(a)2.

1st,PBL

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

787.01(1)(a)4.

1st,PBL

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



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787.02(3)(a)

1st

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

787.06(3)(d)

1st

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

787.06(3)(g)

1st,PBL

Human trafficking for
commercial sexual
activity of a child
under the age of 18.

787.06(4)

1st

Selling or buying of
minors into human
trafficking.

790.161

1st

Attempted capital
destructive device
offense.

790.166(2)

1st,PBL

Possessing, selling,
using, or attempting to



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use a weapon of mass
destruction.

373

794.011(2)

1st

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

374

794.011(2)

Life

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

375

794.011(4)

1st

Sexual battery; victim
12 years or older,
certain circumstances.

376

794.011(8)(b)

1st

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

377

794.08(2)

1st

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

378

796.035

1st

Selling or buying of



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minors into
prostitution.

379

800.04(5)(b)

Life

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

380

812.13(2)(a)

1st,PBL

Robbery with firearm or
other deadly weapon.

381

812.133(2)(a)

1st,PBL

Carjacking; firearm or
other deadly weapon.

382

812.135(2)(b)

1st

Home-invasion robbery
with weapon.

383

817.535(3)(b)

1st

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

384

817.535(4)(a)2.

1st

Filing false claim or
other unauthorized
document; defendant is
incarcerated or under



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supervision.

385

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.

386

817.568(7)

2nd,
PBL

Fraudulent use of
personal identification
information of an
individual under the age
of 18 by his or her
parent, legal guardian,
or person exercising
custodial authority.

387

827.03(2)(a)

1st

Aggravated child abuse.

388

847.0145(1)

1st

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

389

847.0145(2)

1st

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



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390

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.

391

893.135

1st

Attempted capital
trafficking offense.

392

893.135(1)(a)3.

1st

Trafficking in cannabis,
more than 10,000 lbs.

393

893.135
(1)(b)1.C.

1st

Trafficking in cocaine,
more than 400 grams,
less than 150 kilograms.

394

893.135
(1)(c)1.C.

1st

Trafficking in illegal
drugs, more than 28
grams, less than 30
kilograms.

395

893.135(1)(c)2.d.

1st

Trafficking in
hydrocodone, 200 grams
or more, less than 30
kilograms.



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396

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

397

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

398

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

399

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

400

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

401

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

402

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



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403

grams or more.

896.101(5)(c) 1st Money laundering,
financial instruments
totaling or exceeding
\$100,000.

404

896.104(4)(a)3. 1st Structuring transactions
to evade reporting or
registration
requirements, financial
transactions totaling or
exceeding \$100,000.

405

406

407

Section 3. For the purpose of incorporating the amendment
made by this act to section 893.135, Florida Statutes, in a
reference thereto, paragraph (a) of subsection (2) and paragraph
(a) of subsection (3) of section 775.087, Florida Statutes, are
reenacted to read:

412

775.087 Possession or use of weapon; aggravated battery;
felony reclassification; minimum sentence.—

414

(2)(a)1. Any person who is convicted of a felony or an
attempt to commit a felony, regardless of whether the use of a
weapon is an element of the felony, and the conviction was for:

417

a. Murder;

418

b. Sexual battery;

419

c. Robbery;

420

d. Burglary;



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421 e. Arson;
422 f. Aggravated assault;
423 g. Aggravated battery;
424 h. Kidnapping;
425 i. Escape;
426 j. Aircraft piracy;
427 k. Aggravated child abuse;
428 l. Aggravated abuse of an elderly person or disabled adult;
429 m. Unlawful throwing, placing, or discharging of a
430 destructive device or bomb;
431 n. Carjacking;
432 o. Home-invasion robbery;
433 p. Aggravated stalking;
434 q. Trafficking in cannabis, trafficking in cocaine, capital
435 importation of cocaine, trafficking in illegal drugs, capital
436 importation of illegal drugs, trafficking in phencyclidine,
437 capital importation of phencyclidine, trafficking in
438 methaqualone, capital importation of methaqualone, trafficking
439 in amphetamine, capital importation of amphetamine, trafficking
440 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
441 (GHB), trafficking in 1,4-Butanediol, trafficking in
442 Phenethylamines, or other violation of s. 893.135(1); or
443 r. Possession of a firearm by a felon
444
445 and during the commission of the offense, such person actually
446 possessed a "firearm" or "destructive device" as those terms are
447 defined in s. 790.001, shall be sentenced to a minimum term of
448 imprisonment of 10 years, except that a person who is convicted
449 for aggravated assault, possession of a firearm by a felon, or



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450 burglary of a conveyance shall be sentenced to a minimum term of
451 imprisonment of 3 years if such person possessed a "firearm" or
452 "destructive device" during the commission of the offense.
453 However, if an offender who is convicted of the offense of
454 possession of a firearm by a felon has a previous conviction of
455 committing or attempting to commit a felony listed in s.
456 775.084(1)(b)1. and actually possessed a firearm or destructive
457 device during the commission of the prior felony, the offender
458 shall be sentenced to a minimum term of imprisonment of 10
459 years.

460 2. Any person who is convicted of a felony or an attempt to
461 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
462 regardless of whether the use of a weapon is an element of the
463 felony, and during the course of the commission of the felony
464 such person discharged a "firearm" or "destructive device" as
465 defined in s. 790.001 shall be sentenced to a minimum term of
466 imprisonment of 20 years.

467 3. Any person who is convicted of a felony or an attempt to
468 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
469 regardless of whether the use of a weapon is an element of the
470 felony, and during the course of the commission of the felony
471 such person discharged a "firearm" or "destructive device" as
472 defined in s. 790.001 and, as the result of the discharge, death
473 or great bodily harm was inflicted upon any person, the
474 convicted person shall be sentenced to a minimum term of
475 imprisonment of not less than 25 years and not more than a term
476 of imprisonment of life in prison.

477 (3)(a)1. Any person who is convicted of a felony or an
478 attempt to commit a felony, regardless of whether the use of a



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479 firearm is an element of the felony, and the conviction was for:
480 a. Murder;
481 b. Sexual battery;
482 c. Robbery;
483 d. Burglary;
484 e. Arson;
485 f. Aggravated assault;
486 g. Aggravated battery;
487 h. Kidnapping;
488 i. Escape;
489 j. Sale, manufacture, delivery, or intent to sell,
490 manufacture, or deliver any controlled substance;
491 k. Aircraft piracy;
492 l. Aggravated child abuse;
493 m. Aggravated abuse of an elderly person or disabled adult;
494 n. Unlawful throwing, placing, or discharging of a
495 destructive device or bomb;
496 o. Carjacking;
497 p. Home-invasion robbery;
498 q. Aggravated stalking; or
499 r. Trafficking in cannabis, trafficking in cocaine, capital
500 importation of cocaine, trafficking in illegal drugs, capital
501 importation of illegal drugs, trafficking in phencyclidine,
502 capital importation of phencyclidine, trafficking in
503 methaqualone, capital importation of methaqualone, trafficking
504 in amphetamine, capital importation of amphetamine, trafficking
505 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
506 (GHB), trafficking in 1,4-Butanediol, trafficking in
507 Phenethylamines, or other violation of s. 893.135(1);



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508
509 and during the commission of the offense, such person possessed
510 a semiautomatic firearm and its high-capacity detachable box
511 magazine or a machine gun as defined in s. 790.001, shall be
512 sentenced to a minimum term of imprisonment of 15 years.
513 2. Any person who is convicted of a felony or an attempt to
514 commit a felony listed in subparagraph (a)1., regardless of
515 whether the use of a weapon is an element of the felony, and
516 during the course of the commission of the felony such person
517 discharged a semiautomatic firearm and its high-capacity box
518 magazine or a "machine gun" as defined in s. 790.001 shall be
519 sentenced to a minimum term of imprisonment of 20 years.
520 3. Any person who is convicted of a felony or an attempt to
521 commit a felony listed in subparagraph (a)1., regardless of
522 whether the use of a weapon is an element of the felony, and
523 during the course of the commission of the felony such person
524 discharged a semiautomatic firearm and its high-capacity box
525 magazine or a "machine gun" as defined in s. 790.001 and, as the
526 result of the discharge, death or great bodily harm was
527 inflicted upon any person, the convicted person shall be
528 sentenced to a minimum term of imprisonment of not less than 25
529 years and not more than a term of imprisonment of life in
530 prison.
531 Section 4. For the purpose of incorporating the amendment
532 made by this act to section 893.135, Florida Statutes, in a
533 reference thereto, paragraph (a) of subsection (1) and
534 subsections (3) and (4) of section 782.04, Florida Statutes, are
535 reenacted to read:
536 782.04 Murder.—



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537 (1) (a) The unlawful killing of a human being:
538 1. When perpetrated from a premeditated design to effect
539 the death of the person killed or any human being;
540 2. When committed by a person engaged in the perpetration
541 of, or in the attempt to perpetrate, any:
542 a. Trafficking offense prohibited by s. 893.135(1),
543 b. Arson,
544 c. Sexual battery,
545 d. Robbery,
546 e. Burglary,
547 f. Kidnapping,
548 g. Escape,
549 h. Aggravated child abuse,
550 i. Aggravated abuse of an elderly person or disabled adult,
551 j. Aircraft piracy,
552 k. Unlawful throwing, placing, or discharging of a
553 destructive device or bomb,
554 l. Carjacking,
555 m. Home-invasion robbery,
556 n. Aggravated stalking,
557 o. Murder of another human being,
558 p. Resisting an officer with violence to his or her person,
559 q. Aggravated fleeing or eluding with serious bodily injury
560 or death,
561 r. Felony that is an act of terrorism or is in furtherance
562 of an act of terrorism; or
563 3. Which resulted from the unlawful distribution of any
564 substance controlled under s. 893.03(1), cocaine as described in
565 s. 893.03(2) (a) 4., opium or any synthetic or natural salt,



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566 compound, derivative, or preparation of opium, or methadone by a
567 person 18 years of age or older, when such drug is proven to be
568 the proximate cause of the death of the user,
569
570 is murder in the first degree and constitutes a capital felony,
571 punishable as provided in s. 775.082.
572 (3) When a human being is killed during the perpetration
573 of, or during the attempt to perpetrate, any:
574 (a) Trafficking offense prohibited by s. 893.135(1),
575 (b) Arson,
576 (c) Sexual battery,
577 (d) Robbery,
578 (e) Burglary,
579 (f) Kidnapping,
580 (g) Escape,
581 (h) Aggravated child abuse,
582 (i) Aggravated abuse of an elderly person or disabled
583 adult,
584 (j) Aircraft piracy,
585 (k) Unlawful throwing, placing, or discharging of a
586 destructive device or bomb,
587 (l) Carjacking,
588 (m) Home-invasion robbery,
589 (n) Aggravated stalking,
590 (o) Murder of another human being,
591 (p) Aggravated fleeing or eluding with serious bodily
592 injury or death,
593 (q) Resisting an officer with violence to his or her
594 person, or



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595 (r) Felony that is an act of terrorism or is in furtherance
596 of an act of terrorism,

597
598 by a person other than the person engaged in the perpetration of
599 or in the attempt to perpetrate such felony, the person
600 perpetrating or attempting to perpetrate such felony commits
601 murder in the second degree, which constitutes a felony of the
602 first degree, punishable by imprisonment for a term of years not
603 exceeding life or as provided in s. 775.082, s. 775.083, or s.
604 775.084.

605 (4) The unlawful killing of a human being, when perpetrated
606 without any design to effect death, by a person engaged in the
607 perpetration of, or in the attempt to perpetrate, any felony
608 other than any:

609 (a) Trafficking offense prohibited by s. 893.135(1),

610 (b) Arson,

611 (c) Sexual battery,

612 (d) Robbery,

613 (e) Burglary,

614 (f) Kidnapping,

615 (g) Escape,

616 (h) Aggravated child abuse,

617 (i) Aggravated abuse of an elderly person or disabled
618 adult,

619 (j) Aircraft piracy,

620 (k) Unlawful throwing, placing, or discharging of a
621 destructive device or bomb,

622 (l) Unlawful distribution of any substance controlled under
623 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or



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624 opium or any synthetic or natural salt, compound, derivative, or
625 preparation of opium by a person 18 years of age or older, when
626 such drug is proven to be the proximate cause of the death of
627 the user,

628 (m) Carjacking,

629 (n) Home-invasion robbery,

630 (o) Aggravated stalking,

631 (p) Murder of another human being,

632 (q) Aggravated fleeing or eluding with serious bodily
633 injury or death,

634 (r) Resisting an officer with violence to his or her
635 person, or

636 (s) Felony that is an act of terrorism or is in furtherance
637 of an act of terrorism,

638
639 is murder in the third degree and constitutes a felony of the
640 second degree, punishable as provided in s. 775.082, s. 775.083,
641 or s. 775.084.

642 Section 5. This act shall take effect July 1, 2014.

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 Appropriations

BILL: CS/SB 360

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice), Senators Bradley and Evers

SUBJECT: Sentencing for Controlled Substance Violations

DATE: February 24, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Favorable
2.	Clodfelter	Sadberry	ACJ	Fav/CS
3.	Clodfelter	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 360 increases the minimum weight threshold for trafficking in oxycodone and hydrocodone (prescription painkillers) under section 893.135, Florida Statutes, the drug trafficking statute. As a result of this change, persons who unlawfully possess, sell, etc., relatively small quantities of oxycodone or hydrocodone will no longer be punished for drug trafficking. The current minimum weight threshold for trafficking in either drug is 4 grams. The bill increases the threshold for oxycodone to 7 grams and the threshold for hydrocodone to 14 grams. Persons who have less than the threshold amount still may be punished under section 893.13, Florida Statutes, for unlawful acts involving controlled substances, but the penalties are not as significant as drug trafficking penalties. Further, some persons who meet the revised weight threshold for trafficking in oxycodone or hydrocodone will receive a shorter mandatory minimum term than under current law.

Increasing weight thresholds for trafficking in prescription painkillers is an option that the Office of Program Policy Analysis and Government Accountability proposed in a 2012 report.

The bill provides that trafficking in less than 30 kilograms of oxycodone or hydrocodone is a first degree felony and is subject to the following mandatory minimum terms and fines:

- Trafficking in 7 grams or more, but less than 14 grams, of oxycodone or 14 grams or more, but less than 28 grams, of hydrocodone: 3-year mandatory minimum term and \$50,000 fine.

(Current law: 3-year mandatory minimum term/\$50,000 fine for trafficking in 4 grams or more, but less than 14 grams, of oxycodone or hydrocodone.)

- Trafficking in 14 grams or more, but less than 25 grams, of oxycodone, or 28 grams or more, but less than 50 grams, of hydrocodone: 7-year mandatory minimum term and \$100,000 fine. (Current law: 15-year mandatory minimum term/\$100,000 fine for trafficking in 14 grams or more, but less than 28 grams, of oxycodone or hydrocodone.)
- Trafficking in 25 grams or more, but less than 100 grams, of oxycodone, or 50 grams or more, but less than 200 grams, of hydrocodone: 15-year mandatory minimum term and \$500,000 fine. (Current law: 25-year mandatory minimum term/\$500,000 fine for trafficking in 28 grams or more, but less than 30 kilograms, of oxycodone or hydrocodone.)
- Trafficking in 200 grams or more, but less than 30 kilograms, of oxycodone, or 100 grams or more, but less than 30 kilograms, of hydrocodone: 25-year mandatory minimum term and \$750,000 fine. (Current law: 25-year mandatory minimum term/\$500,000 fine for trafficking in 28 grams or more, but less than 30 kilograms, of oxycodone or hydrocodone.)

The Criminal Justice Impact Conference (CJIC) considered SB 360, as filed, and found that the increase in the minimum weight threshold for trafficking in oxycodone and hydrocodone (from 4 grams to 14 grams) would have resulted in the need for 465 fewer prison beds cumulatively by Fiscal Year 2018-2019, resulting in a cumulative savings of \$16,148,092 in operating costs. The CJIC projected that the bill would have resulted in a need for one less prison bed in Fiscal Year 2014-2015, reducing operating costs by \$8,949.

The CJIC estimate does not reflect the change to the minimum weight threshold for trafficking in oxycodone from 14 grams (in SB 360, as filed) to 7 grams (in CS/CS/CS/SB 360). Although savings from the reduced minimum weight thresholds in CS/CS/CS/SB 360 would likely occur, the Legislature's Office of Economic and Demographic Research indicates that it cannot project the amount of savings. See Section V.

II. Present Situation:

Unlawful activities involving controlled substance (e.g., possession or sale of controlled substances) are punishable under s. 893.13, F.S. (prohibited acts involving controlled substances), and s. 893.135, F.S. (drug trafficking). Oxycodone and hydrocodone are opioid prescription painkillers and Schedule II controlled substances, though materials, compounds, mixtures, or preparations containing limited quantities of hydrocodone are Schedule III controlled substances.¹

Drug Trafficking/Oxycodone and Hydrocodone

“Drug trafficking” consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state, or knowingly being in actual or constructive possession² of, certain controlled substances in a statutorily-specified quantity.

¹ Schedule III: not more than 300 milligrams of hydrocodone per 100 milliliters or not more than 15 milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium or with recognized therapeutic amounts of one or more active ingredients which are not controlled substances. Section 893.03(3)(c)3. and 4., F.S.

² One important and unique feature of the drug trafficking statute is that the prosecutor is not required to prove that the possession of the controlled substance was with the intent to sell, deliver, manufacture, etc., the substance.

Whether a person is charged with drug trafficking depends, in part, on the type of controlled substance possessed, sold, etc. Only a limited number of controlled substances are covered under s. 893.135, F.S. Oxycodone and hydrocodone are covered drugs. Specifically, s. 893.135(1)(c), F.S., punishes “trafficking in illegal drugs.” The relevant “illegal drugs” include morphine, opium, oxycodone, hydrocodone, hydromorphone, and salts, derivatives, isomers, and salts of isomers of these substances, including heroin, and mixtures containing any of these substances.

The quantity of a covered controlled substance must also meet a minimum weight threshold prescribed in s. 893.135, F.S. Most drug trafficking offenses are first degree felonies and are subject to mandatory minimum terms.³ Section 893.135, F.S., establishes escalating weight ranges. The mandatory minimum term applicable to a drug trafficking act depends upon which weight range is applicable to the quantity of the controlled substances that are possessed, sold, etc.

Trafficking in oxycodone and hydrocodone (first degree felony)

Section 893.135(1)(c)1., F.S., provides, in part, that it is a first degree felony⁴ to traffic in 4 grams⁵ or more of oxycodone or hydrocodone.

If the quantity involved:

- Is 4 grams or more, but less than 14 grams, the offender is subject to a mandatory minimum term of imprisonment of 3 years and a fine of \$50,000.⁶
- Is 14 grams or more, but less than 28 grams, the offender is subject to a mandatory minimum term of imprisonment of 15 years and a fine of \$100,000.⁷
- Is 28 grams or more, but less than 30 kilograms, the offender is subject to a mandatory minimum term of imprisonment of 25 calendar years and a fine of \$500,000.⁸

³ Most drug offenses under s. 893.13, F.S., are not subject to mandatory minimum terms.

⁴ A first degree felony is generally punishable by up to 30 years in state prison. Section 775.082, F.S. Repeat offender sanctions may be available under ss. 775.082 and 775.084, F.S.

⁵ For purpose of comparison, the approximate weight of a U.S. currency note, regardless of denomination, is one gram. This information is available at <http://www.moneyfactory.gov/faqlibrary.html> (last visited on December 13, 2013).

⁶ Section 893.135(1)(c)1.a., F.S. This offense is ranked in Level 7 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(g), F.S.

⁷ Section 893.135(1)(c)1.b., F.S. This offense is ranked in Level 8 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(h), F.S.

⁸ Section 893.135(1)(c)1.c., F.S. This offense is ranked in Level 9 of the Criminal Punishment Code offense severity ranking chart. Section 921.0022(3)(i), F.S.

Trafficking in oxycodone or hydrocodone (first degree felony punishable by life imprisonment)

Section 893.135(1)(c)2., F.S., provides, in part, that it is a first degree felony punishable by life imprisonment⁹ and a fine of \$500,000 to traffic in 30 kilograms or more of oxycodone or hydrocodone. A person convicted of this offense is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149, F.S.

Trafficking in oxycodone or hydrocodone (capital felony)

Section 893.135(1)(c)2., F.S., provides, in part, that it is a capital felony¹⁰ to traffic in 30 kilograms or more of oxycodone or hydrocodone if:

- The offender intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result.
- The offender's conduct in committing that act led to a natural, though not inevitable, lethal result.

The offender is also subject to a fine of \$500,000.

Capital importation of oxycodone or hydrocodone (capital felony)

Section 893.135(1)(c)3., F.S., provides, in part, that it is a capital felony to knowingly bring into this state ("import") 60 kilograms or more of oxycodone or hydrocodone, knowing that the probable result of such importation would be the death of any person. The offender is also subject to a fine of \$500,000.

"Opioid" Medications and Drug Trafficking

Medications that contain oxycodone or hydrocodone ("opioid" medications) are within the ambit of s. 893.135(1)(c), F.S., which also covers "mixtures" containing these substances. Trafficking weight involving pills containing either of these controlled substances is determined by the total weight of each pill multiplied by the number of pills possessed, sold, etc. The total weight of a pill includes the weight of the controlled substance in the pill (e.g., hydrocodone) and the weight of noncontrolled substances or matter in the pill, such as coating, binders, and nonprescription drugs (e.g., acetaminophen).¹¹ A relatively small number of pills may meet the 4 gram threshold for trafficking.

In a 2012 report, the Office of Program Policy Analysis and Government Accountability (OPPAGA) provided a table¹² indicating how many hydrocodone and oxycodone pills would be

⁹ As previously indicated, in general, a first degree felony is punishable by up to 30 years in state prison under s. 775.082, F.S. However, this section also provides that a first degree felony may be punished by a term of years not exceeding life imprisonment when specifically provided by statute.

¹⁰ A capital felony is punishable by life imprisonment or death. Section 775.082, F.S. See s. 921.142, F.S. (further proceedings to determine sentence for capital trafficking felonies).

¹¹ See ss. 893.02(16) and 893.135(6), F.S.

¹² *Opinions Are Mixed About Sentencing Laws for Painkiller Trafficking*, Report No. 12-02 (January 2012), at p. 5 (Exhibit 6), Office of Program Policy Analysis and Government Accountability, available at

necessary to meet the threshold gram weight for each gram weight range in s. 893.135(1)(c)1.a.-c., F.S. The weight ranges are:

- 4 grams or more, but less than 14 grams.
- 14 grams or more, but less than 28 grams.
- 28 grams or more, but less than 30 kilograms.

The table is based on a hydrocodone pill that weighs 0.65 grams with 10 mg. of hydrocodone and an oxycodone pill that weighs 0.13 grams with 30 mg. of oxycodone. Due to the different compositions of prescription opioids, noncontrolled substances may add significantly to the total weight of the pill or tablet as, for example, is the case with medication that contains hydrocodone and acetaminophen. Provided is the information from OPPAGA's table and the mandatory minimum term applicable to the threshold weight for each gram weight range in s. 893.135(1)(c)1.a.-c., F.S. (i.e., 4 grams, 14 grams, and 28 grams):

Number of Pills and Gram Weight Thresholds to Meet Mandatory Minimum Term				
Prescription Drug	Pill Weight	3-year mandatory minimum term	15-year mandatory minimum term	25-year mandatory minimum term
Hydrocodone (10 mg.)	0.65 grams	7 pills (4 grams)	22 pills (14 grams)	44 pills (28 grams)
Oxycodone (30 mg.)	0.13 grams	31 pills (4 grams)	108 pills (14 grams)	215 pills (28 grams)

OPPAGA Report No. 12-02: Prison Admissions for Opioid Trafficking and Profile of Opioid Trafficking Offenders

Using Department of Corrections' data for Fiscal Year 2006-2007 to Fiscal Year 2010-2011, the OPPAGA found prescription admissions for trafficking quadrupled over those five fiscal years. According to the OPPAGA, this substantial increase in admissions was primarily attributable to oxycodone trafficking convictions:

Department of Corrections data shows that prison admissions for trafficking in opioids have more than quadrupled over the past five years, from 262 admissions in Fiscal Year 2006-07 to 1,200 in Fiscal Year 2010-11.... This data does not distinguish among the types of opioids, and as a result, offenses involving heroin are grouped with those involving prescription painkillers. This is because these two controlled substances are addressed in the same section of the drug trafficking statute, and thus subject to the same weight thresholds and minimum mandatory sentences.

To evaluate the factors leading to the recent increase in prison admissions for trafficking in opioids, we reviewed data for a statewide random sample

of 194 offenders admitted to prison for this offense during Fiscal Year 2010-11. We determined the type and amount of drugs involved in their offenses and the circumstances surrounding their arrests and convictions. Our analyses found that the recent increase in prison admissions for opioid trafficking was primarily due to convictions for prescription painkillers rather than heroin....¹³

A noteworthy postscript to the OPPAGA report is that the quadrupled prison admissions for trafficking in opioids began to wane in Fiscal Year 2011-2012. Between Fiscal Year 2010-2011 and Fiscal Year 2011-2012 there was a 14.1 percent decline in prison admissions for trafficking in opioids.¹⁴ Although the cause of this decline is empirically unknown, it is most likely attributable to a number of measures taken by Florida to reduce prescription drug abuse, such as removing so-called “pill mills” in the state.

The OPPAGA analyzed arrest reports for the sample 194 offenders and determined that “almost all (93%) were convicted of trafficking in prescription painkillers.... [A]rrests most commonly involved oxycodone (73%) or hydrocodone (28%). In comparison, 6% of the offenders were convicted of trafficking in heroin.”¹⁵

The OPPAGA provided the following information regarding how most of these arrests occurred:

Most offenders in our sample (62%) were arrested for selling prescription painkillers to an undercover law enforcement officer or confidential informant.... In these cases, officers worked undercover to buy drugs from known dealers or monitored confidential informants during meetings they arranged to make purchases. In other cases, offenders were arrested for trafficking after a traffic stop or other law enforcement contact, or after being reported by a pharmacist for possible prescription fraud.¹⁶

The majority of the offenders in the OPPAGA’s sample illegally possessed or sold 30 to 90 pills:

For most of the offenders convicted of trafficking in oxycodone or hydrocodone, their convictions were based on the illegal possession or sale of a number of pills equivalent to one or two prescriptions. For those offenders sentenced for trafficking in hydrocodone, 50% were arrested for possessing or selling fewer than 30 pills and 25% were arrested for fewer than 15 pills. For offenders sentenced for trafficking in oxycodone, offenders possessed or sold a median number of 91 pills at the time of their arrests.

Following accepted medical practice, physicians may prescribe 30 or more prescription painkillers for patients with chronic pain or recovering from surgery. For example, a patient recovering from surgery may receive a

¹³ OPPAGA Report, at pp. 2-3 (footnotes omitted).

¹⁴ Information provided on April 4, 2013, to staff (via e-mail) by the Office of Economic and Demographic Research.

¹⁵ OPPAGA Report, at p. 3.

¹⁶ *Id.*

one-time prescription of 30 to 60 hydrocodone or oxycodone pills, often in forms that also contain acetaminophen. Illegal possession of such an amount could trigger a minimum mandatory sentence.¹⁷

Most of the offenders in the OPPAGA sample did not have a prior drug trafficking record and were determined by prison staff to need substance abuse treatment:

Our analysis of Department of Corrections data on the 1,200 offenders admitted to prison for opioid trafficking in Fiscal Year 2010-11 found that 74% had not previously been admitted to prison.... Half had either never been on probation or had been on probation solely for drug possession, and 81% did not have a prior history of offenses involving selling or trafficking drugs. Most (84%) had no current or past violent offenses.

These offenders tended to have substance abuse problems and were at low risk for recidivism. Prison staff assessments determined that 65% of these offenders needed substance abuse treatment and 61% were at low risk for recidivism.¹⁸

Drug Trafficking Sentencing

The Criminal Punishment Code (Code)¹⁹ is Florida's framework or mechanism for determining permissible sentencing ranges for noncapital felonies. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). Points are assigned and accrue based upon the level ranking (sentence points escalate as the level escalates) assigned to the primary offense, additional offenses, and prior offenses. Points may be added or multiplied for other factors. For example, if the primary offense is drug trafficking, the subtotal sentence points are multiplied, at the discretion of the court, for a Level 7 or Level 8 offense, by 1.5.²⁰

Total sentence points are entered into a mathematical calculation (specified in statute) to determine the lowest permissible sentence. The permissible sentencing range is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S., for the primary offense and any additional offenses before the court for sentencing. The court is permitted to impose sentences concurrently or consecutively.

The Code includes a list of 'mitigating' factors. If a mitigating factor is found by the sentencing court, the court may decrease an offender's sentence below the lowest permissible sentence (a "downward departure"). A mandatory minimum term is not subject to these mitigating factors.²¹

¹⁷ OPPAGA Report, at p. 4. In a footnote (n. 7, at p. 4) at the end of the second paragraph of this quote, the OPPAGA noted: "Law enforcement and other stakeholders reported that pain clinics they would consider as being 'pill mills' routinely prescribe much higher amounts of prescription painkillers, such as 180 oxycodone pills per month."

¹⁸ *Id.* In a footnote (n. 8, at p. 4) at the end of the second paragraph of this quote, the OPPAGA noted: "Prison staff assessed offenders' risk of recidivism using the risk assessment instrument developed by the Department of Corrections. Recidivism is defined as return to prison within three years of release."

¹⁹ Sections 921.002 - 921.0027, F.S.

²⁰ Section 921.0024(1)(b), F.S.

²¹ See *State v. Vanderhoff*, 14 So.3d 1185 (Fla. 5th DCA 2009).

Most of the mandatory minimum terms found in Florida law involve drug trafficking offenses. Mandatory minimum terms impact Code sentencing. “If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence. If the lowest permissible sentence exceeds the mandatory sentence, the requirements of the ... Code and any mandatory minimum penalties apply.”²²

A mandatory minimum sentence is often longer than a prison sentence scored as the lowest permissible sentence under the Code, so the sentencing range is narrowed. Further, with few exceptions, the sentencing court must impose the mandatory minimum term.²³

Mandatory minimums terms are not uniform for all controlled substances covered under s. 893.135, F.S. Further, the quantity of the controlled substance that will trigger mandatory minimum terms depends upon the controlled substance trafficked, as illustrated in the table below.

COMPARISON OF TRAFFICKING WEIGHT RANGES AND MANDATORY MINIMUM TERMS FOR CERTAIN CONTROLLED SUBSTANCES			
Trafficking Provision	First Weight Range	Second Weight Range	Third Weight Range
Trafficking in illegal drugs (includes prescription opioids) (s. 893.135(1)(c)1., F.S.)	3-year mandatory minimum term (4 grams to less than 14 grams)	15-year mandatory minimum term (14 grams to less than 28 grams)	25-year mandatory minimum term (28 grams to less than 30 kilograms)
Trafficking in cocaine (s. 893.135(1)(b)1., F.S.)	3-year mandatory minimum term (28 grams to less than 200 grams)	7-year mandatory minimum term (200 grams to less than 400 grams)	15-year mandatory minimum term (400 grams to less than 150 kilograms)
Trafficking in phencyclidine (s. 893.135(1)(d)1., F.S.)	3-year mandatory minimum term (28 grams to less than 200 grams)	7-year mandatory minimum term (200 grams to less than 400 grams)	15-year mandatory minimum term (400 grams or more)

²² Rule 3.704(26) (“The Criminal Punishment Code”), Florida Rules of Criminal Procedure. A trafficking mandatory minimum term is a minimum sentencing ‘floor’ for the court and there is no prohibition to gain-time. If the court only sentences the defendant to the mandatory term specified by statute, the Department of Corrections (DOC) establishes an 85% minimum service date on the term and the offender is subject to s. 944.275(4)(b)3., F.S., which does not allow release prior to serving a minimum of 85% of the sentence. If the court imposes a sentence that exceeds the mandatory term specified by statute, the DOC establishes an 85% minimum service date on the sentence. See *Mastay v. McDonough*, 928 So.2d 512 (Fla. 1st DCA 2006) (Section 893.135, F.S., does not preclude earning gain-time during the mandatory term as long as it does not result in the prisoner’s release prior to serving a minimum of 85% of the sentence).

²³ Staff found only two circumstances in which a sentencing court is authorized by law to impose a sentence below the mandatory minimum term. The first circumstance is when the court sentences a defendant as a youthful offender. Section 958.04, F.S. See *Christian v. State*, 84 So.3d 437 (Fla. 5th DCA 2012). The second circumstance is when the court grants a motion from the state attorney to reduce or suspend a sentence based upon substantial assistance rendered by the defendant. Section 893.135(4), F.S.

COMPARISON OF TRAFFICKING WEIGHT RANGES AND MANDATORY MINIMUM TERMS FOR CERTAIN CONTROLLED SUBSTANCES			
Trafficking Provision	First Weight Range	Second Weight Range	Third Weight Range
Trafficking in methaqualone (s. 893.135(1)(e)1., F.S.)	3-year mandatory minimum term (200 grams to less than 5 kilograms)	7-year mandatory minimum term (5 kilograms to less than 25 kilograms)	15-year mandatory minimum term (25 kilograms or more)
Trafficking in amphetamine or methamphetamine (s. 893.135(1)(f)1., F.S.)	3-year mandatory minimum term (14 grams to less than 28 grams)	7-year mandatory minimum term (28 grams to less than 200 grams)	15-year mandatory minimum term (200 grams or more)

OPPAGA Report No. 12-02: Increasing Weight Thresholds for Trafficking in Prescription Painkillers is an Option

In its report the OPPAGA provided a number of options for addressing trafficking in prescription painkillers. One of those options was to “[r]evis[e] Florida statutes to increase the weight thresholds for prescription painkillers so that it would take more pills to be charged with drug trafficking offenses subject to minimum mandatory sentences.”²⁴

III. Effect of Proposed Changes:

The bill increases the minimum weight threshold for trafficking in oxycodone and hydrocodone (prescription painkillers) under s. 893.135, F.S., the drug trafficking statute. As a result of this change, persons who unlawfully possess, sell, etc., relatively small quantities of oxycodone or hydrocodone will no longer be punished for drug trafficking. They still may be punished under s. 893.13, F.S., for unlawful acts involving controlled substances, but the penalties are not as significant as drug trafficking penalties. Further, some persons who meet the revised weight threshold for trafficking in oxycodone or hydrocodone will receive a shorter mandatory minimum term than under current law.

The bill removes reference to “oxycodone” and “hydrocodone” wherever those words appear in s. 893.135(1)(c)1., F.S. (which punishes trafficking in opium, morphine, heroin, hydromorphone, oxycodone, and hydrocodone, and other substances).

The bill creates two new subparagraphs in s. 893.135(1)(c), F.S., to punish “trafficking in illegal prescription drugs” as a first degree felony. The trafficking provision in new subparagraph 2 only applies to 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 14 grams or more of any mixture containing hydrocodone. The trafficking provision in new subparagraph 3. only applies to a person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive

²⁴ OPPAGA Report, at p. 8.

possession of 7 grams or more of oxycodone, or 7 grams or more of any mixture containing oxycodone.

Under the new trafficking provision, the minimum gram weight threshold for trafficking in oxycodone (7 grams) or hydrocodone (14 grams), differs from current law in which the minimum gram weight threshold for trafficking in either of these substances is 4 grams. Gram weight ranges and applicable mandatory minimum terms differ from current law.²⁵

CURRENT LAW AND SB 360 ON MANDATORY MINIMUM TERMS			
Drug Trafficking Mandatory Minimum Term	Quantity/Weight Required for Hydrocodone and Oxycodone Under Current Law	Quantity/Weight Required for Hydrocodone Under SB 360	Quantity/Weight Required for Oxycodone Under SB 360
3 years	4 grams or more but less than 14 grams	14 grams or more but less than 28 grams	7 grams or more but less than 14 grams
7 years	N/A	28 grams or more but less than 50 grams	14 grams or more but less than 25 grams
15 years	14 grams or more but less than 28 grams	50 grams or more but less than 200 grams	25 grams or more but less than 100 grams
25 years	28 grams or more but less than 30 kilograms	200 grams or more but less than 30 kilograms	100 grams or more but less than 30 kilograms
Life	30 kilograms or more	30 kilograms or more	30 kilograms or more

Section 893.135(1)(c), F.S., also currently includes two capital felonies (s. 893.135(1)(c)2. and 3., F.S.). These penalties would still apply to trafficking in oxycodone and hydrocodone.

The bill amends s. 921.022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to rank the offenses relating to trafficking in oxycodone and hydrocodone that have been removed from s. 893.135(1)(c)1. and 2., F.S., and placed in their own subparagraphs. The offenses are ranked as follows:

- Level 7: Trafficking in 14 grams or more, but less than 28 grams, of hydrocodone; trafficking in 28 grams or more, but less than 50 grams, of hydrocodone; trafficking in 7 grams or more, but less than 14 grams, of oxycodone; trafficking in 14 grams or more, but less than 25 grams, of oxycodone.

²⁵ Fines are the same as current law with one exception. The bill provides for a \$750,000 fine for trafficking in 200 grams or more of oxycodone or hydrocodone. Current law provides for a \$500,000 fine for trafficking in the same quantity of oxycodone or hydrocodone. Section 893.135(1)(c)1.c., F.S.

- Level 8: Trafficking in 50 grams or more, but less than 200 grams, of hydrocodone; trafficking in 25 grams or more, but less than 100 grams, of oxycodone.
- Level 9: Trafficking in 200 grams or more, but less than 30 kilograms, of hydrocodone; trafficking in 100 grams or more, but less than 30 kilograms, of oxycodone.

The bill reenacts ss. 787.087(2)(a) and (3)(a) and 782.04(1)(a), (3), and (4), F.S., to incorporate the amendments made to s. 893.135, F.S., in references to that statute.

The effective date of the bill is July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will result in a positive fiscal impact (cost avoidance) in several ways. First, drug offenders who are convicted of possessing, selling, etc., less than 7 grams of oxycodone or less than 14 grams of hydrocodone will no longer be subject to the drug trafficking 3-year mandatory minimum term, but instead will be sentenced under the Criminal Punishment Code (based on a conviction for a drug offense under s. 893.13, F.S.).

The Criminal Justice Impact Conference considered SB 360, as filed, and found that the reductions to the minimum threshold weights for trafficking in oxycodone and hydrocodone to 14 grams would result in the need for one less prison bed in Fiscal Year 2014-2015 and 465 fewer prison beds cumulatively by Fiscal Year 2018-2019, with a cumulative savings of \$48,387,615, including both operating costs and fixed capital outlay costs. However, the current prison bed surplus makes it unlikely that there will actually be any fixed capital outlay cost savings. Therefore, a more realistic projection of

the savings from SB 360, as filed, would be a cumulative savings of \$16,930,000 in operations costs over the next five fiscal years.

The following table summarizes this projected fiscal impact:

Fiscal Impact of SB 360, AS FILED Increasing from 4 Grams to 14 Grams the Threshold for the 3-Year Minimum Mandatory for Trafficking in Hydrocodone or Oxycodone For offenses after July 1, 2014						
Fiscal Year	Projected Cumulative Prison Beds Required	Projected Additional Annual Prison Beds Required	FUNDS REQUIRED			
			Annual Operating Costs	Annual Fixed Capital Outlay Costs	TOTAL Annual Funds	TOTAL Cumulative Funds
2014-2015	-1	-1	(\$9,434)	(\$2,543,927)	(\$2,553,361)	(\$2,553,361)
2015-2016	-41	-40	(\$402,570)	(\$9,440,046)	(\$9,842,616)	(\$12,395,977)
2016-2017	-188	-147	(\$2,234,468)	(\$13,002,052)	(\$15,236,520)	(\$27,632,497)
2017-2018	-384	-196	(\$5,681,676)	(\$5,502,330)	(\$11,184,006)	(\$38,816,503)
2018-2019	-465	-81	(\$8,602,068)	(\$969,080)	(\$9,571,148)	(\$48,387,651)
TOTAL	-465	-465	(\$16,930,216)	(\$31,457,435)	(\$48,387,651)	(\$48,387,651)

Prepared by Florida Legislature, Office of Economic and Demographic Research, November 13, 2013

The EDR noted that this impact statement does not represent the direct appropriations impact of SB 360, as filed. Rather, it provided a stand-alone estimate of the prison bed need under SB 360, as filed. Cost data were included to allow a comparison of the impact of SB 360, as filed, with other proposed legislation. The actual appropriation associated with passage of SB 360, as filed, would depend on a number of factors, including the existing inventory of prison beds.

The CJIC was able to quantify its projection of savings that would have resulted from the original bill because the raised minimum weight thresholds lined up with existing weight thresholds that carried a higher penalty. Therefore, data exists which reflects actual convictions related to less than 14 grams of hydrocodone or oxycodone, but not other quantities.

The CJIC estimate does not reflect the change to the minimum weight threshold for trafficking in oxycodone from 14 grams (in SB 360, as filed) to 7 grams (in CS/CS/CS/SB 360). Although savings from the reduced minimum weight thresholds in CS/CS/CS/SB 360 would likely occur, the Legislature's Office of Economic and Demographic Research cannot project the amount of those savings because it does not have data for convictions related to less than 7 grams of oxycodone. Furthermore, a separate estimate for the reduction in the minimum weight trafficking threshold for hydrocondone cannot be made because the data available does not differentiate between convictions related to hydrocodone and those related to oxycodone.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 893.135 and 921.0022.

This bill reenacts provisions of the following sections of the Florida Statutes: 775.087 and 782.04.

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 Appropriations on February 20, 2014:

The committee substitute reduces the minimum weight threshold for trafficking in oxycodone from 14 grams in the bill, as filed, to 7 grams, and makes revisions to the weight ranges for trafficking in larger amounts of oxycodone. Also, the committee substitute revises the offense severity ranking of the new offenses for trafficking in hydrocodone or oxycodone, and retains the life imprisonment penalties for trafficking in 30 kilograms or more of either hydrocodone or oxycodone.

- B. **Amendments:**

None.

By Senator Bradley

7-00124-14

2014360__

A bill to be entitled

An act relating to sentencing for controlled substance violations; amending s. 893.135, F.S.; providing that a person who knowingly sells, purchases, manufactures, delivers, or brings into this state specified quantities of oxycodone or hydrocodone, or who is knowingly in actual or constructive possession of specified quantities of oxycodone or hydrocodone, commits the offense of trafficking in illegal prescription drugs, a felony of the first degree; providing criminal penalties; amending s. 921.0022, F.S.; ranking the offenses of trafficking in illegal prescription drugs for purposes of the criminal punishment code; reenacting s. 775.087(2)(a) and (3)(a), F.S., relating to mandatory minimum sentences for the possession or use of a weapon during the commission of certain offenses, to incorporate the amendments made to s. 893.135, F.S., in a reference thereto; reenacting s. 782.04(1)(a), (3), and (4), F.S., relating to the classification of a murder committed during the commission of certain offenses, to incorporate the amendments made to s. 893.135, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 893.135, Florida Statutes, is amended to read:

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893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

(1) Except as authorized in this chapter or in chapter 499 and notwithstanding the provisions of s. 893.13:

(c)1. 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., 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. 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.

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.

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.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in

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actual or constructive possession of, 30 kilograms 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., or 30 kilograms or more of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result, such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

3. Any 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 any oxycodone or hydrocodone, or 14 grams or more of any mixture

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containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in illegal prescription drugs," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. 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.

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.

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.

d. Is 200 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of \$750,000.

4.3- Any person who knowingly brings into this state 60 kilograms 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., or 60 kilograms or more of any mixture containing any such substance, and who knows that the probable result of such importation would be the death of any person, commits capital importation of illegal drugs, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

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Section 2. Paragraphs (f) through (i) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051(3)	2nd	Knowing forgery of pedigree papers.
499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.

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784.021(1)(a) 3rd Aggravated assault; deadly weapon without intent to kill.

784.021(1)(b) 3rd Aggravated assault; intent to commit felony.

784.041 3rd Felony battery; domestic battery by strangulation.

784.048(3) 3rd Aggravated stalking; credible threat.

784.048(5) 3rd Aggravated stalking of person under 16.

784.07(2)(c) 2nd Aggravated assault on law enforcement officer.

784.074(1)(b) 2nd Aggravated assault on sexually violent predators facility staff.

784.08(2)(b) 2nd Aggravated assault on a person 65 years of

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			age or older.	
136	784.081(2)	2nd	Aggravated assault on specified official or employee.	
137	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.	
138	784.083(2)	2nd	Aggravated assault on code inspector.	
139	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.	
140	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.	
141	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.	
142				

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	790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.	
143	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.	
144	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.	
145	794.05(1)	2nd	Unlawful sexual activity with specified minor.	
146	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.	
147	800.04(6)(b)	2nd	Lewd or lascivious	

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148				
	806.031(2)	2nd		Arson resulting in great bodily harm to firefighter or any other person.
149				
	810.02(3)(c)	2nd		Burglary of occupied structure; unarmed; no assault or battery.
150				
	810.145(8)(b)	2nd		Video voyeurism; certain minor victims; 2nd or subsequent offense.
151				
	812.014(2)(b)1.	2nd		Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
152				
	812.014(6)	2nd		Theft; property stolen \$3,000 or more; coordination of others.
153				
	812.015(9)(a)	2nd		Retail theft; property

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	7-00124-14		2014360	stolen \$300 or more; second or subsequent conviction.
154				
	812.015(9)(b)	2nd		Retail theft; property stolen \$3,000 or more; coordination of others.
155				
	812.13(2)(c)	2nd		Robbery, no firearm or other weapon (strong-arm robbery).
156				
	817.4821(5)	2nd		Possess cloning paraphernalia with intent to create cloned cellular telephones.
157				
	825.102(1)	3rd		Abuse of an elderly person or disabled adult.
158				
	825.102(3)(c)	3rd		Neglect of an elderly person or disabled adult.
159				
	825.1025(3)	3rd		Lewd or lascivious molestation of an

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	7-00124-14		2014360	
			elderly person or disabled adult.	
160	825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.	
161	827.03(2)(c)	3rd	Abuse of a child.	
162	827.03(2)(d)	3rd	Neglect of a child.	
163	827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.	
164	836.05	2nd	Threats; extortion.	
165	836.10	2nd	Written threats to kill or do bodily injury.	
166	843.12	3rd	Aids or assists person to escape.	
167	847.011	3rd	Distributing, offering	

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	7-00124-14		2014360	
			to distribute, or possessing with intent to distribute obscene materials depicting minors.	
168	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.	
169	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.	
170	<u>893.135(1)(c)3.a.</u>	<u>1st</u>	<u>Trafficking in illegal prescription drugs, 14 grams or more, less than 28 grams.</u>	
171	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.	
172	944.35(3)(a)2.	3rd	Committing malicious	

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	7-00124-14		2014360	battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
173	944.40	2nd		Escapes.
174	944.46	3rd		Harboring, concealing, aiding escaped prisoners.
175	944.47(1)(a)5.	2nd		Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
176	951.22(1)	3rd		Intoxicating drug, firearm, or weapon introduced into county facility.
177	(g) LEVEL 7			
178	Florida	Felony		
179	Statute	Degree		Description

	7-00124-14		2014360	Accident involving death, failure to stop; leaving scene.
180	316.027(1)(b)	1st		
181	316.193(3)(c)2.	3rd		DUI resulting in serious bodily injury.
	316.1935(3)(b)	1st		Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
182	327.35(3)(c)2.	3rd		Vessel BUI resulting in serious bodily injury.
183	402.319(2)	2nd		Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.

184	7-00124-14		2014360__
	409.920	3rd	Medicaid provider fraud;
	(2) (b) 1.a.		\$10,000 or less.
185	409.920	2nd	Medicaid provider fraud;
	(2) (b) 1.b.		more than \$10,000, but
			less than \$50,000.
186	456.065(2)	3rd	Practicing a health care
			profession without a
			license.
187	456.065(2)	2nd	Practicing a health care
			profession without a
			license which results in
			serious bodily injury.
188	458.327(1)	3rd	Practicing medicine
			without a license.
189	459.013(1)	3rd	Practicing osteopathic
			medicine without a
			license.
190	460.411(1)	3rd	Practicing chiropractic
			medicine without a
			license.
191	461.012(1)	3rd	Practicing podiatric

	7-00124-14		2014360__
			medicine without a
			license.
192	462.17	3rd	Practicing naturopathy
			without a license.
193	463.015(1)	3rd	Practicing optometry
			without a license.
194	464.016(1)	3rd	Practicing nursing
			without a license.
195	465.015(2)	3rd	Practicing pharmacy
			without a license.
196	466.026(1)	3rd	Practicing dentistry or
			dental hygiene without a
			license.
197	467.201	3rd	Practicing midwifery
			without a license.
198	468.366	3rd	Delivering respiratory
			care services without a
			license.
199	483.828(1)	3rd	Practicing as clinical
			laboratory personnel
			without a license.

	7-00124-14		2014360	
200				
	483.901(9)	3rd	Practicing medical physics without a license.	
201				
	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.	
202				
	484.053	3rd	Dispensing hearing aids without a license.	
203				
	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.	
204				
	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.	
205				
	560.125(5)(a)	3rd	Money services business	

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	7-00124-14		2014360	
				by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
206				
	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.	
207				
	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew <u>driver</u> ~~driver's~~ license or identification card; other registration violations.	
208				
	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.	
209				
	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual	

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	7-00124-14		2014360	predator.
210	782.051(3)	2nd		Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
211	782.07(1)	2nd		Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
212	782.071	2nd		Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
213	782.072	2nd		Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
214	784.045(1)(a)1.	2nd		Aggravated battery;

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	7-00124-14		2014360	intentionally causing great bodily harm or disfigurement.
215	784.045(1)(a)2.	2nd		Aggravated battery; using deadly weapon.
216	784.045(1)(b)	2nd		Aggravated battery; perpetrator aware victim pregnant.
217	784.048(4)	3rd		Aggravated stalking; violation of injunction or court order.
218	784.048(7)	3rd		Aggravated stalking; violation of court order.
219	784.07(2)(d)	1st		Aggravated battery on law enforcement officer.
220	784.074(1)(a)	1st		Aggravated battery on sexually violent predators facility staff.
221	784.08(2)(a)	1st		Aggravated battery on a person 65 years of age

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	7-00124-14		2014360__
			or older.
222	784.081(1)	1st	Aggravated battery on specified official or employee.
223	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
224	784.083(1)	1st	Aggravated battery on code inspector.
225	787.06(3)(a)	1st	Human trafficking using coercion for labor and services.
226	787.06(3)(e)	1st	Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.
227	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of

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	7-00124-14		2014360__
			s. 790.07(1) or (2).
228	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
229	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
230	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
231	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
232	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
233	790.23	1st,PBL	Possession of a firearm

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

234

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.

235

796.03

2nd

Procuring any person
under 16 years for
prostitution.

236

800.04 (5) (c) 1.

2nd

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

237

800.04 (5) (c) 2.

2nd

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

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older.

238

806.01 (2)

2nd

Maliciously damage
structure by fire or
explosive.

239

810.02 (3) (a)

2nd

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

240

810.02 (3) (b)

2nd

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

241

810.02 (3) (d)

2nd

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

242

810.02 (3) (e)

2nd

Burglary of authorized
emergency vehicle.

243

812.014 (2) (a) 1.

1st

Property stolen, valued
at \$100,000 or more or a
semitrailer deployed by
a law enforcement
officer; property stolen
while causing other
property damage; 1st
degree grand theft.

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	7-00124-14		2014360	
244				
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.	
245				
	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.	
246				
	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.	
247				
	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.	
248				
	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.	
249				
	812.131 (2) (a)	2nd	Robbery by sudden snatching.	
250				

	7-00124-14		2014360	
	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.	
251				
	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.	
252				
	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.	
253				
	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.	
254				
	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.	
255				
	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of	

	7-00124-14		2014360__
			that entity.
256	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
257	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
258	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
259	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
260	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
261	837.05 (2)	3rd	Giving false information

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	7-00124-14		2014360__
			about alleged capital felony to a law enforcement officer.
262	838.015	2nd	Bribery.
263	838.016	2nd	Unlawful compensation or reward for official behavior.
264	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
265	838.22	2nd	Bid tampering.
266	843.0855 (2)	3rd	Impersonation of a public officer or employee.
267	843.0855 (3)	3rd	Unlawful simulation of legal process.
268	843.0855 (4)	3rd	Intimidation of a public officer or employee.
269	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.

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	7-00124-14		2014360	
270	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.	
271	872.06	2nd	Abuse of a dead human body.	
272	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.	
273	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.	
274	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)4.) within 1,000 feet of a child care facility,	

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	7-00124-14		2014360	
			school, or state, county, or municipal park or publicly owned recreational facility or community center.	
275	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)4., within 1,000 feet of property used for religious services or a specified business site.	
276	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).	
277	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.	
278	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less	

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279 than 200 grams.

893.135 1st Trafficking in illegal
(1) (c) 1.a. drugs, more than 4
grams, less than 14
grams.

280 893.135(1) (c) 3.b. 1st Trafficking in illegal
prescription drugs, 28
grams or more, less than
50 grams.

281 893.135(1) (d) 1. 1st Trafficking in
phencyclidine, more than
28 grams, less than 200
grams.

282 893.135(1) (e) 1. 1st Trafficking in
methaqualone, more than
200 grams, less than 5
kilograms.

283 893.135(1) (f) 1. 1st Trafficking in
amphetamine, more than
14 grams, less than 28
grams.

284 893.135 1st Trafficking in
(1) (g) 1.a. flunitrazepam, 4 grams

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285 or more, less than 14
grams.

893.135 1st Trafficking in gamma-
(1) (h) 1.a. hydroxybutyric acid
(GHB), 1 kilogram or
more, less than 5
kilograms.

286 893.135 1st Trafficking in 1,4-
(1) (j) 1.a. Butanediol, 1 kilogram
or more, less than 5
kilograms.

287 893.135 1st Trafficking in
(1) (k) 2.a. Phenethylamines, 10
grams or more, less than
200 grams.

288 893.1351(2) 2nd Possession of place for
trafficking in or
manufacturing of
controlled substance.

289 896.101(5) (a) 3rd Money laundering,
financial transactions
exceeding \$300 but less
than \$20,000.

290

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

	7-00124-14		2014360	
	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.	
291	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.	
292	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.	
293	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.	
294	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual	

	7-00124-14		2014360	
			offender.	
295	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.	
296	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.	
297	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.	
298	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.	
299	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.	

300	7-00124-14	2014360	
	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
301	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
302	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
303	(h) LEVEL 8		
304	Florida Statute	Felony Degree	Description
305	316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
306	316.1935(4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or

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	7-00124-14	2014360	
307			death.
308	327.35(3) (c) 3.	2nd	Vessel BUI manslaughter.
	499.0051(7)	1st	Knowing trafficking in contraband prescription drugs.
309	499.0051(8)	1st	Knowing forgery of prescription labels or prescription drug labels.
310	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.
311	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.
312	655.50(10) (b) 2.	2nd	Failure to report

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	7-00124-14		2014360	financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
313	777.03(2)(a)	1st		Accessory after the fact, capital felony.
314	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.
315	782.051(2)	1st		Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
316	782.071(1)(b)	1st		Committing vehicular

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	7-00124-14		2014360	homicide and failing to render aid or give information.
317	782.072(2)	1st		Committing vessel homicide and failing to render aid or give information.
318	787.06(3)(b)	1st		Human trafficking using coercion for commercial sexual activity.
319	787.06(3)(c)	1st		Human trafficking using coercion for labor and services of an unauthorized alien.
320	787.06(3)(f)	1st		Human trafficking using coercion for commercial sexual activity by the transfer or transport of any individual from outside Florida to within the state.
321	790.161(3)	1st		Discharging a destructive device which results in bodily harm

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	7-00124-14		2014360__
			or property damage.
322	794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
323	794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
324	800.04(4)	2nd	Lewd or lascivious battery.
325	806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
326	810.02(2)(a)	1st, PBL	Burglary with assault or battery.
327	810.02(2)(b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.

	7-00124-14		2014360__
328	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
329	812.014(2)(a)2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
330	812.13(2)(b)	1st	Robbery with a weapon.
331	812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
332	817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
333	817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
334			

	7-00124-14		2014360	
	817.535(4) (a)1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.	
335	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.	
336	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.	
337	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.	
338	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.	
339				

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	7-00124-14		2014360	
	825.103(2) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.	
340	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.	
341	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.	
342	860.121(2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.	
343	860.16	1st	Aircraft piracy.	
344	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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	7-00124-14		2014360__
345	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
346	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
347	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
348	893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
349	893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
350	<u>893.135(1)(c)3.c.</u>	<u>1st</u>	<u>Trafficking in illegal</u> <u>prescription drugs, 50</u> <u>grams or more, less than</u> <u>200 grams.</u>
351			

	7-00124-14		2014360__
	893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
352	893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
353	893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
354	893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
355	893.135 (1)(h)1.b.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
356	893.135 (1)(j)1.b.	1st	Trafficking in 1,4- Butanediol, 5 kilograms or more, less than 10

	7-00124-14		2014360	
			kilograms.	
357	893.135	1st	Trafficking in	
	(1) (k) 2.b.		Phenethylamines, 200	
			grams or more, less than	
358			400 grams.	
	893.1351 (3)	1st	Possession of a place	
			used to manufacture	
			controlled substance	
			when minor is present or	
359			resides there.	
	895.03 (1)	1st	Use or invest proceeds	
			derived from pattern of	
			racketeering activity.	
360				
	895.03 (2)	1st	Acquire or maintain	
			through racketeering	
			activity any interest in	
			or control of any	
			enterprise or real	
361			property.	
	895.03 (3)	1st	Conduct or participate	
			in any enterprise	
			through pattern of	
362			racketeering activity.	

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	896.101 (5) (b)	2nd	Money laundering,	
			financial transactions	
			totaling or exceeding	
			\$20,000, but less than	
			\$100,000.	
363				
	896.104 (4) (a) 2.	2nd	Structuring transactions	
			to evade reporting or	
			registration	
			requirements, financial	
			transactions totaling or	
			exceeding \$20,000 but	
			less than \$100,000.	
364				
365	(i) LEVEL 9			
	Florida	Felony		
	Statute	Degree	Description	
366				
	316.193	1st	DUI manslaughter;	
	(3) (c) 3.b.		failing to render aid or	
			give information.	
367				
	327.35 (3) (c) 3.b.	1st	BUI manslaughter;	
			failing to render aid or	
			give information.	
368				
	409.920	1st	Medicaid provider fraud;	
	(2) (b) 1.c.		\$50,000 or more.	
369				

	7-00124-14		2014360__
370	499.0051(9)	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 money transmitter.
371	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
372	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
373	775.0844	1st	Aggravated white collar crime.
374	782.04(1)	1st	Attempt, conspire, or

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	7-00124-14		2014360__
			solicit to commit premeditated murder.
375	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 specified felonies.
376	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
377	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
378	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
379	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any

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	7-00124-14		2014360__
			felony.
380	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
381	787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
382	787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized alien.
383	787.06(3)(g)	1st,PBL	Human trafficking for commercial sexual activity of a child under the age of 18.
384	787.06(4)	1st	Selling or buying of minors into human

	7-00124-14		2014360__
			trafficking.
385	790.161	1st	Attempted capital destructive device offense.
386	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
387	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
388	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
389	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
390	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or

	7-00124-14		2014360	custodial authority.
391	794.08(2)	1st		Female genital mutilation; victim younger than 18 years of age.
392	796.035	1st		Selling or buying of minors into prostitution.
393	800.04(5)(b)	Life		Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
394	812.13(2)(a)	1st, PBL		Robbery with firearm or other deadly weapon.
395	812.133(2)(a)	1st, PBL		Carjacking; firearm or other deadly weapon.
396	812.135(2)(b)	1st		Home-invasion robbery with weapon.
397	817.535(3)(b)	1st		Filing false lien or other unauthorized document; second or subsequent offense;

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	7-00124-14		2014360	property owner is a public officer or employee.
398	817.535(4)(a)2.	1st		Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
399	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.
400	817.568(7)	2nd, PBL		Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
401	827.03(2)(a)	1st		Aggravated child abuse.

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402			
	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
403			
	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
404			
	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.
405			
	893.135	1st	Attempted capital trafficking offense.
406			
	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
407			
	893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
408			
	893.135	1st	Trafficking in illegal

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	(1)(c)1.c.		drugs, more than 28 grams, less than 30 kilograms.
409			
	<u>893.135(1)(c)3.d.</u>	<u>1st</u>	<u>Trafficking in illegal prescription drugs, 200 grams or more.</u>
410			
	893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
411			
	893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
412			
	893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
413			
	893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
414			
	893.135 (1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
415			

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

896.101(5) (c) 1st Money laundering,
financial instruments
totaling or exceeding
\$100,000.

896.104(4) (a) 3. 1st Structuring transactions
to evade reporting or
registration
requirements, financial
transactions totaling or
exceeding \$100,000.

Section 3. For the purpose of incorporating the amendment
made by this act to section 893.135, Florida Statutes, in a
reference thereto, paragraph (a) of subsection (2) and paragraph
(a) of subsection (3) of section 775.087, Florida Statutes, are
reenacted to read:

775.087 Possession or use of weapon; aggravated battery;
felony reclassification; minimum sentence.—

(2) (a) 1. Any person who is convicted of a felony or an
attempt to commit a felony, regardless of whether the use of a
weapon is an element of the felony, and the conviction was for:

a. Murder;

b. Sexual battery;

c. Robbery;

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d. Burglary;

e. Arson;

f. Aggravated assault;

g. Aggravated battery;

h. Kidnapping;

i. Escape;

j. Aircraft piracy;

k. Aggravated child abuse;

l. Aggravated abuse of an elderly person or disabled adult;

m. Unlawful throwing, placing, or discharging of a
destructive device or bomb;

n. Carjacking;

o. Home-invasion robbery;

p. Aggravated stalking;

q. Trafficking in cannabis, trafficking in cocaine, capital
importation of cocaine, trafficking in illegal drugs, capital
importation of illegal drugs, trafficking in phencyclidine,
capital importation of phencyclidine, trafficking in
methaqualone, capital importation of methaqualone, trafficking
in amphetamine, capital importation of amphetamine, trafficking
in flunitrazepam, trafficking in gamma-hydroxybutyric acid
(GHB), trafficking in 1,4-Butanediol, trafficking in
Phenethylamines, or other violation of s. 893.135(1); or

r. Possession of a firearm by a felon

and during the commission of the offense, such person actually
possessed a "firearm" or "destructive device" as those terms are
defined in s. 790.001, shall be sentenced to a minimum term of
imprisonment of 10 years, except that a person who is convicted

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461 for aggravated assault, possession of a firearm by a felon, or
 462 burglary of a conveyance shall be sentenced to a minimum term of
 463 imprisonment of 3 years if such person possessed a "firearm" or
 464 "destructive device" during the commission of the offense.
 465 However, if an offender who is convicted of the offense of
 466 possession of a firearm by a felon has a previous conviction of
 467 committing or attempting to commit a felony listed in s.
 468 775.084(1)(b)1. and actually possessed a firearm or destructive
 469 device during the commission of the prior felony, the offender
 470 shall be sentenced to a minimum term of imprisonment of 10
 471 years.

472 2. Any person who is convicted of a felony or an attempt to
 473 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
 474 regardless of whether the use of a weapon is an element of the
 475 felony, and during the course of the commission of the felony
 476 such person discharged a "firearm" or "destructive device" as
 477 defined in s. 790.001 shall be sentenced to a minimum term of
 478 imprisonment of 20 years.

479 3. Any person who is convicted of a felony or an attempt to
 480 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
 481 regardless of whether the use of a weapon is an element of the
 482 felony, and during the course of the commission of the felony
 483 such person discharged a "firearm" or "destructive device" as
 484 defined in s. 790.001 and, as the result of the discharge, death
 485 or great bodily harm was inflicted upon any person, the
 486 convicted person shall be sentenced to a minimum term of
 487 imprisonment of not less than 25 years and not more than a term
 488 of imprisonment of life in prison.

489 (3)(a)1. Any person who is convicted of a felony or an

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490 attempt to commit a felony, regardless of whether the use of a
 491 firearm is an element of the felony, and the conviction was for:
 492 a. Murder;
 493 b. Sexual battery;
 494 c. Robbery;
 495 d. Burglary;
 496 e. Arson;
 497 f. Aggravated assault;
 498 g. Aggravated battery;
 499 h. Kidnapping;
 500 i. Escape;
 501 j. Sale, manufacture, delivery, or intent to sell,
 502 manufacture, or deliver any controlled substance;
 503 k. Aircraft piracy;
 504 l. Aggravated child abuse;
 505 m. Aggravated abuse of an elderly person or disabled adult;
 506 n. Unlawful throwing, placing, or discharging of a
 507 destructive device or bomb;
 508 o. Carjacking;
 509 p. Home-invasion robbery;
 510 q. Aggravated stalking; or
 511 r. Trafficking in cannabis, trafficking in cocaine, capital
 512 importation of cocaine, trafficking in illegal drugs, capital
 513 importation of illegal drugs, trafficking in phencyclidine,
 514 capital importation of phencyclidine, trafficking in
 515 methaqualone, capital importation of methaqualone, trafficking
 516 in amphetamine, capital importation of amphetamine, trafficking
 517 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
 518 (GHB), trafficking in 1,4-Butanediol, trafficking in

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519 Phenethylamines, or other violation of s. 893.135(1);
 520
 521 and during the commission of the offense, such person possessed
 522 a semiautomatic firearm and its high-capacity detachable box
 523 magazine or a machine gun as defined in s. 790.001, shall be
 524 sentenced to a minimum term of imprisonment of 15 years.
 525 2. Any person who is convicted of a felony or an attempt to
 526 commit a felony listed in subparagraph (a)1., regardless of
 527 whether the use of a weapon is an element of the felony, and
 528 during the course of the commission of the felony such person
 529 discharged a semiautomatic firearm and its high-capacity box
 530 magazine or a "machine gun" as defined in s. 790.001 shall be
 531 sentenced to a minimum term of imprisonment of 20 years.
 532 3. Any person who is convicted of a felony or an attempt to
 533 commit a felony listed in subparagraph (a)1., regardless of
 534 whether the use of a weapon is an element of the felony, and
 535 during the course of the commission of the felony such person
 536 discharged a semiautomatic firearm and its high-capacity box
 537 magazine or a "machine gun" as defined in s. 790.001 and, as the
 538 result of the discharge, death or great bodily harm was
 539 inflicted upon any person, the convicted person shall be
 540 sentenced to a minimum term of imprisonment of not less than 25
 541 years and not more than a term of imprisonment of life in
 542 prison.
 543 Section 4. For the purpose of incorporating the amendment
 544 made by this act to section 893.135, Florida Statutes, in a
 545 reference thereto, paragraph (a) of subsection (1) and
 546 subsections (3) and (4) of section 782.04, Florida Statutes, are
 547 reenacted to read:

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548 782.04 Murder.—
 549 (1) (a) The unlawful killing of a human being:
 550 1. When perpetrated from a premeditated design to effect
 551 the death of the person killed or any human being;
 552 2. When committed by a person engaged in the perpetration
 553 of, or in the attempt to perpetrate, any:
 554 a. Trafficking offense prohibited by s. 893.135(1),
 555 b. Arson,
 556 c. Sexual battery,
 557 d. Robbery,
 558 e. Burglary,
 559 f. Kidnapping,
 560 g. Escape,
 561 h. Aggravated child abuse,
 562 i. Aggravated abuse of an elderly person or disabled adult,
 563 j. Aircraft piracy,
 564 k. Unlawful throwing, placing, or discharging of a
 565 destructive device or bomb,
 566 l. Carjacking,
 567 m. Home-invasion robbery,
 568 n. Aggravated stalking,
 569 o. Murder of another human being,
 570 p. Resisting an officer with violence to his or her person,
 571 q. Aggravated fleeing or eluding with serious bodily injury
 572 or death,
 573 r. Felony that is an act of terrorism or is in furtherance
 574 of an act of terrorism; or
 575 3. Which resulted from the unlawful distribution of any
 576 substance controlled under s. 893.03(1), cocaine as described in

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577 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
 578 compound, derivative, or preparation of opium, or methadone by a
 579 person 18 years of age or older, when such drug is proven to be
 580 the proximate cause of the death of the user,
 581
 582 is murder in the first degree and constitutes a capital felony,
 583 punishable as provided in s. 775.082.
 584 (3) When a human being is killed during the perpetration
 585 of, or during the attempt to perpetrate, any:
 586 (a) Trafficking offense prohibited by s. 893.135(1),
 587 (b) Arson,
 588 (c) Sexual battery,
 589 (d) Robbery,
 590 (e) Burglary,
 591 (f) Kidnapping,
 592 (g) Escape,
 593 (h) Aggravated child abuse,
 594 (i) Aggravated abuse of an elderly person or disabled
 595 adult,
 596 (j) Aircraft piracy,
 597 (k) Unlawful throwing, placing, or discharging of a
 598 destructive device or bomb,
 599 (l) Carjacking,
 600 (m) Home-invasion robbery,
 601 (n) Aggravated stalking,
 602 (o) Murder of another human being,
 603 (p) Aggravated fleeing or eluding with serious bodily
 604 injury or death,
 605 (q) Resisting an officer with violence to his or her

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606 person, or
 607 (r) Felony that is an act of terrorism or is in furtherance
 608 of an act of terrorism,
 609
 610 by a person other than the person engaged in the perpetration of
 611 or in the attempt to perpetrate such felony, the person
 612 perpetrating or attempting to perpetrate such felony commits
 613 murder in the second degree, which constitutes a felony of the
 614 first degree, punishable by imprisonment for a term of years not
 615 exceeding life or as provided in s. 775.082, s. 775.083, or s.
 616 775.084.
 617 (4) The unlawful killing of a human being, when perpetrated
 618 without any design to effect death, by a person engaged in the
 619 perpetration of, or in the attempt to perpetrate, any felony
 620 other than any:
 621 (a) Trafficking offense prohibited by s. 893.135(1),
 622 (b) Arson,
 623 (c) Sexual battery,
 624 (d) Robbery,
 625 (e) Burglary,
 626 (f) Kidnapping,
 627 (g) Escape,
 628 (h) Aggravated child abuse,
 629 (i) Aggravated abuse of an elderly person or disabled
 630 adult,
 631 (j) Aircraft piracy,
 632 (k) Unlawful throwing, placing, or discharging of a
 633 destructive device or bomb,
 634 (l) Unlawful distribution of any substance controlled under

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635 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or
636 opium or any synthetic or natural salt, compound, derivative, or
637 preparation of opium by a person 18 years of age or older, when
638 such drug is proven to be the proximate cause of the death of
639 the user,
640 (m) Carjacking,
641 (n) Home-invasion robbery,
642 (o) Aggravated stalking,
643 (p) Murder of another human being,
644 (q) Aggravated fleeing or eluding with serious bodily
645 injury or death,
646 (r) Resisting an officer with violence to his or her
647 person, or
648 (s) Felony that is an act of terrorism or is in furtherance
649 of an act of terrorism,
650
651 is murder in the third degree and constitutes a felony of the
652 second degree, punishable as provided in s. 775.082, s. 775.083,
653 or s. 775.084.
654 Section 5. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

February 20, 2014

Meeting Date

Topic Drug Penalties

Bill Number 360
(if applicable)

Name Honorable Nancy Daniels

Amendment Barcode _____
(if applicable)

Job Title Public Defender, 2nd Judicial Circuit

Address 301 South Monroe Street

Phone 850.606.1000

Street

Tallahassee

Florida

32301

City

State

Zip

E-mail nancy.daniels@fldpd2.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Public Defender Association, Inc

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/2014

Meeting Date

Topic Prescription Drug Trafficking

Bill Number 360
(if applicable)

Name Jorge Chamizo

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 108 South Monroe St.

Phone (850) 681-0024

Street Tallahassee, FL 32301
City State Zip

E-mail jorge@flapartners.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Fla Association of Criminal Defense Lawyers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/14

Meeting Date

Topic Sentencing for Controlled Substances

Bill Number 360
(if applicable)

Name ~~Sen~~ Kristophe Browning

Amendment Barcode _____
(if applicable)

Job Title Legislative Coordinator

Address 204 South Monroe St. Suite 201

Phone 850-907-3436

Street

Tallahassee

Florida

32301

City

State

Zip

E-mail k.browning@bridgesofamerica.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Smart Justice Alliance

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Sentencing for Controlled

Bill Number 360
(if applicable)

Name Substance

Amendment Barcode _____
(if applicable)

Job Title Beth LABASKY

Address Consultant

Phone 850 322 7335

Address 13211 Boney Rd

E-mail bethlabasky@aol.com

City Jacksonville State Fla Zip 32226

Speaking: ☒ For ☐ Against ☐ Information

Representing Informed Families of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

2-20-14

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

Meeting Date

Topic DRUG TRAFFICKING Bill Number 360
(if applicable)

Name MONICA HOFHEINZ Amendment Barcode _____
(if applicable)

Job Title ASST. STATE ATTORNEY - 17th CIRCUIT, BROWARD

Address 201 SE 6th ST Phone _____
Street

FT LAUD E-mail _____
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing STATE ATTORNEY MIKE SATZ AND FLORIDA PROSECUTORS

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-20-14

Meeting Date

Topic Sentencing

Bill Number 360
(if applicable)

Name Greg Newborn

Amendment Barcode _____
(if applicable)

Job Title Fla. Project Director

Address PO Box 142933
Street

Phone 352. 682. 2542

Gainesville, FL 32614
City State Zip

E-mail gnewborn@famnm.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Families Against Mandatory Minimums

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

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 Appropriations

BILL: CS/CS/SB 522

INTRODUCER: Appropriations Committee; Children, Families, and Elder Affairs Committee; and Senator Grimsley and others

SUBJECT: Involuntary Civil Commitment of Sexually Violent Predators

DATE: February 24, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Hendon	Hendon	CF	Fav/CS
2. Brown, C.	Cibula	JU	Favorable
3. Brown, A.	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 522 makes various changes to laws relating to the assessment of sexual offenders for civil commitment as a sexually violent predator. Under the bill:

- More individuals, including those in local detention facilities, who have a current or prior conviction for a sexually violent offense may be assessed for civil commitment as a sexually violent predator.
- Multidisciplinary teams must treat a sexual offender whose offense was an attempt, criminal solicitation, or conspiracy to commit a sexually violent offense, the same as an offender who completed the sexually violent offense.
- The monitoring of sexual offenders may be facilitated by requiring notice to law enforcement when a person in the custody of the sexually violent predator program is released.
- Victims must be notified of the release of sexual offenders who are detained by the sexually violent predator program, based on a finding of probable cause, but who were not committed.

The bill will have an indeterminate fiscal impact.

II. Present Situation:

Trends in Sex Offenses, Prison Sentences, and Recidivism

Although the prevalence of sexual violence in Florida as measured by new prison admissions has decreased in the last decade, recent trends show an increase. Researchers attribute the largest increase in prison admissions for sex crimes to one offense—traveling to meet a minor met on the Internet for the purpose of sex. The steep rise for this particular crime (14 convictions in Fiscal Year 2010-2011 to 154 convictions in Fiscal Year 2012-2013) represented a 1,100 percent increase which may be due, in part, to additional sting operations conducted by law enforcement officials.

Sex offenses account for fewer than six percent of annual prison admissions. Lewd and lascivious battery with a victim between 12 and 15 years of age¹ and sexual battery by an adult with a victim under 12 years of age represent the two most common sex crimes resulting in incarceration.²

Criminal penalties for sex acts with children range widely from a capital felony with a mandatory term of life for sexual battery with a victim under 12 years of age³ to a third degree felony punishable up to five years in prison for lewd or lascivious molestation of a victim 12 to 15 years of age and the offender is less than 18 years of age.⁴

The average prison sentence of 12.7 years for sex offenders is longer than in the past. The Department of Corrections indicates that the three-year recidivism rate for sex offenders is 34 percent. The new offense, however, might not be an additional sex crime.

Factors Relating to Prosecution, Conviction, and Sentencing of Sex Offenses

In a 2006 report by the Legislature's Office of Economic and Demographic Research (EDR), the EDR noted:

- Sex offenses share some characteristics with other serious offenses such as murder and robbery. Facing potentially lengthy prison terms, defendants tend to fight charges with all resources available. Trial rates are highest for these three offenses.
- Sex offenses are also different from other offenses. The type of sanction and the length of sentence is often mitigated. A high percentage of cases involved dismissal of some counts.
- Eighty-five percent of victims of a sex crime know the offender.
- Victims of sexual offenses, with an average age of 13.4 years old, tend to be much younger than victims of other crimes. Eighty-three percent of victims are 15 years old or younger. Successful prosecution usually requires the victim to testify in court. Because many victims are children, and many know the offender, victim's families often consider the trauma of revisiting the crimes in a public forum too difficult. Many children do not possess the intellectual and emotional skills necessary for adversarial confrontation with the defense.

¹ Section 800.04(4)(a), F.S.

² Section 800.04(5)(b), F.S.

³ Section 794.011(2)(a), F.S.

⁴ Section 800.04(5)(d), F.S.

Faced with these challenges, the prosecution often determines that the best outcome can be achieved by a plea bargain including a reduced charge or lesser sentence. Although mitigation may result in a reduced sanction, a conviction may require the offender to register as a sex offender.⁵

Designation of a Sexual Predator or Sexual Offender

A person is designated a sexual predator by a court if the person:

- Has been convicted of a current qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;
- Has been convicted of a current qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Is subject to civil commitment.⁶

A person is designated as a sexual offender by the FDLE if the person:

- Has been convicted of a qualifying sex offense and released on or after October 1, 1997 (the date the modern registry became effective) from the sanction imposed for that offense;
- Is a Florida resident and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the victim was 14 years of age or older.⁷

Sex Offenders under Community Supervision

A court may place a convicted felon on community supervision, either immediately upon sentencing or after serving a sentence. Convicted felons on community supervision report to and are monitored by Department of Corrections' (DOC) probation officers. Data on sex offenders released from prison to community supervision include the following:

- In Fiscal Year 2012-2013, 66.1 percent of sex offenders released from prison began supervision upon release.
- As of July 31, 2013, 5.3 percent of the total population on community supervision were required to register as sexual offenders. Of offenders on community supervision for a sexual offense, the DOC tracked 34.5 percent by electronic monitoring.
- Supervised offenders must comply with statutory terms and conditions as well as special terms and conditions imposed by the sentencing court or by the Parole Commission.
- Offenders on community supervision for a sex offense are more likely to have supervision revoked for a technical violation than other offenders on supervision. For Fiscal Year 2011-2012 the DOC revoked supervision of 427 sex offenders for misconduct. A technical

⁵ Office of Economic and Demographic Research, *Factors Relating to the Sentencing of Sex Offenders*, p. 1-2 (March 1, 2006) (on file with the Senate Committee on Judiciary).

⁶ Section 775.21(4), F.S.

⁷ Section 943.0435(1), F.S.

violation was the basis of 74 percent of revocations. Supervision was revoked for 26 percent of the offenders due to a new crime. In contrast, the DOC revoked supervision of 34,095 felons for misconduct during the same time period, with 39 percent revoked for a technical violation and 61 percent revoked for a new crime.

- Offenders on community supervision for certain sex offenses committed against a child have conditions restricting them from living near schools or working or volunteering in places where children regularly congregate or having unsupervised contact with a minor. Residency and employment restrictions apply to certain offenders after completion of sentence and community supervision. Local ordinances may impose additional residence restrictions, including wider exclusion zones.
- In recent years, mandatory conditions of supervision for sex offenders were expanded to prohibit certain activities such as distributing candy at Halloween and visiting schools without prior approval of the probation officer.

Legal Basis for Civil Commitment of Sexually Violent Predators

Florida enacted the Sexually Violent Predator Program (SVPP) in 1998 and modeled it after the Kansas Sexually Violent Predator Act, which provided for involuntary civil commitment of sexually violent predators. Challenged on due process, double jeopardy, and ex post facto grounds, in *Kansas v. Hendricks*, the U.S. Supreme Court upheld the Kansas' civil commitment program.⁸ The Court based its ruling on the following:

- The Act requires a finding of dangerousness to self or others, through evidence of an inability to control behavior and a finding that the person suffers from a mental abnormality or personality disorder.⁹
- The Act is non-punitive in nature, requires treatment during commitment, and bases commitment on mental deficiency rather than criminal intent.¹⁰
- A court must review commitment annually and determine whether a detainee continues to be mentally infirm.¹¹
- The Act provides due process based on numerous procedural and evidentiary protections.¹²
- Because the commitment is civil in nature, not criminal, the Act does not violate constitutional protections against double jeopardy.¹³
- Because the Act is not a criminal law, the Act does not violate the ex post facto clause of the U.S. Constitution.¹⁴

In *Kansas v. Crane*, the U.S. Supreme Court refined the *Hendricks* requirement that the offender possess a lack of behavioral control.¹⁵ *Crane* requires a stronger showing of a lack of control, namely, that the offender's inability to control behavior constitutes a serious public danger.¹⁶

⁸ *Kansas v. Hendricks*, 521 U.S. 346 (1997).

⁹ *Id.* at 357-358.

¹⁰ *Id.* at 363 and 367.

¹¹ *Id.* at 364.

¹² *Id.*

¹³ *Id.* at 369.

¹⁴ *Id.* at 371.

¹⁵ 534 U.S. 407 (2002).

¹⁶ *Id.* at 413.

The Florida Supreme Court upheld Florida's civil commitment program in 2002.¹⁷ As Florida's law is heavily based on the Kansas program, the Court cited *Kansas v. Hendricks* in support:

Florida's Ryce Act shares many of the hallmarks of the Kansas statute which the Supreme Court found significant in *Hendricks* While only individuals convicted of a sexually violent offense are *eligible* for commitment under the Ryce Act, the previous conviction must be coupled with a current "mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment"¹⁸

History of the Sexually Violent Predator Program and the Civil Confinement of Predators

The 1998 Florida Legislature established the Sexually Violent Predator Program (SVPP).¹⁹ The Martin Treatment Center, operated by Liberty Behavioral Health Care, originally housed the majority of sexually violent predators. Some detainees awaiting commitment proceedings were housed at the South Bay Sexually Violent Predator Detainee Unit, a unit of the South Bay Correctional Facility. In late 2000, the program moved to the Florida Civil Commitment Center (FCCC) in Arcadia, Florida, a larger facility which housed both detainees and committed Sexually Violent Predators (SVPs).

Initially, the number of detainees significantly outnumbered the number of committed sexually violent predators. Reports of lax security resulted in violence, introduction of contraband, and general disorder within the facility. DCF terminated its contract with Liberty Healthcare Group in 2006 and contracted with Geo Group, Inc. as the new provider. In addition to operating the program, Geo Group was awarded a design-and-build contract to construct a new facility. The new FCCC, having a population capacity of 720, opened in April 2009 and is a modern facility built specifically for the SVPP.²⁰

The FCCC currently houses 647 persons—567 sexually violent predators and 80 persons awaiting a commitment trial. The program provides four progressive stages of treatment. Completion of the entire program takes at least six years. From 2004 to 2009, DCF was a defendant in a federal class action lawsuit alleging unconstitutional conditions of confinement, ADA violations, and a lack of access to treatment. Parties to the lawsuit agreed to settle and the plaintiffs voluntarily dismissed the lawsuit in 2009, based on improved conditions and treatment opportunities.

¹⁷ *Westerheide v. State*, 831 So. 2d 93 (Fla. 2002).

¹⁸ *Id.* at 100.

¹⁹ Chapter 98-64, L.O.F. The 1998 Legislature created the "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act."

²⁰ Marti Harkness, Senate Appropriations Subcommittee on Criminal and Civil Justice, *Overview of Sexually Violent Predator Program*, PowerPoint Presentation (September 24, 2013) (on file with the Senate Committee on Judiciary).

Referral and Commitment Process for Sexually Violent Predators

Referral:

A referring agency gives notice to the state attorney and the DCF multidisciplinary team (MDT) of the upcoming release of a person in confinement who has been convicted, adjudicated delinquent, or found not guilty by reason of insanity of a qualifying sexually violent offense.²¹

The timing of the notices to the MDT depends on which agency has jurisdiction over the person:

- The Department of Corrections must give notice at least 545 days before release from incarceration.
- The Department of Juvenile Justice must give notice at least 180 days before release from residential commitment.
- Department of Children and Families must give notice at least 180 days before the release hearing of a person found not guilty by reason of insanity.²²

Multidisciplinary Team Review (MDT):

By law, MDT members must be licensed psychologists or psychiatrists. Administrative rules further require MDT members to have at least one year of experience in the treatment or evaluation of sex offenders, have completed training in use and scoring of the risk assessment actuarial (known as the Static 99 form), and earn 24 hours of continuing education credits related to assessment or treatment of sex offenders.²³

- After the referring agency provides notice to the proper entities, the referring agency also provides the MDT with a packet of relevant information. At least two MDT members make a threshold assessment of whether the referred person meets statutory commitment criteria of having a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined for treatment.²⁴
- If the MDT finds that the person meets commitment criteria, a clinical evaluation is conducted by at least one licensed psychiatrist or licensed psychologist. The evaluation must include a records review, a personal interview if the person consents, and a risk assessment.²⁵
- The MDT recommends commitment to the state attorney within 180 days after referral, if a majority of the MDT, including at least one clinical evaluator, agree that the person meets commitment criteria.²⁶

²¹ Section 394.912(9), F.S.

²² Section 394.913(1), F.S.

²³ Rule 65E-25.002, F.A.C.

²⁴ Section 394.913(2) and (3), F.S.

²⁵ Section 394.913(3)(c) and (e), F.S.

²⁶ Section 394.913(3)(e), F.S.

Commitment Trial:

- The state attorney receives the MDT recommendation and decides whether to file a commitment petition in circuit court.²⁷
- If a petition is filed, the court determines whether there is probable cause for commitment.²⁸
- If the court finds probable cause, a commitment trial must be held within 30 days, unless the court grants a continuance of up to 120 days.²⁹
- If the court finds probable cause, the person will be transferred to DCF secure custody in detainee status if the trial is not held before the person is released from his or her current sentence or other confinement.
- The detainee has the right to counsel, and either party may elect trial by a six-person jury.³⁰
- A judge or jury determines whether there is clear and convincing evidence that the person meets sexually violent predator (SVP) criteria. A jury must reach a unanimous verdict to designate an offender as a sexually violent predator.³¹

Post-commitment Trial:

- The SVP is committed to the custody of the DCF upon expiration of sentence or, if detained by DCF, moved to commitment status.³²
- Once in DCF custody, the SVP is transferred to the FCCC for secure custody and treatment. The SVP's status is reviewed by the court at least annually. The SVP may be discharged at any time if the court determines at a bench trial that it is safe to release him or her.³³

Number and Flow of SVPP Cases as of August 31, 2013³⁴

Since the inception of the SVPP, 47,932 cases have been screened by DCF:

- The multidisciplinary team (MDT) screened out 40,920 cases as not meeting commitment criteria.
- The MTD determined that 4,171 cases required a clinical evaluation.

Of the 4,171 cases referred for a clinical evaluation:

- The MDT recommended that 1,607 cases met commitment criteria.
- The MDT recommended that 2,477 cases did not meet commitment criteria.
- Eighty-seven cases are pending or were deferred or deleted.

²⁷ Sections 394.9135(3) and 394.914, F.S.

²⁸ Section 394.915, F.S.

²⁹ Section 394.916(1) and (2), F.S.

³⁰ Section 394.916(3), F.S.

³¹ Section 394.917(1), F.S.

³² Section 394.917(1) and (2), F.S.

³³ Section 394.917(2), F.S.

³⁴ Department of Children and Families, *An Overview of Florida's Sexually Violent Predator Program*, Presented at Joint Workshop of the Senate Children, Families, and Elder Affairs Committee and the Judiciary Committee (September 24, 2013) (on file with the Senate Committee on Judiciary).

Of the 1,607 cases for which the MDT recommended commitment, the State Attorney filed a petition in 1,509 cases:

- The State Attorney also filed petitions in six cases in which the MDT recommended that commitment criteria was not met.
- The State Attorney did not file a petition in 70 cases.
- A decision is pending in 40 cases as to whether a petition will be filed.

Of the 1,509 cases in which petitions were filed by the State Attorney, 466 cases were disposed of before the commitment trial, or are pending trial:

- 332 persons were released (no probable cause, petition dismissed, or released by court order).
- 83 persons are detained in the FCCC pending trial.
- 21 petitions are otherwise pending trial.
- 30 persons are deceased or out-of-state.

Of the 1,037 cases that have been disposed of by a commitment trial:

- 575 SVPs were committed to the FCCC.
- 1 person is in the FCCC by stipulated agreement.
- 4 SVPs await the end of their prison sentence before commitment.
- 140 SVPs were committed but have been released by stipulated agreement.
- 117 persons were completely released at trial.
- 8 persons were released at trial with conditions.
- 20 persons had their commitment overturned or dismissed.
- 119 SVPs were committed but later determined to no longer meet criteria.
- 32 persons are deceased or out-of-state.
- 22 people were returned to prison for other reasons.

Of the respondents to the 1,509 petitions for civil commitment which were filed:

- 700 are in some form of secure custody in Florida.
- 741 have been released.
- 62 are deceased or out-of-state.

Notification of Release of a Sexually Violent Predator

As soon as is practicable, the DCF must notify a victim of the release of a SVP. The DCF must also notify the DOC if a SVP has an active or pending term of probation or community supervision.³⁵

³⁵ Section 94.926, F.S.

III. Effect of Proposed Changes:

This bill expands the class of sexual offenders who will be assessed for civil commitment as a sexually violent predator, expands the circumstances that may or will trigger such assessments, and provides more notice to victims and law enforcement of the release of a sexual offender from the sexually violent predator program.

Section 1 of the bill amends s. 394.912, F.S., and makes the following changes to definitions within the sexually violent predator program:

- The definition of “agency with jurisdiction” is amended to include an entity that releases a person who is serving a sentence in a county or municipal jail for a sexually violent offense;
- The definition of “sexually violent offense” is amended to include a criminal offense in which the state attorney refers a person to the Department of Children and Families (DCF) for civil commitment proceedings; and
- The definition of “total confinement” is amended to provide that a person is deemed to be in total confinement if the person is serving a sentence in a county or municipal jail for a sexually violent offense, or if a court or the agency with jurisdiction determines that the person should have been lawfully released at an earlier date and that the provisions of the program would have been applicable to the person on the date that he or she should have been released.

The latter change in the definition of “total confinement” is needed due to the Florida Supreme Court’s opinion in *Larimore v. State*.³⁶ In *Larimore*, the Department of Corrections (DOC) referred an offender to the multidisciplinary team (MDT) for assessment after his approval for release as a result of reinstatement of gain time that had previously been erroneously forfeited by decision of the state.³⁷ In examining legislative intent, the Court opined that the “Legislature appears to have specifically contemplated that an individual would be lawfully in the State’s custody when civil commitment proceedings are commenced under the [Sexually Violent Predator] Act.”³⁸ The Court found that the offender was not in lawful custody at the time of his release because he should have been released at an earlier date. Thus, the offender was not subject to civil commitment under the act.³⁹

Section 2 of the bill creates s. 394.9125, F.S., to provide that:

- A state attorney is required to refer a person for civil commitment if the state attorney receives an arrest alert on the person under s. 394.926(4), F.S., and the person is subsequently sentenced to imprisonment in a county or municipal jail for any criminal offense.
- A state attorney is authorized to refer a person for civil commitment if the person is required to register as a sexual offender, has previously been convicted of specified sexually violent offenses, and has been sentenced to imprisonment in a county or municipal jail for any criminal offense.

³⁶ *Larimore v. State*, 2 So. 3d 101 (Fla. 2009).

³⁷ *Id.* at 104.

³⁸ *Id.* at 107.

³⁹ *Id.* at 117.

- A state attorney who refers a person for civil commitment as described above is required to notify the county or municipal jail to which the person has been sentenced within 24 hours after the referral is made.
- If a person is sentenced to imprisonment in a county or municipal jail but is not totally confined in the jail due to receiving credit for time served, a state attorney is authorized to file a petition with the circuit court within 120 hours after the person's sentencing proceeding, requesting the court to order the person into DCF custody for civil commitment proceedings. If a state attorney files such a petition, the judge is required to order that the person be taken into custody and delivered to DCF custody for civil commitment proceedings, if the judge determines that there is probable cause to believe that the person should have been referred to the DCF but was not referred because the person was not totally confined in a county or municipal jail due to receiving credit for time served.

Section 3 of the bill amends s. 394.913, F.S., to provide that:

- A county or municipal jail must provide written notice to the MDT, with a copy to the state attorney, of the anticipated release from total confinement of a person who has been convicted of a sexually violent offense at least 180 days before the anticipated release, except that in the case of a person who is totally confined for a period of less than 180 days, written notice must be given as soon as practicable.
- The MDT is authorized to consult with law enforcement agencies and victim advocate groups during the assessment and evaluation process, and a clinical evaluation may be conducted.
- A second clinical evaluation must be conducted if a member of the MDT questions the conclusion of the first evaluation.
- All members of the MDT are required to review, at a minimum, specific information relative to a case, and any clinical evaluations conducted for that case, before making a recommendation.
- The DCF is required, after all clinical evaluations have been completed, to provide the state attorney with a written assessment and recommendation as to whether a person meets the definition of a sexually violent predator.
- The DCF is required to recommend that the state attorney file a petition for civil commitment if at least two members of the MDT determine that the person meets the definition of a sexually violent predator.
- If the state attorney questions, in writing, the determination of whether a person does or does not meet the definition of a sexually violent predator, the MDT is required to reexamine the case before a final written assessment and recommendation are provided to the state attorney.
- For cases with referral dates that occur at least 90 days before the person's scheduled release date, the MDT is required to provide to the state attorney a written assessment and recommendation as to whether the person meets the definition of a sexually violent predator at least one month before the person's scheduled release date. In cases in which the referral date is less than 90 days before the person's expiration of sentence, the MDT is required to provide the state attorney with a written assessment and recommendation as soon as is practicable before the person's expiration of sentence.
- In the assessment and evaluation process, the MDT is required to give equal consideration to an offender whose sexually violent offense was an attempt, criminal solicitation, or

conspiracy under s. 777.04, F.S., to commit one or more specified sexually violent offenses, as it gives to an offender who completed the sexually violent offense. The bill also provides that no rule or policy may reduce the MDT's level of consideration because the offense was an attempt, criminal solicitation, or conspiracy.

Section 4 of the bill amends s. 394.9135, F.S., to provide that if a person who committed a sexually violent offense is serving a sentence under the custody of the DOC or the Department of Juvenile Justice (DJJ), and is released from a local detention facility, the state attorney may file a petition with the circuit court within 120 hours after the release to allege: (1) that the person was required to be referred for consideration for civil commitment before being released but was not referred because of a mistake, oversight, or intentional act; or (2) that the person was referred for commitment consideration but, through a mistake, oversight, or intentional act, was released rather than transferred to DCF custody. If a judge determines that probable cause exists to believe the person was released instead of being lawfully referred, the judge must order to person to be taken into custody and delivered to an appropriate secure facility designated by the DCF. In addition, within 72 hours after the transfer of the person to the custody of the DCF, the MDT must assess whether the person meets the definition of a sexually violent predator, and if at least two team members determine that the person does not meet the definition, the person must be immediately released.

Section 5 of the bill amends s. 394.914, F.S., to conform technically to changes made elsewhere in the bill.

Section 6 of the bill amends s. 394.918, F.S., to provide that when a court holds a limited hearing to determine whether probable cause exists to believe a person may safely be discharged from civil commitment, the person has the right to be present at the hearing, and that both the petitioner and the respondent may present evidence that the court may consider. Current law provides that the person has the right to be represented by counsel at the hearing.

Section 7 of the bill amends s. 394.926, F.S., to provide that the DCF must give notice of the release of a person in the custody of the department to any living victim of the person whose address is known to the department. If the victim is deceased, notice must be given to the victim's family if the family's address is known to the department. Under current law, such notice is required only upon the release of a person who has been committed as a sexually violent predator. The bill requires that the DCF must also give notice to the Florida Department of Law Enforcement (FDLE) and the sheriff of the county in which the person intends to reside. If the person's intended residence is unknown, notice must be given to the sheriff of the county in which the person was most recently convicted.

In addition, the bill requires that the DCF, in conjunction with the FDLE, enroll and maintain a sexually violent offender in the arrest notification program through the FDLE's Florida Criminal Justice Network. If the DCF receives an alert that an offender has been arrested for a subsequent criminal offense, the department must notify the state attorney of the circuit in which the arrest occurred. For purpose of this new requirement, the term "sexually violent offender" means a person who has been committed to the DCF as a sexually violent predator or who has been in DCF custody based on a court finding of probable cause to believe the person is a sexually violent predator.

Section 8 of the bill amends s. 394.931, F.S., to provide that the Department of Corrections is required to compile recidivism data on persons referred, detained, or committed to the DCF's sexually violent predator program.

Section 9 of the bill amends s. 943.053, F.S., to require that the FDLE, notwithstanding any other law, provide the DCF's sexually violent predator program online access to the arrest notification program, to support DCF's duties with respect to the arrest notification program under Section 7 of the bill.

Section 10 of the bill provides for severability if any provision of the bill or its application is held invalid, and that the invalid provision does not affect the other provisions of the bill, which can be given effect without the invalid provision or application.

Section 11 of the bill provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If the bill increases the number of individuals detained and civilly committed at the Florida Civil Commitment Center, the vendor operating the center may receive additional funding, but the need for such additional funding is indeterminate.

C. Government Sector Impact:

State Government

The renewed emphasis on public safety required by the bill, along with the expansion of the program to selected persons serving sentences in county and municipal jails, could increase the number of persons evaluated and committed over time.

The DCF could incur an indeterminate increase in costs for the MDTs and the detaining and treating of SVPs. The judicial system, including the state court system, the state attorneys, the public defenders, and the Justice Administrative Commission, could also incur an indeterminate amount of increased costs. The FDLE indicates that the requirement to provide the DCF access to the arrest notification program under Section 9 of the bill is expected to have no fiscal impact.

Based on an analysis of CS/SB 522 conducted by the state's Criminal Justice Impact Conference on January 30, 2014, the bill is expected to have no impact on the prison bed population.⁴⁰

Local Government

Counties may experience an increase in costs as their county jails will be required to gather and transmit jail inmate information to the DCF for sexually violent predator evaluations. The cost of this duty is indeterminate and is expected to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Lines 276-292 of the committee substitute pertain to requirements for the MDT to provide written assessments and recommendations to state attorneys based on the timing of expected dates of release of persons being assessed by the MDT. For a person expected to be released at least 90 days after the date of referral, the bill references the person's "scheduled release date." However, for a person expected to be released less than 90 days from the date of referral, the bill references the person's "expiration of sentence." These two terms differ in their applicability, and the Legislature may wish to consider consistency with this terminology.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.912, 394.913, 394.9135, 394.914, 394.918, 394.926, 394.931, and 943.053.

The bill creates section 394.9125 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on February 20, 2014:

⁴⁰ See < <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/> > (last visited February 12, 2014)

The CS/CS:

- Changes the bill's requirement for a local detention facility, county jail, or municipal jail to provide notice to the MDT and state attorney of the release of a sexually violent offender from "as soon as practicable after receipt into custody" to at least 180 days before the anticipated release from total confinement, except in the case of a person who is totally confined for less than 180 days, the notice must be given as soon as practicable;
- Removes from the bill the requirement for MDTs to include a victim's advocate and certain other experts as advisory members;
- Removes from the bill the requirement for written reports on assessments and recommendations by the MDT to include victim impact statements prepared by a victim's advocate;
- Removes from the bill the ability of a victim's advocate to veto the decision of the MDT as to whether a person meets the definition of a sexually violent predator;
- Authorizes the MDT to consult with law enforcement agencies and victim advocate groups during the assessment and evaluation process and allows clinical evaluations to be conducted;
- Requires a second clinical evaluation if a member of the MDT questions the conclusions of the first clinical evaluation;
- Requires the DCF to recommend civil commitment for a person being evaluated if at least two members of the MDT determine that the person meets the definition of a sexually violent predator;
- Provides for specific time frames for the MDT to report assessments and recommendations based on the expected release dates of persons being evaluated;
- Provides that when a court holds a limited hearing to determine whether there is probable cause to believe that a sexually violent offender may safely be discharged from DCF custody, the offender has the right to be present at the hearing, and that both the petitioner and respondent may present evidence that the court may consider;
- Requires the DCF to provide notice to the FDLE as well as to a sheriff upon the release of a sexually violent offender from DCF custody;
- Requires the DCF to enroll and maintain a sexually violent offender in the FDLE's arrest notification program upon the offender's release from DCF custody, and to notify a state attorney upon receiving an alert about the offender's subsequent arrest; and
- Removes from the bill a requirement for the DOC to produce an annual report on the recidivism rates for offenders referred to and released from the sexually violent predator program's civil confinement facility and, instead, requires the DOC to compile recidivism data on persons referred, detained, or committed to the DCF's sexually violent predator program.

CS by Children, Families, and Elder Affairs on January 14, 2014:

Authorizes the victim advocate to veto the decision of the multidisciplinary team when the team finds the person does not meet the definition of a sexually violent predator. If this occurs, the DCF will submit the team's recommendation and that of the victim advocate to the state attorney for consideration for filing of civil commitment of the person.

B. Amendments:

None.

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



387996

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2014	.	
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The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (1), (3), (7), and (11) of section 394.912, Florida Statutes, are amended, and paragraph (i) is added to subsection (9) of that section, to read:

394.912 Definitions.—As used in this part, the term:



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(1) "Agency with jurisdiction" means the entity ~~agency~~ that releases, upon lawful order or authority, a person who is serving a sentence in the custody of the Department of Corrections, a person who was adjudicated delinquent and is committed to the custody of the Department of Juvenile Justice, ~~or~~ a person who was involuntarily committed to the custody of the Department of Children and Families ~~Family Services~~ upon an adjudication of not guilty by reason of insanity, or a person who is serving a sentence in a county or municipal jail for a sexually violent offense as defined in paragraph (9)(i).

(3) "Department" means the Department of Children and Families ~~Family Services~~.

(7) "Secretary" means the secretary of the Department of Children and Families ~~Family Services~~.

(9) "Sexually violent offense" means:

(i) A criminal offense in which the state attorney refers a person to the department for civil commitment proceedings pursuant to s. 394.9125.

(11) "Total confinement" means that the person is currently being held in any physically secure facility being operated or contractually operated for the Department of Corrections, the Department of Juvenile Justice, or the Department of Children and Families ~~Family Services~~. A person shall also be deemed to be in total confinement for applicability of provisions under this part if:

(a) The person is serving an incarcerative sentence under the custody of the Department of Corrections or the Department of Juvenile Justice and is being held in any other secure facility for any reason;



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(b) The person is serving a sentence in a county or municipal jail for a sexually violent offense as defined in paragraph (9)(i); or

(c) A court or the agency with jurisdiction determines that the person who is being held should have been lawfully released at an earlier date and that the provisions of this part would have been applicable to the person on the date that he or she should have been lawfully released.

Section 2. Section 394.9125, Florida Statutes, is created to read:

394.9125 State attorney; authority to refer a person for civil commitment.—

(1) A state attorney shall refer a person to the department for civil commitment proceedings if:

(a) The state attorney receives an arrest alert on the person pursuant to s. 394.926(3); and

(b) The person is subsequently sentenced to a term of imprisonment in a county or municipal jail for any criminal offense.

(2) A state attorney may refer a person to the department for civil commitment proceedings if the person:

(a) Is required to register as a sexual offender pursuant to s. 943.0435;

(b) Has previously been convicted of a sexually violent offense as defined in s. 394.912(9)(a)-(h); and

(c) Has been sentenced to a term of imprisonment in a county or municipal jail for any criminal offense.

(3) A state attorney who refers a person for civil commitment pursuant to subsection (1) or subsection (2) shall



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68 notify the county or municipal jail to which the person has been
69 sentenced within 24 hours after the referral is made.

70 (4) (a) If a person is sentenced to a term of imprisonment
71 in a county or municipal jail but is not subsequently totally
72 confined in the jail due to receiving credit for time served,
73 the state attorney may file a petition with the circuit court
74 within 120 hours after such person's sentencing proceeding
75 requesting the court to order such person into the department's
76 custody for purposes of initiating civil commitment proceedings.

77 (b) If the judge determines that there is probable cause to
78 believe that the person should have been referred to the
79 department pursuant to subsection (1) or subsection (2) but that
80 the referral was not made because the person was not totally
81 confined in a county or municipal jail due to receiving credit
82 for time served, the judge shall order that the person be taken
83 into custody and delivered to the custody of the department for
84 civil commitment proceedings.

85 Section 3. Section 394.913, Florida Statutes, is amended to
86 read:

87 394.913 Notice to state attorney and multidisciplinary team
88 of release of sexually violent predator; establishing
89 multidisciplinary teams; information to be provided to
90 multidisciplinary teams.—

91 (1) The agency with jurisdiction over a person who has been
92 convicted of a sexually violent offense shall give written
93 notice to the multidisciplinary team, ~~and~~ shall provide a copy
94 of the notice to the state attorney of the circuit in which
95 ~~where~~ that person was last convicted of a sexually violent
96 offense. If the person has never been convicted of a sexually



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97 violent offense in this state but has been convicted of a
98 sexually violent offense in another state or in federal court,
99 the agency with jurisdiction shall give written notice to the
100 multidisciplinary team and a copy to the state attorney of the
101 circuit in which ~~where~~ the person was last convicted of any
102 offense in this state. If the person is being confined in this
103 state pursuant to interstate compact and has a prior or current
104 conviction for a sexually violent offense, the agency with
105 jurisdiction shall give written notice to the multidisciplinary
106 team and shall provide a copy to the state attorney of the
107 circuit in which ~~where~~ the person plans to reside upon release
108 or, if no residence in this state is planned, the state attorney
109 in the circuit in which ~~where~~ the facility from which the person
110 to be released is located. Except as provided in s. 394.9135,
111 the written notice must be given:

112 (a) At least 545 days before ~~prior to~~ the anticipated
113 release from total confinement of a person serving a sentence in
114 the custody of the Department of Corrections, except that in the
115 case of a person ~~persons~~ who is ~~are~~ totally confined for a
116 period of less than 545 days, written notice must be given as
117 soon as practicable;

118 (b) At least 180 days before ~~prior to~~ the anticipated
119 release from residential commitment of a person committed to the
120 custody of the Department of Juvenile Justice, except that in
121 the case of a person ~~persons~~ who is ~~are~~ committed to a low or
122 moderate risk facility, written notice must be given as soon as
123 practicable; ~~or~~

124 (c) At least 180 days before ~~prior to~~ the anticipated
125 hearing regarding possible release of a person committed to the



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custody of the department who has been found not guilty by reason of insanity or mental incapacity of a sexually violent offense; or-

(d) At least 180 days before the anticipated release from total confinement of a person serving a sentence in a county or municipal jail, except that in the case of a person who is totally confined for a period of less than 180 days, written notice must be given as soon as practicable.

(2) The agency having jurisdiction shall provide the multidisciplinary team with the following information:

(a) The person's name; identifying characteristics; anticipated future residence; the type of supervision the person will receive in the community, if any; and the person's offense history;

(b) The person's criminal history, including police reports, victim statements, presentence investigation reports, postsentence investigation reports, if available, and any other documents containing facts of the person's criminal incidents or indicating whether the criminal incidents included sexual acts or were sexually motivated;

(c) Mental health, mental status, and medical records, including all clinical records and notes concerning the person;

(d) Documentation of institutional adjustment and any treatment received and, in the case of an adjudicated delinquent committed to the Department of Juvenile Justice, copies of the most recent performance plan and performance summary; and

(e) If the person was returned to custody after a period of supervision, documentation of adjustment during supervision and any treatment received.



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(3) (a) The secretary or his or her designee shall establish a multidisciplinary team or teams.

(b) Each team shall include, but need ~~is~~ not be limited to, two licensed psychiatrists or psychologists or one licensed psychiatrist and one licensed psychologist.

(c) The multidisciplinary team shall assess and evaluate each person referred to the team. The assessment and evaluation must ~~shall~~ include a review of the person's institutional history and treatment record, if any, the person's criminal background, and any other factor that is relevant to the determination of whether the ~~such~~ person is a sexually violent predator.

(d) The multidisciplinary team may consult with law enforcement agencies and victim advocate groups during the assessment and evaluation process. A clinical evaluation of the person may be conducted. A second clinical evaluation must be conducted if a member of the multidisciplinary team questions the conclusion of the first clinical evaluation. All members of the multidisciplinary team shall review, at a minimum, the information provided in subsection (2) and any clinical evaluation before making a recommendation pursuant to paragraph (f).

(e) ~~(e)~~ Before recommending that a person meets the definition of a sexually violent predator, the person must be offered a personal interview. If the person agrees to participate in a personal interview, at least one member of the team who is a licensed psychiatrist or psychologist must conduct a personal interview of the person. If the person refuses to fully participate in a personal interview, the multidisciplinary



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team may proceed with its recommendation without the ~~a personal~~
interview ~~of the person~~.

(f) After all clinical evaluations have been completed, the
department shall provide to the state attorney a written
assessment and recommendation as to whether the person meets the
definition of a sexually violent predator.

1. The department must recommend that the state attorney
file a petition for civil commitment if at least two members of
the multidisciplinary team determine that the person meets the
definition of a sexually violent predator.

2. When the department determines that a person who has
received a clinical evaluation does or does not meet the
definition of a sexually violent predator, the written
assessment and recommendation shall be sent to the state
attorney. If the state attorney questions, in writing, the
determination that the person does or does not meet the
definition of a sexually violent predator, the multidisciplinary
team must reexamine the case before a final written assessment
and recommendation is provided to the state attorney.

(g) ~~(d)~~ The Attorney General's Office shall serve as legal
counsel to the multidisciplinary team.

(h) ~~(e)~~ 1. After all clinical evaluations have been
completed, but at least 1 month before the person's scheduled
release date, if the referral date is at least 90 days before
the person's expiration of sentence, the multidisciplinary team
shall provide to the state attorney ~~Within 180 days after~~
~~receiving notice, there shall be a written assessment and~~
recommendation ~~as to whether the person meets the definition of~~
a sexually violent predator ~~and a written recommendation, which~~



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~~shall be provided to the state attorney. If the referral date is less than 90 days before the person's expiration of sentence, the multidisciplinary team shall provide to the state attorney a written assessment and recommendation as to whether the person meets the definition of a sexually violent predator as soon as is practicable before the person's expiration of sentence. The written recommendation shall be provided by the Department of Children and Families Family Services and must shall include the written report of the multidisciplinary team.~~

~~2. Notwithstanding subparagraph 1., in the case of a person for whom the written assessment and recommendation has not been completed at least 365 days before his or her release from total confinement, the department shall prioritize the assessment of that person based upon the person's release date.~~

(4) The multidisciplinary team shall give equal consideration in the evaluation and assessment of an offender whose sexually violent offense was an attempt, criminal solicitation, or conspiracy, in violation of s. 777.04, to commit a sexually violent offense enumerated in s. 394.912(9) as it does in the evaluation and assessment of an offender who completed such an enumerated sexually violent offense. A rule or policy may not be established which reduces the level of consideration because the sexually violent offense was an attempt, criminal solicitation, or conspiracy.

~~(5)-(4) The provisions of This section is are not jurisdictional, and failure to comply with it them in no way prevents the state attorney from proceeding against a person otherwise subject to the provisions of this part.~~

Section 4. Section 394.9135, Florida Statutes, is amended



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to read:

394.9135 Immediate releases from total confinement;
transfer of person to department; time limitations on
assessment, notification, and filing petition to hold in
custody; filing petition after release; order into custody of
department after release.—

(1) (a) If the anticipated release from total confinement of
a person who has been convicted of a sexually violent offense
becomes immediate for any reason, the agency with jurisdiction
shall upon immediate release from total confinement transfer
that person to the custody of the department ~~of Children and
Family Services~~ to be held in an appropriate secure facility.

(b) If a person who committed a sexually violent offense
and who is serving an incarcerative sentence under the custody
of the Department of Corrections or the Department of Juvenile
Justice is released from a local detention facility, the state
attorney, as designated in s. 394.913, may file a petition with
the circuit court within 120 hours after the person's release
alleging that:

1. Section 394.913 or this section requires that the person
be referred for consideration for civil commitment before
release and the person was not referred because of a mistake,
oversight, or intentional act; or

2. The person was referred for commitment consideration
but, through a mistake, oversight, or intentional act, was
released rather than transferred to the custody of the
Department of Children and Families as required by this part.

If the judge determines that there is probable cause to believe



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that the person was released in contravention of s. 394.913 or this section, the judge shall order the person to be taken into custody and delivered to an appropriate secure facility designated by the Department of Children and Families.

(2) Within 72 hours after transfer pursuant to paragraph (1)(a) or receipt into the department's custody pursuant to paragraph (1)(b) or s. 394.9125(4), the multidisciplinary team shall assess whether the person meets the definition of a sexually violent predator as defined in s. 394.912. If at least two members of the multidisciplinary team, after all clinical evaluations have been conducted, ~~determine~~ determines that the person does not meet the definition of a sexually violent predator, that person shall be immediately released. If the multidisciplinary team determines that the person meets the definition of a sexually violent predator, the team shall provide the state attorney, as designated by s. 394.913, with its written assessment and recommendation within the 72-hour period or, if the 72-hour period ends after 5 p.m. on a working day or on a weekend or holiday, within the next working day thereafter.

(3) Within 48 hours after receipt of the written assessment and recommendation from the multidisciplinary team, the state attorney, as designated in s. 394.913, may file a petition with the circuit court alleging that the person is a sexually violent predator and stating facts sufficient to support the ~~such~~ allegation. If a petition is not filed within 48 hours after receipt of the written assessment and recommendation by the state attorney, the person shall be immediately released, except that, if the 48-hour period ends after 5 p.m. on a working day



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or on a weekend or holiday, the petition may be filed on the next working day without resulting in the person's release. If a petition is filed pursuant to this section and the judge determines that there is probable cause to believe that the person is a sexually violent predator, the judge shall order that the person be maintained in custody and held in an appropriate secure facility for further proceedings in accordance with this part.

(4) ~~The provisions of~~ This section is ~~are~~ not jurisdictional, and failure to comply with the time limitations, which results in the release of a person who has been convicted of a sexually violent offense, is not dispositive of the case and does not prevent the state attorney from proceeding against a person otherwise subject to ~~the provisions of~~ this part.

Section 5. Section 394.914, Florida Statutes, is amended to read:

394.914 Petition; contents.—After ~~Following~~ receipt from the multidisciplinary team of the written assessment and positive or negative recommendation as to whether the person meets the definition of a sexually violent predator ~~from the multidisciplinary team~~, the state attorney, in accordance with s. 394.913, may file a petition with the circuit court alleging that the person is a sexually violent predator and stating facts sufficient to support such allegation. A ~~No~~ fee may not ~~shall~~ be charged for the filing of a petition under this section.

Section 6. Subsection (3) of section 394.918, Florida Statutes, is amended to read:

394.918 Examinations; notice; court hearings for release of committed persons; burden of proof.—



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(3) The court shall hold a limited hearing to determine whether there is probable cause to believe that the person's condition has so changed that it is safe for the person to be at large and that the person will not engage in acts of sexual violence if discharged. The person has the right to be represented by counsel at the probable cause hearing and the right, ~~but the person is not entitled~~ to be present. Both the petitioner and the respondent may present evidence that the court may weigh and consider. If the court determines that there is probable cause to believe it is safe to release the person, the court shall set a trial before the court on the issue.

Section 7. Section 394.926, Florida Statutes, is amended to read:

394.926 Notice to victims and others of release of persons in the custody of the department ~~committed as sexually violent predators; notice to Department of Corrections and Parole Commission.-~~

(1) As soon as is practicable, the department shall give written notice of the release of a person in the custody of the department ~~committed as a sexually violent predator~~ to any victim of the ~~committed~~ person who is alive and whose address is known to the department or, if the victim is deceased, to the victim's family, if the family's address is known to the department. Failure to notify is not a reason for postponement of release. This section does not create a cause of action against the state or an employee of the state acting within the scope of the employee's employment as a result of the failure to notify pursuant to this part.

(2) If a person in the custody of the department ~~sexually~~



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~~violent predator~~ who has an active or pending term of probation, community control, parole, conditional release, or other court-ordered or postprison release supervision is released ~~from~~ ~~custody~~, the department must immediately notify the Department of Corrections' Office of Community Corrections in Tallahassee. The Parole Commission must also be immediately notified of any releases of a person ~~sexually violent predator~~ who has an active or pending term of parole, conditional release, or other postprison release supervision that is administered by the Parole Commission.

(3) If a person in the custody of the department is released, the department must notify the Department of Law Enforcement and the sheriff of the county in which the person intends to reside, or if unknown, the sheriff of the county in which the person was last convicted.

(4)(a) The department, in conjunction with the Department of Law Enforcement, shall enroll and maintain a sexually violent offender in the arrest notification program through the Florida Criminal Justice Network maintained by the Department of Law Enforcement upon such offender's release from the department's custody. Upon receiving an alert that a sexually violent offender has been arrested for a criminal offense subsequent to his or her release, the department must immediately notify the state attorney of the circuit in which the arrest occurred.

(b) As used in this subsection, the term "sexually violent offender" means a person who has been committed to the department as a sexually violent predator or who has been in the department's custody based upon a court finding of probable cause to believe the person is a sexually violent predator.



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Section 8. Section 394.931, Florida Statutes, is amended to read:

394.931 Quarterly and annual reports. ~~Beginning July 1, 1999,~~ The Department of Corrections shall collect information and compile quarterly reports with statistics profiling inmates released the previous quarter who fit the criteria and were referred to the Department of Children and Families ~~Family Services~~ pursuant to this act. ~~The quarterly reports must be produced beginning October 1, 1999.~~ At a minimum, the information that must be collected and compiled for inclusion in the reports includes: whether the qualifying offense was the current offense or the prior offense; the offender's most serious sexual offense; the total number of distinct victims of the sexual offense; whether the victim was known to the offender; whether the sexual act was consensual; whether the sexual act involved multiple victims; whether direct violence was involved in the sexual offense; the age of each victim at the time of the offense; the age of the offender at the time of the first sexual offense; whether a weapon was used; length of time since the most recent sexual offense; and the total number of prior and current sexual offense ~~sexual-offense~~ convictions. The Department of Corrections shall compile recidivism data on those referred, detained, or committed to the department ~~In addition, the department of Children and Family Services shall implement a long-term study to determine the overall efficacy of the provisions of this part.~~

Section 9. Subsection (14) is added to section 943.053, Florida Statutes, to read:

943.053 Dissemination of criminal justice information;



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fees.-

(14) Notwithstanding any other law, the department shall provide to the Sexually Violent Predator Program within the Department of Children and Families online access to the arrest notification program through the Florida Criminal Justice Network to be used solely in support of the duties of the Department of Children and Families as provided in s. 394.926(4).

Section 10. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 11. This act shall take effect July 1, 2014.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to involuntary civil commitment of sexually violent predators; amending s. 394.912, F.S.; redefining terms; creating s. 394.9125, F.S.; authorizing and requiring a state attorney to refer certain persons for civil commitment under certain circumstances; requiring the state attorney to notify county and municipal jails of a referral within a specified timeframe; authorizing the state attorney to



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file a petition requesting that a person be taken into custody for civil commitment proceedings; requiring a judge to order a person into custody for civil commitment proceedings upon making specified findings; amending s. 394.913, F.S.; requiring the agency with jurisdiction over a person who has been convicted of a sexually violent offense to give written notice to the multidisciplinary team as soon as practicable after receipt into custody of such person in a county or municipal jail facility; authorizing the multidisciplinary team to consult with law enforcement agencies and victim advocate groups as part of the assessment and evaluation process; authorizing a clinical evaluation; requiring a second clinical evaluation under certain circumstances; requiring the Department of Children and Families to recommend that the state attorney file a civil commitment petition under certain circumstances; requiring the department to send a recommendation to the state attorney for further review under certain circumstances if a person does not meet the definition of a sexually violent predator; requiring the multidisciplinary team to reexamine the case under certain circumstances; revising the timeframes for the written assessment; requiring the multidisciplinary team to give equal consideration to an attempt, criminal solicitation, or conspiracy to commit certain offenses as it does to the commission of such offenses; amending s. 394.9135, F.S.; providing for certain released persons to be



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taken into custody by the Department of Children and Families; authorizing the state attorney to file, within a specific timeframe, a petition alleging that a person released from a local detention facility was not referred as required before release because of a mistake, oversight, or intentional act or was referred for commitment consideration but released rather than transferred to custody, as required, due to a mistake, oversight, or intentional act; requiring a judge to order that a person so released be taken into custody and delivered to an appropriate secure facility under certain circumstances; amending s. 394.914, F.S.; authorizing the state attorney to file a petition for civil commitment regardless of the multidisciplinary team's recommendation; amending s. 394.918, F.S., authorizing the petitioner and respondent to present evidence at a civil commitment probable cause hearing; amending s. 394.926, F.S.; requiring the department to provide written notice of placement of a person in the department's custody to a victim of such person; requiring the department to notify the Department of Corrections, the Department of Law Enforcement, and the sheriff of the county in which such person intends to reside of the release of a sexually violent predator or a person who is in custody; requiring the Department of Children and Families to enroll certain persons in an arrest notification program and to notify the state attorney upon receiving an arrest alert; amending s. 394.931, F.S.; requiring the



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503 Department of Corrections to collect recidivism
504 information; amending s. 943.053, F.S.; requiring the
505 Department of Law Enforcement to provide the
506 Department of Children and Families access to the
507 arrest notification program; providing for
508 severability; providing an effective date.



891372

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2014	.	
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The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment to Amendment (387996)

Delete line 54
and insert:
person pursuant to s. 394.926(4); and



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/21/2014	.	
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The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment to Amendment (387996)

Delete line 63
and insert:
offense as defined in s. 394.912(9) (a)-(i); and



739700

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Grimsley) recommended the following:

Senate Amendment to Amendment (387996)

Delete line 208
and insert:
the person's scheduled release date, the multidisciplinary team

By the Committee on Children, Families, and Elder Affairs; and
Senators Grimsley and Detert

586-01053-14

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1 A bill to be entitled
2 An act relating to involuntary civil commitment of
3 sexually violent predators; amending s. 394.913, F.S.;
4 requiring the agency with jurisdiction over a person
5 who has been convicted of a sexually violent offense
6 to give written notice to the multidisciplinary team
7 as soon as practicable after receipt into custody of
8 such person in a local detention facility; designating
9 certain licensed professionals as "primary members" of
10 the multidisciplinary team; expanding the membership
11 of the multidisciplinary team to include three
12 advisory members; requiring that advisory members
13 demonstrate certain qualifications; requiring the
14 primary members of the multidisciplinary team to
15 prepare a written assessment as to whether a person
16 who has been convicted of a sexually violent offense
17 meets the definition of a sexually violent predator
18 and to submit a written recommendation to the state
19 attorney; requiring the victim advocate to prepare a
20 victim impact statement; requiring the
21 multidisciplinary team to give equal consideration to
22 an attempt, criminal solicitation, or conspiracy to
23 commit certain offenses as it does to the commission
24 of such offenses; authorizing the victim advocate to
25 veto the finding by the multidisciplinary team that
26 the person does not meet the definition of a sexually
27 violent predator; amending s. 394.9135, F.S.;
28 providing for certain released persons to be taken
29 into custody by the Department of Children and

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

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30 Families; authorizing the state attorney to file,
31 within a specific timeframe, a petition alleging that
32 a person released from a local detention facility was
33 not referred as required before release because of a
34 mistake, oversight, or intentional act or was referred
35 for commitment consideration but released rather than
36 transferred to custody, as required, due to a mistake,
37 oversight, or intentional act; requiring a judge to
38 order that a person so released be taken into custody
39 and delivered to an appropriate secure facility under
40 certain circumstances; amending s. 394.926, F.S.;
41 requiring the department to provide written notice of
42 placement of a person in the department's custody for
43 a commitment hearing to a victim of such person;
44 requiring the department to notify the Department of
45 Corrections of the release of a sexually violent
46 predator or a person who is in custody pending
47 sexually violent predator commitment proceedings;
48 requiring the Department of Children and Families to
49 send notification of the release of a sexually violent
50 predator, or a person who is in custody pending
51 sexually violent predator commitment proceedings, to
52 the sheriff of the county in which such person intends
53 to reside; amending s. 394.931, F.S.; requiring the
54 Department of Corrections to collect recidivism
55 information and prepare an annual report by a
56 specified date; specifying minimum requirements for
57 the report; requiring the department to provide
58 necessary information; amending s. 394.912, F.S.;

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

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redefining the term "agency with jurisdiction" to include an agency that releases certain persons from the custody of a local detention facility; redefining the term "total confinement" to include persons being held in a local detention facility and certain persons held in custody beyond their lawful release date; providing severability; providing an effective date.

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

Section 1. Section 394.913, Florida Statutes, is amended to read:

394.913 Notice to state attorney and multidisciplinary team of release of sexually violent predator; establishing multidisciplinary teams; information to be provided to multidisciplinary teams; requirement for recommendation and victim impact statement.—

(1) The agency with jurisdiction over a person who has been convicted of a sexually violent offense shall give written notice to the multidisciplinary team, and shall provide a copy of the notice to the state attorney of the circuit in which ~~where~~ that person was last convicted of a sexually violent offense. If the person has never been convicted of a sexually violent offense in this state but has been convicted of a sexually violent offense in another state or in federal court, the agency with jurisdiction shall give written notice to the multidisciplinary team and a copy to the state attorney of the circuit in which ~~where~~ the person was last convicted of any offense in this state. If the person is being confined in this

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state pursuant to interstate compact and has a prior or current conviction for a sexually violent offense, the agency with jurisdiction shall give written notice to the multidisciplinary team and shall provide a copy to the state attorney of the circuit in which ~~where~~ the person plans to reside upon release or, if no residence in this state is planned, the state attorney in the circuit in which ~~where~~ the facility from which the person to be released is located. Except as provided in s. 394.9135, the written notice shall ~~must~~ be given:

(a) At least 545 days before ~~prior to~~ the anticipated release from total confinement of a person serving a sentence in the custody of the Department of Corrections, except that in the case of a person ~~persons~~ who is ~~are~~ totally confined for a period of less than 545 days, written notice must be given as soon as practicable;

(b) As soon as practicable after receipt into custody of a person who is sentenced to confinement in a local detention facility;

(c) ~~(b)~~ At least 180 days before ~~prior to~~ the anticipated release from residential commitment of a person committed to the custody of the Department of Juvenile Justice, except that in the case of a person ~~persons~~ who is ~~are~~ committed to a low or moderate risk facility, written notice must be given as soon as practicable; or

(d) ~~(c)~~ At least 180 days before ~~prior to~~ the anticipated hearing regarding possible release of a person committed to the custody of the department who has been found not guilty by reason of insanity or mental incapacity of a sexually violent offense.

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(2) The agency having jurisdiction shall provide the multidisciplinary team with the following information:

(a) The person's name; identifying characteristics; anticipated future residence; the type of supervision the person will receive in the community, if any; and the person's offense history;

(b) The person's criminal history, including police reports, victim statements, presentence investigation reports, postsentence investigation reports, if available, and any other documents containing facts of the person's criminal incidents or indicating whether the criminal incidents included sexual acts or were sexually motivated;

(c) Mental health, mental status, and medical records, including all clinical records and notes concerning the person;

(d) Documentation of institutional adjustment and any treatment received and, in the case of an adjudicated delinquent committed to the Department of Juvenile Justice, copies of the most recent performance plan and performance summary; and

(e) If the person was returned to custody after a period of supervision, documentation of adjustment during supervision and any treatment received.

(3) (a) The secretary or his or her designee shall establish a multidisciplinary team or teams.

(b) Each team shall include, but ~~need not be~~ limited to, two licensed psychiatrists or psychologists or one licensed psychiatrist and one licensed psychologist as primary members. The team shall include as advisory members an assistant state attorney with at least 5 years' experience prosecuting sexual offenses; a certified law enforcement officer with at least 10

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years' experience investigating sexual offenses; and a victim advocate who has a master's or doctoral degree in social work, psychology, sociology, or a related field and at least 5 years' experience representing victims of sexual violence. The multidisciplinary team shall assess and evaluate each person referred to the team. The assessment and evaluation ~~must~~ shall include a review of the person's institutional history and treatment record, if any, the person's criminal background, and any other factor that is relevant to the determination of whether ~~the such~~ person is a sexually violent predator.

(c) Before recommending that a person meets the definition of a sexually violent predator, the person must be offered a personal interview. If the person agrees to participate in a personal interview, at least one member of the team who is a licensed psychiatrist or psychologist must conduct a personal interview of the person. If the person refuses to fully participate in a personal interview, the multidisciplinary team may proceed with its recommendation without ~~the a personal~~ interview of the person.

(d) The Attorney General's Office shall serve as legal counsel to the multidisciplinary team.

(e) 1. Within 180 days after receiving notice, the primary members shall prepare ~~there shall be~~ a written assessment as to whether the person meets the definition of a sexually violent predator and make a written recommendation, which shall be provided by the department to the state attorney. The written recommendation ~~shall be provided by the Department of Children and Family Services~~ and shall include the written report of the primary members of the multidisciplinary team, as well as a

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175 victim impact statement prepared by the victim's advocate.

176 2. Notwithstanding subparagraph 1., in the case of a person
177 for whom the written assessment and recommendation has not been
178 completed at least 365 days before his or her release from total
179 confinement, the department shall prioritize the assessment of
180 that person based upon the person's release date.

181 (4) The multidisciplinary team shall give equal
182 consideration in the evaluation and assessment of an offender
183 whose sexually violent offense was an attempt, criminal
184 solicitation, or conspiracy, in violation of s. 777.04, to
185 commit a sexually violent offense enumerated in s. 394.912(9) as
186 it does in the evaluation and assessment of an offender who
187 completed such an enumerated sexually violent offense. A rule or
188 policy may not be established which reduces the level of
189 consideration because the sexually violent offense was an
190 attempt, criminal solicitation, or conspiracy.

191 (5) The victim advocate on the multidisciplinary team may
192 veto the decision of the team if the team determines that the
193 person does not meet the definition of a sexually violent
194 predator. In such cases, the department shall provide the
195 recommendation of the multidisciplinary team and the
196 determination of the victim advocate to the state attorney.

197 ~~(6)(4) The provisions of~~ This section ~~is~~ are not
198 jurisdictional, and failure to comply with ~~it~~ them in no way
199 prevents the state attorney from proceeding against a person
200 otherwise subject to ~~the provisions of~~ this part.

201 Section 2. Section 394.9135, Florida Statutes, is amended
202 to read:

203 394.9135 Immediate releases from total confinement;

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204 transfer of person to department; time limitations on
205 assessment, notification, and filing petition to hold in
206 custody; filing petition after release; order into custody of
207 department after release.-

208 (1) (a) If the anticipated release from total confinement of
209 a person who has been convicted of a sexually violent offense
210 becomes immediate for any reason, the agency with jurisdiction
211 shall upon immediate release from total confinement transfer
212 that person to the custody of the department ~~of Children and~~
213 ~~Family Services~~ to be held in an appropriate secure facility.

214 (b) If a person who committed a sexually violent offense
215 and who is serving an incarcerative sentence under the custody
216 of the Department of Corrections or the Department of Juvenile
217 Justice is released from a local detention facility, the state
218 attorney, as designated in s. 394.913, may file a petition with
219 the circuit court within 120 hours after the person's release
220 alleging that:

221 1. Section 394.913 or this section requires that the person
222 be referred for consideration for civil commitment before
223 release and the person was not referred because of mistake,
224 oversight, or intentional act; or

225 2. The person was referred for commitment consideration
226 and, through mistake, oversight, or intentional act, was
227 released rather than transferred to the custody of the
228 Department of Children and Families as required by this part.

230 If the judge determines that there is probable cause to believe
231 the person was released in contravention of s. 394.913 or this
232 section, the judge shall order the person to be taken into

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233 custody and delivered to an appropriate secure facility
 234 designated by the Department of Children and Families.

235 (2) Within 72 hours after transfer pursuant to paragraph
 236 (1) (a) or receipt into the department's custody pursuant to
 237 paragraph (1) (b), the multidisciplinary team shall assess
 238 whether the person meets the definition of a sexually violent
 239 predator as defined in s. 394.912. If the multidisciplinary team
 240 determines that the person does not meet the definition of a
 241 sexually violent predator, that person shall be immediately
 242 released. If the multidisciplinary team determines that the
 243 person meets the definition of a sexually violent predator, the
 244 team shall provide the state attorney, as designated by s.
 245 394.913, with its written assessment and recommendation within
 246 the 72-hour period or, if the 72-hour period ends after 5 p.m.
 247 on a working day or on a weekend or holiday, within the next
 248 working day thereafter.

249 (3) Within 48 hours after receipt of the written assessment
 250 and recommendation from the multidisciplinary team, the state
 251 attorney, as designated in s. 394.913, may file a petition with
 252 the circuit court alleging that the person is a sexually violent
 253 predator and stating facts sufficient to support the such
 254 allegation. If a petition is not filed within 48 hours after
 255 receipt of the written assessment and recommendation by the
 256 state attorney, the person shall be immediately released, except
 257 that, if the 48-hour period ends after 5 p.m. on a working day
 258 or on a weekend or holiday, the petition may be filed on the
 259 next working day without resulting in the person's release. If a
 260 petition is filed pursuant to this section and the judge
 261 determines that there is probable cause to believe that the

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262 person is a sexually violent predator, the judge shall order
 263 that the person be maintained in custody and held in an
 264 appropriate secure facility for further proceedings in
 265 accordance with this part.

266 (4) ~~The provisions of~~ This section ~~is~~ are not
 267 jurisdictional, and failure to comply with the time limitations,
 268 which results in the release of a person who has been convicted
 269 of a sexually violent offense, ~~is~~ not dispositive of the case
 270 and does not prevent the state attorney from proceeding against
 271 a person otherwise subject to ~~the provisions of~~ this part.

272 Section 3. Section 394.926, Florida Statutes, is amended to
 273 read:

274 394.926 Notice to victims of release of persons committed
 275 as sexually violent predators or in custody for commitment
 276 proceedings; notice to Department of Corrections and Parole
 277 Commission; notice to sheriff.-

278 (1) As soon as is practicable, the department shall give
 279 written notice of the release of a person who is committed as a
 280 sexually violent predator, or who is in the department's custody
 281 based upon a court finding of probable cause to believe that the
 282 person is a sexually violent predator, to any victim of the
 283 committed person who is alive and whose address is known to the
 284 department or, if the victim is deceased, to the victim's
 285 family, if the family's address is known to the department.
 286 Failure to notify is not a reason for postponement of release.
 287 This section does not create a cause of action against the state
 288 or an employee of the state acting within the scope of the
 289 employee's employment as a result of the failure to notify
 290 pursuant to this part.

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(2) The department shall immediately give written notice to the Department of Corrections' Office of Community Corrections of the release of a person who is committed as If a sexually violent predator, or who is in the department's custody based upon a court finding of probable cause to believe that the person is a sexually violent predator, who has an active or pending term of probation, community control, parole, conditional release, or other court-ordered or postprison release supervision is released from custody, the department must immediately notify the Department of Corrections' Office of Community Corrections in Tallahassee. The Parole Commission must also be immediately notified of the release any releases of any such a sexually violent predator who has an active or pending term of parole, conditional release, or other postprison release supervision that is administered by the Parole Commission.

(3) The department shall give written notice of the release of a person who is committed as a sexually violent predator, or who is in the department's custody based upon a court finding of probable cause to believe that the person is a sexually violent predator, to the sheriff of the county in which the person intends to reside or, if unknown, the sheriff of the county in which the person was last convicted.

Section 4. Section 394.931, Florida Statutes, is amended to read:

394.931 Quarterly and annual reports.—

(1) Beginning July 1, 1999, The Department of Corrections shall collect information and compile quarterly reports with statistics profiling inmates released the previous quarter who fit the criteria and were referred to the Department of Children

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and Families ~~Family Services~~ pursuant to this act. ~~The quarterly reports must be produced beginning October 1, 1999.~~ At a minimum, the information that must be collected and compiled for inclusion in the reports includes: whether the qualifying offense was the current offense or the prior offense; the offender's most serious sexual offense; the total number of distinct victims of the sexual offense; whether the victim was known to the offender; whether the sexual act was consensual; whether the sexual act involved multiple victims; whether direct violence was involved in the sexual offense; the age of each victim at the time of the offense; the age of the offender at the time of the first sexual offense; whether a weapon was used; length of time since the most recent sexual offense; and the total number of prior and current sexual offense ~~sexual offense~~ convictions. In addition, the department ~~of Children and Family Services~~ shall implement a long-term study to determine the overall efficacy of ~~the provisions of~~ this part.

(2) (a) Beginning July 1, 2014, the Department of Corrections shall collect information necessary to produce an annual report to the Legislature documenting recidivism rates for offenders referred to and released from the civil confinement facility. The Department of Children and Families shall provide the necessary offender information to the Department of Corrections to facilitate the recidivism report.

(b) The first report shall be submitted to the Legislature by July 1, 2015, and annually thereafter. At a minimum, the report must:

1. Separately report recidivism rates for persons released from detention and for persons released from commitment;

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349 2. Define recidivism as return to prison or community
 350 supervision for a new sexual offense; and
 351 3. Include an analysis of technical violations.
 352 Section 5. Subsections (1) and (11) of section 394.912,
 353 Florida Statutes, are amended to read:
 354 394.912 Definitions.—As used in this part, the term:
 355 (1) "Agency with jurisdiction" means:
 356 (a) The agency that releases, upon lawful order or
 357 authority, a person who is serving a sentence in the custody of
 358 the Department of Corrections, a person who was adjudicated
 359 delinquent and is committed to the custody of the Department of
 360 Juvenile Justice, or a person who was involuntarily committed to
 361 the custody of the Department of Children and Families ~~Family~~
 362 ~~Services~~ upon an adjudication of not guilty by reason of
 363 insanity.
 364 (b) The agency that releases, upon lawful order or
 365 authority, a person who is serving a sentence in the custody of
 366 a local detention facility for any offense other than a
 367 violation of s. 316.193 or s. 832.05 and who is:
 368 1. Designated as a sexual predator pursuant to s. 775.21 or
 369 a sexual offender pursuant to s. 943.0435 as the result of being
 370 convicted of a sexually violent offense; or
 371 2. A person for whom the state attorney has provided the
 372 agency with written notification that the person has been
 373 convicted of committing a sexually violent offense;
 374 unless the person is to be transferred or returned to total
 375 confinement in the custody of the Department of Corrections, the
 376 Department of Juvenile Justice, or the Department of Children
 377

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

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378 and Families.
 379 (c) The agency that releases, upon lawful order or
 380 authority, a person who is serving a sentence in the custody of
 381 a local detention facility and for whom the state attorney has
 382 provided the agency with written notification that, in the
 383 opinion of the state attorney, the offense for which the person
 384 is in custody was a sexually motivated offense.
 385 (11) "Total confinement" means that the person is currently
 386 being held in any physically secure facility being operated or
 387 contractually operated for the Department of Corrections, the
 388 Department of Juvenile Justice, or the Department of Children
 389 and Families or in a local detention facility ~~Family Services~~. A
 390 person is ~~shall also be~~ deemed to be in total confinement and
 391 subject to for applicability of provisions under this part if:
 392 (a) The person is serving an incarcerative sentence under
 393 the custody of the Department of Corrections or the Department
 394 of Juvenile Justice and is being held in any other secure
 395 facility for any reason; or
 396 (b) A court or the agency with jurisdiction determines that
 397 the person who is being held should have been lawfully released
 398 at an earlier date and that the provisions of this part would
 399 have been applicable to the person on the date that he or she
 400 should have been lawfully released.
 401 Section 6. If any provision of this act or its application
 402 to any person or circumstance is held invalid, the invalidity
 403 does not affect other provisions or applications of this act
 404 which can be given effect without the invalid provision or
 405 application, and to this end the provisions of this act are
 406 severable.

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407

Section 7. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic SVP Package

Bill Number SB 522
(if applicable)

Name Diana Thompson

Amendment Barcode
(if applicable)

Job Title Program Coordinator

Address 1195 Orchard Oriole Pl.
Street

Phone 904-214-5430

Middleburg, FL 32068
City State Zip

E-mail dianathompson@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Monique Burr Foundation for Children, Inc & Soner Thompson Foundation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/14

Meeting Date

Topic Civil Commitment

Bill Number SB522
(if applicable)

Name Ron Book

Amendment Barcode _____
(if applicable)

Job Title _____

Address 104 W. Jefferson

Phone 850-224-3427

TLH 32301
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Lauren's Kids

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

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 Appropriations

BILL: CS/SB 524

INTRODUCER: Appropriations Committee and Senators Sobel and Detert

SUBJECT: Sexually Violent Predators

DATE: February 24, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	Favorable
2.	Brown, C.	Cibula	JU	Favorable
3.	Brown, A.	Kynoch	AP	Fav/CS

I. Summary:

CS/SB 524 creates the “Protecting Our Children from Sexual Predators Act.” The primary purpose of the bill is to facilitate the accurate assessment of sex offenders for civil commitment as sexually violent predators.

The bill amends various provisions governing the sexually violent predator program to strengthen the ability of multidisciplinary teams to identify sexually violent predators. The bill requires the Department of Children and Families (DCF) to train team members, provide feedback to team members, and create a process for measuring the performance of team members.

Currently the DCF may contract with independent contractors to serve as members of a multidisciplinary team. The bill limits such contracts to one-year terms, subject to renewal. Because the DCF will annually evaluate the contractors based on performance, the department will be able to more quickly replace contractors who are poorly performing.

The bill may lower the threshold for recommendations to a state attorney that a person be civilly committed as a sexually violent predator. Under the bill, an offender will be recommended for civil commitment if at least two multidisciplinary team members determine that the offender is, by definition, a sexually violent predator. Current law is silent on the number of members required to designate a sex offender as a sexually violent predator.

The Florida Department of Law Enforcement maintains a web site and toll-free telephone number to provide information to the public of sex offenders and sexually violent predators. The bill requires public and private colleges and universities to inform students and employees about the web site and the toll-free number.

The bill has an indeterminate fiscal impact.

II. Present Situation:

Trends in Sex Offenses, Prison Sentences, and Recidivism

Although the prevalence of sexual violence in Florida as measured by new prison admissions has decreased in the last decade, recent trends show an increase. Researchers attribute the largest increase in prison admissions for sex crimes to one offense—traveling to meet a minor met on the Internet for the purpose of sex. The steep rise for this particular crime (14 convictions in Fiscal Year 2010-2011 to 154 convictions in Fiscal Year 2012-2013) represented a 1,100 percent increase which may be due, in part, to additional sting operations conducted by law enforcement officials.

Sex offenses account for fewer than six percent of annual prison admissions. Lewd and lascivious battery with a victim between 12 and 15 years of age¹ and sexual battery by an adult with a victim under 12 years of age represent the two most common sex crimes resulting in incarceration.²

Criminal penalties for sex acts with children range widely from a capital felony with a mandatory term of life for sexual battery with a victim under 12 years of age³ to a third degree felony punishable up to five years in prison for lewd or lascivious molestation of a victim 12 to 15 years of age and the offender is less than 18 years of age.⁴

The average prison sentence of 12.7 years for sex offenders is longer than in the past. The Department of Corrections (DOC) indicates that the three-year recidivism rate for sex offenders is 34 percent. The new offense, however, might not be an additional sex crime.

Factors Relating to Prosecution, Conviction, and Sentencing of Sex Offenses

In a 2006 report by the Legislature's Office of Economic and Demographic Research (EDR), the EDR noted:

- Sex offenses share some characteristics with other serious offenses such as murder and robbery. Facing potentially lengthy prison terms, defendants tend to fight charges with all resources available. Trial rates are highest for these three offenses.
- Sex offenses are also different from other offenses. The type of sanction and the length of sentence is often mitigated. A high percentage of cases involved dismissal of some counts.
- Eighty-five percent of victims of a sex crime know the offender.
- Victims of sexual offenses, at an average age of 13.4 years old, tend to be much younger than victims of other crimes. Eighty-three percent of victims are 15 years old or younger. Successful prosecution usually requires the victim to testify in court. Because many victims are children, and many know the offender, victim's families often consider the trauma of revisiting the crimes in a public forum too difficult. Many children do not possess the

¹ Section 800.04(4)(a), F.S.

² Section 800.04(5)(b), F.S.

³ Section 794.011(2)(a), F.S.

⁴ Section 800.04(5)(d), F.S.

intellectual and emotional skills necessary for adversarial confrontation with the defense. Faced with these challenges, the prosecution often determines that the best outcome can be achieved by a plea bargain including a reduced charge or lesser sentence. Although mitigation may result in a reduced sanction, a conviction may require the offender to register as a sex offender.⁵

Sexual Predator/Offender Registration

Florida's registry laws subject sexual predators and offenders to registration and notification requirements. All qualifying sexual predators or offenders are listed on a public registry web site maintained by the Florida Department of Law Enforcement (FDLE).⁶ The web site can also provide the public with email notifications when an offender moves nearby.

The sexual predator designation in Florida is reserved for relatively few sex offenders. As of September 11, 2013, a total of 43,640 persons located in Florida were required to register as a sexual predator or sexual offender. Of that number, courts designated 21 percent as sexual predators.

Designation of a Sexual Predator or Sexual Offender

A person is designated a sexual predator by a court if the person:

- Has been convicted of a current qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;
- Has been convicted of a current qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Is subject to civil commitment.⁷

A person is designated as a sexual offender by the FDLE if the person:

- Has been convicted of a qualifying sex offense and released on or after October 1, 1997 (the date the modern registry became effective) from the sanction imposed for that offense;
- Is a Florida resident and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the victim was 14 years of age or older.⁸

⁵ Office of Economic and Demographic Research, *Factors Relating to the Sentencing of Sex Offenders*, p. 1-2 (March 1, 2006) (on file with the Senate Committee on Judiciary).

⁶ The web site is located online at: <http://offender.fdle.state.fl.us/offender/homepage.do>

⁷ Section 775.21(4), F.S.

⁸ Section 943.0435(1), F.S.

Registration Obligations of Sexual Predators/offenders

- Registrants must report to their local sheriff's office and provide a photograph, personal identifying information, driver's license/state ID number, social security number, residence address (including transient addresses), employer information, email addresses, instant message names, and crime information.⁹
- Sexual predators and some sexual offenders must report to the local sheriff's office quarterly; other sexual offenders report bi-annually.¹⁰
- Sexual predators and offenders must update their driver's license or identification card within 48 hours after any change of residence or name change.¹¹
- Generally, sexual predators and offenders are subject to lifetime registration. Some sexual offenders may petition for removal of registration requirements if they have been released from the latest sanction for at least 25 years, remain arrest-free, and do not have an adult conviction for a disqualifying offense. Persons convicted of a qualifying sex offense as a young adult may also petition for removal of registration requirements.¹²
- Sexual predators are prohibited from working or volunteering at any place where children regularly congregate.¹³

Sex Offenders under Community Supervision

A court may place a convicted felon on community supervision, either immediately upon sentencing or after serving a sentence. Convicted felons on community supervision report to and are monitored by the DOC's probation officers. Data on sex offenders released from prison to community supervision include the following:

- In Fiscal Year 2012-2013, 66.1 percent of sex offenders released from prison began supervision upon release.
- As of July 31, 2013, 5.3 percent of the total population on community supervision were required to register as sexual offenders. Of offenders on community supervision for a sexual offense, the DOC tracked 34.5 percent by electronic monitoring.
- Supervised offenders must comply with statutory terms and conditions as well as special terms and conditions imposed by the sentencing court or by the Parole Commission.
- Offenders on community supervision for a sex offense are more likely to have supervision revoked for a technical violation than other offenders on supervision. For Fiscal Year 2011-2012 the DOC revoked supervision of 427 sex offenders for misconduct. A technical violation was the basis of 74 percent of revocations. Supervision was revoked for 26 percent of the offenders due to a new crime. In contrast, the DOC revoked supervision of 34,095 felons for misconduct during the same time period, with 39 percent revoked for a technical violation and 61 percent revoked for a new crime.
- Offenders on community supervision for certain sex offenses committed against a child have conditions restricting them from living near schools or working or volunteering in places

⁹ Sections 775.21(6) and 943.0435(2), F.S.

¹⁰ Sections 775.21(8)(a) and 943.0435(14)(a), F.S.

¹¹ Sections 775.21(6)(g)1. and 943.0435(4)(a), F.S.

¹² Sections 775.21(6)(l) and 943.0435(11), F.S.

¹³ Section 775.21(3)(b)5., F.S.

where children regularly congregate or having unsupervised contact with a minor. Residency and employment restrictions apply to certain offenders after completion of sentence and community supervision. Local ordinances may impose additional residence restrictions, including wider exclusion zones.

- In recent years, mandatory conditions of supervision for sex offenders were expanded to prohibit certain activities such as distributing candy at Halloween and visiting schools without prior approval of the probation officer.

Legal Basis for Civil Commitment of Sexually Violent Predators

Florida enacted the Sexually Violent Predator Program (SVPP) in 1998 and modeled it after the Kansas Sexually Violent Predator Act, which provided for involuntary civil commitment of sexually violent predators. Challenged on due process, double jeopardy, and ex post facto grounds, in *Kansas v. Hendricks*, the U.S. Supreme Court upheld the Kansas' civil commitment program.¹⁴ The Court based its ruling on the following:

- The Act requires a finding of dangerousness to self or others, through evidence of an inability to control behavior and a finding that the person suffers from a mental abnormality or personality disorder.¹⁵
- The Act is non-punitive in nature, requires treatment during commitment, and bases commitment on mental deficiency rather than criminal intent.¹⁶
- A court must review commitment annually and determine whether a detainee continues to be mentally infirm.¹⁷
- The Act provides due process based on numerous procedural and evidentiary protections.¹⁸
- Because the commitment is civil in nature, not criminal, the Act does not violate constitutional protections against double jeopardy.¹⁹
- Because the Act is not a criminal law, the Act does not violate the ex post facto clause of the U.S. Constitution.²⁰

In *Kansas v. Crane*, the U.S. Supreme Court refined the *Hendricks* requirement that the offender possess a lack of behavioral control.²¹ *Crane* requires a stronger showing of a lack of control, namely, that the offender's inability to control behavior constitutes a serious public danger.²²

The Florida Supreme Court upheld Florida's civil commitment program in 2002.²³ As Florida's law is heavily based on the Kansas program, the Court cited *Kansas v. Hendricks* in support:

¹⁴ *Kansas v. Hendricks*, 521 U.S. 346 (1997).

¹⁵ *Id.* at 357-358.

¹⁶ *Id.* at 363 and 367.

¹⁷ *Id.* at 364.

¹⁸ *Id.*

¹⁹ *Id.* at 369.

²⁰ *Id.* at 371.

²¹ 534 U.S. 407 (2002).

²² *Id.* at 413.

²³ *Westerheide v. State*, 831 So. 2d 93 (Fla. 2002).

Florida's Ryce Act shares many of the hallmarks of the Kansas statute which the Supreme Court found significant in *Hendricks* While only individuals convicted of a sexually violent offense are *eligible* for commitment under the Ryce Act, the previous conviction must be coupled with a current "mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined in a secure facility for long-term control, care, and treatment"²⁴

History of the Sexually Violent Predator Program and the Civil Confinement of Predators

The 1998 Florida Legislature established the Sexually Violent Predator Program (SVPP).²⁵ The Martin Treatment Center, operated by Liberty Behavioral Health Care, originally housed the majority of sexually violent predators. Some detainees awaiting commitment proceedings were housed at the South Bay Sexually Violent Predator Detainee Unit, a unit of the South Bay Correctional Facility. In late 2000, the program moved to the Florida Civil Commitment Center (FCCC) in Arcadia, Florida, a larger facility which housed both detainees and committed Sexually Violent Predators (SVPs).

Initially, the number of detainees significantly outnumbered the number of committed sexually violent predators. Reports of lax security resulted in violence, introduction of contraband, and general disorder within the facility. The Department of Children and Families (DCF) terminated its contract with Liberty Healthcare Group in 2006 and contracted with Geo Group, Inc. as the new provider. In addition to operating the program, Geo Group was awarded a design-and-build contract to construct a new facility. The new FCCC, having a population capacity of 720, opened in April 2009 and is a modern facility built specifically for the SVPP.²⁶

The FCCC currently houses 647 persons—567 sexually violent predators and 80 persons awaiting a commitment trial. The program provides four progressive stages of treatment. Completion of the entire program takes at least six years. From 2004 to 2009, the DCF was a defendant in a federal class action lawsuit alleging unconstitutional conditions of confinement, ADA violations, and a lack of access to treatment. Parties to the lawsuit agreed to settle and the plaintiffs voluntarily dismissed the lawsuit in 2009, based on improved conditions and treatment opportunities.

Referral and Commitment Process for Sexually Violent Predators

Referral:

A referring agency gives notice to the state attorney and the multidisciplinary team (MDT) of the upcoming release of a person in confinement who has been convicted, adjudicated delinquent, or found not guilty by reason of insanity of a qualifying sexually violent offense.²⁷

²⁴ *Id.* at 100.

²⁵ Chapter 98-64, L.O.F. The 1998 Legislature created the "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act."

²⁶ Marti Harkness, Senate Appropriations Subcommittee on Criminal and Civil Justice, *Overview of Sexually Violent Predator Program*, PowerPoint Presentation (September 24, 2013) (on file with the Senate Committee on Judiciary).

²⁷ Section 394.912(9), F.S.

The timing of the notices to the MDT depends on which agency has jurisdiction over the person:

- The DOC must give notice at least 545 days before release from incarceration.
- The Department of Juvenile Justice must give notice at least 180 days before release from residential commitment.
- The DCF must give notice at least 180 days before the release hearing of a person found not guilty by reason of insanity.²⁸

Multidisciplinary Team Review (MDT):

By law, MDT members must be licensed psychologists or psychiatrists. Administrative rules further require MDT members to have at least one year of experience in the treatment or evaluation of sex offenders, have completed training in use and scoring of the risk assessment actuarial (known as the Static 99 form), and earn 24 hours of continuing education credits related to assessment or treatment of sex offenders.²⁹

- After the referring agency provides notice to the proper entities, the referring agency also provides the MDT with a packet of relevant information. At least two MDT members make a threshold assessment of whether the referred person meets statutory commitment criteria of having a mental abnormality or personality disorder that makes the person likely to engage in acts of sexual violence if not confined for treatment.³⁰
- If the MDT finds that the person meets commitment criteria, a clinical evaluation is conducted by at least one licensed psychiatrist or licensed psychologist. The evaluation must include a records review, a personal interview if the person consents, and a risk assessment.³¹
- The MDT recommends commitment to the state attorney within 180 days after referral, if a majority of the MDT, including at least one clinical evaluator, agree that the person meets commitment criteria.³²

Commitment Trial:

- The state attorney receives the MDT recommendation and decides whether to file a commitment petition in circuit court.³³
- If a petition is filed, the court determines whether there is probable cause for commitment.³⁴
- If the court finds probable cause, a commitment trial must be held within 30 days, unless the court grants a continuance of up to 120 days.³⁵
- If the court finds probable cause, the person will be transferred to DCF secure custody in detainee status if the trial is not held before the person is released from his or her current sentence or other confinement.

²⁸ Section 394.913(1), F.S.

²⁹ Rule 65E-25.002, F.A.C.

³⁰ Section 394.913(2) and (3), F.S.

³¹ Section 394.913(3)(c) and (e), F.S.

³² Section 394.913(3)(e), F.S.

³³ Sections 394.9135(3) and 394.914, F.S.

³⁴ Section 394.915, F.S.

³⁵ Section 394.916(1) and (2), F.S.

- The detainee has the right to counsel, and either party may elect trial by a six-person jury.³⁶
- A judge or jury determines whether there is clear and convincing evidence that the person meets sexually violent predator (SVP) criteria. A jury must reach a unanimous verdict to designate an offender as a sexually violent predator.³⁷

Post-commitment Trial:

- The SVP is committed to the custody of the DCF upon expiration of sentence or, if detained by DCF, moved to commitment status.³⁸
- Once in DCF custody, the SVP is transferred to the FCCC for secure custody and treatment. The SVP's status is reviewed by the court at least annually. The SVP may be discharged at any time if the court determines at a bench trial that it is safe to release him or her.³⁹

Number and Flow of SVPP Cases as of August 31, 2013⁴⁰

Since the inception of the SVPP, 47,932 cases have been screened by DCF:

- The MDT screened out 40,920 cases as not meeting commitment criteria.
- The MDT determined that 4,171 cases required a clinical evaluation.

Of the 4,171 cases referred for a clinical evaluation:

- The MDT recommended that 1,607 cases met commitment criteria.
- The MDT recommended that 2,477 cases did not meet commitment criteria.
- Eighty-seven cases are pending or were deferred or deleted.

Of the 1,607 cases for which the MDT recommended commitment, the State Attorney filed a petition in 1,509 cases:

- The State Attorney also filed petitions in six cases in which the MDT recommended that commitment criteria was not met.
- The State Attorney did not file a petition in 70 cases.
- A decision is pending in 40 cases as to whether a petition will be filed.

Of the 1,509 cases in which petitions were filed by the State Attorney, 466 cases were disposed of before the commitment trial, or are pending trial:

- 332 persons were released (no probable cause, petition dismissed, or released by court order).

³⁶ Section 394.916(3), F.S.

³⁷ Section 394.917(1), F.S.

³⁸ Section 394.917(1) and (2), F.S.

³⁹ Section 394.917(2), F.S.

⁴⁰ Department of Children and Families, *An Overview of Florida's Sexually Violent Predator Program*, Presented at Joint Workshop of the Senate Children, Families, and Elder Affairs Committee and the Judiciary Committee (September 24, 2013) (on file with the Senate Committee on Judiciary).

- 83 persons are detained in the FCCC pending trial.
- 21 petitions are otherwise pending trial.
- 30 persons are deceased or out-of-state.

Of the 1,037 cases that have been disposed of by a commitment trial:

- 575 SVPs were committed to the FCCC.
- 1 person is in the FCCC by stipulated agreement.
- 4 SVPs await the end of their prison sentence before commitment.
- 140 SVPs were committed but have been released by stipulated agreement.
- 117 persons were completely released at trial.
- 8 persons were released at trial with conditions.
- 20 persons had their commitment overturned or dismissed.
- 119 SVPs were committed but later determined to no longer meet criteria.
- 32 persons are deceased or out-of-state.
- 22 people were returned to prison for other reasons.

Of the respondents to the 1,509 petitions for civil commitment which were filed:

- 700 are in some form of secure custody in Florida.
- 741 have been released.
- 62 are deceased or out-of-state.

III. Effect of Proposed Changes:

This bill creates the “Protecting Our Children from Sexual Predators Act.” The primary purpose of the bill is to facilitate the accurate assessment of sex offenders for civil commitment as sexually violent predators.

Under the bill, members of a multidisciplinary team (MDT) who assess individuals for commitment as a sexually violent predator, must have experience in, or experience relevant to, the evaluation or treatment of persons with mental abnormalities. The Department of Children and Families (DCF) must train MDT members annually on topics that include but are not limited to research on sexual offenses and offenders, clinical evaluation methods, and the civil commitment process. Currently, DCF has no statutory requirements to train MDT members. The bill also limits contracted members of a MDT to one-year contracts, subject to renewal.

The DCF is required to annually evaluate contracted members of a MDT based upon their:

- Scope of knowledge and understanding of clinical research regarding risk factors for sexual deviance and recidivism;
- Ability to identify relevant clinical data from a review of criminal records and other data, including law enforcement recommendations and insights from victim advocates; and
- Ability to apply clinical information in a structured assessment of both static risk factors and dynamic predictors of recidivism.

The bill requires the DCF to maintain data on each case regarding the recommendations of team members, the final recommendations of the team, petitions filed by state attorneys, and the results of the petitions. The bill requires DCF to analyze these data, at least annually, to assess reliability between individual evaluator recommendations and the recommendations of the team as a whole, and to assess trends in the process. The bill requires state attorneys to provide information to the DCF as necessary to maintain the database.

The bill requires the DCF to prioritize the assessments and evaluations of persons referred to the MDT based upon each person's expected release date.

The bill provides that after all clinical evaluations have been completed, the DCF is required to provide the state attorney with a written assessment and recommendation as to whether a person meets the definition of a sexually violent predator. Current law does not specify how many MDT members must agree on an assessment that an offender is a sexually violent predator. The bill specifies that an offender will be recommended by the DCF to a state attorney for civil commitment if at least two members of a MDT find that the offender is, by definition, a sexually violent predator. To the extent that assessments are currently made through consensus, more cases may be referred to the state attorney for civil commitment proceedings under the bill.

If the state attorney questions, in writing, the determination that a person does or does not meet the definition of a sexually violent predator, the MDT must reexamine the case before a final written assessment and recommendation are provided to the state attorney.

For cases with referral dates that occur at least 90 days before the person's scheduled release date, the bill requires the MDT – after all clinical evaluations have been completed, but at least one month before the person's scheduled release date – to provide to the state attorney a written assessment and recommendation as to whether the person meets the definition of a sexually violent predator. For cases with referral dates that occur less than 90 days before the person's expiration of sentence, the MDT shall provide to the state attorney a written assessment and recommendation as soon as is practicable before the person's expiration of sentence.

The bill requires private and public colleges, universities, and schools to notify students and employees about the sexual offender and sexual predator web site and toll-free telephone number maintained by the Florida Department of Law Enforcement (FDLE). This notification shall be made both at orientation sessions and on the web sites of the colleges, universities, and schools. Students who access the FDLE web site or toll-free telephone number may be more aware of sexual offenders and predators on or near school campus.

The bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

State Government

The bill could increase the number of persons referred to the Sexually Violent Predator Program (SVPP) and the program's costs by an indeterminate amount. To the extent that only two members of the multidisciplinary team must find that a person meets the definition of a sexually violent predator, the number of cases referred to the state attorney for civil commitment proceedings could increase by an indeterminate amount.

Based on an analysis of SB 524 conducted by the state's Criminal Justice Impact Conference on January 30, 2014, the bill is expected to have no impact on the prison bed population.⁴¹

The Board of Governors of the State University System of Florida (BOG) anticipates potentially meeting the required notice by referencing the FDLE web site and toll-free number in the orientation material and handbooks provided to new students and employees.⁴² The cost of placing this information on college and university web sites should also be absorbed within existing resources. Therefore, the BOG does not expect a fiscal impact.

VI. Technical Deficiencies:

None.

⁴¹ See < <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/> > (last visited February 12, 2014)

⁴² Board of Governors, State University System of Florida, *2014 Legislative Bill Analysis* (January 13, 2014) (on file with the Senate Committee on Judiciary).

VII. Related Issues:

Lines 125-141 of the committee substitute pertain to requirements for the MDT to provide written assessments and recommendations to state attorneys based on the timing of expected dates of release of persons being assessed by the MDT. For a person expected to be released at least 90 days after the date of referral, the bill references the person's "scheduled release date." For a person expected to be released less than 90 days from the date of referral, the bill references the person's "expiration of sentence." These two terms differ in their applicability, and the Legislature may wish to consider consistency with this terminology.

VIII. Statutes Affected:

This bill substantially amends section 394.913 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 1005.10 and 1006.695.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

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

CS by Appropriations on February 20, 2014:

The CS provides that:

- Members of the multidisciplinary team (MDT) must have experience in the evaluation or treatment of persons with mental abnormalities.
- The Department of Children and Families (DCF) must provide training to MDT members annually on specified topics.
- The requirement that the DCF would annually conduct a comparative analysis of each member's recommendations versus each offender's subsequent criminal history, is removed from the bill. Instead, the CS requires the DCF to maintain data on each case, the recommendations of the MDT, and petitions filed by state attorneys. The DCF must analyze these data at least annually for reliability between the recommendations of individual MDT members and the team as a whole and must also assess trends in the data.
- The DCF must prioritize the MDT assessments of individuals based upon each person's scheduled release date, for all cases.
- The bill's provision that a person is deemed to meet the definition of a sexually violent predator if two or more members of the MDT find that the person is a sexually violent predator, is removed from the CS.
- The DCF is required to provide state attorneys with written assessments and recommendations as to whether a person is a sexually violent predator, after all clinical evaluations of the person are completed. The DCF must recommend that the state attorney file for civil commitment if at least two members of the MDT find that the person is a sexually violent predator.
- If a state attorney questions the DCF's findings in writing, the MDT must reexamine the case before a final written assessment and recommendation are provided to the state attorney.

- If the referral date is at least 90 days before the person's scheduled release, the MDT must provide to the state attorney a written assessment and recommendation as to whether the person is a sexually violent predator, at least one month before the person's scheduled release date. If the referral date is less than 90 days before the person's scheduled release, the MDT must provide the written assessment and recommendation as soon as is practicable.
- Each university, college, and school is required to provide information on its web site about the FDLE's sexual offender and predator registry web site and toll-free telephone number; SB 524, as filed, required that information be provided at orientation sessions.

B. Amendments:

None.



115236

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2014	.	
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The Committee on Appropriations (Sobel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as the "Protecting Our
Children and Adults from Sexual Predators Act."

Section 2. Subsection (3) of section 394.913, Florida
Statutes, is amended to read:

394.913 Notice to state attorney and multidisciplinary team
of release of sexually violent predator; establishing



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11 multidisciplinary teams; information to be provided to
12 multidisciplinary teams.—

13 (3)(a) The secretary or his or her designee shall establish
14 a multidisciplinary team or teams.

15 (b) Each team shall include, but need is not be limited to,
16 two licensed psychiatrists or psychologists or one licensed
17 psychiatrist and one licensed psychologist who shall each have
18 experience in or relevant to the evaluation or treatment of
19 persons with mental abnormalities. The department shall provide
20 annual training to the members of the multidisciplinary team on
21 topics, including, but not limited to, research on sexual
22 offenses or offenders, clinical evaluation methods, and the
23 civil commitment process. Members of the team who are hired on
24 contract are limited to 1-year contracts. Such contracts may be
25 renewed. The department shall regularly provide feedback to each
26 multidisciplinary team member and formally evaluate annually the
27 performance of each member of the multidisciplinary team. Such
28 evaluations must include, but need not be limited to, the
29 member's:

30 1. Scope of knowledge and understanding of clinical
31 research regarding risk factors for sexual deviance and
32 recidivism;

33 2. Ability to identify relevant clinical data from review
34 of criminal records and other information, including
35 recommendations of law enforcement and insights from victim
36 advocates; and

37 3. Ability to apply clinical information in a structured
38 assessment of both static risk factors and dynamic predictors of
39 recidivism.



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(c) The department shall maintain data on each case on the recommendations of the clinical evaluators in their clinical evaluations, the final recommendations of the multidisciplinary team, the petitions filed by state attorneys, and the results of those petitions. The department shall analyze, at least annually, this data to assess inter-rater reliability between clinical evaluators and the level of agreement between an individual evaluator's recommendation and the multidisciplinary team's recommendation for the same individual. The department shall also assess trends in multidisciplinary team recommendations, state attorneys filings, and the results of such filings. The state attorneys shall provide information to the department regarding filings and their results as necessary to maintain this data.

(d) The multidisciplinary team shall assess and evaluate each person referred to the team. The department shall prioritize the assessment and evaluation of persons referred under subsection (1) based upon the person's release date. The assessment and evaluation must ~~shall~~ include a review of the person's institutional history and treatment record, if any, the person's criminal background, and any other factor that is relevant to the determination of whether the ~~such~~ person is a sexually violent predator.

(e) ~~(e)~~ Before recommending that a person meets the definition of a sexually violent predator, the person must be offered a personal interview. If the person agrees to participate in a personal interview, at least one member of the team who is a licensed psychiatrist or psychologist must conduct a personal interview of the person. If the person refuses to



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69 fully participate in a personal interview, the multidisciplinary
70 team shall ~~may~~ proceed with its recommendation without the a
71 ~~personal~~ interview ~~of the person~~.

72 (f) After all clinical evaluations have been completed, the
73 department shall provide to the state attorney a written
74 assessment and recommendation as to whether the person meets the
75 definition of a sexually violent predator.

76 1. The department must recommend that the state attorney
77 file a petition for civil commitment if at least two members of
78 the multidisciplinary team determine that the person meets the
79 definition of a sexually violent predator.

80 2. When the department determines that a person who has
81 received a clinical evaluation does or does not meet the
82 definition of a sexually violent predator, the written
83 assessment and recommendation shall be sent to the state
84 attorney. If the state attorney questions, in writing, the
85 determination that the person does or does not meet the
86 definition of a sexually violent predator, the multidisciplinary
87 team must reexamine the case before a final written assessment
88 and recommendation is provided to the state attorney.

89 (g) ~~(d)~~ The Attorney General's Office shall serve as legal
90 counsel to the multidisciplinary team.

91 (h) ~~(e)~~ 1. After all clinical evaluations have been
92 completed, but at least 1 month before the person's scheduled
93 release date, if the referral date is at least 90 days before
94 the person's expiration of sentence, the multidisciplinary team
95 shall provide to the state attorney ~~Within 180 days after~~
96 ~~receiving notice, there shall be a written assessment and~~
97 recommendation as to whether the person meets the definition of



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98 a sexually violent predator ~~and a written recommendation, which~~
99 ~~shall be provided to the state attorney.~~ If the referral date is
100 less than 90 days before the person's expiration of sentence,
101 the multidisciplinary team shall provide to the state attorney a
102 written assessment and recommendation as to whether the person
103 meets the definition of a sexually violent predator as soon as
104 is practicable before the person's expiration of sentence. The
105 written recommendation shall be provided by the Department of
106 Children and Families ~~Family Services~~ and must ~~shall~~ include the
107 written report of the multidisciplinary team.

108 ~~2. Notwithstanding subparagraph 1., in the case of a person~~
109 ~~for whom the written assessment and recommendation has not been~~
110 ~~completed at least 365 days before his or her release from total~~
111 ~~confinement, the department shall prioritize the assessment of~~
112 ~~that person based upon the person's release date.~~

113 Section 3. Section 1005.10, Florida Statutes, is created to
114 read:

115 1005.10 Sexual predator and sexual offender notification;
116 nonpublic colleges, universities, and schools.-Each nonpublic
117 college, university, and school shall inform students and
118 employees at the school's orientation session and on their
119 website of the existence of the Department of Law Enforcement
120 sexual predator and sexual offender registry website and the
121 toll-free telephone number that gives access to sexual predator
122 and sexual offender public information pursuant to s. 943.043.

123 Section 4. Section 1006.695, Florida Statutes, is created
124 to read:

125 1006.695 Sexual predator and sexual offender notification;
126 public colleges, universities, and schools.-Each public college,



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university, and school shall inform students and employees at
the school's orientation session and on their website of the
existence of the Department of Law Enforcement sexual predator
and sexual offender registry website and the toll-free telephone
number that gives access to sexual predator and sexual offender
public information pursuant to s. 943.043.

Section 5. This act shall take effect July 1, 2014.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to sexually violent predators;
providing a short title; amending s. 394.913, F.S.;
requiring the Department of Children and Families to
provide training to the members of the
multidisciplinary team; limiting the term of contract
of multidisciplinary team members who contract with
the department to 1 year; providing that such
contracts may be renewed; requiring the department to
maintain data on each case on the recommendations of
the clinical evaluators; requiring state attorneys to
provide the department with specified information;
requiring the department to prioritize assessments
based on release dates; requiring the
multidisciplinary team to proceed without a personal
interview under certain circumstances; requiring the
department to send to the state attorney a written



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assessment and determination as to whether a person meets the definition of a sexually violent predator; requiring the department to recommend that the state attorney file a civil commitment petition under certain circumstances; requiring the multidisciplinary team to reexamine the case under certain circumstances; revising timeframes for the written assessment; creating s. 1005.10, F.S.; requiring nonpublic colleges, universities, and schools to inform students and employees of the Florida Department of Law Enforcement sexual predator and sexual offender registry website and toll-free telephone number; creating s. 1006.695, F.S.; requiring public colleges, universities, and schools to inform students and employees of the Florida Department of Law Enforcement sexual predator and sexual offender registry website and toll-free telephone number; providing an effective date.



393766

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2014	.	
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The Committee on Appropriations (Sobel) recommended the following:

Senate Amendment to Amendment (115236)

Delete line 94
and insert:
the person's scheduled release date, the multidisciplinary team

By Senator Sobel

33-00697C-14

2014524__

A bill to be entitled

An act relating to sexually violent predators; providing a short title; amending s. 394.913, F.S.; requiring the Department of Children and Families to provide training to the members of the multidisciplinary team; limiting the term of contract of multidisciplinary team members who contract with the department to 1 year; providing that such contracts may be renewed; requiring the department to evaluate contracted members of the multidisciplinary team; providing requirements for such evaluations; requiring the multidisciplinary team to proceed without a personal interview under certain circumstances; providing that a person meets the definition of a sexually violent predator if a specified number of multidisciplinary team members make such a finding; creating s. 1005.10, F.S.; requiring nonpublic colleges, universities, and schools to inform students and employees of the Florida Department of Law Enforcement sexual predator and sexual offender registry website and toll-free number; creating s. 1006.695, F.S.; requiring public colleges, universities, and schools to inform students and employees of the Florida Department of Law Enforcement sexual predator and sexual offender registry website and toll-free number; providing an effective date.

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

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

33-00697C-14

2014524__

Section 1. This act may be cited as the "Protecting Our Children from Sexual Predators Act."

Section 2. Subsection (3) of section 394.913, Florida Statutes, is amended to read:

394.913 Notice to state attorney and multidisciplinary team of release of sexually violent predator; establishing multidisciplinary teams; information to be provided to multidisciplinary teams.—

(3)(a) The secretary or his or her designee shall establish a multidisciplinary team or teams.

(b) Each team shall include, but need ~~is~~ not be limited to, two licensed psychiatrists or psychologists or one licensed psychiatrist and one licensed psychologist. The department shall provide training to the members of the multidisciplinary team. Members of the team who are hired on contract are limited to 1-year contracts. Such contracts may be renewed. The department shall evaluate annually the performance of each member of the multidisciplinary team. Such evaluations must include, but need not be limited to, the member's:

1. Scope of knowledge and understanding of clinical research regarding risk factors for sexual deviance and recidivism;

2. Ability to identify relevant clinical data from review of criminal records and other information, including recommendations of law enforcement and insights from victim advocates;

3. Ability to apply clinical information in a structured assessment of both static risk factors and dynamic predictors of

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

33-00697C-14

2014524__

sexual recidivism; and

4. Recommendations compared retrospectively to the subsequent records of the offenders who were assessed.

(c) The multidisciplinary team shall assess and evaluate each person referred to the team. The assessment and evaluation ~~must shall~~ include a review of the person's institutional history and treatment record, if any, the person's criminal background, and any other factor that is relevant to the determination of whether the ~~such~~ person is a sexually violent predator.

(d) ~~(e)~~ Before recommending that a person meets the definition of a sexually violent predator, the person must be offered a personal interview. If the person agrees to participate in a personal interview, at least one member of the team who is a licensed psychiatrist or psychologist must conduct a personal interview of the person. If the person refuses to fully participate in a personal interview, the multidisciplinary team shall ~~may~~ proceed with its recommendation without the ~~a~~ ~~personal interview of the person.~~

(e) ~~(d)~~ The Attorney General's Office shall serve as legal counsel to the multidisciplinary team.

(f) ~~(e)~~ 1. Within 180 days after receiving notice, there shall be a written assessment as to whether the person meets the definition of a sexually violent predator and a written recommendation, which shall be provided to the state attorney. The person meets the definition of a sexually violent predator if two or more members of the multidisciplinary team find the person meets the definition. The written recommendation shall be provided by the Department of Children and ~~Families~~ Family

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

33-00697C-14

2014524__

~~Services~~ and shall include the written report of the multidisciplinary team.

2. Notwithstanding subparagraph 1., in the case of a person for whom the written assessment and recommendation has not been completed at least 365 days before his or her release from total confinement, the department shall prioritize the assessment of that person based upon the person's release date.

Section 3. Section 1005.10, Florida Statutes, is created to read:

1005.10 Sexual predator and sexual offender notification; nonpublic colleges, universities, and schools.—Each nonpublic college, university, and school shall inform students and employees at the school's orientation session of the existence of the Department of Law Enforcement sexual predator and sexual offender registry website and the toll-free telephone number that gives access to sexual predator and sexual offender public information pursuant to s. 943.043.

Section 4. Section 1006.695, Florida Statutes, is created to read:

1006.695 Sexual predator and sexual offender notification; public colleges, universities, and schools.—Each public college, university, and school shall inform students and employees at the school's orientation session of the existence of the Department of Law Enforcement sexual predator and sexual offender registry website and the toll-free telephone number that gives access to sexual predator and sexual offender public information pursuant to s. 943.043.

Section 5. This act shall take effect July 1, 2014.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/14

Meeting Date

Topic Sexually Violent Predators

Bill Number SB 524
(if applicable)

Name RON BOOK

Amendment Barcode _____
(if applicable)

Job Title _____

Address 104 W. Jefferson

Phone 850-224-3447

Street

City

State

Zip

TLH

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Lawrence's Kids

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

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 Appropriations

BILL: CS/CS/CS/SB 526

INTRODUCER: Appropriations Committee, Judiciary Committee, Criminal Justice Committee and Senator Bradley

SUBJECT: Sexual Offenses

DATE: February 24, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Fav/CS
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	<u>Clodfelter</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 526 significantly increases the punishment of sex offenders. Minimum sentences and maximum penalties are increased for several sexual battery and lewd offenses and incentive gain-time eligibility is eliminated. Some of the other features of the bill include: mandating community supervision of sex offenders who do not receive the maximum prison sentence; and ensuring that offenders who are in the custody of the Department of Children and Families (DCF) as part of the civil commitment process and who are subject to conditional release supervision or community supervision will serve that supervision upon release from DCF custody.

Specifically, the bill:

- Authorizes orders limiting testimony in open court and in depositions if the victim or witness is a sexual offense victim or witness;
- Authorizes the court to set other conditions appropriate to taking the testimony of a sexual offense victim or witness, including testifying with the assistance of a registered service or therapy animal;
- Prospectively eliminates time limitations to the prosecution of lewd battery and lewd molestation if the victim was younger than 16 years of age at the time the offense was committed (there is an exception if the offender was less than 18 years of age and the offender was no more than 4 years older than the victim at the time of the offense);

- Increases the felony degree for certain sex offenses involving sexual battery, lewd battery, and lewd molestation when the offenses are committed by an adult upon a minor or involve a repeat sex offense, which has the effect of creating longer sentences;
- Provides for a mandatory minimum sentence of 50 years to life for dangerous sexual felony offenders (current law: 25 years to life);
- Revises the definition of “sexual activity” for the offense of unlawful sexual activity with a 16 or 17-year old to include penetration by an object (consistent with definition of “sexual battery”);
- Provides that voyeurism includes secretly observing another person’s intimate areas in which the person has a reasonable expectation of privacy, when the person is in a public or private dwelling, structure, or conveyance, and defines “intimate area”;
- Increases the minimum sentence length of adult-on-minor sex offenders sentenced under the Criminal Punishment Code by creating a new sentence point multiplier;
- Prohibits incentive gain-time for offenders convicted of certain sexual offenses;
- Requires courts to order community supervision by means of a split sentence for certain sex offenders after their release from prison; and
- Suspends, or tolls, the post-release supervision of offenders while in DCF custody as part of the civil commitment process to ensure that the post-release supervision portion of the sentence is not eliminated;
- Prohibits offenders on community supervision who have committed any specified sex offense from viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating material, regardless of whether it is related to their deviant behavior pattern; and
- Authorizes the court to require a sex offender who is on probation or community control to undergo an evaluation by a qualified practitioner, at the sex offender’s expense, to determine whether the offender needs sexual offender treatment.

The Criminal Justice Impact Conference (CJIC) has determined that the new sentence point multiplier and the prohibition against awarding incentive gain time to certain sex offenders will result in a combined need for one additional prison bed in Fiscal Year 2014-2015, requiring \$8,949 in additional operating costs which can be absorbed within existing resources. The CJIC projects a cumulative combined need for 252 new prison beds, requiring \$5,857,655 in additional operating costs, for the five-year period from Fiscal Year 2014-2015 through Fiscal Year 2018-2019. CJIC also determined that elimination of time limitations for bringing a lewd battery or lewd molestation charge and expansion of the prohibition against offenders on community supervision viewing and possessing pornography would have an indeterminate positive impact on the need for prison beds.¹ It appears that the other provisions of the bill would have either no fiscal impact or an insignificant fiscal impact.

¹ An “indeterminate positive” finding means that it is expected that some additional prison beds would be required by the bill, but that the actual number of beds is unquantifiable.

II. Present Situation:

Orders Limiting or Setting Conditions Regarding Testimony When the Victim or Witness Is Under 16 Years of Age or Has an Intellectual Disability

Section 92.55, F.S., provides that a court may enter any order that is necessary to protect a victim or witness who is under 16 years of age, or who has an intellectual disability, from severe emotional or mental harm due to the presence of the defendant if the child or person with an intellectual disability is required to testify in open court. Such an order may be entered in any judicial proceeding or other official proceeding. The court may enter an order protecting the victim or witness upon its own motion, motion of any party, or motion of a parent, guardian, attorney, or guardian ad litem of the victim or witness. In ruling upon a motion, the court must consider:

- The age of the victim or witness, the nature of the offense or act, the relationship of the victim or witness to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the victim or witness as a consequence of the defendant's presence, and any other fact that the court deems relevant; and
- The functional capacity of the victim or witness if he or she has an intellectual disability.

The order must relate to the taking of testimony including, but not limited to:

- Interviewing or the taking of depositions as part of a civil or criminal proceeding.
- Examination and cross-examination for the purpose of qualifying as a witness or testifying in any proceeding.
- The use of testimony taken outside of the courtroom, including videotaped testimony (s. 92.53, F.S.) and testimony by closed circuit television (s. 92.54, F.S.)

Examples of the types of orders that may be entered to protect the child or person with an intellectual disability include limiting the number of interviews, prohibiting depositions, requiring submission of questions before examination, setting the place and conditions for interviews or any other proceeding, and permitting or prohibiting the attendance of any person at any proceeding. The court must also enter any order that is necessary to protect the rights of all parties, including the defendant in any criminal action.

For any proceeding that involves a sexual offense, the statute authorizes the court to set any other conditions it finds just and appropriate when taking the testimony of a child, including the use of a service or therapy animal that has been evaluated and registered according to national standards. When deciding whether to permit a child to testify with the assistance of a registered service or therapy animal, the court must consider the age of the child, the interests of the child, the rights of the parties to the litigation, and any other relevant factor that would facilitate the testimony by the child.

Statutes of Limitations in Criminal Cases

Section 775.15, F.S., sets forth time limitations for commencing criminal prosecutions, or “statutes of limitations.” For example:

- For a capital felony, a life felony, or a felony resulting in death, there is no time limitation;
- For a first degree felony, there is a four-year limitation; and
- For any other felony, there is a three-year limitation.

The general time limitations described above currently apply to the lewd and lascivious offenses in s. 800.04, F.S. However, in addition to these general time limitations, s. 775.15, F.S., establishes the following specific time limitations for violations of s. 800.04, F.S.:

- A prosecution for a lewd or lascivious offense under s. 800.04, F.S., committed between July 1, 2004 and June 30, 2006, may be commenced within 1 year after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of DNA evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused.²
- A prosecution for a lewd or lascivious offense under s. 800.04, F.S., committed on or after July 1, 2006, may be commenced at any time after the date on which the identity of the accused is established, or should have been established by the exercise of due diligence, through the analysis of DNA evidence, if a sufficient portion of the evidence collected at the time of the original investigation and tested for DNA is preserved and available for testing by the accused.³

Relevant to the bill, the only lewd offense under s. 800.04, F.S., which does not currently have a statutory time limitation for bringing a criminal prosecution is lewd molestation under s. 800.04(5)(b), F.S., which is punishable as a life felony.⁴ All the others have a three-year time limitation because they are punishable as second or third degree felonies.⁵ However, the three-year time limitation does not begin to run until the victim has reached the age of 18 or the violation is reported to a law enforcement or governmental agency, whichever occurs first.⁶

Sex Offenses

Florida law punishes sexual battery and lewd acts. The bill enhances the felony degree of a number of these sex offenses. This part of the analysis describes those sex offenses which are amended by the bill to enhance the felony degree of the offenses.

² Section 775.15(15), F.S.

³ Section 775.15(16), F.S.

⁴ Section 775.15(1), F.S.

⁵ Section 775.15(2)(b), F.S.

⁶ Section 775.15(13)(a), F.S.

It is a first degree felony⁷ ranked in Level 9 of the Criminal Punishment Code offense severity ranking chart⁸ for a person to commit sexual battery upon a person 12 years of age or older without that person's consent under any of the following circumstances:

- The victim is physically helpless to resist;
- The offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat;
- The offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future;
- The offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance that mentally or physically incapacitates the victim;
- The victim is mentally defective, and the offender has reason to believe this or has actual knowledge of this fact;
- The victim is physically incapacitated; or
- The offender is a certified law enforcement officer, correctional officer, or correctional probation officer or is an elected official exempt from such certification by virtue of s. 943.253, F.S., or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and the officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.⁹

It is a second degree felony¹⁰ ranked in Level 8¹¹ of the Criminal Punishment Code for a person to commit sexual battery upon a person 12 years of age or older without that person's consent if, in the process of committing the sexual battery, the offender does not use physical force and violence likely to cause serious personal injury.¹²

It is a first degree felony ranked in Level 9 of the Criminal Punishment Code for a person who is in a position of familial or custodial authority of a person who is 12 years of age or older, but less than 18 years of age, to engage in any act with that person that constitutes sexual battery.¹³

It is a second degree felony ranked in Level 8 of the Criminal Punishment Code for a person to commit lewd or lascivious battery by:

- Engaging in sexual activity with a person 12 years of age or older but less than 16 years of age; or

⁷ A first degree felony is generally punishable by up to 30 years in state prison. Section 775.082, F.S.

⁸ Section 921.0022(3)(i), F.S. For a detailed discussion of level rankings, see the "Present Situation" section of this analysis.

⁹ Section 794.011(4), F.S.

¹⁰ A second degree felony is punishable by up to 15 years in state prison. Section 775.082, F.S.

¹¹ Section 921.0022(3)(h), F.S.

¹² Section 794.011(5), F.S.

¹³ Section 794.011(8)(b), F.S.

- Encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity.¹⁴

A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person under 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.¹⁵

- It is a life felony ranked in Level 9¹⁶ of the Criminal Punishment Code and punishable as provided in s. 775.082(3)(a)4., F.S.¹⁷, for an offender 18 years of age or older to commit lewd or lascivious molestation against a victim less than 12 years of age.¹⁸
- It is a second degree felony ranked in Level 7¹⁹ of the Criminal Punishment Code for an offender 18 years of age or older to commit lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age.²⁰
- It is a second degree felony ranked in Level 7²¹ of the Criminal Punishment Code for an offender 18 years of age or older to commit lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age.²²
- It is a third degree felony²³ ranked in Level 6²⁴ of the Criminal Punishment Code for an offender less than 18 years of age to commit lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age.²⁵

Dangerous Sexual Felony Offenders

Section 794.0115, F.S., provides that a person is a “dangerous sexual felony offender” if he or she is convicted of a violation of ss. 787.025(2)(c);²⁶ 794.011(2), (3), (4), (5), or (8);²⁷ 800.04(4)

¹⁴ Section 800.04(4), F.S.

¹⁵ Section 800.04(5)(a), F.S.

¹⁶ Section 921.0022(3)(i), F.S.

¹⁷ Section 775.082(3)(a)4., F.S., provides that a life felony committed on or after September 1, 2005, which is a violation of s. 800.04(5)9b), F.S., is punishable by: 1) a term of imprisonment for life; or 2) a split sentence that is a term of not less than 25 years’ imprisonment, followed by probation or community control for the remainder of the person’s natural life, as provided in s. 948.012(4), F.S. However, if a person commits a life felony on or after July 1, 2008, which is a the person’s second or subsequent violation of s. 800.04(5)(b), F.S., the punishment is a term of imprisonment for life.

¹⁸ Section 800.04(5)(b), F.S.

¹⁹ Section 921.0022(3)(g), F.S.

²⁰ Section 800.04(5)(c)2., F.S.

²¹ Section 921.0022(3)(g), F.S.

²² Section 800.04(5)(c)2., F.S.

²³ A third degree felony is punishable by up to 5 years in state prison. Section 775.082, F.S.

²⁴ Section 921.0022(3)(f), F.S.

²⁵ Section 800.04(5)(d), F.S.

²⁶ This offense relates to luring or enticing a child.

²⁷ These offenses involve sexual battery.

or (5);²⁸ 825.1025(2) or (3);²⁹ 827.071(2), (3), or (4);³⁰ or 847.0145, F.S.;³¹ or of a similar offense under a former designation, if the offense was committed when the person was 18 years of age or older and the person:

- Caused serious personal injury to the victim as a result of the commission of the offense;
- Used or threatened to use a deadly weapon during the commission of the offense;
- Victimized more than one person during the course of the criminal episode applicable to the offense;
- Committed the offense while under the jurisdiction of a court for a felony offense committed in Florida or another jurisdiction, or for a non-felony offense in another jurisdiction that would have been a felony if it had been committed in Florida; or
- Has previously been convicted of any of the previously described offenses or any offense under a former statutory designation which is similar in elements to any of the previously described offenses.

Dangerous sexual felony offenders must be sentenced to a mandatory minimum term of 25 years imprisonment. They may be sentenced above that threshold up to, and including, life imprisonment.

Definition of “Sexual Activity” Relevant to Unlawful Activity with Certain Minors

Section 794.05, F.S., provides that it is a second degree felony for a person 24 years of age or older to engage in sexual activity with a person 16 or 17 years of age.³² The term “sexual activity” is defined as oral, anal, or vaginal penetration by, or union with, the sexual organ of another, and does not include an act done for a bona fide medical purpose. That definition is similar to the definition of “sexual battery” in s. 794.011(1)(h), F.S., but currently omits the “sexual battery” definition reference to anal or vaginal penetration of another by any other object.

Voyeurism

Section 810.14, F.S., provides that a person commits the offense of voyeurism when he or she, with lewd, lascivious, or indecent intent, secretly observes another person when the other person is located in a dwelling, structure, or conveyance that provides a reasonable expectation of privacy. Voyeurism is a first degree misdemeanor for the first and second violations, and a third degree felony for third or subsequent violations.

State attorneys have reported problems prosecuting persons under the voyeurism statute when the facts of the case involve voyeurism in public places. For example, in 2007, a defendant in

²⁸ These offenses involve lewd battery and lewd molestation committed upon or in the presence of persons less than 16 years of age.

²⁹ These offenses involve lewd battery and lewd molestation committed upon or in the presence of an elderly or disabled person.

³⁰ These offenses relate to sexual performance by a child.

³¹ These offenses relate to selling or buying of minors.

³² The provisions of this section do not apply to a person 16 or 17 years of age who has had the disabilities of nonage removed under ch. 743, F.S.

Escambia County successfully argued that he was not in a location that afforded a reasonable expectation of privacy when he used a mirror to look up the skirt of a patron at a bookstore.³³

Criminal Punishment Code/Sentence Point Multipliers

The Criminal Punishment Code (Code)³⁴ is Florida's framework or mechanism for determining permissible sentencing ranges for noncapital felonies. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).³⁵ Points are assigned and accrue based upon the level ranking (sentence points escalate as the level escalates) assigned to the primary offense and, if applicable, additional offenses, prior offenses, prior capital felonies, victim injury, legal status violations, community sanction violations, possession of a firearm, and prior serious felonies.³⁶

Points accrued for any of these factors are part of the subtotal sentence points. Additionally, those points may be multiplied if any of five "enhancements" apply (the primary offense must qualify for enhancement): a violation of the Law Enforcement Protection Act (LEPA); a relevant drug trafficking conviction; repeat motor vehicle theft; a criminal gang-related offense; or an offense involving domestic violence in the presence of a child. These "enhancements" are called point multipliers. With the exception of the drug trafficking multiplier, subtotal sentence points must be multiplied if a multiplier applies. For example, if points are assessed only for the primary offense and an additional offense and the primary offense is manslaughter in violation of LEPA, the applicable LEPA multiplier is 2.0. This multiplier doubles the subtotal sentence points accrued for the primary offense plus the additional offense.

Total sentence points are derived from the subtotal sentence points. If no multiplier applies, the subtotal sentence points are the total sentence points; if a multiplier applies, the total sentence points are the subtotal sentence points as multiplied by the multiplier.

If total sentence points are less than or equal to 44 points, the lowest permissible sentence is any nonstate prison sanction (e.g., probation). Generally, the sentencing range is a nonprison sanction up to the maximum penalty for the felony degree of the primary offense.³⁷ For example, the maximum penalty for a third degree felony is 5 years in state prison. With one exception, the court may sentence the offender within the range of a nonprison sanction up to 5-years imprisonment. Sentences for multiple offenses may be imposed concurrently or consecutively.

The exception is when total sentence points are 22 points or less and the primary offense is a nonforcible felony that meets criteria in s. 775.082(10), F.S. In this case, there is no sentencing

³³ Letter from Assistant State Attorney Adrienne Emerson to Representative Matt Gaetz, dated September 11, 2013 (on file with Senate Committee on Criminal Justice). See also "Bills aim to close voyeurism loophole," Pensacola News-Journal, February 26, 2009, on file with Senate Appropriations Subcommittee on Criminal and Civil Justice.

³⁴ Sections 921.002-921.0027, F.S.

³⁵ A noncapital felony is ranked in one of two ways. The felony may be assigned a ranking by its placement in a specific ranking level in the Code's offense severity ranking chart. See s. 921.0022, F.S. However, if the offense is not ranked in the chart, it is assigned a ranking based on its felony degree as provided in s. 921.0023, F.S.

³⁶ See s. 921.0024, F.S. Further discussion of Code sentencing is based on provisions of this statute, unless otherwise noted.

³⁷ The maximum penalty for the felony degree is generally prescribed in s. 775.082, F.S. An exception is when the scored lowest permissible sentence exceeds the maximum penalty prescribed in s. 775.082, F.S. In this case, the scored lowest permissible sentence for the primary offense becomes both the minimum and maximum penalty for the primary offense.

range. The court must impose a nonprison sanction unless it makes a written finding that such sentence would be a danger to the public.

If total sentence points are greater than 44 points, 28 points are subtracted from that number. This total is then multiplied by 0.75 to determine the lowest permissible sentence in prison months.³⁸ For example, if an offender's primary offense is a second degree felony and his or her total sentence points are 80 points, 28 points are subtracted from 80, which equals 52 points. The 52 points are then multiplied by 0.75, which equals 39, or 39 months in prison. In this example, absent mitigation,³⁹ the sentencing range is 39 months in state prison up to 15 years in state prison, the maximum penalty for a second degree felony.

Sentence point multipliers can enhance punishment in one of two ways. First, absent a multiplier, a defendant might not score sufficient points to score a lowest permissible sentence of imprisonment. With the multiplier, points may be sufficient to score a lowest permissible sentence of imprisonment. Second, for those offenders who do score a sentence of imprisonment as the lowest permissible sentence (even without a multiplier), the multiplication of points provides for a significantly longer minimum sentence of imprisonment than if points were not multiplied.

Incentive Gain Time

The DOC may grant incentive gain-time to certain inmates as a means of encouraging satisfactory behavior. Inmates whose offenses were committed on or after October 1, 1995, may be eligible to receive up to ten days of incentive gain-time each month. The total amount of incentive gain-time awarded to these inmates cannot result in release before serving at least 85 percent of the sentence imposed by the court.⁴⁰ Inmates with offense dates before October 1, 1995, may be eligible for higher monthly incentive gain-time awards and are not subject to the 85 percent restriction. Inmates sentenced to life imprisonment are incarcerated for the remainder of their life unless granted a pardon or clemency.⁴¹

Sexually Violent Predators

A sexually violent predator is a person who has been convicted of a sexually violent offense and who also suffers from a mental abnormality or personality disorder that makes him or her likely to engage in acts of sexual violence if not confined in a secure facility for long-term control,

³⁸ Mandatory minimum terms are an exception to general sentencing under the Code. "If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence. If the lowest permissible sentence exceeds the mandatory sentence, the requirements of the ... Code and any mandatory minimum penalties apply." Rule 3.704(26) ("The Criminal Punishment Code"), Florida Rules of Criminal Procedure.

³⁹ The Code includes a list of 'mitigating' factors. See s. 921.0026, F.S. If a mitigating factor is found by the sentencing court, the court may decrease an offender's sentence below the lowest permissible sentence (a "downward departure"). A mandatory minimum term is not subject to these mitigating factors. See *State v. Vanderhoff*, 14 So. 3d 1185 (Fla. 5th DCA 2009).

⁴⁰ Section 944.275(4)(b)3., F.S.

⁴¹ *Id.* Life imprisonment sentences are given to capital felonies which include sexual battery or attempted sexual battery when the victim is less than 12 and the offender is 18 or older (s. 794.011(2)(a), F.S.) and lewd molestation when the victim is under 12 and the offender is an adult (ss. 800.04(5)(b) and 775.082(3)(a)4.a., F.S.).

care, and treatment.⁴² The Involuntary Civil Commitment of Sexually Violent Predators Act (SVP Act) was passed in 1998 to address the treatment needs of these offenders.⁴³ The Act creates a civil commitment process for sexually violent predators that is similar to Baker Act procedures for involuntary commitment and treatment of mentally ill persons. The process is administered by the Sexually Violent Predator Program (SVPP), a unit of the Department of Children and Families (DCF).

Sexually violent predators who are committed to the state under the SVP Act are detained and receive treatment at the Florida Civil Commitment Center (FCCC) in Arcadia until the court determines that they no longer meet the criteria to be considered a sexually violent predator. As of January 27, 2014, the FCCC housed 574 civilly committed predators and 85 detainees awaiting completion of commitment procedures. In commitment proceedings since the SVPP began in 1999, the prosecution has prevailed in 52 percent of the cases; defendants prevailed in 48 percent of the cases.⁴⁴

Tolling Of Supervision While Housed at the Florida Civil Commitment Center (FCCC)

If a person who is civilly committed to the FCCC or detained there while awaiting completion of civil commitment proceedings has been sentenced to a split sentence, the community supervision portion of the split sentence begins to run when the person is released from prison and continues to run while in the FCCC. In many cases, the Department of Corrections' community supervision sentence expires before the individual is released from the FCCC.

As of January 24, 2014, 181 offenders are serving community supervision in the FCCC.⁴⁵ During the past fiscal year, six offenders had their sentences expire while in the FCCC; 20 offenders were released from the FCCC with a remaining period of community supervision.⁴⁶

Sex Offenders Under Community Supervision by the Department of Corrections

An offender may be placed on community supervision after conviction of a felony, either immediately upon sentencing or after serving a prison sentence. Supervised offenders must comply with statutory terms and conditions as well as special terms and conditions imposed by the sentencing court or, for certain types of post-release supervision, by the Parole Commission. Offenders on community supervision report to and are monitored by probation officers employed by the DOC. Of those sex offenders released from prison in Fiscal Year 2012-2013, 66.1 percent were subject to supervision upon release.

The vast majority of sex offenders (94 percent) under supervision were placed there by the judge at the original sentencing. Either the offender was sentenced directly to supervision and had no

⁴² Section 394.912, F.S.

⁴³ Sections 394.910-394.932, F.S.

⁴⁴ Telephone interview with Kristin Kanner, Director, Sexually Violent Predator Program, Florida Department of Children and Families (January 27, 2014).

⁴⁵ E-Mail from David Ensley, Bureau Chief, Bureau of Research & Data Analysis, Florida Department of Corrections (January 29, 2014) (on file with the Senate Committee on Judiciary).

⁴⁶ E-mail from Will Kendrick, Legislative Director for the Department of Corrections (January 7, 2014) (on file with the Senate Committee on Judiciary).

prison sentence at all or the offender was serving a split sentence, which is prison followed by probation. In addition, a small portion of the sex offenders (6 percent) were on statutorily mandated conditional release supervision. The Parole Commission administers conditional release supervision for certain serious offenders who are released from prison due to accrual of gain time after serving 85 percent of their adjudged prison sentence. These offenders must serve the remaining 15 percent of their sentence under conditional release supervision in the community.

As of November 30, 2013, 7,829 offenders who are required to register as a sexual offender or a sexual predator were on community supervision. This group constitutes 5.4 percent of the total community supervision population of 145,464 offenders. Of these registered sexual offenders/sexual predators, 1,439 were on community supervision for an offense other than a sex offense and 6,390 (4.4 percent of the total supervised population) were on community supervision for a current sex offense. The vast majority (5,997 or 94 percent) of the 6,390 on community supervision for a current sex offense were under supervision via a judge's original sentence. This means the judge sentenced the offender to supervision without prison or sentenced the offender to a split sentence of incarceration followed by community supervision. The remaining 393 offenders on community supervision for a current sex offense were serving conditional release supervision or another form of post-prison supervision.⁴⁷

More than one-third (2,238 or 35 percent) of the 6,390 offenders on community supervision as of November 30, 2013 for a current sex offense were tracked with electronic monitoring. Electronic monitoring is a mandatory condition of supervision for certain sex offenses.

Offenders on community supervision for certain sex offenses committed against a child have conditions restricting them from:

- Living near schools and other places where children regularly congregate;
- Working or volunteering at any place where children regularly congregate; or
- Having unsupervised contact with a minor; and
- Viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material that is relevant to the offender's deviant behavior pattern (unless otherwise indicated in a treatment plan proscribed in the sexual offender treatment program).⁴⁸

Since 1995, there has been a condition of probation or community control requiring sexual offenders convicted of specified offenses to successfully complete sexual offender treatment.⁴⁹ Currently, this condition of probation or community control, which is found in s. 948.30(1)(c), F.S., is a standard condition of probation that applies to probationers whose crime was committed on or after October 1, 1995, and who are placed under supervision for any of the following offenses:

- Sexual battery (violations of chapter 794, F.S.);

⁴⁷ Email from David Ensley, *supra* note 23.

⁴⁸ Sections 947.1405 and 948.30, F.S.

⁴⁹ Chapter 95-283, L.O.F.

- Lewd acts against a child (s. 800.04, F.S., or s. 847.0135(5), F.S.);
- Acts involving sexual performance by a child (s. 827.071, F.S.); or
- Acts involving selling or buying a minor for facilitating specified sexually explicit conduct (s. 847.0145, F.S.).⁵⁰

Section 948.31, F.S., mandates that courts require an evaluation by a qualified practitioner to determine the need of a probationer or community controllee for treatment. If the evaluation establishes a need for treatment, the court must require sex offender treatment as a term or condition of probation for any person who is required to register as a sexual predator or sexual offender. The court is required to impose a restriction against contact with minors if sexual offender treatment is recommended.

In recent years, mandatory conditions of supervision for sex offenders were expanded to prohibit certain activities such as distributing candy at Halloween and visiting schools without the prior approval of the probation officer.

Residency restrictions and employment restrictions apply to offenders who committed certain sex offenses even if they have completed their sentences and are not on community supervision. Local ordinances may impose additional residence restrictions, including wider exclusion zones and additional areas of exclusion.

Offenders on community supervision for a sex offense are more likely to have supervision revoked for a technical violation than are other offenders on community supervision. During Fiscal Year 2012-2013, 416 sex offenders had supervision revoked for misconduct, with 67 percent of those resulting from a technical violation and 33 percent as a result of a new crime. By contrast, 32,815 other offenders had community supervision revoked for misconduct during the same time period, with 59 percent of the revocations resulting from a technical violation and 41 percent as a result of a new crime.⁵¹

III. Effect of Proposed Changes:

The bill makes significant changes to the punishment of sex offenders, including, among other provisions: enhancement of minimum sentences and maximum penalties for several sexual battery and lewd offenses; elimination of incentive gain-time eligibility for certain sex offenses; mandatory community supervision of sex offenders who do not receive the maximum prison sentence; and tolling of community supervision to ensure that offenders who are in the custody of the Department of Children and Families (DCF) as part of the civil commitment process and who are subject to conditional release supervision or community supervision will serve that supervision upon release from DCF custody.

The bill provides for severability of any provision of the bill if its application is held to be invalid. The bill takes effect October 1, 2014.

⁵⁰ See s. 947.1405, F.S.

⁵¹ Email from David Ensley, *supra* note 23.

Authorizes Orders Limiting or Setting Conditions Regarding Testimony When the Victim or Witness Was Under 16 Years of Age at the Time the Crime Occurred or Has an Intellectual Disability (Section 1)

The bill amends s. 92.55, F.S., which authorizes the court to issue protective orders regarding the testimony of a victim or witness who is under 16 years of age or who has an intellectual disability. The statute also authorizes the court to set other conditions that are appropriate to taking the testimony of a child, including testifying with the assistance of a registered service or therapy animal.

As a result of the changes to this section, the statute will:

- Apply to victims and witnesses who were under the age of 16 at the time of the offense or witnessed incident, as opposed to applying only to victims and witnesses who are under the age of 16 at the time of testifying; and
- Specifically apply to a “sexual offense victim or witness,” meaning that the person was under the age of 16 when he or she was the victim of or witness to a sexual offense. “Sexual offense” is defined to mean any offense that is specified in s. 943.0435(1)(a)1.a.(I), F.S., as a qualifying offense for purposes of sex offender registration.

Changes Time Limitations for Prosecution of Lewd Battery and Lewd Molestation (Section 2)

The bill amends s. 775.15, F.S., to eliminate the current statutory time limitation for bringing a prosecution for any lewd battery offense under s. 800.04(4), F.S., and any lewd molestation offense under s. 800.04(5), F.S., except if the offense involves a victim who is less than 18 years of age at the time the offense is committed and the offender is not more than 4 years older than the victim. Thus, under the bill, unless an exception applies, prosecutions for lewd battery and lewd molestation will be able to be brought any time in the future for offenses committed on or after October 1, 2014.

Enhances the Felony Degree of Certain Sex Offenses (Sections 3, 6, and 9)

The bill enhances punishment for a variety of sex offenses. Specifically, the bill increases the felony degree (thereby providing for longer sentences) of several sexual battery, lewd battery, and lewd molestation offenses.

Section 794.011, F.S., which addresses sexual battery, is amended to increase the following offenses from a first degree felony punishable by up to 30 years imprisonment to a first degree felony punishable by up to life imprisonment:⁵²

- Sexual battery of a minor by a person who has custodial authority over the minor;

⁵² As previously indicated in this analysis, generally, a first degree felony is punishable by up to 30 years in state prison under s. 775.082, F.S. However, this section also provides that a first degree felony may be punished by a “term of years not exceeding life imprisonment” when specifically provided by statute.

- Sexual battery by an adult on a person at least 12 years but younger than 18 years of age when the sexual battery involves a specified circumstance (such as the victim being physically helpless to resist); and
- Sexual battery on a person 12 years of age or older when the sexual battery involves a specified circumstance and the offender has previously been convicted of a specified sexual battery or lewd felony.⁵³

The bill further amends s. 794.011, F.S., to increase the following offenses from a second degree felony punishable by up to 15 years imprisonment to a first degree felony punishable by up to 30 years imprisonment:

- Sexual battery by an adult on a person at least 12 years but younger than 18 years of age when the sexual battery does not involve violence likely to cause serious physical injury; and
- Sexual battery on a person 12 years of age or older when the sexual battery does not involve violence likely to cause serious physical injury and the offender has previously been convicted of a specified sexual battery or lewd felony.⁵⁴

The bill amends s. 800.04, F.S., to increase the following lewd acts from a second degree felony punishable by up to 15 years imprisonment to a first degree felony punishable by up to 30 years imprisonment:

- Lewd battery by an adult on a child 12 years of age or older but less than 16 when the offender has previously been convicted of a sexual battery or lewd felony; and
- Lewd molestation by an adult on a victim 12 years of age or older but less than 16 years when the offender has previously been convicted of a specified sexual battery or lewd felony.⁵⁵

The bill amends s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code (Code), to modify statutory references and descriptive language. While the bill increases the felony degree of certain sexual misconduct offenses, it does not increase the ranking level currently assigned to this conduct. The “enhancements” impact the maximum penalty, not the minimum sentence, which is impacted by a different provision of the bill that provides for a sentence point multiplier.

Increases Mandatory Minimum Term for Dangerous Sexual Felony Offenders (Section 4)

The bill amends s. 794.0115, F.S., to increase the current mandatory minimum term of 25 years to life for a dangerous sexual felony offender to 50 years to life.

⁵³ The sex offenses involve kidnapping and false imprisonment (ss. 787.01(2) and 787.02(3), F.S.); sexual battery offenses (chapter 794, F.S., excluding s. 794.011(10), F.S.); lewd acts against a child (ss. 800.04 and s. 847.0135(5), F.S.); and lewd acts against an elderly person or disabled person (s. 825.1025, F.S.).

⁵⁴ *Id.*

⁵⁵ *Id.*

Modifies the Definition of “Sexual Activity” Relevant to the Offense of Unlawful Sexual Activity with a 16 or 17-Year Old (Section 5)

The bill amends the definition of “sexual activity” in s. 794.05, F.S. (unlawful sexual activity with a 16 or 17-year old) to make this definition consistent with the definition of “sexual battery” in s. 794.011(1)(h), F.S. As a result of this change, the offense will cover anal or vaginal penetration of another by any other object.

Expands the Offense of Voyeurism (Section 7)

The bill amends s. 810.14, F.S. (voyeurism) to provide that a person commits the crime of voyeurism if the person, with lewd, lascivious, or indecent intent, secretly observes another person’s intimate areas in which the person has a reasonable expectation of privacy, when the other person is located in a public or private dwelling, structure, or conveyance. The bill defines “intimate area” as any portion of a person’s body or undergarments that is covered by clothing and intended to be protected from public view. This amendment makes clear that the statute applies to offenders who view a person’s intimate areas in a public place, such as secretly using a mirror to look up a woman’s skirt in a store.

Creates a Sentence Point Multiplier for Certain Adult-on-Minor Sex Offenses (Section 8)

The bill creates a sentence point multiplier for an adult-on-minor sex offense. This multiplier will double sentence points, resulting in some sex offenders receiving a minimum prison sentence and other sex offenders receiving a significantly longer minimum prison sentence.

Specifically, the bill amends s. 921.0024, F.S., the Criminal Punishment Code worksheet, to provide that subtotal sentence points are multiplied by 2.0 if the offender was 18 years of age or older and the victim was younger than 18 years of age at the time the offender committed the primary offense, and if the primary offense was an offense committed on or after October 1, 2014, and is:

- Kidnapping (s. 787.01(2), F.S.) or false imprisonment (s. 787.02(2), F.S.) of a minor and, in the course of committing the violation, committing sexual battery or a lewd act against the minor;
- Kidnapping of a child under the age of 13 and, in the course of that offense, committing sexual battery or a lewd act against the child (s. 787.01(3)(a)2. and 3., F.S.);
- False imprisonment of a child under the age of 13 and, in the course of that offense, committing sexual battery or a lewd act against the child (s. 787.02(3)(a)2. and 3., F.S.);
- Sexual battery (s. 794.011, F.S., excluding s. 794.011(10), F.S.); or
- Lewd acts against a child (s. 800.04 or s. 847.0135(5), F.S.).

If applying the multiplier results in the lowest permissible sentence exceeding the statutory maximum sentence for the primary offense under ch. 775, F.S., the court may not apply the multiplier and must sentence the defendant to the statutory maximum sentence.

The point multiplier can impact sentencing of some sex offenders by increasing points to a threshold in which the offenders would score a lowest permissible sentence of imprisonment. For

example, a first-time offender whose subtotal sentence points are based only on points scored for the primary offense of computer-transmitted lewd exhibition,⁵⁶ a Level 5 offense,⁵⁷ scores a nonprison sanction as the lowest permissible sentence. Under the bill, this offense qualifies for the 2.0 point multiplier, and as a result of the doubling of points, the offender's lowest permissible sentence would be twenty-one months in prison.

The point multiplier also impacts the sentencing of some sex offenders who score a lowest permissible sentence of imprisonment without the multiplier. The doubling of points substantially increases minimum sentence length for the primary offense. For example, under current law, an offender who receives 172 subtotal sentence points as a result of points accrued for a primary offense of second degree felony sexual battery⁵⁸ and points accrued for other factors scores a lowest permissible sentence of 108 months in prison or approximately nine years. Under the bill, this offense qualifies for the 2.0 point multiplier, and as a result of the doubling of points, the sentence length would increase from 108 months in prison to 237 months in prison. However, because this number of months exceeds the maximum penalty of fifteen years provided in s. 775.082, F.S., for the second degree felony primary offense, the adjusted prison sentence length would be fifteen years in prison. Therefore, the length of offender's sentence for the sexual battery offense would increase from nine years in prison under current law to fifteen years in prison under the provisions of the bill.

Prohibits Certain Sex Offenders from Receiving Incentive Gain-time (Section 10)

The bill amends s. 944.275, F.S., to prohibit the award of incentive gain-time to reduce the sentence for certain sexual offenses committed on or after October 1, 2014. As a result, an offender must serve all of the imposed sentence.⁵⁹ The offenses for which gain-time is prohibited are:

- All specifically-designated sexually violent offenses (listed in s. 394.912(9)(a)-(e), F.S.), except falsely accusing a government official of abusing authority to commit sexual battery;⁶⁰ and
- Lewd acts against an elderly person or disabled person (s. 825.1025, F.S.).

Tolls Community Supervision During Time Offender is in DCF Custody (Sections 11 and 12)

The bill amends s. 947.1405, F.S., concerning conditional release, and s. 948.012, F.S., concerning probation and community control, to provide that the running of community supervision is tolled during the time that a person is in DCF custody pursuant to the SVP Act.

⁵⁶ Section 847.0135(5)(b), F.S.

⁵⁷ Section 921.0022(3)(e), F.S.

⁵⁸ Section 794.011(5), F.S.

⁵⁹ An exception is that an offender who is prohibited from receiving gain-time could still be awarded from 1 day to 60 days of meritorious gain time for performing an outstanding deed (such as saving a life or assisting in the capture of an escaped inmate) or an outstanding service. Meritorious gain-time can be awarded pursuant to s. 944.275(4)(c), F.S.

⁶⁰ Section 794.011(10), F.S. The bill does not specify whether the prohibition against awarding gain-time for these offenses applies to attempt, solicitation, or conspiracy to commit the offense.

The tolling will apply to all community supervision that begins on or after October 1, 2014, regardless of when the underlying offense was committed.

Tolling of community supervision will preserve the period of supervision until after the person is released from detention or commitment in the FCCC. This will allow community supervision to serve its intended purposes, including monitoring the person in the community rather than in a secure and controlled environment.

Prohibits Certain Offenders on Community Supervision from Viewing or Possessing Obscene, Pornographic, or Sexually Stimulating Material (Sections 11 and 13)

Section 11 of the bill amends s. 947.1405, F.S. (conditional release program) to require the Parole Commission to impose a condition prohibiting a conditional releasee from viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material⁶¹ unless otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program, if the releasee committed any of the following offenses on or after October 1, 2014:

- Sexual battery (violations of chapter 794, F.S.).
- Lewd acts against a child (s. 800.04, F.S., or s. 847.0135(5), F.S.).
- Acts involving sexual performance by a child (s. 827.071, F.S.).
- Acts involving selling or buying a minor for facilitating specified sexually explicit conduct (s. 847.0145, F.S.).

Section 13 of the bill amends s. 948.30, F.S., to impose the same prohibition on probationers and community controllees who commit any of the previously-described offenses on or after October 1, 2014.

Mandates Community Supervision of Certain Sex Offenders who do not Receive Maximum Prison Sentence (Section 12)

The bill amends s. 948.012, F.S., relating to split sentences of probation or community control, to require that courts impose a split sentence with mandatory community supervision for certain sex offenders who do not receive the maximum prison sentence.

Section 948.012(1), F.S., currently provides that when the court prescribes imprisonment, the court *may*, at time of sentencing, impose a split sentence whereby the defendant is placed on probation or community control upon completion of any specified period of imprisonment.

⁶¹ The bill specifies that visual or auditory material includes, but is not limited to, telephone, electronic media, computer programs, and computer services.

Under the bill and effective for offenses committed on or after October 1, 2014, if the court imposes a term of years in accordance with s. 775.082, F.S., which is less than the maximum sentence for the offense, the court *must* impose a split sentence pursuant to s. 948.012(1), F.S., for any person who is convicted of:

- Murder while engaged in sexual battery (s. 782.04(1)(a)2.c., F.S.);
- Kidnapping a child under the age of 13 and, in the course of that offense, committing sexual battery or a lewd act against the child (s. 787.01(3)(a)2. and 3., F.S.);
- False imprisonment of a child under the age of 13 and, in the course of that offense, committing sexual battery or a lewd act against the child (s. 787.02(3)(a)2. and 3., F.S.);
- Sexual battery (s. 794.011, F.S.);
- Lewd acts against a child (s. 800.04, F.S., or s. 847.0135(5), F.S.); or
- Lewd acts against an elderly person or disabled person (s. 825.1025, F.S.).

The probation or community control portion of the split sentence must extend for at least two years. However, if the term of years imposed by the court extends to within two years of the maximum sentence for the offense, the probation or community control portion of the split sentence must extend for the remainder of the maximum sentence.

Authorizes Court to Require a Sex Offender on Community Supervision to Undergo Sexual Offender Treatment Evaluation (Section 14)

The bill amends s. 948.31, F.S. (evaluation and treatment of sexual predators and offenders on probation or community control) to clarify that the statute only relates to community supervisees who are sex offenders. The amended statute authorizes the court to require a sex offender who is on probation or community control to undergo an evaluation by a qualified practitioner to determine whether the offender needs sexual offender treatment. The bill specifies that the evaluation and any subsequent treatment is at the sex offender's expense.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) provides the final, official estimate of the prison bed impact, if any, of criminal legislation. On January 30, 2014, the CJIC met and provided fiscal information for this bill. However, actual appropriations associated with passage of the bill will depend on a number of factors, including the existing inventory of prison beds.

Expansion of Court's Authority Concerning Protection of Victims and Witnesses

The bill's provisions to increase the authority of the court to enter protective orders relating to the testimony of victims and witnesses who were under 16 years of age at the time they were a victim or witness of sexual offense or another event or criminal offense does not appear to have a significant fiscal impact.

Elimination of Statute of Elimination for Lewd Battery and Lewd Molestations

This provision could result in some additional prosecutions and trials for violations of s. 800.04(4) or (5), F.S. Currently, the shortest time limitation for prosecuting under either of these provision is three years from the earliest of the time the offense is reported or the time the victim turns 18 years of age. CJIC considered this provision in reviewing Senate Bill 494, and found that removal of the time limitation for prosecution of lewd battery and lewd molestation cases would have an indeterminate positive impact on the need for prison beds.

Felony Degree Enhancements

The bill increases the felony degree (providing for longer sentences) for certain sex offenses involving sexual battery, lewd battery, and lewd molestation when the sexual or lewd acts were committed by an adult upon a minor or involved a repeat sex offense. The CJIC found that these changes would have an insignificant impact on the need for prison beds.

Fifty Year Mandatory Minimum Sentence for Dangerous Sexual Felony Offenders

The CJIC found that the increase in the mandatory minimum sentence for dangerous sexual felony offenders from 25 years to 50 years would have an insignificant impact on the need for prison beds.

Modification of Definition of “Sexual Activity” in s. 794.05, F.S.

The CJIC has not considered the impact of modification of the definition of “sexual activity” relevant to the offense of unlawful sexual activity with a 16 or 17-year old child. However, it appears that the modification would have an insignificant fiscal impact.

Expanding the Offense of Voyeurism

The CJIC has not considered the impact of expanding the offense of voyeurism to clearly state that it applies to unlawful viewing of a person’s intimate areas in a public place. However, it appears that the modification would have an insignificant fiscal impact.

Sentence Point Multiplier

The bill creates a new sentence point multiplier that will increase minimum sentence lengths for adult-on-minor sex offenses sentenced under the Criminal Punishment Code. The CJIC found that this change would result in the need for an additional prison bed in Fiscal Year 2014-2015, the cost for which can be absorbed within existing resources. The CJIC also projected a cumulative need for 164 new prison beds in the first five years. The CJIC projections of the fiscal impact of the sentence point multiplier during the period from Fiscal Year 2014-2015 through Fiscal Year 2018-2019 are reflected in the following chart.⁶²

Fiscal Impact of Sex Offense Adult-on-Minor Multiplier October 1, 2014 Effective Date						
Fiscal Year	Projected Cumulative Prison Beds Required	Projected Additional Annual Prison Beds Required	FUNDS REQUIRED			
			Annual Operating Costs	Annual Fixed Capital Outlay Costs	TOTAL Annual Funds	TOTAL Cumulative Funds
2014-2015	1	1	\$8,949	\$914,865	\$923,814	\$923,814
2015-2016	15	14	\$145,896	\$2,396,432	\$2,542,328	\$3,466,142
2016-2017	53	38	\$631,822	\$3,260,400	\$3,892,222	\$7,358,364
2017-2018	103	50	\$1,478,490	\$4,093,039	\$5,572,529	\$12,929,893
2018-2019	164	61	\$2,581,089	\$4,594,592	\$7,175,681	\$20,105,574
TOTAL	164	164	\$4,846,246	\$15,259,328	\$20,105,574	\$20,105,574

Prepared by Florida Legislature, Office of Economic and Demographic Research, January 30, 2014.

⁶² The CJIC anticipates that the need for prison beds will continue to increase after Year 5.

Incentive Gain-Time Prohibition

The bill prohibits incentive gain-time for offenders convicted of certain sexual offenses. The CJIC found that this provision would not create a need for any additional prison beds in Fiscal Year 2014-2015, but that it would result in a cumulative need for 114 additional prison beds in the first five years. The CJIC projections of the fiscal impact of the incentive gain-time prohibition during the period from Fiscal Year 2014-2015 through Fiscal Year 2018-2019 are reflected in the following chart.⁶³

Fiscal Impact of Eliminating Incentive Gain Time for Certain Sex Offenders						
Fiscal Year	Projected Cumulative Prison Beds Required	Projected Additional Annual Prison Beds Required	FUNDS REQUIRED			
			Annual Operating Costs	Annual Fixed Capital Outlay Costs	TOTAL Annual Funds	TOTAL Cumulative Funds
2014-2015	0	0	\$0	\$426,937	\$426,937	\$426,937
2015-2016	7	7	\$63,830	\$1,324,344	\$1,388,174	\$1,815,111
2016-2017	28	21	\$325,203	\$2,151,864	\$2,477,067	\$4,292,177
2017-2018	61	33	\$843,498	\$3,556,247	\$4,399,745	\$8,692,922
2018-2019	114	53	\$1,691,725	\$4,114,560	\$5,806,285	\$14,498,207
TOTAL	114	114	\$2,924,255	\$11,573,952	\$14,498,207	\$14,498,207

Prepared by Florida Legislature, Office of Economic and Demographic Research, January 30, 2014.

Combined Sentence Point Multiplier and Incentive Gain-Time Prohibition

The Criminal Justice Impact Conference estimates a cumulative need for 252 additional prison beds in the first five years as the combined result of the sentence point multiplier and the incentive gain-time prohibition. This would require a cumulative total of \$6.9 million in operating costs and \$24.8 million in fixed capital outlay costs. The CJIC projections of the combined fiscal impact of both provisions during the period from Fiscal Year 2014-2015 through Fiscal Year 2018-2019 are reflected in the following chart.⁶⁴

⁶³ The CJIC anticipates that the need for prison beds will continue to increase after Year 5.

⁶⁴ The CJIC anticipates that the need for prison beds will continue to increase after Year 5.

Fiscal Impact of Eliminating Incentive Gain Time for Specified Sex Offenders AND Sex Offense Adult-on-Minor Multiplier October 1, 2014 Effective Date						
Fiscal Year	Projected Cumulative Prison Beds Required	Projected Additional Annual Prison Beds Required	FUNDS REQUIRED			
			Annual Operating Costs	Annual Fixed Capital Outlay Costs	TOTAL Annual Funds	TOTAL Cumulative Funds
2014-2015	1	1	\$8,949 ⁶⁵	\$1,036,847	\$1,045,796	\$1,045,796
2015-2016	17	16	\$164,133	\$3,216,264	\$3,380,397	\$4,426,193
2016-2017	68	51	\$789,778	\$5,151,432	\$5,941,210	\$10,367,402
2017-2018	147	79	\$2,037,663	\$7,045,395	\$9,083,058	\$19,450,460
2018-2019	252	105	\$3,857,133	\$8,366,272	\$12,223,405	\$31,673,865
TOTAL	252	252	\$6,857,655	\$24,816,210	\$31,673,865	\$31,673,865

Prepared by Florida Legislature, Office of Economic and Demographic Research, January 30, 2014.

Tolling Post-Release Supervision

The bill tolls (suspends) post-release supervision of offenders while in DCF custody as part of the civil commitment process.

The DOC states that this provision would have a negligible impact because it involves a very limited percentage of the supervised population. Also, the provision would shift the time period when the supervision occurs in relation to the prison release date but would not change the actual length of time under supervision. Therefore, the overall count of supervised offenders would not be affected by the tolling provision.⁶⁶ The CJIC has determined that this provision would have no impact on the need for prison beds.

Expansion of Prohibition against Viewing of Pornography by Sex Offenders on Community Supervision

The bill modifies existing mandatory conditions of community supervision that prohibit sex offenders from viewing or possessing pornography and other sexual material. Specifically, the bill removes the limitation that the material is only prohibited if it is related to the offender's deviant behavior pattern. The CJIC has determined that this provision will have an indeterminate positive impact on prison bed space needs.

Mandatory Community Supervision (Split Sentence)

The bill requires courts to impose a split sentence with mandatory community supervision for certain sex offenders who do not receive the maximum prison sentence. The probation or community control portion of the split sentence must extend for at least two years. However, if the term of years imposed by the court extends to within two

⁶⁵ The costs for the additional prison bed needed in Fiscal Year 2014-2015 can be absorbed within existing resources.

⁶⁶ E-mail from Will Kendrick, Legislative Director for the Department of Corrections (January 8, 2014) (on file with the Senate Committee on Judiciary).

years of the maximum sentence for the offense, the probation or community control portion of the split sentence must extend for the remainder of the maximum sentence.

The CJIC found that the mandatory minimum two years of post-prison supervision would have no impact on prison beds. In FY 2012-2013, the DOC released approximately 1,300 sex offenders who had committed one of the offenses specified in the bill. Of those inmates, 900 had supervision to follow (either a split sentence or conditional release). The remaining 400 inmates had an average time between offense and prison release of eleven years. Therefore, because the bill applies only to future offenses, the DOC expects that the mandatory split provision will not be a significant increase in supervision population during the first years of implementation. The DOC notes that the average time between offense and prison release can be expected to increase because of other provisions in the bill which encourage longer sentences and prohibit gain time for these inmates.⁶⁷

Evaluation and Treatment of Sex Offenders on Community Supervision

The provision relating to evaluation and treatment of sex offenders who are placed on probation or community control specifies that the costs of evaluation and treatment (if needed) are to be paid for by the offender.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 92.55, 775.15, 794.011, 794.0115, 794.05, 800.04, 810.14, 921.0022, 921.0024, 944.275, 947.1405, 948.012, 948.30, and 948.31.

IX. Additional Information:

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

CS/CS/CS by Appropriations on February 20, 2014:

The committee substitute:

- Removes a provision from the bill regarding a sexual motivation finding.
- Authorizes orders limiting testimony in open court and in depositions if the victim or witness is a sexual offense victim or witness.

⁶⁷ *Id.*

- Authorizes the court to set other conditions appropriate to taking the testimony of a sexual offense victim or witness, including testifying with the assistance of a registered service or therapy animal.
- Prospectively eliminates time limitations to the prosecution of lewd battery and lewd molestation if the victim was younger than 16 years of age at the time the offense was committed.
- Provides an exception if, at the time of the offense, the offender is less than 18 years of age and the offender is no more than 4 years older than the victim.
- Provides for a mandatory minimum sentence of 50 years to life for dangerous sexual felony offenders (current law: 25 years to life).
- Revises the definition of “sexual activity” for the offense of unlawful sexual activity with a 16 or 17-year old to include penetration by an object (consistent with the definition of “sexual battery”).
- Provides that voyeurism includes secretly observing another person’s intimate areas in which the person has a reasonable expectation of privacy, when the person is in a public or private dwelling, structure, or conveyance.
- Defines “intimate area.”
- Prohibits offenders on community supervision who have committed a specified sex offense from viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating material.
- Provides that the court has discretion to require an evaluation of whether a sex offender who is on probation or community control needs sexual offender treatment, and mandates that the offender undergo sexual offender treatment if needed. Also requires that the evaluation and any treatment must be paid for by the sexual offender.

CS/CS by Judiciary on February 4, 2014:

Makes technical changes to clarify which previous convictions qualify a repeat sexual offender for a longer prison sentence.

CS by Criminal Justice on January 13, 2014:

Corrects statutory references in provisions of the bill that enhance the felony degree of certain sex offenses and creates an adult-on-minor sentence point multiplier.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2014	.	
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	.	
	.	

The Committee on Appropriations (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 92.55, Florida Statutes, is amended to
read:

92.55 Judicial or other proceedings involving victim or
witness who was under the age of 16, a ~~or~~ person who has an
intellectual disability, or a sexual offense victim or witness;
special protections; use of registered service or therapy



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animals.—

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

(a) "Sexual offense victim or witness" means a person who was under the age of 16 when he or she was the victim of or a witness to a sexual offense.

(b) "Sexual offense" means any offense specified in s. 775.21(4)(a)1. or s. 943.0435(1)(a)1.a.(I).

(2)~~(1)~~ Upon motion of any party, upon motion of a parent, guardian, attorney, or guardian ad litem for a victim or witness who was under the age of 16, a ~~or~~ person who has an intellectual disability, or a sexual offense victim or witness, or upon its own motion, the court may enter any order necessary to protect the ~~such~~ victim or witness in any judicial proceeding or other official proceeding from severe emotional or mental harm due to the presence of the defendant if the victim or witness is required to testify in open court. Such orders must relate to the taking of testimony and include, but are not limited to:

(a) Interviewing or the taking of depositions as part of a civil or criminal proceeding.

(b) Examination and cross-examination for the purpose of qualifying as a witness or testifying in any proceeding.

(c) The use of testimony taken outside of the courtroom, including proceedings under ss. 92.53 and 92.54.

(3)~~(2)~~ In ruling upon the motion, the court shall consider:

(a) The age of the child, the nature of the offense or act, the relationship of the child to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the child as a consequence of the defendant's presence, and any other fact that the court deems



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relevant; ~~or~~

(b) The age of the person who has an intellectual disability, the functional capacity of such person, the nature of the offenses or act, the relationship of the person to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the person as a consequence of the defendant's presence, and any other fact that the court deems relevant; or

(c) The age of the sexual offense victim or witness when the sexual offense occurred, the relationship of the sexual offense victim or witness to the parties in the case or to the defendant in a criminal action, the degree of emotional trauma that will result to the sexual offense victim or witness as a consequence of the defendant's presence, and any other fact that the court deems relevant.

(4)(3) In addition to such other relief provided by law, the court may enter orders limiting the number of times that a child, ~~or~~ a person who has an intellectual disability, or a sexual offense victim or witness may be interviewed, prohibiting depositions of the victim or witness ~~such child or person~~, requiring the submission of questions before the examination of the victim or witness ~~child or person~~, setting the place and conditions for interviewing the victim or witness ~~child or person~~ or for conducting any other proceeding, or permitting or prohibiting the attendance of any person at any proceeding. The court shall enter any order necessary to protect the rights of all parties, including the defendant in any criminal action.

(5)(4) The court may set any other conditions it finds just and appropriate when taking the testimony of a child victim or



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witness or a sexual offense victim or witness, including the use of a service or therapy animal that has been evaluated and registered according to national standards, in any proceeding involving a sexual offense. When deciding whether to permit a child victim or witness or sexual offense victim or witness to testify with the assistance of a registered service or therapy animal, the court shall consider the age of the child victim or witness, the age of the sexual offense victim or witness at the time the sexual offense occurred, the interests of the child victim or witness or sexual offense victim or witness, the rights of the parties to the litigation, and any other relevant factor that would facilitate the testimony by the child victim or witness or sexual offense victim or witness.

Section 2. Subsection (18) is added to section 775.15, Florida Statutes, to read:

775.15 Time limitations; general time limitations; exceptions.—

(18) (a) If the offense is a violation of s. 800.04(4) or (5) and the victim was younger than 16 years of age at the time the offense was committed, a prosecution of the offense may be commenced at any time. This paragraph does not apply if, at the time of the offense, the offender is less than 18 years of age and the offender is no more than 4 years older than the victim.

(b) Paragraph (a) applies to any offense committed on or after October 1, 2014.

Section 3. Subsections (4), (5), and (6), paragraph (b) of subsection (8), and subsections (9) and (10) of section 794.011, Florida Statutes, are amended to read:

794.011 Sexual battery.—



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(4) (a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age without that person's consent, under any of the following circumstances listed in paragraph (e), commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(d) A person commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the person commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), and such person was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the



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minor a sexual battery under this chapter or a lewd act under s.
800.04 or s. 847.0135(5);

2. Section 787.01(3)(a)2. or 3.;

3. Section 787.02(3)(a)2. or 3.;

4. Section 800.04;

5. Section 825.1025;

6. Section 847.0135(5); or

7. This chapter, excluding subsection (10) of this section.

(e) The following circumstances apply to paragraphs (a)-
(d):

1.-(a) When The victim is physically helpless to resist.

2.-(b) When The offender coerces the victim to submit by
threatening to use force or violence likely to cause serious
personal injury on the victim, and the victim reasonably
believes that the offender has the present ability to execute
the threat.

3.-(c) When The offender coerces the victim to submit by
threatening to retaliate against the victim, or any other
person, and the victim reasonably believes that the offender has
the ability to execute the threat in the future.

4.-(d) When The offender, without the prior knowledge or
consent of the victim, administers or has knowledge of someone
else administering to the victim any narcotic, anesthetic, or
other intoxicating substance that ~~which~~ mentally or physically
incapacitates the victim.

5.-(e) When The victim is mentally defective, and the
offender has reason to believe this or has actual knowledge of
this fact.

6.-(f) When The victim is physically incapacitated.



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156 ~~7.(g) When~~ The offender is a law enforcement officer,
157 correctional officer, or correctional probation officer as
158 defined in ~~by~~ s. 943.10(1), (2), (3), (6), (7), (8), or (9), who
159 is certified under ~~the provisions of~~ s. 943.1395 or is an
160 elected official exempt from such certification by virtue of s.
161 943.253, or any other person in a position of control or
162 authority in a probation, community control, controlled release,
163 detention, custodial, or similar setting, and such officer,
164 official, or person is acting in such a manner as to lead the
165 victim to reasonably believe that the offender is in a position
166 of control or authority as an agent or employee of government.

167 (5) (a) A person 18 years of age or older who commits sexual
168 battery upon a person 12 years of age or older but younger than
169 18 years of age, without that person's consent, and in the
170 process thereof does not use physical force and violence likely
171 to cause serious personal injury commits a felony of the first
172 second degree, punishable as provided in s. 775.082, s. 775.083,
173 s. 775.084, or s. 794.0115.

174 (b) A person 18 years of age or older who commits sexual
175 battery upon a person 18 years of age or older, without that
176 person's consent, and in the process does not use physical force
177 and violence likely to cause serious personal injury commits a
178 felony of the second degree, punishable as provided in s.
179 775.082, s. 775.083, s. 775.084, or s. 794.0115.

180 (c) A person younger than 18 years of age who commits
181 sexual battery upon a person 12 years of age or older, without
182 that person's consent, and in the process does not use physical
183 force and violence likely to cause serious personal injury
184 commits a felony of the second degree, punishable as provided in



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s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(d) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the person commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury and the person was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5);

2. Section 787.01(3)(a)2. or 3.;

3. Section 787.02(3)(a)2. or 3.;

4. Section 800.04;

5. Section 825.1025;

6. Section 847.0135(5); or

7. This chapter, excluding subsection (10) of this section.

(6)(a) The offenses ~~offense~~ described in paragraphs (5)(a)-(c) are ~~subsection (5)~~ is included in any sexual battery offense charged under subsection (3) ~~or subsection (4)~~.

(b) The offense described in paragraph (5)(a) is included in an offense charged under paragraph (4)(a).

(c) The offense described in paragraph (5)(b) is included in an offense charged under paragraph (4)(b).

(d) The offense described in paragraph (5)(c) is included in an offense charged under paragraph (4)(c).

(e) The offense described in paragraph (5)(d) is included



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in an offense charged under paragraph (4) (d).

(8) Without regard to the willingness or consent of the victim, which is not a defense to prosecution under this subsection, a person who is in a position of familial or custodial authority to a person less than 18 years of age and who:

(b) Engages in any act with that person while the person is 12 years of age or older but younger ~~less~~ than 18 years of age which constitutes sexual battery under paragraph (1) (h) commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) For prosecution under paragraph (4) (a), paragraph (4) (b), paragraph (4) (c), or paragraph (4) (d) which involves an offense committed under any of the circumstances listed in subparagraph (4) (e) 7. ~~paragraph (4) (g)~~, acquiescence to a person reasonably believed by the victim to be in a position of authority or control does not constitute consent, and it is not a defense that the perpetrator was not actually in a position of control or authority if the circumstances were such as to lead the victim to reasonably believe that the person was in such a position.

(10) A ~~Any~~ person who falsely accuses a ~~any~~ person listed in subparagraph (4) (e) 7. ~~paragraph (4) (g)~~ or other person in a position of control or authority as an agent or employee of government of violating paragraph (4) (a), paragraph (4) (b), paragraph (4) (c), or paragraph (4) (d) commits ~~(4) (g) is guilty~~ of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



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Section 4. Subsection (2) of section 794.0115, Florida Statutes, is amended to read:

794.0115 Dangerous sexual felony offender; mandatory sentencing.—

(2) Any person who is convicted of a violation of s. 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s. 800.04(4) or (5); s. 825.1025(2) or (3); s. 827.071(2), (3), or (4); or s. 847.0145; or of any similar offense under a former designation, which offense the person committed when he or she was 18 years of age or older, and the person:

(a) Caused serious personal injury to the victim as a result of the commission of the offense;

(b) Used or threatened to use a deadly weapon during the commission of the offense;

(c) Victimized more than one person during the course of the criminal episode applicable to the offense;

(d) Committed the offense while under the jurisdiction of a court for a felony offense under the laws of this state, for an offense that is a felony in another jurisdiction, or for an offense that would be a felony if that offense were committed in this state; or

(e) Has previously been convicted of a violation of s. 787.025(2)(c); s. 794.011(2), (3), (4), (5), or (8); s. 800.04(4) or (5); s. 825.1025(2) or (3); s. 827.071(2), (3), or (4); s. 847.0145; of any offense under a former statutory designation which is similar in elements to an offense described in this paragraph; or of any offense that is a felony in another jurisdiction, or would be a felony if that offense were committed in this state, and which is similar in elements to an



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offense described in this paragraph,

is a dangerous sexual felony offender, who must be sentenced to a mandatory minimum term of 25 years imprisonment up to, and including, life imprisonment. If the offense described in this subsection was committed on or after October 1, 2014, a person who qualifies as a dangerous sexual felony offender pursuant to this subsection must be sentenced to a mandatory minimum term of 50 years imprisonment up to, and including, life imprisonment.

Section 5. Subsection (1) of section 794.05, Florida Statutes, is amended to read:

794.05 Unlawful sexual activity with certain minors.—

(1) A person 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this section, "sexual activity" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual activity does not include an act done for a bona fide medical purpose.

Section 6. Subsections (4) and (5) of section 800.04, Florida Statutes, are amended to read:

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

(4) LEWD OR LASCIVIOUS BATTERY.—~~A person who:~~

(a) A person commits lewd or lascivious battery by:

1. Engaging in sexual activity with a person 12 years of age or older but less than 16 years of age; or



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2. Encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity.

(b) Except as provided in paragraph (c), an offender who commits lewd or lascivious battery commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if the person is an offender 18 years of age or older who commits lewd or lascivious battery and was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5);

2. Section 787.01(3) (a) 2. or 3.;

3. Section 787.02(3) (a) 2. or 3.;

4. Chapter 794, excluding s. 794.011(10);

5. Section 825.1025;

6. Section 847.0135(5); or

7. This section.

~~(a) Engages in sexual activity with a person 12 years of age or older but less than 16 years of age; or~~

~~(b) Encourages, forces, or entices any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual~~



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activity

~~commits lewd or lascivious battery, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(5) LEWD OR LASCIVIOUS MOLESTATION.—

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

(b) An offender 18 years of age or older who commits lewd or lascivious molestation against a victim less than 12 years of age commits a life felony, punishable as provided in s. 775.082(3)(a)4.

(c)1. An offender less than 18 years of age who commits lewd or lascivious molestation against a victim less than 12 years of age; or

2. An offender 18 years of age or older who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age

commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) An offender less than 18 years of age who commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083,



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or s. 775.084.

(e) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if the person is 18 years of age or older and commits lewd or lascivious molestation against a victim 12 years of age or older but less than 16 years of age and the person was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing the violation, the defendant committed against the minor a sexual battery under chapter 794 or a lewd act under this section or s. 847.0135(5);

2. Section 787.01(3)(a)2. or 3.;

3. Section 787.02(3)(a)2. or 3.;

4. Chapter 794, excluding s. 794.011(10);

5. Section 825.1025;

6. Section 847.0135(5); or

7. This section.

Section 7. Subsection (1) of section 810.14, Florida Statutes, is amended to read:

810.14 Voyeurism prohibited; penalties.—

(1) A person commits the offense of voyeurism when he or she, with lewd, lascivious, or indecent intent:~~7~~

(a) Secretly observes another person when the other person is located in a dwelling, structure, or conveyance and such location provides a reasonable expectation of privacy

(b) Secretly observes another person's intimate areas in which the person has a reasonable expectation of privacy, when the other person is located in a public or private dwelling,



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structure, or conveyance. As used in this paragraph, the term "intimate area" means any portion of a person's body or undergarments that is covered by clothing and intended to be protected from public view.

Section 8. Paragraphs (g) through (i) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol



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402			vehicle with siren and lights activated.
	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
403			
	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
404			
	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
405			
	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
406			
	456.065 (2)	3rd	Practicing a health care profession without a license.
407			
	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
408			



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409	458.327(1)	3rd	Practicing medicine without a license.
410	459.013(1)	3rd	Practicing osteopathic medicine without a license.
411	460.411(1)	3rd	Practicing chiropractic medicine without a license.
412	461.012(1)	3rd	Practicing podiatric medicine without a license.
413	462.17	3rd	Practicing naturopathy without a license.
414	463.015(1)	3rd	Practicing optometry without a license.
415	464.016(1)	3rd	Practicing nursing without a license.
416	465.015(2)	3rd	Practicing pharmacy without a license.
	466.026(1)	3rd	Practicing dentistry or dental hygiene without a



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417			license.
418	467.201	3rd	Practicing midwifery without a license.
419	468.366	3rd	Delivering respiratory care services without a license.
420	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
421	483.901 (9)	3rd	Practicing medical physics without a license.
422	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
423	484.053	3rd	Dispensing hearing aids without a license.
	494.0018 (2)	1st	Conviction of any violation of ss. 494.001- 494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there



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were five or more victims.

424

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.

425

560.125(5)(a)

3rd

Money services business by
unauthorized person,
currency or payment
instruments exceeding \$300
but less than \$20,000.

426

655.50(10)(b)1.

3rd

Failure to report
financial transactions
exceeding \$300 but less
than \$20,000 by financial
institution.

427

775.21(10)(a)

3rd

Sexual predator; failure
to register; failure to
renew driver ~~driver's~~
license or identification
card; other registration
violations.

428

775.21(10)(b)

3rd

Sexual predator working
where children regularly



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congregate.

429

775.21(10)(g)

3rd

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

430

782.051(3)

2nd

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

431

782.07(1)

2nd

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

432

782.071

2nd

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

433

782.072

2nd

Killing of a human being
by the operation of a
vessel in a reckless



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manner (vessel homicide).

434

784.045 (1) (a) 1.

2nd

Aggravated battery;
intentionally causing
great bodily harm or
disfigurement.

435

784.045 (1) (a) 2.

2nd

Aggravated battery; using
deadly weapon.

436

784.045 (1) (b)

2nd

Aggravated battery;
perpetrator aware victim
pregnant.

437

784.048 (4)

3rd

Aggravated stalking;
violation of injunction or
court order.

438

784.048 (7)

3rd

Aggravated stalking;
violation of court order.

439

784.07 (2) (d)

1st

Aggravated battery on law
enforcement officer.

440

784.074 (1) (a)

1st

Aggravated battery on
sexually violent predators
facility staff.

441

784.08 (2) (a)

1st

Aggravated battery on a



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person 65 years of age or
older.

442

784.081(1)

1st

Aggravated battery on
specified official or
employee.

443

784.082(1)

1st

Aggravated battery by
detained person on visitor
or other detainee.

444

784.083(1)

1st

Aggravated battery on code
inspector.

445

787.06(3)(a)

1st

Human trafficking using
coercion for labor and
services.

446

787.06(3)(e)

1st

Human trafficking using
coercion for labor and
services by the transfer
or transport of any
individual from outside
Florida to within the
state.

447

790.07(4)

1st

Specified weapons
violation subsequent to
previous conviction of s.



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790.07(1) or (2).

448

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

449

790.165(2) 2nd Manufacture, sell,
possess, or deliver hoax
bomb.

450

790.165(3) 2nd Possessing, displaying, or
threatening to use any
hoax bomb while committing
or attempting to commit a
felony.

451

790.166(3) 2nd Possessing, selling,
using, or attempting to
use a hoax weapon of mass
destruction.

452

790.166(4) 2nd Possessing, displaying, or
threatening to use a hoax
weapon of mass destruction
while committing or
attempting to commit a
felony.

453

790.23 1st,PBL Possession of a firearm by



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a person who qualifies for
the penalty enhancements
provided for in s. 874.04.

454

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.

455

796.03

2nd

Procuring any person under
16 years for prostitution.

456

800.04 (5) (c) 1.

2nd

Lewd or lascivious
molestation; victim
younger ~~less~~ than 12 years
of age; offender younger
~~less~~ than 18 years.

457

800.04 (5) (c) 2.

2nd

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

458

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.

459

806.01 (2)

2nd

Maliciously damage
structure by fire or
explosive.

460

810.02 (3) (a)

2nd

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

461

810.02 (3) (b)

2nd

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

462

810.02 (3) (d)

2nd

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

463

810.02 (3) (e)

2nd

Burglary of authorized
emergency vehicle.

464

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.

465

812.014 (2) (b) 2.

2nd

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

466

812.014 (2) (b) 3.

2nd

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

467

812.014 (2) (b) 4.

2nd

Property stolen, law
enforcement equipment from
authorized emergency
vehicle.

468

812.0145 (2) (a)

1st

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

469

812.019 (2)

1st

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

470



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471	812.131 (2) (a)	2nd	Robbery by sudden snatching.
472	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
473	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
474	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
475	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
476	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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477			a significant cause of the insolvency of that entity.
	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
478			
	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
479			
	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
480			
	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
481			
	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
482			
	837.05 (2)	3rd	Giving false information



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483			about alleged capital felony to a law enforcement officer.
484	838.015	2nd	Bribery.
485	838.016	2nd	Unlawful compensation or reward for official behavior.
486	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
487	838.22	2nd	Bid tampering.
488	843.0855 (2)	3rd	Impersonation of a public officer or employee.
489	843.0855 (3)	3rd	Unlawful simulation of legal process.
490	843.0855 (4)	3rd	Intimidation of a public officer or employee.
491	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.



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492	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
493	872.06	2nd	Abuse of a dead human body.
494	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
495	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly



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owned recreational
facility or community
center.

496

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)4., within 1,000
feet of property used for
religious services or a
specified business site.

497

893.13(4)(a)

1st

Deliver to minor cocaine
(or other s. 893.03(1)(a),
(1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4.
drugs).

498

893.135(1)(a)1.

1st

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

499

893.135
(1)(b)1.a.

1st

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

500

893.135

1st

Trafficking in illegal



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501	(1) (c) 1.a.		drugs, more than 4 grams, less than 14 grams.
502	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
503	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
504	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
505	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
506	893.135 (1) (h) 1.a.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4- Butanediol, 1 kilogram or more, less than 5



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kilograms.

893.135
(1) (k) 2.a.

1st

Trafficking in
Phenethylamines, 10 grams
or more, less than 200
grams.

893.1351 (2)

2nd

Possession of place for
trafficking in or
manufacturing of
controlled substance.

896.101 (5) (a)

3rd

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

896.104 (4) (a) 1.

3rd

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

943.0435 (4) (c)

2nd

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



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513	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
514	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
515	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
516	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
517	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.
518	944.607 (10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.



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944.607(12) 3rd Failure to report or
providing false
information about a sexual
offender; harbor or
conceal a sexual offender.

944.607(13) 3rd Sexual offender; failure
to report and reregister;
failure to respond to
address verification.

985.4815(10) 3rd Sexual offender; failure
to submit to the taking of
a digitized photograph.

985.4815(12) 3rd Failure to report or
providing false
information about a sexual
offender; harbor or
conceal a sexual offender.

985.4815(13) 3rd Sexual offender; failure
to report and reregister;
failure to respond to
address verification.

(h) LEVEL 8



937698

	Florida Statute	Felony Degree	Description
527	316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
528	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
529	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
530	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
531	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
532	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.
533	560.125 (5) (b)	2nd	Money transmitter



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

534

655.50(10)(b)2.

2nd

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

535

777.03(2)(a)

1st

Accessory after the fact,
capital felony.

536

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.



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537	782.051 (2)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04 (3) .
538	782.071 (1) (b)	1st	Committing vehicular homicide and failing to render aid or give information.
539	782.072 (2)	1st	Committing vessel homicide and failing to render aid or give information.
540	787.06 (3) (b)	1st	Human trafficking using coercion for commercial sexual activity.
541	787.06 (3) (c)	1st	Human trafficking using coercion for labor and services of an unauthorized alien.
542	787.06 (3) (f)	1st	Human trafficking using coercion for commercial sexual activity by the



937698

transfer or transport of
any individual from
outside Florida to within
the state.

543

790.161(3)

1st

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

544

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.

545

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.

546

794.011(5)(c)

2nd

Sexual battery; victim 12
years of age or older;
offender younger than 18
years; offender does not



937698

547			<u>use physical force likely to cause injury.</u>
	<u>794.011(5)(d)</u>	<u>1st</u>	<u>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.</u>
548	~~794.011(5)~~	~~2nd~~	~~Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.~~
549	794.08(3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
550	<u>800.04(4)(b)</u>	<u>2nd</u>	<u>Lewd or lascivious battery.</u>
551	<u>800.04(4)(c)</u>	<u>1st</u>	<u>Lewd or lascivious battery; offender 18 years of age or older;</u>



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552			<u>prior conviction for</u> <u>specified sex offense.</u>
	~~800.04(4)~~	2nd	~~Lewd or lascivious~~ ~~battery.~~
553	806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
554	810.02(2)(a)	1st, PBL	Burglary with assault or battery.
555	810.02(2)(b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
556	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
557	812.014(2)(a)2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.



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558	812.13 (2) (b)	1st	Robbery with a weapon.
559	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
560	817.535 (2) (b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
561	817.535 (3) (a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
562	817.535 (4) (a) 1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
563	817.535 (5) (a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the



937698

false instrument.

564

817.568 (6)

2nd

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

565

825.102 (2)

1st

Aggravated abuse of an
elderly person or
disabled adult.

566

825.1025 (2)

2nd

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

567

825.103 (2) (a)

1st

Exploiting an elderly
person or disabled adult
and property is valued at
\$100,000 or more.

568

837.02 (2)

2nd

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

569

837.021 (2)

2nd

Making contradictory
statements in official
proceedings relating to



937698

570			prosecution of a capital felony.
	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
571			
	860.16	1st	Aircraft piracy.
572			
	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).
573			
	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
574			
	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
575			
	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.



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576	893.135 (1) (b) 1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
577	893.135 (1) (c) 1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
578	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
579	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
580	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
581	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.



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582	893.135 (1) (h) 1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
583	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
584	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
585	893.1351 (3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
586	895.03 (1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
587	895.03 (2)	1st	Acquire or maintain through racketeering



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588			activity any interest in or control of any enterprise or real property.
	895.03 (3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
589			
	896.101 (5) (b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
590			
	896.104 (4) (a) 2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
591			
592			
593	(i) LEVEL 9		
594			
	Florida	Felony	
	Statute	Degree	Description



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595	316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
596	327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
597	409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
598	499.0051 (9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
599	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
600	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding



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\$100,000.

601

655.50(10)(b)3.

1st

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

602

775.0844

1st

Aggravated white collar
crime.

603

782.04(1)

1st

Attempt, conspire, or
solicit to commit
premeditated murder.

604

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
specified felonies.

605

782.051(1)

1st

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



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606

782.07 (2)	1st	Aggravated manslaughter of an elderly person or disabled adult.

607

787.01 (1) (a) 1.	1st, PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.

608

787.01 (1) (a) 2.	1st, PBL	Kidnapping with intent to commit or facilitate commission of any felony.

609

787.01 (1) (a) 4.	1st, PBL	Kidnapping with intent to interfere with performance of any governmental or political function.

610

787.02 (3) (a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.

611



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612	787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized alien.
613	787.06(3)(g)	1st,PBL	Human trafficking for commercial sexual activity of a child under the age of 18.
614	787.06(4)	1st	Selling or buying of minors into human trafficking.
615	790.161	1st	Attempted capital destructive device offense.
616	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
617	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
	794.011(2)	Life	Sexual battery; offender younger than 18 years



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and commits sexual
battery on a person less
than 12 years.

618

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.

619

794.011(4)(b)

1st

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

620

794.011(4)(c)

1st

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

621

794.011(4)(d)

1st, PBL

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

622

~~794.011(4)~~

~~1st~~

~~Sexual battery; victim~~



937698

~~12 years or older,~~
~~certain circumstances.~~

623

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.

624

794.08 (2)

1st

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

625

796.035

1st

Selling or buying of
minors into
prostitution.

626

800.04 (5) (b)

Life

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

627

812.13 (2) (a)

1st, PBL

Robbery with firearm or
other deadly weapon.

628

812.133 (2) (a)

1st, PBL

Carjacking; firearm or
other deadly weapon.

629



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630	812.135 (2) (b)	1st	Home-invasion robbery with weapon.
631	817.535 (3) (b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
632	817.535 (4) (a) 2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
633	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, PBL	Fraudulent use of 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.

634

827.03 (2) (a) 1st Aggravated child abuse.

635

847.0145 (1) 1st Selling, or otherwise
transferring custody or
control, of a minor.

636

847.0145 (2) 1st Purchasing, or otherwise
obtaining custody or
control, of a minor.

637

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.

638

893.135 1st Attempted capital
trafficking offense.

639

893.135 (1) (a) 3. 1st Trafficking in cannabis,



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more than 10,000 lbs.

640

893.135
(1) (b) 1.c.

1st

Trafficking in cocaine,
more than 400 grams,
less than 150 kilograms.

641

893.135
(1) (c) 1.c.

1st

Trafficking in illegal
drugs, more than 28
grams, less than 30
kilograms.

642

893.135
(1) (d) 1.c.

1st

Trafficking in
phencyclidine, more than
400 grams.

643

893.135
(1) (e) 1.c.

1st

Trafficking in
methaqualone, more than
25 kilograms.

644

893.135
(1) (f) 1.c.

1st

Trafficking in
amphetamine, more than
200 grams.

645

893.135
(1) (h) 1.c.

1st

Trafficking in gamma-
hydroxybutyric acid
(GHB), 10 kilograms or
more.

646

893.135

1st

Trafficking in 1,4-



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(1) (j) 1.c.

Butanediol, 10 kilograms
or more.

893.135

1st

Trafficking in
Phenethylamines, 400
grams or more.

(1) (k) 2.c.

896.101 (5) (c)

1st

Money laundering,
financial instruments
totaling or exceeding
\$100,000.

896.104 (4) (a) 3.

1st

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

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

921.0024 Criminal Punishment Code; worksheet computations;
scoresheets.—

(1) (a) The Criminal Punishment Code worksheet is used to
compute the subtotal and total sentence points as follows:

FLORIDA CRIMINAL PUNISHMENT CODE
WORKSHEET



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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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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		=	
M	0.2	x		=	



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692

693

Total

694

695

696

Victim Injury

697

Level

Sentence
Points

Number

Total

698

2nd degree
murder-
death

240

x

....

=

....

699

Death

120

x

....

=

....

700

Severe

40

x

....

=

....

701

Moderate

18

x

....

=

....

702

Slight

4

x

....

=

....

703

Sexual
penetration

80

x

....

=

....

704

Sexual
contact

40

x

....

=

....



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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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3	1.6	x		=	
2	0.8	x		=	
1	0.5	x		=	
M	0.2	x		=	

Total

TOTAL OFFENSE SCORE.....

TOTAL PRIOR RECORD SCORE.....

LEGAL STATUS.....

COMMUNITY SANCTION VIOLATION.....

PRIOR SERIOUS FELONY.....

PRIOR CAPITAL FELONY.....

FIREARM OR SEMIAUTOMATIC WEAPON.....

SUBTOTAL.....

PRISON RELEASEE REOFFENDER (no) (yes).....

VIOLENT CAREER CRIMINAL (no) (yes).....

HABITUAL VIOLENT OFFENDER (no) (yes).....

HABITUAL OFFENDER (no) (yes).....

DRUG TRAFFICKER (no) (yes) (x multiplier).....

LAW ENF. PROTECT. (no) (yes) (x multiplier).....



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MOTOR VEHICLE THEFT (no) (yes) (x multiplier).....
CRIMINAL GANG OFFENSE (no) (yes) (x multiplier).....
DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no) (yes)
(x multiplier).....
ADULT-ON-MINOR SEX OFFENSE (no) (yes) (x multiplier).....
.....
TOTAL SENTENCE POINTS.....

(b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation and each successive community sanction violation, unless any of the following apply:

1. If the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for the violation, and for each successive community sanction violation involving a new felony conviction.

2. If the community sanction violation is committed by a violent felony offender of special concern as defined in s. 948.06:

a. Twelve (12) community sanction violation points are



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assessed for the violation and for each successive violation of
felony probation or community control where:

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

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

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

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

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



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Prior capital felony points: If the offender has one or more prior capital felonies in the offender's criminal record, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony in the offender's criminal record is a previous capital felony offense for which the offender has entered a plea of nolo contendere or guilty or has been found guilty; or a felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

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

Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8



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offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

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

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

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



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defendant to the statutory maximum sentence.

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

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

(2) The lowest permissible sentence is the minimum sentence that may be imposed by the trial court, absent a valid reason for departure. The lowest permissible sentence is any nonstate



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

(3) A single scoresheet shall be prepared for each defendant to determine the permissible range for the sentence that the court may impose, except that if the defendant is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision



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of the guidelines or the code, separate scoresheets must be prepared. The scoresheet or scoresheets must cover all the defendant's offenses pending before the court for sentencing. The state attorney shall prepare the scoresheet or scoresheets, which must be presented to the defense counsel for review for accuracy in all cases unless the judge directs otherwise. The defendant's scoresheet or scoresheets must be approved and signed by the sentencing judge.

(4) The Department of Corrections, in consultation with the Office of the State Courts Administrator, state attorneys, and public defenders, must develop and submit the revised Criminal Punishment Code scoresheet to the Supreme Court for approval by June 15 of each year, as necessary. Upon the Supreme Court's approval of the revised scoresheet, the Department of Corrections shall produce and provide sufficient copies of the revised scoresheets by September 30 of each year, as necessary. Scoresheets must include item entries for the scoresheet preparer's use in indicating whether any prison sentence imposed includes a mandatory minimum sentence or the sentence imposed was a downward departure from the lowest permissible sentence under the Criminal Punishment Code.

(5) The Department of Corrections shall distribute sufficient copies of the Criminal Punishment Code scoresheets to those persons charged with the responsibility for preparing scoresheets.

(6) The clerk of the circuit court shall transmit a complete, accurate, and legible copy of the Criminal Punishment Code scoresheet used in each sentencing proceeding to the Department of Corrections. Scoresheets must be transmitted no



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less frequently than monthly, by the first of each month, and may be sent collectively.

(7) A sentencing scoresheet must be prepared for every defendant who is sentenced for a felony offense. A copy of the individual offender's Criminal Punishment Code scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Rule 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or any other rule pertaining to the preparation and submission of felony sentencing scoresheets, must be attached to the copy of the uniform judgment and sentence form provided to the Department of Corrections.

Section 10. Paragraph (e) is added to subsection (4) of section 944.275, Florida Statutes, to read:

944.275 Gain-time.—

(4)

(e) Notwithstanding subparagraph (b)3., for sentences imposed for offenses committed on or after October 1, 2014, the department may not grant incentive gain-time if the offense is a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

Section 11. Subsections (13) and (14) are added to section 947.1405, Florida Statutes, to read:

947.1405 Conditional release program.—

(13) If a person who is transferred to the custody of the Department of Children and Families pursuant to part V of chapter 394 is subject to conditional release supervision, the period of conditional release supervision is tolled until such person is no longer in the custody of the Department of Children



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and Families. This subsection applies to all periods of conditional release supervision which begin on or after October 1, 2014, regardless of the date of the underlying offense.

(14) Effective for a releasee whose crime was committed on or after October 1, 2014, in violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, in addition to any other provision of this section, the commission must impose a condition prohibiting the releasee from viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material unless otherwise indicated in the treatment plan provided by a qualified practitioner in the sexual offender treatment program. Visual or auditory material includes, but is not limited to, telephone, electronic media, computer programs, and computer services.

Section 12. Subsection (1) of section 948.012, Florida Statutes, is amended, and subsections (5) and (6) are added to that section, to read:

948.012 Split sentence of probation or community control and imprisonment.—

(1) ~~If~~ ~~Whenever~~ punishment by imprisonment for a misdemeanor or a felony, except for a capital felony, is prescribed, the court, ~~in its discretion~~, may, at the time of sentencing, impose a split sentence whereby the defendant is to be placed on probation or, with respect to any such felony, into community control upon completion of any specified period of such sentence which may include a term of years or less. In such case, the court shall stay and withhold the imposition of the remainder of sentence imposed upon the defendant and direct that



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the defendant be placed upon probation or into community control after serving such period as may be imposed by the court. Except as provided in subsection (6), the period of probation or community control shall commence immediately upon the release of the defendant from incarceration, whether by parole or gain-time allowances.

(5) (a) Effective for offenses committed on or after October 1, 2014, if the court imposes a term of years in accordance with s. 775.082 which is less than the maximum sentence for the offense, the court must impose a split sentence pursuant to subsection (1) for any person who is convicted of a violation of:

1. Section 782.04(1)(a)2.c.;
2. Section 787.01(3)(a)2. or 3.;
3. Section 787.02(3)(a)2. or 3.;
4. Section 794.011, excluding s. 794.011(10);
5. Section 800.04;
6. Section 825.1025; or
7. Section 847.0135(5).

(b) The probation or community control portion of the split sentence imposed by the court must extend for at least 2 years. However, if the term of years imposed by the court extends to within 2 years of the maximum sentence for the offense, the probation or community control portion of the split sentence must extend for the remainder of the maximum sentence.

(6) If a defendant who has been sentenced to a split sentence pursuant to subsection (1) is transferred to the custody of the Department of Children and Families pursuant to part V of chapter 394, the period of probation or community



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control is tolled until such person is no longer in the custody
of the Department of Children and Families. This subsection
applies to all sentences of probation or community control which
begin on or after October 1, 2014, regardless of the date of the
underlying offense.

Section 13. Subsection (5) is added to section 948.30,
Florida Statutes, to read:

948.30 Additional terms and conditions of probation or
community control for certain sex offenses.—Conditions imposed
pursuant to this section do not require oral pronouncement at
the time of sentencing and shall be considered standard
conditions of probation or community control for offenders
specified in this section.

(5) Effective for a probationer or community controllee
whose crime was committed on or after October 1, 2014, and who
is placed on probation or community control for a violation of
chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.
847.0145, in addition to all other conditions imposed, the court
must impose a condition prohibiting the probationer or community
controllee from viewing, accessing, owning, or possessing any
obscene, pornographic, or sexually stimulating visual or
auditory material unless otherwise indicated in the treatment
plan provided by a qualified practitioner in the sexual offender
treatment program. Visual or auditory material includes, but is
not limited to, telephone, electronic media, computer programs,
and computer services.

Section 14. Section 948.31, Florida Statutes, is amended to
read:

948.31 Evaluation and treatment of sexual predators and



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offenders on probation or community control.—The court may shall
require an evaluation by a qualified practitioner to determine
the need of a probationer or community controllee for treatment.
~~If the court determines that a need therefor is established by~~
~~the evaluation process, the court shall require sexual offender~~
~~treatment as a term or condition of probation or community~~
~~control for any probationer or community controllee person who~~
is required to register as a sexual predator under s. 775.21 or
sexual offender under s. 943.0435, s. 944.606, or s. 944.607 to
undergo an evaluation, at the probationer or community
controllee's expense, by a qualified practitioner to determine
whether such probationer or community controllee needs sexual
offender treatment. If the qualified practitioner determines
that sexual offender treatment is needed and recommends
treatment, the probationer or community controllee must
successfully complete and pay for the treatment. Such treatment
must ~~shall be required to~~ be obtained from a qualified
practitioner as defined in s. 948.001. Treatment may not be
administered by a qualified practitioner who has been convicted
or adjudicated delinquent of committing, or attempting,
soliciting, or conspiring to commit, any offense that is listed
in s. 943.0435(1)(a)1.a.(I). ~~The court shall impose a~~
~~restriction against contact with minors if sexual offender~~
~~treatment is recommended. The evaluation and recommendations for~~
~~treatment of the probationer or community controllee shall be~~
~~provided to the court for review.~~

Section 15. If any provision of this act or its application
to any person or circumstance is held invalid, the invalidity
does not affect other provisions or applications of this act



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which can be given effect without the invalid provision or
application, and to this end the provisions of this act are
severable.

Section 16. This act shall take effect October 1, 2014.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to sexual offenses; amending s. 92.55,
F.S.; authorizing orders limiting testimony in open
court and in depositions if the victim or witness was
a child under 16 years of age when a specified sexual
offense occurred; authorizing the court to set other
conditions appropriate to taking the testimony of this
victim or witness; amending s. 775.15, F.S.;
eliminating time limitations to the prosecution of
specified criminal offenses relating to lewd or
lascivious battery or molestation if the victim was
younger than 16 years of age at the time of the
offense; specifying an exception; providing
applicability; amending s. 794.011, F.S.; revising and
creating offenses involving sexual battery; increasing
felony degree of certain sexual battery offenses;
amending s. 794.0115, F.S.; imposing a 50-year minimum
mandatory sentence for dangerous sexual felony
offenders; amending s. 794.05, F.S.; revising
definition of the term "sexual activity;" amending s.



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1123 800.04, F.S.; revising and creating offenses involving
1124 lewd or lascivious battery and molestation; increasing
1125 felony degree of certain lewd or lascivious battery
1126 and molestation offenses; amending s. 810.14, F.S.;
1127 providing that voyeurism includes secretly observing
1128 another person's intimate areas in which the person
1129 has a reasonable expectation of privacy, when the
1130 other person is located in a public or private
1131 dwelling, structure, or conveyance; defining the term
1132 "intimate area"; amending s. 921.0022, F.S.; assigning
1133 offense severity rankings for new lewd or lascivious
1134 battery and molestation offenses and sexual battery
1135 offenses; amending s. 921.0024, F.S.; providing that
1136 sentence points are multiplied for specified sex
1137 offenses committed by an adult upon a minor under
1138 certain circumstances; amending s. 944.275, F.S.;
1139 prohibiting award of gain-time for certain offenses;
1140 amending s. 947.1405, F.S.; providing for tolling of
1141 conditional release supervision; providing
1142 applicability; amending ss. 947.1405 and 948.30, F.S.;
1143 prohibiting certain conditional releasees,
1144 probationers, or community controllees from viewing,
1145 accessing, owning, or possessing any obscene,
1146 pornographic, or sexually stimulating material;
1147 providing exceptions; amending s. 948.012, F.S.;
1148 requiring split sentence for certain sexual offenses;
1149 providing for tolling of probation or community
1150 control; amending s. 948.31, F.S.; authorizing the
1151 court to require a sexual offender or sexual predator



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1152 who is on probation or community control to undergo an
1153 evaluation to determine whether the offender or
1154 predator needs sexual offender treatment; requiring
1155 the probationer or community controllee to pay for the
1156 treatment; removing a provision prohibiting contact
1157 with minors if sexual offender treatment is
1158 recommended; providing applicability; providing
1159 severability; providing an effective date.

By the Committees on Judiciary; and Criminal Justice; and
Senator Bradley

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A bill to be entitled

An act relating to sexual offenses; amending s. 794.011, F.S.; revising and creating offenses involving sexual battery; increasing felony degree of certain sexual battery offenses; amending s. 800.04, F.S.; revising and creating offenses involving lewd or lascivious battery and molestation; increasing felony degree of certain lewd or lascivious battery and molestation offenses; amending s. 921.0022, F.S.; assigning new offense severity rankings for lewd or lascivious molestation and sexual battery offenses; amending s. 921.0024, F.S.; providing that sentence points are multiplied for specified sex offenses committed by an adult upon a minor under certain circumstances; creating s. 921.30, F.S.; authorizing a state attorney to move a court to make a written finding that an offense was a sexually motivated offense under certain circumstances; amending s. 944.275, F.S.; prohibiting award of gain-time for certain offenses; amending s. 947.1405, F.S.; providing for tolling of conditional release supervision; providing applicability; amending s. 948.012, F.S.; requiring split sentence for certain sexual offenses; providing for tolling of probation or community control; providing applicability; providing severability; providing an effective date.

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

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

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Section 1. Subsections (4), (5), and (6), paragraph (b) of subsection (8), and subsections (9) and (10) of section 794.011, Florida Statutes, are amended to read:

794.011 Sexual battery.—

(4) (a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age without that person's consent, under any of the following circumstances listed in paragraph (e), commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(c) A person younger than 18 years of age who commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(d) A person commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the person commits sexual battery upon a person 12 years of age or older without that person's consent, under any of the circumstances listed in paragraph (e), and such person was

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previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5);

2. Section 787.01(3)(a)2. or 3.;

3. Section 787.02(3)(a)2. or 3.;

4. Section 800.04;

5. Section 825.1025;

6. Section 847.0135(5); or

7. This chapter, excluding subsection (10) of this section.

(e) The following circumstances apply to paragraphs (a)-

(d):

1. ~~(a) When~~ The victim is physically helpless to resist.

2. ~~(b) When~~ The offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat.

3. ~~(c) When~~ The offender coerces the victim to submit by threatening to retaliate against the victim, or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future.

4. ~~(d) When~~ The offender, without the prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance that which mentally or physically incapacitates the victim.

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5. ~~(e) When~~ The victim is mentally defective, and the offender has reason to believe this or has actual knowledge of this fact.

6. ~~(f) When~~ The victim is physically incapacitated.

7. ~~(g) When~~ The offender is a law enforcement officer, correctional officer, or correctional probation officer as defined in by s. 943.10(1), (2), (3), (6), (7), (8), or (9), who is certified under ~~the provisions of~~ s. 943.1395 or is an elected official exempt from such certification by virtue of s. 943.253, or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.

(5) (a) A person 18 years of age or older who commits sexual battery upon a person 12 years of age or older but younger than 18 years of age, without that person's consent, and in the process thereof does not use physical force and violence likely to cause serious personal injury commits a felony of the first ~~second~~ degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(b) A person 18 years of age or older who commits sexual battery upon a person 18 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(c) A person younger than 18 years of age who commits

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sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

(d) A person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115 if the person commits sexual battery upon a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury and the person was previously convicted of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5);

2. Section 787.01(3)(a)2. or 3.;

3. Section 787.02(3)(a)2. or 3.;

4. Section 800.04;

5. Section 825.1025;

6. Section 847.0135(5); or

7. This chapter, excluding subsection (10) of this section.

(6)(a) The offenses ~~offense~~ described in paragraphs (5)(a)-(c) are ~~subsection (5)~~ included in any sexual battery offense charged under subsection (3) ~~or subsection (4)~~.

(b) The offense described in paragraph (5)(a) is included in an offense charged under paragraph (4)(a).

(c) The offense described in paragraph (5)(b) is included

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in an offense charged under paragraph (4)(b).

(d) The offense described in paragraph (5)(c) is included in an offense charged under paragraph (4)(c).

(e) The offense described in paragraph (5)(d) is included in an offense charged under paragraph (4)(d).

(8) Without regard to the willingness or consent of the victim, which is not a defense to prosecution under this subsection, a person who is in a position of familial or custodial authority to a person less than 18 years of age and who:

(b) Engages in any act with that person while the person is 12 years of age or older but younger less than 18 years of age which constitutes sexual battery under paragraph (1)(h) commits a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) For prosecution under paragraph (4)(a), paragraph (4)(b), paragraph (4)(c), or paragraph (4)(d) which involves an offense committed under any of the circumstances listed in subparagraph (4)(e)7. ~~paragraph (4)(g)~~, acquiescence to a person reasonably believed by the victim to be in a position of authority or control does not constitute consent, and it is not a defense that the perpetrator was not actually in a position of control or authority if the circumstances were such as to lead the victim to reasonably believe that the person was in such a position.

(10) ~~A~~ Any person who falsely accuses ~~a~~ any person listed in subparagraph (4)(e)7. ~~paragraph (4)(g)~~ or other person in a position of control or authority as an agent or employee of

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government of violating paragraph (4) (a), paragraph (4) (b),
 paragraph (4) (c), or paragraph (4) (d) commits ~~(4) (g) is guilty~~
 of a felony of the third degree, punishable as provided in s.
 775.082, s. 775.083, or s. 775.084.

Section 2. Subsections (4) and (5) of section 800.04,
 Florida Statutes, are amended to read:

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

(4) LEWD OR LASCIVIOUS BATTERY.—~~A person who:~~

(a) A person commits lewd or lascivious battery by:

1. Engaging in sexual activity with a person 12 years of
age or older but less than 16 years of age; or

2. Encouraging, forcing, or enticing any person less than
16 years of age to engage in sadomasochistic abuse, sexual
bestiality, prostitution, or any other act involving sexual
activity.

(b) Except as provided in paragraph (c), an offender who
commits lewd or lascivious battery commits a felony of the
second degree, punishable as provided in s. 775.082, s. 775.083,
or s. 775.084.

(c) A person commits a felony of the first degree,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084
if the person is an offender 18 years of age or older who
commits lewd or lascivious battery and was previously convicted
of a violation of:

1. Section 787.01(2) or s. 787.02(2) when the violation
involved a victim who was a minor and, in the course of
committing that violation, the defendant committed against the
minor a sexual battery under chapter 794 or a lewd act under

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this section or s. 847.0135(5);

2. Section 787.01(3) (a) 2. or 3.;

3. Section 787.02(3) (a) 2. or 3.;

4. Chapter 794, excluding s. 794.011(10);

5. Section 825.1025;

6. Section 847.0135(5); or

7. This section.

~~(a) Engages in sexual activity with a person 12 years of~~
~~age or older but less than 16 years of age; or~~

~~(b) Encourages, forces, or entices any person less than 16~~
~~years of age to engage in sadomasochistic abuse, sexual~~
~~bestiality, prostitution, or any other act involving sexual~~
~~activity~~

~~commits lewd or lascivious battery, a felony of the second~~
~~degree, punishable as provided in s. 775.082, s. 775.083, or s.~~
~~775.084.~~

(5) LEWD OR LASCIVIOUS MOLESTATION.—

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

(b) An offender 18 years of age or older who commits lewd
or lascivious molestation against a victim less than 12 years of
age commits a life felony, punishable as provided in s.
775.082(3) (a) 4.

(c) 1. An offender less than 18 years of age who commits

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233 lewd or lascivious molestation against a victim less than 12
 234 years of age; or
 235 2. An offender 18 years of age or older who commits lewd or
 236 lascivious molestation against a victim 12 years of age or older
 237 but less than 16 years of age
 238
 239 commits a felony of the second degree, punishable as provided in
 240 s. 775.082, s. 775.083, or s. 775.084.
 241 (d) An offender less than 18 years of age who commits lewd
 242 or lascivious molestation against a victim 12 years of age or
 243 older but less than 16 years of age commits a felony of the
 244 third degree, punishable as provided in s. 775.082, s. 775.083,
 245 or s. 775.084.
 246 (e) A person commits a felony of the first degree,
 247 punishable as provided in s. 775.082, s. 775.083, or s. 775.084
 248 if the person is 18 years of age or older and commits lewd or
 249 lascivious molestation against a victim 12 years of age or older
 250 but less than 16 years of age and the person was previously
 251 convicted of a violation of:
 252 1. Section 787.01(2) or s. 787.02(2) when the violation
 253 involved a victim who was a minor and, in the course of
 254 committing the violation, the defendant committed against the
 255 minor a sexual battery under chapter 794 or a lewd act under
 256 this section or s. 847.0135(5);
 257 2. Section 787.01(3)(a)2. or 3.;
 258 3. Section 787.02(3)(a)2. or 3.;
 259 4. Chapter 794, excluding s. 794.011(10);
 260 5. Section 825.1025;
 261 6. Section 847.0135(5); or

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262 7. This section.
 263 Section 3. Paragraphs (g) through (i) of subsection (3) of
 264 section 921.0022, Florida Statutes, are amended to read:
 265 921.0022 Criminal Punishment Code; offense severity ranking
 266 chart.—
 267 (3) OFFENSE SEVERITY RANKING CHART
 268 (g) LEVEL 7
 269

Florida Statute	Felony Degree	Description
270 316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
271 316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
272 316.1935(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.
273		

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274	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.
275	409.920	3rd	Medicaid provider fraud;
276	(2) (b) 1.a.		\$10,000 or less.
	409.920	2nd	Medicaid provider fraud;
277	(2) (b) 1.b.		more than \$10,000, but less than \$50,000.
	456.065 (2)	3rd	Practicing a health care profession without a license.
278	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
279	458.327 (1)	3rd	Practicing medicine without a license.
280			

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281	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
282	461.012 (1)	3rd	Practicing podiatric medicine without a license.
283	462.17	3rd	Practicing naturopathy without a license.
284	463.015 (1)	3rd	Practicing optometry without a license.
285	464.016 (1)	3rd	Practicing nursing without a license.
286	465.015 (2)	3rd	Practicing pharmacy without a license.
287	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
288	467.201	3rd	Practicing midwifery

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			without a license.	
289	468.366	3rd	Delivering respiratory care services without a license.	
290	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.	
291	483.901(9)	3rd	Practicing medical physics without a license.	
292	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.	
293	484.053	3rd	Dispensing hearing aids without a license.	
294	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.	
295	560.123(8)(b)1.	3rd	Failure to report currency	

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	590-01630-14		2014526c2	
			or payment instruments exceeding \$300 but less than \$20,000 by a money services business.	
296	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.	
297	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.	
298	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew <u>driver</u> ~~driver's~~ license or identification card; other registration violations.	
299	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.	
300	775.21(10)(g)	3rd	Failure to report or	

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	590-01630-14		2014526c2	
			providing false	
			information about a sexual	
			predator; harbor or	
301			conceal a sexual predator.	
	782.051(3)	2nd	Attempted felony murder of	
			a person by a person other	
			than the perpetrator or	
			the perpetrator of an	
302			attempted felony.	
	782.07(1)	2nd	Killing of a human being	
			by the act, procurement,	
			or culpable negligence of	
303			another (manslaughter).	
	782.071	2nd	Killing of a human being	
			or viable fetus by the	
			operation of a motor	
			vehicle in a reckless	
			manner (vehicular	
304			homicide).	
	782.072	2nd	Killing of a human being	
			by the operation of a	
			vessel in a reckless	
			manner (vessel homicide).	
305				
	784.045(1)(a)1.	2nd	Aggravated battery;	

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			intentionally causing	
			great bodily harm or	
			disfigurement.	
306				
	784.045(1)(a)2.	2nd	Aggravated battery; using	
			deadly weapon.	
307				
	784.045(1)(b)	2nd	Aggravated battery;	
			perpetrator aware victim	
			pregnant.	
308				
	784.048(4)	3rd	Aggravated stalking;	
			violation of injunction or	
			court order.	
309				
	784.048(7)	3rd	Aggravated stalking;	
			violation of court order.	
310				
	784.07(2)(d)	1st	Aggravated battery on law	
			enforcement officer.	
311				
	784.074(1)(a)	1st	Aggravated battery on	
			sexually violent predators	
			facility staff.	
312				
	784.08(2)(a)	1st	Aggravated battery on a	
			person 65 years of age or	
			older.	
313				

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	784.081(1)	1st	Aggravated battery on specified official or employee.
314			
	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
315			
	784.083(1)	1st	Aggravated battery on code inspector.
316			
	787.06(3)(a)	1st	Human trafficking using coercion for labor and services.
317			
	787.06(3)(e)	1st	Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.
318			
	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
319			
	790.16(1)	1st	Discharge of a machine gun

	590-01630-14		2014526c2
			under specified circumstances.
320			
	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
321			
	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
322			
	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
323			
	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
324			
	790.23	1st, PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.

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325	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.
326	796.03	2nd	Procuring any person under 16 years for prostitution.
327	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim <u>younger less</u> than 12 years of age; offender <u>younger less</u> than 18 years.
328	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but <u>younger less</u> than 16 years; offender 18 years or older.
329	<u>800.04 (5) (e)</u>	<u>1st</u>	<u>Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or</u>

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			<u>older; prior conviction for specified sex offense.</u>
330	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
331	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
332	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
333	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
334	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
335	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand

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336			theft.
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
337			
	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
338			
	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
339			
	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
340			
	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
341			
	812.131 (2) (a)	2nd	Robbery by sudden snatching.
342			

	590-01630-14		2014526c2
343	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
344	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
345	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
346	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
347	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
348	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.

	590-01630-14		2014526c2
349	817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
350	825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
351	827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
352	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
353	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.

	590-01630-14		2014526c2
354	838.015	2nd	Bribery.
355	838.016	2nd	Unlawful compensation or reward for official behavior.
356	838.021(3)(a)	2nd	Unlawful harm to a public servant.
357	838.22	2nd	Bid tampering.
358	843.0855(2)	3rd	Impersonation of a public officer or employee.
359	843.0855(3)	3rd	Unlawful simulation of legal process.
360	843.0855(4)	3rd	Intimidation of a public officer or employee.
361	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
362	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.

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363	872.06	2nd	Abuse of a dead human body.
364	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
365	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
366	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)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

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	590-01630-14		2014526c2
367	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)4., within 1,000 feet of property used for religious services or a specified business site.
368	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
369	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
370	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
371	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
372			

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

	590-01630-14		2014526c2
	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
373			
	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
374			
	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
375			
	893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
376			
	893.135 (1)(h)1.a.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
377			
	893.135 (1)(j)1.a.	1st	Trafficking in 1,4- Butanediol, 1 kilogram or more, less than 5 kilograms.
378			
	893.135	1st	Trafficking in

	590-01630-14		2014526c2
	(1)(k)2.a.		Phenethylamines, 10 grams or more, less than 200 grams.
379			
	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
380			
	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
381			
	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
382			
	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
383			
	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure

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 to comply with reporting
 requirements.

384 943.0435 (9) (a) 3rd Sexual offender; failure
 to comply with reporting
 requirements.

385 943.0435 (13) 3rd Failure to report or
 providing false
 information about a sexual
 offender; harbor or
 conceal a sexual offender.

386 943.0435 (14) 3rd Sexual offender; failure
 to report and reregister;
 failure to respond to
 address verification.

387 944.607 (9) 3rd Sexual offender; failure
 to comply with reporting
 requirements.

388 944.607 (10) (a) 3rd Sexual offender; failure
 to submit to the taking of
 a digitized photograph.

389 944.607 (12) 3rd Failure to report or
 providing false
 information about a sexual

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 offender; harbor or
 conceal a sexual offender.

390 944.607 (13) 3rd Sexual offender; failure
 to report and reregister;
 failure to respond to
 address verification.

391 985.4815 (10) 3rd Sexual offender; failure
 to submit to the taking of
 a digitized photograph.

392 985.4815 (12) 3rd Failure to report or
 providing false
 information about a sexual
 offender; harbor or
 conceal a sexual offender.

393 985.4815 (13) 3rd Sexual offender; failure
 to report and reregister;
 failure to respond to
 address verification.

394

395

396 (h) LEVEL 8

397

Florida Felony
 Statute Degree Description

398

	590-01630-14		2014526c2
	316.193	2nd	DUI manslaughter.
399	(3) (c) 3.a.		
	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
400			
401	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
402			
	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
403			
	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.
404			
	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments

	590-01630-14		2014526c2
			totaling or exceeding \$20,000, but less than \$100,000.
405			
	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
406			
	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
407			
	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.
408			
	782.051 (2)	1st	Attempted felony murder while perpetrating or

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attempting to perpetrate
a felony not enumerated
in s. 782.04(3).

409 782.071(1)(b) 1st Committing vehicular
homicide and failing to
render aid or give
information.

410 782.072(2) 1st Committing vessel
homicide and failing to
render aid or give
information.

411 787.06(3)(b) 1st Human trafficking using
coercion for commercial
sexual activity.

412 787.06(3)(c) 1st Human trafficking using
coercion for labor and
services of an
unauthorized alien.

413 787.06(3)(f) 1st Human trafficking using
coercion for commercial
sexual activity by the
transfer or transport of
any individual from
outside Florida to within

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the state.

414 790.161(3) 1st Discharging a destructive
device which results in
bodily harm or property
damage.

415 794.011(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.

416 794.011(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.

417 794.011(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.

418

	590-01630-14		2014526c2
	<u>794.011(5)(d)</u>	<u>1st</u>	<u>Sexual battery; victim 12</u> <u>years of age or older;</u> <u>offender does not use</u> <u>physical force likely to</u> <u>cause serious injury;</u> <u>prior conviction for</u> <u>specified sex offense.</u>
419	~~794.011(5)~~	<u>2nd</u>	~~Sexual battery, victim 12~~ ~~years or over, offender~~ ~~does not use physical~~ ~~force likely to cause~~ ~~serious injury.~~
420	794.08(3)	<u>2nd</u>	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
421	<u>800.04(4)(b)</u>	<u>2nd</u>	<u>Lewd or lascivious</u> <u>battery.</u>
422	<u>800.04(4)(c)</u>	<u>1st</u>	<u>Lewd or lascivious</u> <u>battery; offender 18</u> <u>years of age or older;</u> <u>prior conviction for</u> <u>specified sex offense.</u>
423			

	590-01630-14		2014526c2
	~~800.04(4)~~	<u>2nd</u>	~~Lewd or lascivious~~ ~~battery.~~
424	806.01(1)	<u>1st</u>	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
425	810.02(2)(a)	<u>1st, PBL</u>	Burglary with assault or battery.
426	810.02(2)(b)	<u>1st, PBL</u>	Burglary; armed with explosives or dangerous weapon.
427	810.02(2)(c)	<u>1st</u>	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
428	812.014(2)(a)2.	<u>1st</u>	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
429	812.13(2)(b)	<u>1st</u>	Robbery with a weapon.
430			

	590-01630-14		2014526c2
	812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
431			
	817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
432			
	817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
433			
	817.535(4)(a)1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
434			
	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.
435			
	817.568(6)	2nd	Fraudulent use of

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	590-01630-14		2014526c2
			personal identification information of an individual under the age of 18.
436			
	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.
437			
	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
438			
	825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
439			
	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
440			
	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
441			

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	590-01630-14		2014526c2
	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
442			
	860.16	1st	Aircraft piracy.
443			
	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).
444			
	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
445			
	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
446			
	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
447			
	893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less

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	590-01630-14		2014526c2
			than 400 grams.
448			
	893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
449			
	893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
450			
	893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
451			
	893.135 (1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
452			
	893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
453			
	893.135 (1)(h)1.b.	1st	Trafficking in gamma- hydroxybutyric acid

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

	590-01630-14		2014526c2
			(GHB), 5 kilograms or more, less than 10 kilograms.
454	893.135	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
	(1) (j) 1.b.		
455	893.135	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
	(1) (k) 2.b.		
456	893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
457	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
458	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real

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	590-01630-14		2014526c2
			property.
459	895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
460	896.101(5) (b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
461	896.104(4) (a) 2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
462			
463			
464	(i) LEVEL 9		
465			
	Florida Statute	Felony Degree	Description
466	316.193	1st	DUI manslaughter;
	(3) (c) 3.b.		failing to render aid or

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	590-01630-14		2014526c2
			give information.
467	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
468	409.920	1st	Medicaid provider fraud;
	(2)(b)1.c.		\$50,000 or more.
469	499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
470	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
471	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
472	655.50(10)(b)3.	1st	Failure to report

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	590-01630-14		2014526c2
			financial transactions totaling or exceeding \$100,000 by financial institution.
473	775.0844	1st	Aggravated white collar crime.
474	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
475	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 specified felonies.
476	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
477	782.07(2)	1st	Aggravated manslaughter of an elderly person or

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	590-01630-14		2014526c2	
			disabled adult.	
478	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.	
479	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.	
480	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.	
481	787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.	
482	787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an	

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			unauthorized alien.	
483	787.06(3)(g)	1st,PBL	Human trafficking for commercial sexual activity of a child under the age of 18.	
484	787.06(4)	1st	Selling or buying of minors into human trafficking.	
485	790.161	1st	Attempted capital destructive device offense.	
486	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.	
487	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.	
488	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.	

489	590-01630-14	2014526c2	
	<u>794.011(4)(a)</u>	<u>1st,PBL</u>	<u>Sexual battery, certain</u> <u>circumstances; victim 12</u> <u>years of age or older</u> <u>but younger than 18</u> <u>years; offender 18 years</u> <u>or older.</u>
490	<u>794.011(4)(b)</u>	<u>1st</u>	<u>Sexual battery, certain</u> <u>circumstances; victim</u> <u>and offender 18 years of</u> <u>age or older.</u>
491	<u>794.011(4)(c)</u>	<u>1st</u>	<u>Sexual battery, certain</u> <u>circumstances; victim 12</u> <u>years of age or older;</u> <u>offender younger than 18</u> <u>years.</u>
492	<u>794.011(4)(d)</u>	<u>1st,PBL</u>	<u>Sexual battery, certain</u> <u>circumstances; victim 12</u> <u>years of age or older;</u> <u>prior conviction for</u> <u>specified sex offenses.</u>
493	~~794.011(4)~~	~~1st~~	~~Sexual battery; victim~~ ~~12 years or older;~~ ~~certain circumstances.~~
494			

	590-01630-14	2014526c2	
	794.011(8)(b)	<u>1st,PBL</u>	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
495	794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
496	796.035	1st	Selling or buying of minors into prostitution.
497	800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
498	812.13(2)(a)	<u>1st,PBL</u>	Robbery with firearm or other deadly weapon.
499	812.133(2)(a)	<u>1st,PBL</u>	Carjacking; firearm or other deadly weapon.
500	812.135(2)(b)	1st	Home-invasion robbery with weapon.
501			

	590-01630-14		2014526c2
502	817.535(3)(b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
	817.535(4)(a)2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
503	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.
504	817.568(7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian,

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505			or person exercising custodial authority.
506	827.03(2)(a)	1st	Aggravated child abuse.
	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
507	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
508	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.
509	893.135	1st	Attempted capital trafficking offense.
510	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
511	893.135	1st	Trafficking in cocaine,

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 (1) (b) 1.c. more than 400 grams,
 less than 150 kilograms.

512 893.135 1st Trafficking in illegal
 (1) (c) 1.c. drugs, more than 28
 grams, less than 30
 kilograms.

513 893.135 1st Trafficking in
 (1) (d) 1.c. phencyclidine, more than
 400 grams.

514 893.135 1st Trafficking in
 (1) (e) 1.c. methaqualone, more than
 25 kilograms.

515 893.135 1st Trafficking in
 (1) (f) 1.c. amphetamine, more than
 200 grams.

516 893.135 1st Trafficking in gamma-
 (1) (h) 1.c. hydroxybutyric acid
 (GHB), 10 kilograms or
 more.

517 893.135 1st Trafficking in 1,4-
 (1) (j) 1.c. Butanediol, 10 kilograms
 or more.

518

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

519 896.101(5) (c) 1st Money laundering,
 financial instruments
 totaling or exceeding
 \$100,000.

520 896.104(4) (a) 3. 1st Structuring transactions
 to evade reporting or
 registration
 requirements, financial
 transactions totaling or
 exceeding \$100,000.

521

522

523 Section 4. Section 921.0024, Florida Statutes, is amended
 524 to read:

525 921.0024 Criminal Punishment Code; worksheet computations;
 526 scoresheets.—

527 (1) (a) The Criminal Punishment Code worksheet is used to
 528 compute the subtotal and total sentence points as follows:

529

530 FLORIDA CRIMINAL PUNISHMENT CODE
 531 WORKSHEET
 532
 533 OFFENSE SCORE
 534

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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 =	
		Total

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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	 =	
M	0.2 x	 =	

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Total

565
566
567

568

569

570
571
572
573
574
575
576
577

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 contact	40	x		=	

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Total

578
579
580
581
582
583
584

585

586
587
588
589
590
591
592
593
594

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		=	
3	1.6	x		=	
2	0.8	x		=	

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595

1 0.5 x = ...

596

M 0.2 x = ...

597

598

Total

599

600

TOTAL OFFENSE SCORE.....

602

TOTAL PRIOR RECORD SCORE.....

603

604

LEGAL STATUS.....

605

COMMUNITY SANCTION VIOLATION.....

606

PRIOR SERIOUS FELONY.....

607

PRIOR CAPITAL FELONY.....

608

FIREARM OR SEMIAUTOMATIC WEAPON.....

609

SUBTOTAL.....

610

611

PRISON RELEASEE REOFFENDER (no) (yes).....

612

VIOLENT CAREER CRIMINAL (no) (yes).....

613

HABITUAL VIOLENT OFFENDER (no) (yes).....

614

HABITUAL OFFENDER (no) (yes).....

615

DRUG TRAFFICKER (no) (yes) (x multiplier).....

616

LAW ENF. PROTECT. (no) (yes) (x multiplier).....

617

MOTOR VEHICLE THEFT (no) (yes) (x multiplier).....

618

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

619

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

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620

(x multiplier).....

621

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

622

.....

623

TOTAL SENTENCE POINTS.....

624

625

(b) WORKSHEET KEY:

626

627

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

630

631

632

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation and each successive community sanction violation, unless any of the following apply:

637

1. If the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for the violation, and for each successive community sanction violation involving a new felony conviction.

642

2. If the community sanction violation is committed by a violent felony offender of special concern as defined in s. 948.06:

645

a. Twelve (12) community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where:

648

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

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649 and

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

653 b. Twenty-four (24) community sanction violation points are
654 assessed for the violation and for each successive violation of
655 felony probation or community control where the violation
656 includes a new felony conviction.

657
658 Multiple counts of community sanction violations before the
659 sentencing court shall not be a basis for multiplying the
660 assessment of community sanction violation points.

661
662 Prior serious felony points: If the offender has a primary
663 offense or any additional offense ranked in level 8, level 9, or
664 level 10, and one or more prior serious felonies, a single
665 assessment of thirty (30) points shall be added. For purposes of
666 this section, a prior serious felony is an offense in the
667 offender's prior record that is ranked in level 8, level 9, or
668 level 10 under s. 921.0022 or s. 921.0023 and for which the
669 offender is serving a sentence of confinement, supervision, or
670 other sanction or for which the offender's date of release from
671 confinement, supervision, or other sanction, whichever is later,
672 is within 3 years before the date the primary offense or any
673 additional offense was committed.

674
675 Prior capital felony points: If the offender has one or more
676 prior capital felonies in the offender's criminal record, points
677 shall be added to the subtotal sentence points of the offender

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678 equal to twice the number of points the offender receives for
679 the primary offense and any additional offense. A prior capital
680 felony in the offender's criminal record is a previous capital
681 felony offense for which the offender has entered a plea of nolo
682 contendere or guilty or has been found guilty; or a felony in
683 another jurisdiction which is a capital felony in that
684 jurisdiction, or would be a capital felony if the offense were
685 committed in this state.

686
687 Possession of a firearm, semiautomatic firearm, or machine gun:
688 If the offender is convicted of committing or attempting to
689 commit any felony other than those enumerated in s. 775.087(2)
690 while having in his or her possession: a firearm as defined in
691 s. 790.001(6), an additional eighteen (18) sentence points are
692 assessed; or if the offender is convicted of committing or
693 attempting to commit any felony other than those enumerated in
694 s. 775.087(3) while having in his or her possession a
695 semiautomatic firearm as defined in s. 775.087(3) or a machine
696 gun as defined in s. 790.001(9), an additional twenty-five (25)
697 sentence points are assessed.

698
699 Sentencing multipliers:

700
701 Drug trafficking: If the primary offense is drug trafficking
702 under s. 893.135, the subtotal sentence points are multiplied,
703 at the discretion of the court, for a level 7 or level 8
704 offense, by 1.5. The state attorney may move the sentencing
705 court to reduce or suspend the sentence of a person convicted of
706 a level 7 or level 8 offense, if the offender provides

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707 substantial assistance as described in s. 893.135(4).
 708
 709 Law enforcement protection: If the primary offense is a
 710 violation of the Law Enforcement Protection Act under s.
 711 775.0823(2), (3), or (4), the subtotal sentence points are
 712 multiplied by 2.5. If the primary offense is a violation of s.
 713 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
 714 are multiplied by 2.0. If the primary offense is a violation of
 715 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
 716 Protection Act under s. 775.0823(10) or (11), the subtotal
 717 sentence points are multiplied by 1.5.
 718
 719 Grand theft of a motor vehicle: If the primary offense is grand
 720 theft of the third degree involving a motor vehicle and in the
 721 offender's prior record, there are three or more grand thefts of
 722 the third degree involving a motor vehicle, the subtotal
 723 sentence points are multiplied by 1.5.
 724
 725 Offense related to a criminal gang: If the offender is convicted
 726 of the primary offense and committed that offense for the
 727 purpose of benefiting, promoting, or furthering the interests of
 728 a criminal gang as defined in s. 874.03, the subtotal sentence
 729 points are multiplied by 1.5. If applying the multiplier results
 730 in the lowest permissible sentence exceeding the statutory
 731 maximum sentence for the primary offense under chapter 775, the
 732 court may not apply the multiplier and must sentence the
 733 defendant to the statutory maximum sentence.
 734
 735 Domestic violence in the presence of a child: If the offender is

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736 convicted of the primary offense and the primary offense is a
 737 crime of domestic violence, as defined in s. 741.28, which was
 738 committed in the presence of a child under 16 years of age who
 739 is a family or household member as defined in s. 741.28(3) with
 740 the victim or perpetrator, the subtotal sentence points are
 741 multiplied by 1.5.
 742
 743 Adult-on-minor sex offense: If the offender was 18 years of age
 744 or older and the victim was younger than 18 years of age at the
 745 time the offender committed the primary offense, and if the
 746 primary offense was an offense committed on or after October 1,
 747 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
 748 violation involved a victim who was a minor and, in the course
 749 of committing that violation, the defendant committed a sexual
 750 battery under chapter 794 or a lewd act under s. 800.04 or s.
 751 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
 752 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
 753 794.05; s. 800.04; or s. 847.0135(5), the subtotal sentence
 754 points are multiplied by 2.0. If applying the multiplier results
 755 in the lowest permissible sentence exceeding the statutory
 756 maximum sentence for the primary offense under chapter 775, the
 757 court may not apply the multiplier and must sentence the
 758 defendant to the statutory maximum sentence.
 759 (2) The lowest permissible sentence is the minimum sentence
 760 that may be imposed by the trial court, absent a valid reason
 761 for departure. The lowest permissible sentence is any nonstate
 762 prison sanction in which the total sentence points equals or is
 763 less than 44 points, unless the court determines within its
 764 discretion that a prison sentence, which may be up to the

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statutory maximums for the offenses committed, is appropriate. When the total sentence points exceeds 44 points, the lowest permissible sentence in prison months shall be calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent. The total sentence points shall be calculated only as a means of determining the lowest permissible sentence. The permissible range for sentencing shall be the lowest permissible sentence up to and including the statutory maximum, as defined in s. 775.082, for the primary offense and any additional offenses before the court for sentencing. The sentencing court may impose such sentences concurrently or consecutively. However, any sentence to state prison must exceed 1 year. If the lowest permissible sentence under the code exceeds the statutory maximum sentence as provided in s. 775.082, the sentence required by the code must be imposed. If the total sentence points are greater than or equal to 363, the court may sentence the offender to life imprisonment. An offender sentenced to life imprisonment under this section is not eligible for any form of discretionary early release, except executive clemency or conditional medical release under s. 947.149.

(3) A single scoresheet shall be prepared for each defendant to determine the permissible range for the sentence that the court may impose, except that if the defendant is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision of the guidelines or the code, separate scoresheets must be prepared. The scoresheet or scoresheets must cover all the defendant's offenses pending before the court for sentencing.

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The state attorney shall prepare the scoresheet or scoresheets, which must be presented to the defense counsel for review for accuracy in all cases unless the judge directs otherwise. The defendant's scoresheet or scoresheets must be approved and signed by the sentencing judge.

(4) The Department of Corrections, in consultation with the Office of the State Courts Administrator, state attorneys, and public defenders, must develop and submit the revised Criminal Punishment Code scoresheet to the Supreme Court for approval by June 15 of each year, as necessary. Upon the Supreme Court's approval of the revised scoresheet, the Department of Corrections shall produce and provide sufficient copies of the revised scoresheets by September 30 of each year, as necessary. Scoresheets must include item entries for the scoresheet preparer's use in indicating whether any prison sentence imposed includes a mandatory minimum sentence or the sentence imposed was a downward departure from the lowest permissible sentence under the Criminal Punishment Code.

(5) The Department of Corrections shall distribute sufficient copies of the Criminal Punishment Code scoresheets to those persons charged with the responsibility for preparing scoresheets.

(6) The clerk of the circuit court shall transmit a complete, accurate, and legible copy of the Criminal Punishment Code scoresheet used in each sentencing proceeding to the Department of Corrections. Scoresheets must be transmitted no less frequently than monthly, by the first of each month, and may be sent collectively.

(7) A sentencing scoresheet must be prepared for every

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defendant who is sentenced for a felony offense. A copy of the individual offender's Criminal Punishment Code scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Rule 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or any other rule pertaining to the preparation and submission of felony sentencing scoresheets, must be attached to the copy of the uniform judgment and sentence form provided to the Department of Corrections.

Section 5. Section 921.30, Florida Statutes, is created to read:

921.30 Court finding that offense was sexually motivated.—
For offenses other than those specifically defined as a sexually violent offense in s. 394.912(9)(a)-(f), the state attorney may move the court to make a written finding on the record that, based on the circumstances of the case, including consideration of a victim impact statement, the person's offense was sexually motivated.

Section 6. Paragraph (e) is added to subsection (4) of section 944.275, Florida Statutes, to read:

944.275 Gain-time.—

(4)

(e) Notwithstanding subparagraph (b)3., for sentences imposed for offenses committed on or after October 1, 2014, the department may not grant incentive gain-time if the offense is a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 794.05; s. 800.04; s. 825.1025; or s. 847.0135(5).

Section 7. Subsection (13) is added to section 947.1405, Florida Statutes, to read:

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947.1405 Conditional release program.—

(13) If a person who is transferred to the custody of the Department of Children and Families pursuant to part V of chapter 394 is subject to conditional release supervision, the period of conditional release supervision is tolled until such person is no longer in the custody of the Department of Children and Families. This subsection applies to all periods of conditional release supervision which begin on or after October 1, 2014, regardless of the date of the underlying offense.

Section 8. Subsection (1) of section 948.012, Florida Statutes, is amended, and subsections (5) and (6) are added to that section, to read:

948.012 Split sentence of probation or community control and imprisonment.—

(1) ~~If whenever~~ punishment by imprisonment for a misdemeanor or a felony, except for a capital felony, is prescribed, the court, ~~in its discretion,~~ may, at the time of sentencing, impose a split sentence whereby the defendant is to be placed on probation or, with respect to any such felony, into community control upon completion of any specified period of such sentence which may include a term of years or less. In such case, the court shall stay and withhold the imposition of the remainder of sentence imposed upon the defendant and direct that the defendant be placed upon probation or into community control after serving such period as may be imposed by the court. Except as provided in subsection (6), the period of probation or community control shall commence immediately upon the release of the defendant from incarceration, whether by parole or gain-time allowances.

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881 (5) (a) Effective for offenses committed on or after October
882 1, 2014, if the court imposes a term of years in accordance with
883 s. 775.082 which is less than the maximum sentence for the
884 offense, the court must impose a split sentence pursuant to
885 subsection (1) for any person who is convicted of a violation
886 of:
887 1. Section 782.04(1)(a)2.c.;
888 2. Section 787.01(3)(a)2. or 3.;
889 3. Section 787.02(3)(a)2. or 3.;
890 4. Section 794.011, excluding s. 794.011(10);
891 5. Section 794.05;
892 6. Section 800.04;
893 7. Section 825.1025; or
894 8. Section 847.0135(5).
895 (b) The probation or community control portion of the split
896 sentence imposed by the court must extend for at least 2 years.
897 However, if the term of years imposed by the court extends to
898 within 2 years of the maximum sentence for the offense, the
899 probation or community control portion of the split sentence
900 must extend for the remainder of the maximum sentence.
901 (6) If a defendant who has been sentenced to a split
902 sentence pursuant to subsection (1) is transferred to the
903 custody of the Department of Children and Families pursuant to
904 part V of chapter 394, the period of probation or community
905 control is tolled until such person is no longer in the custody
906 of the Department of Children and Families. This subsection
907 applies to all sentences of probation or community control which
908 begin on or after October 1, 2014, regardless of the date of the
909 underlying offense.

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910 Section 9. If any provision of this act or its application
911 to any person or circumstance is held invalid, the invalidity
912 does not affect other provisions or applications of this act
913 which can be given effect without the invalid provision or
914 application, and to this end the provisions of this act are
915 severable.
916 Section 10. This act shall take effect October 1, 2014.

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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)

2/20/2014

Meeting Date

Topic _____

Bill Number 526
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

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Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/14
Meeting Date

Topic Sexual offenses

Name Ron Book

Job Title _____

Address 104 West Jefferson
Street
TLH 32301
City State Zip

Bill Number OS/CS
SB 526
(if applicable)

Amendment Barcode _____
(if applicable)

Phone _____

E-mail _____

Speaking: ☐ For ☐ Against ☐ Information

Representing Lauven's Kids

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

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 Appropriations

BILL: CS/CS/SB 528

INTRODUCER: Appropriations Committee, Judiciary Committee and Senator Evers

SUBJECT: Sex Offenses

DATE: February 24, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Favorable
2.	<u>Munroe</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	<u>Clodfelter</u>	<u>Kynoch</u>	<u>AP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 528 makes numerous changes to Florida laws relevant to persons required to register as a sexual predator or sexual offender (“registrant”). Registration of such individuals provides notice to the public and assists law enforcement personnel in monitoring the activities of sexual predators and sexual offenders. A significant change in the bill is an increase in the information a registrant must report to the Florida Department of Law Enforcement (FDLE). This additional information includes information on vehicles a registrant owns and vehicles owned by a person residing with the registrant.

The bill does the following:

- Creates a process for relevant agencies to be notified of an order granting a registrant’s name change petition and informing the FDLE and applicable law enforcement agencies when a registrant whose name was legally changed fails to meet requirements for obtaining a replacement driver license or identification card;
- Requires a registrant to report specified information on vehicles the registrant owns and vehicles owned by a person who resides at a registrant’s permanent address, Internet identifiers (prior to their use), tattoos or other identifying marks, palm prints, passports, professional license information, immigration status information, and volunteer status at a Florida institution of higher education;
- Prohibits the FDLE from posting information regarding a non-registrant’s vehicles on the Internet public registry of sexual predators and sexual offenders;

- Adds “sexual misconduct” offenses and lewd offenses committed against the elderly or disabled to criteria or definitions that qualify a person as a sexual predator or offender;
- Requires registrants who are unable to secure or update a driver license or identification card with the Department of Highway Safety and Motor Vehicles (DHSMV) to report any change of residence or change of name within 48 hours after the change;
- Requires registrants to report information regarding their intention to establish a residence in another country (or intention to remain in Florida after previously reporting an intention to reside in another country);
- Punishes registrants who fail to report Internet identifiers prior to use and registrants who knowingly provide false registration information;
- Clarifies current law provisions relevant to the 25-year registration period under s. 943.043, F.S., that must elapse before a petition for removal of registration requirements may be filed.
- Changes the victim age criterion for a petition for removal of registration requirements under s. 943.04354, F.S. (the “Romeo and Juliet” statute);
- Requires a registrant to report transient residence information to the sheriff within 48 hours after establishing a transient residence and every 30 days thereafter if the registrant maintains a transient residence;
- Requires the sheriffs to establish procedures for transient residence reporting and notify transient registrants of reporting requirements;
- Authorizes sheriffs to enter into agreements with police departments and others to facilitate transient reporting sites;
- Provides that it is a third degree felony to fail to report transient information as required;
- Requires registrants to report any change in vehicles owned to the sheriff within 48 hours of the change;
- Authorizes sheriffs to verify the addresses of registrants in Department of Corrections’ (DOC) care, custody, control, or supervision; and
- Authorizes prosecution for registration violations in the county where the registrant is released and in the county of the intended address of the registrant as reported by the registrant prior to his or her release.

The Criminal Justice Estimating Conference determined that SB 528, as originally filed, would have an insignificant impact on the prison bed population. The Office of the State Courts Administrator projected that the bill would have a minimal impact on state courts system expenditures. The Florida Department of Law Enforcement indicated that it could make the basic changes to the registry required by CS/SB 528 within existing resources. The changes made in CS/CS/SB 528 do not appear to affect the fiscal impact of the bill.

II. Present Situation:

Registration of Sexual Predators and Sexual Offenders: General Information

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sexual offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender. The registration laws, which also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders, span several different chapters

and numerous statutes,¹ and are implemented through the combined efforts of the Florida Department of Law Enforcement (FDLE), all Florida sheriffs, the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), the Department of Highway Safety and Motor Vehicles (DHSMV), and the Department of Children and Families (DCF).

A person is designated as a sexual predator by a court if the person:

- Has been convicted of a current qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;
- Has been convicted of a current qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.²

The FDLE classifies a person as a sexual offender if the person:

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997 (the date the modern registry became effective) from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the person was 14 years of age or older.³

Requirements for in-person registration and reregistration are similar for sexual predators and sexual offenders but frequency of reregistration depends on the qualifying offense. Registration requirements may also differ based on a special status, e.g., the sexual predator or sexual offender is in the DOC's control or custody, under DOC or DJJ supervision, or in residential commitment under the DJJ. The DOC and DJJ are required to report certain information on sexual predators and sexual offenders to the FDLE and other persons or entities.

The FDLE, through its agency website, provides a searchable database that contains information about sexual predators and sexual offenders.⁴ Further, local law enforcement agencies provide access to this information, typically through a link to the state public registry webpage.⁵

Florida's registry laws meet minimum federal requirements. The federal Sex Offender Registration and Notification Act (SORNA), which is Title I of the Adam Walsh Protection and

¹ See ss. 775.21–775.25, 943.043–943.0437, 944.606–944.607, and 985.481–985.4815, F.S.

² Section 775.21, F.S. (the Florida Sexual Predators Act).

³ Section 943.0435 and 985.4815, F.S.

⁴ The FDLE is the central repository for registration information. It also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. Florida Department of Law Enforcement, *About Us*, <http://offender.fdle.state.fl.us/offender/About.jsp> (last visited on January 15, 2014).

⁵ Link to the state public registry webpage: <http://offender.fdle.state.fl.us/offender/homepage.do;jsessionid=Te-Tt1GRPwWA5HTSbLUQVw> (last visited on January 15, 2014).

Safety Act of 2006 (AWA),⁶ attempts to make all states' laws uniform with respect to requirements (or minimum standards) that Congress has judged to be necessary to be included in states' registry laws. The U.S. Department of Justice (DOJ) maintains the Dru Sjodin National Sex Offender Public Website.⁷ States are free to choose not to substantially implement SORNA. However, the AWA penalizes noncompliance by partially reducing Byrne Justice Assistance Grant funding. The DOJ has determined that Florida has substantially implemented SORNA.⁸ Florida was the third state to do so.⁹

Registration and Reregistration Requirements

Reporting requirements and time periods for reporting differ depending upon whether the registrant (sexual predator or sexual offender) is under DOC or DJJ custody or supervision, under the custody of a private correctional facility, under the custody of a local jail, under federal supervision, or under none of these custody or supervision statuses. In describing the registration and registration process, this analysis focuses on the registrant who is in none of these custody or supervision statuses and resides in Florida. However, staff notes that any registrant released from custody without a subsequent period of supervision would be subject to this process, and registrants under DOC or DJJ supervision would be subject to a registration and reregistration process substantially similar to the process described.

A registrant must initially report in person to the local sheriff's office within 48 hours after:

- Establishing a residence in Florida (sexual predators and sexual offenders);
- Being designated by the court as a sexual predator;
- Being released from custody or supervision (sexual offenders); or
- Being convicted, if the registrant is not under the control, custody, or supervision of the DOC or the custody of a private correctional facility (sexual offenders).¹⁰

At this initial registration, registrants must provide:

- Specified personal identification information;
- A social security number;
- an address and telephone numbers (home and cellular);
- A photograph and fingerprints;
- An electronic mail address and any instant message name;

⁶ P.L. 109-248 (July 27, 2006).

⁷ United States Department of Justice, Dru Sjodin National Sex Offender Public Website, <http://www.nsopw.gov/Core/Portal.aspx> (last visited on January 15, 2014).

⁸ This standard is satisfied if a jurisdiction carries out SORNA requirements (as interpreted and explained by DOJ guidelines). Substantial implementation does not necessarily mean full implementation. Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, U.S. Department of Justice, "Jurisdictions that have substantially implemented SORNA," http://www.ojp.usdoj.gov/smart/newsroom_jurisdictions_sorna.htm (last visited on January 15, 2014).

⁹ See Florida Department of Law Enforcement, Press Release, "Governor Crist Announces Florida's Implementation of the Adam Walsh Act" (May 18, 2010), <http://www.fdle.state.fl.us/Content/News/2010/May-2010/Governor-Crist-Announces-Florida%E2%80%99s-Implementation-.aspx> (last visited on January 15, 2014).

¹⁰ Sections 775.21(6)(e) and 943.0435(2)(a), F.S.

- An occupation and place of employment; and
- A date and place of each conviction and a brief description of the crime or crimes committed.¹¹

After initial reporting, registrants must report in person to a driver license office and provide proof of initial registration to secure or renew a driver license or identification card. Each time the registrant's driver license or identification is subject to renewal, and within 48 hours after any change in residence or the registrant's name, the registrant must report in person to the driver license office.¹²

All sexual predators and some sexual offenders are required to reregister with their local sheriff four times a year. All other sexual offenders are required to reregister at least twice a year.¹³ Additionally, the following events are subject to expedited reporting to the sheriff:

- Enrolling, obtaining employment, or carrying on a vocation at a Florida institution of higher education (including changes to this information);
- Electronic mail address and instant message names prior to their use;
- Vacating a residence without having another residence;
- Remaining at a residence the registrant has reported he or she will vacate;
- Intending to reside in another state or non-Florida jurisdiction;
- Remaining in Florida after reporting the intent to establish a residence in another state or non-Florida jurisdiction; and
- Living in another state but working or attending school in Florida.¹⁴

Agency Reporting of Information Regarding Sexual Predators and Sexual Offenders

The DOC must report to the FDLE certain personal information regarding a sexual offender who is:

- Released after serving a period of incarceration; or
- Taken in the DOC's custody or control or under its supervision, or in the custody of a private correctional facility.¹⁵

The DJJ must report to the FDLE certain personal information regarding a sexual offender who is:

- Released from DJJ residential commitment; or
- Supervised under DJJ but who is not committed.¹⁶

¹¹ Sections 775.21(6)(a) and (e) and 943.0435(2)(a) and (b), F.S.

¹² Sections 775.21(6)(f) and (g)1. and 943.0435(3) and (4)(a), F.S.

¹³ Sections 775.21(8) and 943.0435(14), F.S.

¹⁴ Sections 775.21(6)(g)2.–4., (i), and (j) and 943.0435(2)(b)2. and (4)(b)–(d), (7), and (8), F.S.

¹⁵ Sections 944.606 and 944.607, F.S.

¹⁶ Sections 985.481 and 985.4815, F.S.

Prohibitions and Penalties

Certain sexual predators are prohibited from working or volunteering at places where children regularly congregate. A violation of this prohibition is a third degree felony.¹⁷

It is a second degree felony for a registrant to report that he or she intends to or did vacate a residence but remains at the residence without reporting this information.¹⁸

It is a third degree felony for a registrant to fail to report his or her intent to establish a residence in another state or jurisdiction.¹⁹ It is a second degree felony for a registrant to report his or her intent to establish a residence in another state or jurisdiction but remain in this state without reporting that information.²⁰

It is a third degree felony for a registrant to fail to comply with registration requirements.²¹

Removal of Registration Requirement

Generally, sexual predators and sexual offenders are subject to lifetime registration, unless they receive a full pardon or have a conviction set aside for a registration-qualifying offense.²² However, some sexual offenders may petition under s. 943.0435, F.S., for removal of registration requirements if they have been released from the latest sanction for at least 25 years, are arrest-free since release, and do not have an adult conviction for a disqualifying offense.²³

Additionally, a small number of registrants who were teenagers or young adults when they committed their offense may qualify for registration removal pursuant to s. 943.04354, F.S. (which is sometimes referred to as the “Romeo and Juliet” statute). A sexual predator or sexual offender who qualifies under the statute may move or petition for removal of registration requirements. Qualifying criteria include:

- Commission of a qualifying sex offense; and
- Registration by the offender is based solely on that offense.

Additionally, the registrant seeking removal from the registration requirements must not be more than 4 years older than the victim of the qualifying offense. The victim must be 14-17 years of age when that offense was committed.

The court may grant the motion or petition if it finds that these criteria are met and registration removal will not conflict with federal law.²⁴

¹⁷ Section 775.21(10)(b), F.S.

¹⁸ Sections 775.21(6)(g)3. and 943.0435(4)(c), F.S.

¹⁹ Sections 775.21(6)(i) and (10)(a) and 943.0435(7) and (9)(a), F.S.

²⁰ Sections 775.21(6)(j) and 943.0435(8), F.S.

²¹ Sections 775.21(10)(a), 943.0435(9)(a) and (14)(c)4., 944.607(10)(a) and (13)(c)4., and 985.4815(9), (10)(a), and (13)(b)4., F.S.

²² Sections 775.21(6)(l) and 943.0435(11), F.S.

²³ Section 943.0435(11), F.S.

²⁴ Federal conflict may occur if the sex offense doesn’t fall within a “consensual sexual conduct” exception to SORNA’s registration requirements. SORNA does not require registration if two persons 13 years of age or older engage in consensual

Name Changes

Section 68.07, F.S., provides that chancery courts have jurisdiction to change the name of any person residing in Florida on petition of the person filed in the county in which he or she resides.²⁵ A sexual predator or sexual offender registrant is not barred from changing his or her name but must report to a driver license office within 48 hours after any change in the registrant's name by reason of marriage or the legal process.²⁶

Before the court hearing on a petition for a name change, a petitioner must have fingerprints submitted for a state and national criminal history records check, except if a former name is being restored. Fingerprints for the petitioner must be taken in a manner approved by the FDLE and must be submitted electronically to the FDLE for state processing for a criminal history records check. The FDLE submits the fingerprints to the Federal Bureau of Investigation for national processing and then submits the results of the state and national records check to the clerk of the court. Currently, the results of the criminal history records check do not specifically alert the clerk or judge that the petitioner is a registrant. The court is required to consider the results in reviewing the information contained in the petition and evaluating whether to grant the petition.

Each name change petition must be verified and show information specified in the statute, such as information that the petitioner is a bona fide resident of and domiciled in the county where the change of name is sought.²⁷ The statute does not currently require a petitioner include information about whether the petitioner has ever been required to register as a sexual predator or sexual offender.²⁸

The hearing on a petition for restoring a former name may be held immediately after it is filed.²⁹ The hearing on any other petition for a name change may be held immediately after the clerk receives the results of the criminal history records check.³⁰

Upon filing the final judgment, the clerk of the court, if the petitioner's birth occurred in Florida, sends a report of the judgment and other specified information to the Office of Vital Statistics of the Department of Health and a report of the judgment to the FDLE. The FDLE sends a copy of the report to the DHSMV, which may be delivered by electronic transmission.³¹ The report must contain sufficient information to identify the petitioner, including the results of the criminal history records check if applicable, the new name of the petitioner, and the file number of the

sexual conduct and no more than 4 years separates their ages. Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking, U.S. Department of Justice, *SORNA*, <http://www.ojp.usdoj.gov/100000000000smart/sorna.htm#consensualconduct> (last visited on January 15, 2014).

²⁵ Section 68.07, F.S., does not apply to any change of name in proceedings for dissolution of marriage or for adoption of children. Section 68.07(9), F.S.

²⁶ Sections 775.21(6)(g) and 943.0435(4)(a), F.S.

²⁷ Section 68.07(3)(a), F.S.

²⁸ See s. 68.07, F.S.

²⁹ Section 68.07(4), F.S.

³⁰ *Id.*

³¹ The statute does not provide any specific direction on what the DHSMV is supposed to do with the name change information. Section 68.07(6), F.S.

judgment.³² Any information retained by the FDLE and the DHSMV may be revised or supplemented by those departments to reflect changes made by the final judgment.³³ With respect to a person convicted of a felony in another state or of a federal offense, the FDLE must send the report to the respective state's office of law enforcement records or to the office of the Federal Bureau of Investigation.³⁴ The Department of Law Enforcement may forward the report to any other law enforcement agency it believes may retain information related to the petitioner.³⁵

III. Effect of Proposed Changes:

The bill makes numerous changes to Florida laws relevant to persons required to register as a sexual predator or sexual offender ("registrant"), including, but not limited to, adding additional information that must be provided by a registrant, adding additional offenses that qualify an offender for registration, punishing noncompliance with registration requirements, and modifying the process for seeking removal of registration requirements.

Addresses Reporting of Legal Name Changes by Registrants (Section 1)

The bill amends s. 68.07, F.S., relating to legal name changes, to require the FDLE to inform the clerk of the court if a person petitioning for a name change is a registrant. Further, the name change petition must show whether the petitioner has ever been a registrant.

Within 5 business days after the filing of a final judgment on a name change, the clerk of the court must send a report of the judgment to the FDLE. However, if the petitioner is a registrant, the clerk must electronically notify the FDLE of the name change, in a manner prescribed by the FDLE, within 2 business days after the filing of the final judgment.

The bill requires the DHSMV to monitor the records of those registrants who the FDLE has notified the DHSMV have been granted a legal name change. If a registrant granted a legal name change does not obtain a replacement driver license or identification card within 48 hours after the name change, the DHSMV must notify the FDLE, which must notify applicable law enforcement agencies of the sexual predator's or sexual offender's failure to comply with the registration requirements.

Adds Registration-Qualifying Offenses to the Sexual Predator Statute and Quarterly Reporting Provisions (Sections 2, 5, and 9)

The bill amends ss. 775.21, 943.0435, and 944.607, F.S., to expand registration-qualifying offenses to include:

- Sexual misconduct between an employee of the Agency for Persons with Disabilities (APD) (or another covered person) and an individual with a developmental disability;³⁶

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Section 393.135(2), F.S.

- Sexual misconduct between a DCF employee (or other specified employee) and a patient;³⁷
- Sexual misconduct between an APD/DCF employee (or another covered person) and a forensic client; and³⁸
- Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person.³⁹

The bill clarifies that lawful conduct by owners and operators of computer services is not included within the registration-qualifying offenses relating to the use of a computer for child pornography or for facilitating the commission of other sexual offenses.

The bill clarifies that the existing reference to s. 847.0135, F.S., (computer-pornography and related computer offenses) contained in the list of registration-qualifying offenses in s. 775.21, F.S., excludes s. 847.136(6), which relates to owners and operators of computer services, and is not a relevant offense for purposes of the sexual predator designation.⁴⁰

The bill also amends the list of offenses in ss. 943.0435 and 944.607, F.S., for which quarterly registration requirements apply. Currently, under s. 943.0435(14)(b)6., F.S., and s. 944.607(13)(b)6., F.S., a sexual offender is subject to quarterly registration requirements if a court finds that the offender molested a person through the use of “unclothed genitals or genital area.” The bill limits this quarterly reporting requirement to those who also used “force or coercion” in committing the offense.⁴¹

The bill also amends the list of offenses in ss. 943.0435 and 944.607, F.S., for which quarterly registration requirements apply to include a violation of a similar offense committed in Florida which has been redesignated from a former statute number to one of those currently listed.⁴²

Adds Information Registrants Must Report (Sections 2, 5, 8, 9, 10 and 11)

The bill amends ss. 775.21, 943.0435, 944.606, 944.607, 985.481, and 985.4815, F.S., to require registrants to provide additional information as part of the registration or reregistration process, including:

- The make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned;
- Internet identifiers (prior to their use);
- Palm prints;
- Passports;
- Professional license information;

³⁷ Section 394.4593(2), F.S.

³⁸ Section 916.1075(2), F.S.

³⁹ Section 825.1025, F.S. Only added for sexual predators under s. 775.21, F.S.

⁴⁰ According to the FDLE, “[t]his language insures compliance with federal requirements relating to registration of those convicted of and (sic) computer pornography solicitation, advertisement, luring, seducing or traveling to meet a minor etc. who also have a prior conviction for a sexual offense. Correspondence from FDLE staff to the staff of the Senate Committee on Criminal Justice, dated January 16, 2014 (on file with the Senate Judiciary Committee).

⁴¹ *Id.*

⁴² *Id.*

- Immigration status information; and
- Volunteer status at a Florida institution of higher education.

For the purpose of the reporting requirement relating to “vehicles owned,” this term is defined as any motor vehicle as defined in s. 320.01, F.S., which is registered, co-registered, leased, titled, or rented by a sexual predator or sexual offender; a rented vehicle that a sexual predator or sexual offender is authorized to drive; or a vehicle for which a sexual predator or sexual offender is insured as a driver. The term also includes any motor vehicle as defined in s. 320.01, F.S., which is registered, co-registered, leased, titled, or rented by a person or persons residing at a sexual predator or sexual offender's permanent residence for 5 or more consecutive days.

Registrants must also report any change in vehicles owned. The bill amends s. 943.043, F.S., to prohibit the FDLE from displaying on or disseminating through the Internet public registry maintained by the FDLE any information regarding a vehicle that is owned by a person who is not required to register as a sexual predator or sexual offender.

Requires Registrants Who Fail to Procure a Driver License/State ID to Report Information (Sections 2 and 5)

The bill amends ss. 775.21 and 943.0435, F.S., to require registrants who fail to secure or update a driver license or identification card with the DHSMV to report any change of residence or change of name by reason of marriage or other legal process within 48 hours after the change. This information is reported to the sheriff's office in the county where the registrant resides or is located and the information must include a confirmation that the registrant reported the information to the DHSMV.

Requires Registrants Intending to Reside in Another Country to Report Information (Sections 2 and 5)

The bill amends ss. 775.21 and 943.0435, F.S., to require registrants who intend to establish a residence in another country to report in person to the sheriff of the county of current residence within 21 days before their planned departure date. When reporting, the registrant must provide the country and address of the intended residence. A residence outside of the country is a permanent residence if the registrant intends to be there for 5 days or more. Further, registrants who remain in Florida after previously reporting an intent to reside in another country must report their intent to remain in Florida to the sheriff who received the previous report. This reporting must occur within 48 hours after the date the registrant indicated he or she would leave Florida.

Authorizes Sheriffs to Verify Addresses of Registrants Under the Care, Custody, Control, or Supervision of the Department of Corrections (Sections 2 and 5)

The bill amends ss. 775.21 and 943.0435, F.S., to authorize sheriffs to verify the addresses of registrants who are under the care, custody, control, or supervision of the DOC.

Requires Registrants to Report Information on Transient Residences (Sections 2 and 5)

The bill amends ss. 775.21 and 943.0435, F.S., to require a registrant to report in person to the sheriff's office in the county in which the registrant is located within 48 hours after establishing a transient residence. Thereafter, the registrant must report every 30 days to the sheriff's office while maintaining a transient residence. The registrant must provide address and locations where he or she maintains a transient residence. A registrant's reporting of transient residence information to the sheriff's office does not exempt the registrant from any reregistration requirements.

Sheriffs must establish procedures for reporting transient residence information and provide notice to transient registrants and provide notice of procedures to transient registrants to report transient residence information. Sheriffs may coordinate and enter into agreements with police departments and other entities to facilitate additional reporting sites for transient residence registration. Sheriffs must, within two business days, electronically submit and update all information provided by a registrant to the FDLE.

Expands Where Prosecution May Be Made for Registration Violations (Sections 2, 3, and 5)

Currently, registration violations may be prosecuted in the county in which the violation was committed, the county of the last registered address of the registrant, or the county in which the conviction for a registration qualifying offense occurred.⁴³ These are also the counties in which the issuance of an arrest warrant for a registration violation are authorized.

The bill amends ss. 775.21, 775.25, and 943.0435, F.S., to also authorize issuance of an arrest warrant and prosecution for a registration violation in the county where the registrant was released from incarceration, or in the county of the intended address of the registrant as reported by the registrant prior to his or her release from incarceration.

Prohibits and Punishes Certain Acts (Sections 2, 5, 9, and 11)

The bill amends ss. 775.21, 943.0435, 944.607, and 985.4815, F.S., to provide that it is:

- A second degree felony for a registrant who reports his or her intent to establish a residence in another country to remain in Florida without reporting to the sheriff this information;
- A third degree felony to fail to report all required Internet identifiers before use;
- A third degree felony for a registrant who maintains a transient residence to report in person to the sheriff's office every 30 days as required; and
- A third degree felony to knowingly provide false registration information by act or omission.

The bill amends s. 921.0022, F.S., to update descriptive language in the offense severity ranking chart of the Criminal Punishment Code⁴⁴ to reflect these changes.

⁴³ Sections 775.21(10)(d), 775.25, and 943.0435(9)(b), F.S.

⁴⁴ Under the Criminal Punishment Code, the sentencing judge must first consult the offense severity ranking chart to determine the ranking of the offenses before him or her. The sentencing judge must use the Criminal Punishment Code

Reporting of Internet Identifiers to Commercial Social Networking Websites (Section 7)

The bill amends s. 943.0437, F.S., to authorize the FDLE to provide information on Internet identifiers⁴⁵ maintained as part of the registry to commercial social networking websites or third parties designated by those websites. This information may be used by those websites to compare registered users and screen potential users of the websites. The websites are not subject to civil liability for any action voluntarily taken in good faith to remove or disable any profile of a registered user associated with an Internet identifier contained in the registry.

Reporting of Sexual Offender Information to the FDLE (Sections 8 and 10)

The bill amends ss. 944.606 and 985.481, F.S., which require the DOC and the DJJ to notify the FDLE of certain information regarding released sexual offenders, to:

- Expand the number of qualifying offenses to include the previously mentioned “sexual misconduct” offenses to the definition of “sexual offender” in that statute; and
- Require the DOC and the DJJ to report palm prints; Internet identifiers; professional licenses, if known; passport information; and immigration status information.

Clarifies and Modifies Provisions Relating to Removal of Registration Requirements (Sections 5 and 6)

Under s. 943.0435, F.S., some sexual offenders may petition for removal of registration requirements if they have been released from the latest sanction for at least 25 years, are arrest-free since release, and do not have an adult conviction for a disqualifying offense.

The bill amends this section to add to the list of disqualifying offenses a violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed under the disqualifying offense provision.

The bill also provides clarification on the 25-year registration period that must elapse before a petition for removal of registration requirements may be filed. If a sexual offender is sentenced to a term of incarceration or committed to a residential program for the most recent conviction for a registration-qualifying offense, the registration period begins upon the offender’s release from incarceration or commitment. The registration period is tolled during any period in which the sexual offender is incarcerated, civilly committed, detained pursuant to ch. 985, F.S. or committed to a residential program. If an offender is sentenced or subject to supervision following incarceration or commitment for the most recent conviction for a registration-qualifying offense, the registration begins when the period of supervision begins. However, if the

worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. Section 921.022, F.S., and Fla. R. Crim. P. 3.704(c). The judge must then determine the permissible range of sentence using a scoresheet. *Id.*

⁴⁵ The bill replaces the term “instant message name” with “Internet identifier.” The new term includes all electronic mail, chat, instant messenger, social networking, application software, or similar names used for Internet communication. See s. 775.21(2)(i), F.S., as revised in the bill.

supervision term exceeds 25 years, the sexual offender cannot petition for removal of the registration requirements until the term of supervision for that conviction is completed.

The bill also amends s. 943.04354, F.S. (the “Romeo and Juliet” statute), which authorizes sexual predators and sexual offenders who committed certain sex offenses as young adults or teenagers, to petition for removal of registration requirements if certain criteria are met. The major substantive changes the bill makes to the statute include:

- Changing the victim age criterion so that the victim may be as young as 13 years of age (current law: 14 years of age) when the offense was committed;⁴⁶
- Authorizing convictions and juvenile adjudications of laws of other jurisdictions to be considered as qualifying offenses if they are similar to Florida qualifying offenses; and
- Authorizing the FDLE to contest the motion for removal of the registration requirements.

The bill also amends ss. 943.0435 and 943.04354, F.S., to require that the petition for removal of registration be filed in criminal division of the circuit court of the circuit where the conviction or adjudication occurred.

Effective Date (Section 13)

The bill takes effect October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁴⁶“SORNA § 111(5)(C) qualifies the foregoing definition of a ‘sex offense’ to exclude ‘[a]n offense involving consensual sexual conduct . . . if the victim was an adult, unless the adult was under the custodial authority of the offender at the time of the offense, or if the victim was at least 13 years old and the offender was not more than 4 years older than the victim.’”
USDOJ, National Guidelines for Sex Offender Registration and Notification at:
http://www.ojp.usdoj.gov/smart/pdfs/final_sornaguidelines.pdf (last visited on January 27, 2014).

B. Private Sector Impact:

None.

C. Government Sector Impact:**Prison Bed Impact**

The Criminal Justice Impact Conference (CJIC) provides the final, official estimate of the prison bed impact, if any, of criminal legislation. The CJIC met on January 30, 2014, and determined that the bill as originally filed would have an insignificant impact on the need for prison beds. The changes made to the bill in CS/CS/SB 528 do not appear to affect the CJIC's projection.

Impact to FDLE

The Florida Department of Law Enforcement (FDLE) indicated that it could make the basic changes to the existing registry that were required by CS/SB 528 within existing resources.⁴⁷ The changes made in CS/CS/SB 528 do not appear to affect that determination.

Impact to the Courts

According to the Office of the State Courts Administrator (OSCA), "there were fewer than 100 failure-to-register cases filed annually in each of the past two years." In regard to the fiscal impact of the originally-filed bill on the state courts system, the OSCA stated that this impact "cannot be accurately determined due to the unavailability of data needed to quantifiably establish the increase in judicial workload." However, "the anticipated impact on the expenditures of the State Courts System will be minimal." The changes made in CS/CS/SB 528 do not appear to affect that determination. The OSCA indicates that jury instructions will need to be revised.⁴⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

⁴⁷ Analysis of SB 528 (February 19, 2014), Florida Department of Law Enforcement (on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice).

⁴⁸ Analysis of SB 528 (January 9, 2014), Office of the State Courts Administrator (on file with the Senate Committee on Judiciary).

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 68.07, 775.21, 775.25, 921.0022, 943.043, 943.0435, 943.04354, 943.0437, 944.606, 944.607, 985.481, and 985.4815.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

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

CS/CS by Appropriations on February 20, 2014:

The committee substitute:

- Revises provisions in the bill relating to removal of registration requirements to reflect a 25-year registration period.
- Requires a registrant to report transient residence information to the sheriff within 48 hours after establishing a transient residence and every 30 days thereafter if the registrant maintains a transient residence.
- Requires the sheriffs to establish procedures for transient residence reporting and notify transient registrants of reporting requirements.
- Authorizes sheriffs to enter into agreements with police departments and others to facilitate transient reporting sites.
- Provides that it is a third degree felony to fail to report transient information as required.
- Requires registrants to report any change in vehicles owned to the sheriff within 48 hours of the change.
- Authorizes sheriffs to verify the addresses of registrants in DOC care, custody, control, or supervision.
- Authorizes prosecution for registration violation in the county where the registrant is released and in the county of the intended address of the registrant as reported by the registrant prior to his or her release.

CS by Judiciary on February 4, 2014:

The committee substitute:

- Creates a process for relevant agencies to be notified of a court order granting a registrant's name change petition.
- Creates a process for informing the FDLE and applicable law enforcement agencies when a registrant whose name is legally changed fails to meet requirements for obtaining a replacement driver license or identification card.
- Revises the information that must be reported by a registrant which relates to vehicles the registrant owns and vehicles owned by a person who resides with the registrant.
- Defines the term, "vehicles owned."
- Prohibits the FDLE from posting information regarding vehicles owned by a person who is not a registrant on the department's Internet public registry of sexual predators and sexual offenders.

- Modifies the requirements for petitioning for the removal of registration requirements for registrants and clarifies the period that must elapse before a petition can be filed by a sexual offender.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (2) and subsection
(6) of section 68.07, Florida Statutes, are amended and a new
paragraph (i) is added to subsection (3) of that section to
read:

68.07 Change of name.—

(2)(a) Before the court hearing on a petition for a name



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change, the petitioner must have fingerprints submitted for a state and national criminal history records check, except if a former name is being restored. Fingerprints for the petitioner shall be taken in a manner approved by the Department of Law Enforcement and shall be submitted electronically to the department for state processing for a criminal history records check. The department shall submit the fingerprints to the Federal Bureau of Investigation for national processing. The department shall submit the results of the state and national records check, which must indicate whether the petitioner has registered as a sexual predator or a sexual offender, to the clerk of the court. The court shall consider the results in reviewing the information contained in the petition and evaluating whether to grant the petition.

(3) Each petition shall be verified and show:

(i) Whether the petitioner has ever been required to register as a sexual predator under s. 775.021 or as a sexual offender under s. 943.0435.

(j)~~(i)~~ Whether any money judgment has ever been entered against the petitioner and if so, the name of the judgment creditor, the amount and date thereof, the court by which entered, and whether the judgment has been satisfied.

(k)~~(j)~~ That the petition is filed for no ulterior or illegal purpose and granting it will not in any manner invade the property rights of others, whether partnership, patent, good will, privacy, trademark, or otherwise.

(l)~~(k)~~ That the petitioner's civil rights have never been suspended or, if the petitioner's civil rights have been suspended, that full restoration of civil rights has occurred.



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(6) The clerk of the court must, within 5 business days
after ~~upon~~ the filing of the final judgment, send a report of
the judgment to the Department of Law Enforcement on a form to
be furnished by that department. If the petitioner is required
to register as a sexual predator or a sexual offender pursuant
to s. 775.21 or s. 943.0435, the clerk of court shall
electronically notify the Department of Law Enforcement of the
name change, in a manner prescribed by that department, within 2
business days after the filing of the final judgment. The
Department of Law Enforcement must send a copy of the report to
the Department of Highway Safety and Motor Vehicles, which may
be delivered by electronic transmission. The report must contain
sufficient information to identify the petitioner, including the
results of the criminal history records check if applicable, the
new name of the petitioner, and the file number of the judgment.
The Department of Highway Safety and Motor Vehicles shall
monitor the records of any sexual predator or sexual offender
whose name has been provided to it by the Department of Law
Enforcement. If the sexual predator or sexual offender does not
obtain a replacement driver license or identification card
within the required time as specified in s. 775.21 or s.
943.0435, the Department of Highway Safety and Motor Vehicles
shall notify the Department of Law Enforcement. The Department
of Law Enforcement shall notify applicable law enforcement
agencies of the offender's failure to comply with registration
requirements. Any information retained by the Department of Law
Enforcement and the Department of Highway Safety and Motor
Vehicles may be revised or supplemented by said departments to
reflect changes made by the final judgment. With respect to a



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person convicted of a felony in another state or of a federal offense, the Department of Law Enforcement must send the report to the respective state's office of law enforcement records or to the office of the Federal Bureau of Investigation. The Department of Law Enforcement may forward the report to any other law enforcement agency it believes may retain information related to the petitioner.

Section 2. Paragraphs (i) and (m) of subsection (2), paragraph (a) of subsection (4), subsections (6) and (8), and paragraphs (a) and (d) of subsection (10) of section 775.21, Florida Statutes, are amended, and a new paragraph (n) is added to subsection (2) of that section to read:

775.21 The Florida Sexual Predators Act.—

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

(i) "Internet identifier ~~Instant message name~~" means all electronic mail, chat, instant messenger, social networking, application software, or similar names used for Internet communication, but does not include a date of birth, social security number, or personal identification number (PIN). Voluntary disclosure by a sexual predator of his or her date of birth, social security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information ~~an identifier that allows a person to communicate in real time with another person using the Internet.~~

(m) "Transient residence" means a ~~place or~~ county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks



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shelter and a location that has no specific street address.

(n) "Vehicles owned" means any motor vehicle as defined in s. 320.01, which is registered, co-registered, leased, titled, or rented by a sexual predator or sexual offender; a rented vehicle that a sexual predator or sexual offender is authorized to drive; or a vehicle for which a sexual predator or sexual offender is insured as a driver. The term also includes any motor vehicle as defined in s. 320.01, which is registered, co-registered, leased, titled, or rented by a person or persons residing at a sexual predator or sexual offender's permanent residence for 5 or more consecutive days.

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first-degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent or guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025 ~~s.~~



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~~825.1025(2)(b);~~ s. 827.071; s. 847.0135, excluding s.
847.0135(6) ~~s. 847.0135(5);~~ s. 847.0145; s. 916.1075(2); or s.
985.701(1); or a violation of a similar law of another
jurisdiction, and the offender has previously been convicted of
or found to have committed, or has pled nolo contendere or
guilty to, regardless of adjudication, any violation of s.
393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
787.025(2)(c), where the victim is a minor and the defendant is
not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
(g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s.
796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.
847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s.
916.1075(2); or s. 985.701(1); or a violation of a similar law
of another jurisdiction;

2. The offender has not received a pardon for any felony or
similar law of another jurisdiction that is necessary for the
operation of this paragraph; and

3. A conviction of a felony or similar law of another
jurisdiction necessary to the operation of this paragraph has
not been set aside in any postconviction proceeding.

(6) REGISTRATION.—

(a) A sexual predator shall ~~must~~ register with the
department through the sheriff's office by providing the
following information to the department:

1. Name; social security number; age; race; sex; date of
birth; height; weight; tattoos or other identifying marks; hair
and eye color; photograph; address of legal residence and
address of any current temporary residence, within the state or
out of state, including a rural route address and a post office



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box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all ~~any~~ electronic mail addresses ~~address~~ and all Internet identifiers ~~any instant message name~~ required to be provided pursuant to subparagraph (g)4.; all home telephone numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; date and place of any employment; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; date and place of each conviction; fingerprints; palm prints; and a brief description of the crime or crimes committed by the offender. A post office box may ~~shall~~ not be provided in lieu of a physical residential address. The sexual predator shall produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

a. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull



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identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

b. If the sexual predator is enrolled, employed, volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status. Each change in enrollment, volunteer, or employment status must ~~shall~~ be reported in person at the sheriff's office, or the Department of Corrections if the sexual predator is in the custody or control of or under the supervision of the Department of Corrections, within 48 hours after any change in status. The sheriff or the Department of Corrections shall promptly notify each institution of the sexual predator's presence and any change in the sexual predator's enrollment, volunteer, or employment status.

c. A sexual predator shall report in person to the sheriff's office within 48 hours after any change in vehicles owned.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(b) If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections, or is in the custody of a private correctional facility, the sexual



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214 predator shall ~~must~~ register with the Department of Corrections.
215 A sexual predator who is under the supervision of the Department
216 of Corrections but who is not incarcerated shall ~~must~~ register
217 with the Department of Corrections within 3 business days after
218 the court finds the offender to be a sexual predator. The
219 Department of Corrections shall provide to the department
220 registration information and the location of, and local
221 telephone number for, any Department of Corrections office that
222 is responsible for supervising the sexual predator. In addition,
223 the Department of Corrections shall notify the department if the
224 sexual predator escapes or absconds from custody or supervision
225 or if the sexual predator dies.

226 (c) If the sexual predator is in the custody of a local
227 jail, the custodian of the local jail shall register the sexual
228 predator within 3 business days after intake of the sexual
229 predator for any reason and upon release, and shall forward the
230 registration information to the department. The custodian of the
231 local jail shall also take a digitized photograph of the sexual
232 predator while the sexual predator remains in custody and shall
233 provide the digitized photograph to the department. The
234 custodian shall notify the department if the sexual predator
235 escapes from custody or dies.

236 (d) If the sexual predator is under federal supervision,
237 the federal agency responsible for supervising the sexual
238 predator may forward to the department any information regarding
239 the sexual predator which is consistent with the information
240 provided by the Department of Corrections under this section,
241 and may indicate whether use of the information is restricted to
242 law enforcement purposes only or may be used by the department



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for purposes of public notification.

(e)1. If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections or is not in the custody of a private correctional facility, the sexual predator shall register in person:

a. At the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence in this state; and

b. At the sheriff's office in the county where he or she was designated a sexual predator by the court within 48 hours after such finding is made.

2. Any change in the sexual predator's permanent or temporary residence, name, vehicles owned, ~~or any~~ electronic mail addresses, or Internet identifiers ~~address and any instant message name~~ required to be provided pursuant to subparagraph (g)4., after the sexual predator registers in person at the sheriff's office as provided in subparagraph 1., must ~~shall~~ be accomplished in the manner provided in paragraphs (g), (i), and (j). When a sexual predator registers with the sheriff's office, the sheriff shall take a photograph, ~~and~~ a set of fingerprints, and palm prints of the predator and forward the photographs, palm prints, and fingerprints to the department, along with the information that the predator is required to provide pursuant to this section.

(f) Within 48 hours after the registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver ~~driver's~~



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license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration. At the driver ~~driver's~~ license office the sexual predator shall:

1. If otherwise qualified, secure a Florida driver ~~driver's~~ license, renew a Florida driver ~~driver's~~ license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent, temporary, or transient residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a driver ~~driver's~~ license, renewed license, or identification card, and for use by the department in maintaining current records of sexual predators. A post office box may ~~shall~~ not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway



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Safety and Motor Vehicles for issuing or renewing a driver
~~driver's~~ license or identification card as required by this
section. The driver ~~driver's~~ license or identification card
issued to the sexual predator must comply ~~be in compliance~~ with
s. 322.141(3).

3. Provide, upon request, any additional information
necessary to confirm the identity of the sexual predator,
including a set of fingerprints.

(g)1. Each time a sexual predator's driver ~~driver's~~ license
or identification card is subject to renewal, and, without
regard to the status of the predator's driver ~~driver's~~ license
or identification card, within 48 hours after any change of the
predator's residence or change in the predator's name by reason
of marriage or other legal process, the predator shall report in
person to a driver ~~driver's~~ license office and is ~~shall be~~
subject to the requirements specified in paragraph (f). The
Department of Highway Safety and Motor Vehicles shall forward to
the department and to the Department of Corrections all
photographs and information provided by sexual predators.
Notwithstanding the restrictions set forth in s. 322.142, the
Department of Highway Safety and Motor Vehicles may ~~is~~
~~authorized to~~ release a reproduction of a color-photograph or
digital-image license to the Department of Law Enforcement for
purposes of public notification of sexual predators as provided
in this section. A sexual predator who is unable to secure or
update a driver license or identification card with the
Department of Highway Safety and Motor Vehicles as provided in
paragraph (f) and this paragraph shall also report any change of
the predator's residence or change in the predator's name by



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reason of marriage or other legal process within 48 hours after
the change to the sheriff's office in the county where the
predator resides or is located and provide confirmation that he
or she reported such information to the Department of Highway
Safety and Motor Vehicles.

2.a. A sexual predator who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual predator shall specify the date upon which he or she intends to or did vacate such residence. The sexual predator shall ~~must~~ provide or update all of the registration information required under paragraph (a). The sexual predator shall ~~must~~ provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

b. A sexual predator shall report in person at the sheriff's office in the county in which he or she is located
within 48 hours after establishing a transient residence and
thereafter must report in person every 30 days to the sheriff's
office in the county in which he or she is located while
maintaining a transient residence. The sexual predator must
provide the addresses and locations where he or she maintains a
transient residence. Each sheriff's office shall establish
procedures for reporting transient residence information and
provide notice to transient registrants to report transient
residence information as required in this subparagraph.



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Reporting to the sheriff's office as required by this subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this subparagraph. The sheriff's office shall, within 2 business days, electronically submit and update all information provided by the sexual predator to the department.

3. A sexual predator who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the predator indicated he or she would or did vacate such residence, report in person to the sheriff's office to which he or she reported pursuant to subparagraph 2. for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under subparagraph 2. but fails to make a report as required under this subparagraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. The failure of a sexual predator who maintains a transient residence to report in person to the sheriff's office every 30 days as required by sub-subparagraph(g)2.b. is punishable as provided in subsection (10).

~~5.4-~~ A sexual predator shall ~~must~~ register all any electronic mail addresses and Internet identifiers ~~address or instant message name~~ with the department before ~~prior to~~ using



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such electronic mail addresses and Internet identifiers ~~address~~
~~or instant message name on or after October 1, 2007.~~ The
department shall establish an online system through which sexual
predators may securely access and update all electronic mail
address and Internet identifier ~~instant message name~~
information.

(h) The department shall ~~must~~ notify the sheriff and the
state attorney of the county and, if applicable, the police
chief of the municipality, where the sexual predator maintains a
residence.

(i) A sexual predator who intends to establish a permanent,
temporary, or transient residence in another state or
jurisdiction other than the State of Florida shall report in
person to the sheriff of the county of current residence within
48 hours before the date he or she intends to leave this state
to establish residence in another state or jurisdiction or
within 21 days before his or her planned departure date if the
intended residence of 5 days or more is outside of the United
States. The sexual predator shall ~~must~~ provide to the sheriff
the address, municipality, county, ~~and~~ state, and country of
intended residence. The sheriff shall promptly provide to the
department the information received from the sexual predator.
The department shall notify the statewide law enforcement
agency, or a comparable agency, in the intended state, ~~or~~
jurisdiction, or country of residence of the sexual predator's
intended residence. The failure of a sexual predator to provide
his or her intended place of residence is punishable as provided
in subsection (10).

(j) A sexual predator who indicates his or her intent to



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establish a permanent, temporary, or transient residence in another state, a ~~or~~ jurisdiction other than the State of Florida, or another country and later decides to remain in this state shall, within 48 hours after the date upon which the sexual predator indicated he or she would leave this state, report in person to the sheriff to which the sexual predator reported the intended change of residence, and report his or her intent to remain in this state. If the sheriff is notified by the sexual predator that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual predator who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a ~~or~~ jurisdiction other than the State of Florida, or another country, but who remains in this state without reporting to the sheriff in the manner required by this paragraph, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(k)1. The department is responsible for the online maintenance of current information regarding each registered sexual predator. The department shall ~~must~~ maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution. The photograph, palm prints, and fingerprints do not have to be stored in a computerized format.

2. The department's sexual predator registration list, containing the information described in subparagraph (a)1., is a public record. The department may ~~is authorized to~~ disseminate



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this public information by any means deemed appropriate, including operating a toll-free telephone number for this purpose. When the department provides information regarding a registered sexual predator to the public, department personnel shall ~~must~~ advise the person making the inquiry that positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and that it is illegal to use public information regarding a registered sexual predator to facilitate the commission of a crime.

3. The department shall adopt guidelines as necessary regarding the registration of sexual predators and the dissemination of information regarding sexual predators as required by this section.

(1) A sexual predator shall ~~must~~ maintain registration with the department for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that met the criteria for the sexual predator designation.

(8) VERIFICATION.—The department and the Department of Corrections shall implement a system for verifying the addresses of sexual predators. The system must be consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. The Department of Corrections shall verify the addresses of sexual predators who are not incarcerated but who reside in the community under the



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supervision of the Department of Corrections and shall report to the department any failure by a sexual predator to comply with registration requirements. County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual predators who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual predators who are under the care, custody, control, or supervision of the Department of Corrections. Local law enforcement agencies shall report to the department any failure by a sexual predator to comply with registration requirements.

(a) A sexual predator shall ~~must~~ report in person each year during the month of the sexual predator's birthday and during every third month thereafter to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. The sheriff's office may determine the appropriate times and days for reporting by the sexual predator, which must ~~shall~~ be consistent with the reporting requirements of this paragraph. Reregistration must ~~shall~~ include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all ~~any~~ electronic mail addresses or Internet



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identifiers ~~address and any instant message name~~ required to be provided pursuant to subparagraph (6)(g)4.; all home telephone ~~numbers or number and any~~ cellular telephone numbers ~~number~~; date and place of any employment; the ~~vehicle~~ make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may ~~shall~~ not be provided in lieu of a physical residential address. The sexual predator shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

2. If the sexual predator is enrolled, employed, volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status.

3. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide the hull identification number; the manufacturer's serial number; the name of the



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vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

(b) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual predator to the department in a manner prescribed by the department.

(10) PENALTIES.—

(a) Except as otherwise specifically provided, a sexual predator who fails to register; who fails, after registration, to maintain, acquire, or renew a driver ~~driver's~~ license or identification card; who fails to provide required location information, electronic mail address information before use, Internet identifier ~~instant message name~~ information before use, all home telephone numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~, or change-of-name information; who fails to make a required report in connection with vacating a permanent residence; who fails to reregister as required; who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence; who knowingly provides false registration information by act or omission; or who otherwise fails, by act or omission, to comply with the requirements of this section, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) A sexual predator who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the



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sexual predator, ~~or~~ the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator, in the county where the sexual predator was released from incarceration, or in the county of the intended address of the sexual predator as reported by the predator prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

Section 3. Section 775.25, Florida Statutes, is amended to read:

775.25 Prosecutions for acts or omissions.—A sexual predator or sexual offender who commits any act or omission in violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s. 944.607, or former s. 947.177 may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual predator or sexual offender, ~~or~~ the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual predator or sexual offender, in the county where the sexual predator or sexual offender was released from incarceration, or in the county of the intended address of the sexual predator or sexual offender as reported by the predator or offender prior to his or her release from incarceration. In addition, a sexual predator may be prosecuted for any such act or omission in the county in which he or she was designated a sexual predator.

Section 4. Subsection (1) of section 943.043, Florida Statutes, is amended to read:



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943.043 Toll-free telephone number; Internet notification;
sexual predator and sexual offender information.—

(1) The department may notify the public through the Internet of any information regarding sexual predators and sexual offenders which is not confidential and exempt from public disclosure under s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The department shall determine what information shall be made available to the public through the Internet. However, the department may not display on or disseminate through the Internet public registry maintained by the department any information regarding a vehicle that is owned by a person who is not required to register as a sexual predator or sexual offender.

Section 5. Paragraphs (a) and (g) of subsection (1), subsections (2), (4), (6), (7), (8), (9) and (11), and paragraphs (b) and (c) of subsection (14) of section 943.0435, Florida Statutes, are amended and a new paragraph (h) is added to subsection (1) of that section to read:

943.0435 Sexual offenders required to register with the department; penalty.—

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

(a)1. "Sexual offender" means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a.(I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where



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the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from the sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I). For purposes of sub-sub-subparagraph (I), a sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility;

b. Establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who



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is in the custody or control of, or under the supervision of,
any other state or jurisdiction as a result of a conviction for
committing, or attempting, soliciting, or conspiring to commit,
any of the criminal offenses proscribed in the following
statutes or similar offense in another jurisdiction: s.
393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
787.025(2)(c), where the victim is a minor and the defendant is
not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
(g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s.
796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.
985.701(1); or any similar offense committed in this state which
has been redesignated from a former statute number to one of
those listed in this sub-subparagraph; or

d. On or after July 1, 2007, has been adjudicated
delinquent for committing, or attempting, soliciting, or
conspiring to commit, any of the criminal offenses proscribed in
the following statutes in this state or similar offenses in
another jurisdiction when the juvenile was 14 years of age or
older at the time of the offense:

(I) Section 794.011, excluding s. 794.011(10);

(II) Section 800.04(4)(b) where the victim is under 12
years of age or where the court finds sexual activity by the use
of force or coercion;

(III) Section 800.04(5)(c)1. where the court finds
molestation involving unclothed genitals; or

(IV) Section 800.04(5)(d) where the court finds the use of
force or coercion and unclothed genitals.



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2. For all qualifying offenses listed in sub-subparagraph (1)(a)1.d., the court shall make a written finding of the age of the offender at the time of the offense.

For each violation of a qualifying offense listed in this subsection, except for a violation of s. 794.011, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall also ~~additionally~~ make a written finding indicating whether ~~that~~ the offense involved ~~did or did not involve~~ sexual activity and indicating whether ~~that~~ the offense involved ~~did or did not involve~~ force or coercion. For a violation of s. 800.04(5), the court shall also ~~additionally~~ make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(g) "Internet identifier ~~Instant message name"~~ has the same meaning as provided in s. 775.21 ~~means an identifier that allows a person to communicate in real time with another person using the Internet.~~

(h) "Vehicles owned" has the same meaning as provided in s. 775.21.

(2) A sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent, temporary, or transient residence within 48 hours after:

a. Establishing permanent, temporary, or transient residence in this state; or



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b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the information required to be provided pursuant to paragraph (b), including, but not limited to, any change in the sexual offender's permanent, temporary, or transient residence, name, ~~any~~ electronic mail addresses, or Internet identifiers ~~address and any instant message name~~ required to be provided pursuant to paragraph (4)(d), after the sexual offender reports in person at the sheriff's office, must ~~shall~~ be accomplished in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; fingerprints; palm prints; photograph; occupation and place of employment; address of permanent or legal residence or address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state, address, location or description, and dates of any current or known future temporary residence within the state or out of



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state; the make, model, color, vehicle identification number
(VIN), and license tag number of all vehicles owned; all home
telephone numbers ~~number~~ and ~~any~~ cellular telephone numbers
~~number~~; all ~~any~~ electronic mail addresses ~~address~~ and all
Internet identifiers ~~any instant message name~~ required to be
provided pursuant to paragraph (4) (d); date and place of each
conviction; and a brief description of the crime or crimes
committed by the offender. A post office box may ~~shall~~ not be
provided in lieu of a physical residential address. The sexual
offender shall also produce his or her passport, if he or she
has a passport, and, if he or she is an alien, shall produce or
provide information about documents establishing his or her
immigration status. The sexual offender shall also provide
information about any professional licenses he or she has.

1. If the sexual offender's place of residence is a motor
vehicle, trailer, mobile home, or manufactured home, as defined
in chapter 320, the sexual offender shall also provide to the
department through the sheriff's office written notice of the
vehicle identification number; the license tag number; the
registration number; and a description, including color scheme,
of the motor vehicle, trailer, mobile home, or manufactured
home. If the sexual offender's place of residence is a vessel,
live-aboard vessel, or houseboat, as defined in chapter 327, the
sexual offender shall also provide to the department written
notice of the hull identification number; the manufacturer's
serial number; the name of the vessel, live-aboard vessel, or
houseboat; the registration number; and a description, including
color scheme, of the vessel, live-aboard vessel, or houseboat.

2. If the sexual offender is enrolled, employed,



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765 volunteering, or carrying on a vocation at an institution of
766 higher education in this state, the sexual offender shall also
767 provide to the department through the sheriff's office the name,
768 address, and county of each institution, including each campus
769 attended, and the sexual offender's enrollment, volunteer, or
770 employment status. Each change in enrollment, volunteer, or
771 employment status must ~~shall~~ be reported in person at the
772 sheriff's office, within 48 hours after any change in status.
773 The sheriff shall promptly notify each institution of the sexual
774 offender's presence and any change in the sexual offender's
775 enrollment, volunteer, or employment status.

776 3. A sexual offender shall report in person to the
777 sheriff's office within 48 hours after any change in vehicles
778 owned.

779 (c) Provide any other information determined necessary by
780 the department, including criminal and corrections records;
781 nonprivileged personnel and treatment records; and evidentiary
782 genetic markers, when available.

783
784 When a sexual offender reports at the sheriff's office, the
785 sheriff shall take a photograph, ~~and~~ a set of fingerprints, and
786 palm prints of the offender and forward the photographs, palm
787 prints, and fingerprints to the department, along with the
788 information provided by the sexual offender. The sheriff shall
789 promptly provide to the department the information received from
790 the sexual offender.

791 (4) (a) Each time a sexual offender's driver ~~driver's~~
792 license or identification card is subject to renewal, and,
793 without regard to the status of the offender's driver ~~driver's~~



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license or identification card, within 48 hours after any change in the offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process, the offender shall report in person to a driver ~~driver's~~ license office, and is ~~shall be~~ subject to the requirements specified in subsection (3). The Department of Highway Safety and Motor Vehicles shall forward to the department all photographs and information provided by sexual offenders. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles may ~~is authorized to~~ release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual offenders as provided in this section and ss. 943.043 and 944.606. A sexual offender who is unable to secure or update a driver license or identification card with the Department of Highway Safety and Motor Vehicles as provided in subsection (3) and this subsection shall also report any change in the sexual offender's permanent, temporary, or transient residence or change in the offender's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the offender resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles.

(b)1. A sexual offender who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48 hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of



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the county in which he or she is located. The sexual offender shall specify the date upon which he or she intends to or did vacate such residence. The sexual offender must provide or update all of the registration information required under paragraph (2)(b). The sexual offender must provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

2. A sexual offender shall report in person at the sheriff's office in the county in which he or she is located within 48 hours after establishing a transient residence and thereafter must report in person every 30 days to the sheriff's office in the county in which he or she is located while maintaining a transient residence. The sexual offender must provide the addresses and locations where he or she maintains a transient residence. Each sheriff's office shall establish procedures for reporting transient residence information and provide notice to transient registrants to report transient residence information as required in this subparagraph. Reporting to the sheriff's office as required by this subparagraph does not exempt registrants from any reregistration requirement. The sheriff may coordinate and enter into agreements with police departments and other governmental entities to facilitate additional reporting sites for transient residence registration required in this subparagraph. The sheriff's office shall, within 2 business days, electronically submit and update all information provided by the sexual offender to the department.

(c) A sexual offender who remains at a permanent,



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temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the offender indicated he or she would or did vacate such residence, report in person to the agency to which he or she reported pursuant to paragraph (b) for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under paragraph (b) but fails to make a report as required under this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) The failure of a sexual offender who maintains a transient residence to report in person to the sheriff's office every 30 days as required in subparagraph (b)2. is punishable as provided in subsection (9).

(e) ~~(d)~~ A sexual offender shall ~~must~~ register all ~~any~~ electronic mail addresses and Internet identifiers ~~address or instant message name~~ with the department before using such electronic mail addresses and Internet identifiers ~~address or instant message name~~. The department shall establish an online system through which sexual offenders may securely access and update all electronic mail address and Internet identifier ~~instant message name~~ information.

(6) County and local law enforcement agencies, in conjunction with the department, shall verify the addresses of sexual offenders who are not under the care, custody, control, or supervision of the Department of Corrections, and may verify the addresses of sexual offenders who are under the care,



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custody, control, or supervision of the Department of
Corrections, in a manner that is consistent with the provisions
of the federal Adam Walsh Child Protection and Safety Act of
2006 and any other federal standards applicable to such
verification or required to be met as a condition for the
receipt of federal funds by the state. Local law enforcement
agencies shall report to the department any failure by a sexual
offender to comply with registration requirements.

(7) A sexual offender who intends to establish a permanent,
temporary, or transient residence in another state or
jurisdiction other than the State of Florida shall report in
person to the sheriff of the county of current residence within
48 hours before the date he or she intends to leave this state
to establish residence in another state or jurisdiction or
within 21 days before his or her planned departure date if the
intended residence of 5 days or more is outside of the United
States. The notification must include the address, municipality,
county, ~~and~~ state, and country of intended residence. The
sheriff shall promptly provide to the department the information
received from the sexual offender. The department shall notify
the statewide law enforcement agency, or a comparable agency, in
the intended state, ~~or~~ jurisdiction, or country of residence of
the sexual offender's intended residence. The failure of a
sexual offender to provide his or her intended place of
residence is punishable as provided in subsection (9).

(8) A sexual offender who indicates his or her intent to
establish a permanent, temporary, or transient residence in
another state, a ~~or~~ jurisdiction other than the State of
Florida, or another country and later decides to remain in this



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state shall, within 48 hours after the date upon which the sexual offender indicated he or she would leave this state, report in person to the sheriff to which the sexual offender reported the intended change of permanent, temporary, or transient residence, and report his or her intent to remain in this state. The sheriff shall promptly report this information to the department. A sexual offender who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a ~~ex~~ jurisdiction other than the State of Florida, or another country but who remains in this state without reporting to the sheriff in the manner required by this subsection commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(9) (a) A sexual offender who does not comply with the requirements of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A sexual offender who commits any act or omission in violation of this section may be prosecuted for the act or omission in the county in which the act or omission was committed, the county of the last registered address of the sexual offender, ~~ex~~ the county in which the conviction occurred for the offense or offenses that meet the criteria for designating a person as a sexual offender, in the county where the sexual offender was released from incarceration, or in the county of the intended address of the sexual offender as reported by the offender prior to his or her release from incarceration.

(c) An arrest on charges of failure to register when the



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offender has been provided and advised of his or her statutory obligations to register under subsection (2), the service of an information or a complaint for a violation of this section, or an arraignment on charges for a violation of this section constitutes actual notice of the duty to register. A sexual offender's failure to immediately register as required by this section following such arrest, service, or arraignment constitutes grounds for a subsequent charge of failure to register. A sexual offender charged with the crime of failure to register who asserts, or intends to assert, a lack of notice of the duty to register as a defense to a charge of failure to register shall immediately register as required by this section. A sexual offender who is charged with a subsequent failure to register may not assert the defense of a lack of notice of the duty to register.

(11) Except as provided in s. 943.04354, a sexual offender shall ~~must~~ maintain registration with the department for the duration of his or her life, unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that meets the criteria for classifying the person as a sexual offender for purposes of registration. However, a sexual offender:

(a)1. Who has been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and has not been arrested for any felony or misdemeanor offense since release, provided that the sexual offender's requirement to register was not based upon an adult conviction:

a. For a violation of s. 787.01 or s. 787.02;

b. For a violation of s. 794.011, excluding s. 794.011(10);



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c. For a violation of s. 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

d. For a violation of s. 800.04(5)(b);

e. For a violation of s. 800.04(5)c.2. where the court finds the offense involved unclothed genitals or genital area;

f. For any attempt or conspiracy to commit any such offense; ~~or~~

g. For a violation of similar law of another jurisdiction,

h. For a violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph,

may petition the criminal division of the circuit court of the circuit where the conviction or adjudication occurred ~~in which the sexual offender resides~~ for the purpose of removing the requirement for registration as a sexual offender.

2. The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present



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evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief, subject to the standards for relief provided in this subsection.

3. The department shall remove an offender from classification as a sexual offender for purposes of registration if the offender provides to the department a certified copy of the court's written findings or order that indicates that the offender is no longer required to comply with the requirements for registration as a sexual offender.

4. For purposes of this paragraph:

a. The registration period of a sexual offender sentenced to a term of incarceration or committed to a residential program begins upon the offender's release from incarceration or commitment for the most recent conviction that required the offender to register.

b. A sexual offender's registration period is tolled during any period in which the offender is incarcerated, civilly committed, detained pursuant to chapter 985, or committed to a residential program.

c. Except as provided in sub-subparagraph e., if the sexual offender is only sentenced to a term of supervision for the most recent conviction that required the offender to register as a sexual offender or is only subject to a period of supervision for that conviction, the registration period begins when the term or period of supervision for that conviction begins.

d. Except as provided in sub-subparagraph e., if the sexual



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offender is sentenced to a term of supervision that follows a term of incarceration for the most recent conviction that required the offender to register as a sexual offender or is subject to a period of supervision that follows commitment to a residential program for that conviction, the registration period begins when the term or period of supervision for that conviction begins.

e. If a sexual offender is sentenced to a term of more than 25-years supervision for the most recent conviction that required the offender to register as a sexual offender, the sexual offender may not petition for removal of the requirement for registration as a sexual offender until the term of supervision for that conviction is completed.

(b) As defined in sub-subparagraph (1)(a)1.b. must maintain registration with the department for the duration of his or her life until the person provides the department with an order issued by the court that designated the person as a sexual predator, as a sexually violent predator, or by another sexual offender designation in the state or jurisdiction in which the order was issued which states that such designation has been removed or demonstrates to the department that such designation, if not imposed by a court, has been removed by operation of law or court order in the state or jurisdiction in which the designation was made, and provided such person no longer meets the criteria for registration as a sexual offender under the laws of this state.

(14)

(b) However, a sexual offender who is required to register as a result of a conviction for:



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1. Section 787.01 or s. 787.02 where the victim is a minor and the offender is not the victim's parent or guardian;

2. Section 794.011, excluding s. 794.011(10);

3. Section 800.04(4)(b) where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

4. Section 800.04(5)(b);

5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;

6. Section 800.04(5)(c)2. ~~800.04(5)c.2.~~ where the court finds molestation involving the use of force or coercion and unclothed genitals or genital area;

7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;

8. Any attempt or conspiracy to commit such offense; ~~or~~

9. A violation of a similar law of another jurisdiction; or

10. A violation of a similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph,

must reregister each year during the month of the sexual offender's birthday and every third month thereafter.

(c) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which must ~~shall~~ be consistent with the reporting requirements of this subsection. Reregistration must ~~shall~~ include any changes to the following information:

1. Name; social security number; age; race; sex; date of



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birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all any electronic mail addresses or Internet identifiers ~~address and any instant message name~~ required to be provided pursuant to paragraph (4)(d); all home telephone numbers and ~~number and any cellular telephone numbers~~ number; date and place of any employment; the vehicle make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; fingerprints; palm prints; and photograph. A post office box may ~~shall~~ not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

2. If the sexual offender is enrolled, volunteering, employed, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined



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in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, ~~or~~ who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence, or who fails to report all electronic mail addresses and all Internet identifiers prior to use or instant message names, or who knowingly provides false registration information by act or omission commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 6. Section 943.04354, Florida Statutes, is amended to read:

943.04354 Removal of the requirement to register as a sexual offender or sexual predator in special circumstances.—

(1) For purposes of this section, a person shall be considered for removal of the requirement to register as a sexual offender or sexual predator only if the person:

(a) Was ~~or will be~~ convicted, regardless of adjudication, or adjudicated delinquent of a violation of s. 794.011, s.



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800.04, s. 827.071, or s. 847.0135(5) or of a similar offense in
another jurisdiction ~~or the person committed a violation of s.~~
~~794.011, s. 800.04, s. 827.071, or s. 847.0135(5) for which~~
~~adjudication of guilt was or will be withheld,~~ and if the person
does not have any other conviction, regardless of adjudication,
or adjudication of delinquency, ~~or withhold of adjudication of~~
~~guilt~~ for a violation of s. 794.011, s. 800.04, s. 827.071, or
s. 847.0135(5) or for a similar offense in another jurisdiction;

(b) 1. Was convicted, regardless of adjudication, or
adjudicated delinquent of an offense listed in paragraph (a) and
is required to register as a sexual offender or sexual predator
solely on the basis of this conviction or adjudication; or
~~violation; and~~

2. Was convicted, regardless of adjudication, or
adjudicated delinquent of an offense in another jurisdiction
which is similar to an offense listed in paragraph (a) and no
longer meets the criteria for registration as a sexual offender
or sexual predator under the laws of the jurisdiction in which
the similar offense occurred; and

(c) Is not more than 4 years older than the victim of this
violation who was 13 ~~14~~ years of age or older but younger ~~not~~
~~more~~ than 18 ~~17~~ years of age at the time the person committed
this violation.

(2) If a person meets the criteria in subsection (1) ~~and~~
~~the violation of s. 794.011, s. 800.04, s. 827.071, or s.~~
~~847.0135(5) was committed on or after July 1, 2007,~~ the person
may move the criminal division of the circuit court of the
circuit where the conviction or adjudication for the qualifying
offense occurred ~~court that will sentence or dispose of this~~



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violation to remove the requirement that the person register as a sexual offender or sexual predator. The person must allege in the motion that he or she meets the criteria in subsection (1) and that removal of the registration requirement will not conflict with federal law. A person convicted or adjudicated delinquent of an offense in another jurisdiction which is similar to an offense listed in paragraph (1)(a) must provide the court written confirmation that he or she is not required to register in the jurisdiction in which the conviction or adjudication occurred. The state attorney and the department must be given notice of the motion at least 21 days before the date of sentencing, ~~or~~ disposition of the this violation, or hearing on the motion and may present evidence in opposition to the requested relief or may otherwise demonstrate why the motion should be denied. At sentencing, ~~or~~ disposition of the this violation, or hearing on the motion, the court shall rule on the this motion, and, if the court determines the person meets the criteria in subsection (1) and the removal of the registration requirement will not conflict with federal law, it may grant the motion and order the removal of the registration requirement. The court shall instruct the person to provide the department a certified copy of the order granting relief. If the court denies the motion, the person is not authorized under this section to file another motion ~~petition~~ for removal of the registration requirement.

~~(3)(a) This subsection applies to a person who:~~
~~1. Is not a person described in subsection (2) because the violation of s. 794.011, s. 800.04, or s. 827.071 was not committed on or after July 1, 2007;~~



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~~2. Is subject to registration as a sexual offender or sexual predator for a violation of s. 794.011, s. 800.04, or s. 827.071; and~~

~~3. Meets the criteria in subsection (1).~~

~~(b) A person may petition the court in which the sentence or disposition for the violation of s. 794.011, s. 800.04, or s. 827.071 occurred for removal of the requirement to register as a sexual offender or sexual predator. The person must allege in the petition that he or she meets the criteria in subsection (1) and removal of the registration requirement will not conflict with federal law. The state attorney must be given notice of the petition at least 21 days before the hearing on the petition and may present evidence in opposition to the requested relief or may otherwise demonstrate why the petition should be denied. The court shall rule on the petition and, if the court determines the person meets the criteria in subsection (1) and removal of the registration requirement will not conflict with federal law, it may grant the petition and order the removal of the registration requirement. If the court denies the petition, the person is not authorized under this section to file any further petition for removal of the registration requirement.~~

~~(3)(4)~~ If a person provides to the Department of Law Enforcement a certified copy of the court's order removing the requirement that the person register as a sexual offender or sexual predator for the violation of s. 794.011, s. 800.04, s. 827.071, or s. 847.0135(5), or a similar offense in another jurisdiction, the registration requirement will not apply to the person and the department shall remove all information about the person from the public registry of sexual offenders and sexual



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predators maintained by the department. However, the removal of this information from the public registry does not mean that the public is denied access to information about the person's criminal history or record that is otherwise available as a public record.

Section 7. Subsections (2) and (3) of section 943.0437, Florida Statutes, are amended to read:

943.0437 Commercial social networking websites.—

(2) The department may provide information relating to electronic mail addresses and Internet identifiers, as defined in s. 775.21, ~~instant message names~~ maintained as part of the sexual offender registry to commercial social networking websites or third parties designated by commercial social networking websites. The commercial social networking website may use this information for the purpose of comparing registered users and screening potential users of the commercial social networking website against the list of electronic mail addresses and Internet identifiers ~~instant message names~~ provided by the department.

(3) This section does not ~~shall not be construed to~~ impose any civil liability on a commercial social networking website for:

(a) Any action voluntarily taken in good faith to remove or disable any profile of a registered user associated with an electronic mail address or Internet identifier ~~instant message name~~ contained in the sexual offender registry.

(b) Any action taken to restrict access by such registered user to the commercial social networking website.

Section 8. Paragraphs (b) and (d) of subsection (1) and



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paragraph (a) of subsection (3) of section 944.606, Florida Statutes, are amended to read:

944.606 Sexual offenders; notification upon release.—

(1) As used in this section:

(b) "Sexual offender" means a person who has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s.

787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subsection, when the department has received verified information regarding such conviction; an offender's computerized criminal history record is not, in and of itself, verified information.

(d) "Internet identifier" has the same meaning as provided in s. 775.21 ~~"Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.~~

(3)(a) The department shall ~~must~~ provide information regarding any sexual offender who is being released after serving a period of incarceration for any offense, as follows:

1. The department shall ~~must~~ provide: the sexual offender's



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1287 name, any change in the offender's name by reason of marriage or
1288 other legal process, and any alias, if known; the correctional
1289 facility from which the sexual offender is released; the sexual
1290 offender's social security number, race, sex, date of birth,
1291 height, weight, and hair and eye color; tattoos or other
1292 identifying marks; address of any planned permanent residence or
1293 temporary residence, within the state or out of state, including
1294 a rural route address and a post office box; if no permanent or
1295 temporary address, any transient residence within the state;
1296 address, location or description, and dates of any known future
1297 temporary residence within the state or out of state; date and
1298 county of sentence and each crime for which the offender was
1299 sentenced; a copy of the offender's fingerprints, palm prints,
1300 and a digitized photograph taken within 60 days before release;
1301 the date of release of the sexual offender; all ~~any~~ electronic
1302 mail addresses ~~address~~ and all Internet identifiers ~~any instant~~
1303 ~~message name~~ required to be provided pursuant to s.
1304 943.0435(4)(d); all ~~and~~ home telephone numbers ~~number~~ and ~~any~~
1305 cellular telephone numbers; information about any professional
1306 licenses the offender has, if known; and passport information,
1307 if he or she has a passport, and, if he or she is an alien,
1308 information about documents establishing his or her immigration
1309 status ~~number~~. The department shall notify the Department of Law
1310 Enforcement if the sexual offender escapes, absconds, or dies.
1311 If the sexual offender is in the custody of a private
1312 correctional facility, the facility shall take the digitized
1313 photograph of the sexual offender within 60 days before the
1314 sexual offender's release and provide this photograph to the
1315 Department of Corrections and also place it in the sexual



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offender's file. If the sexual offender is in the custody of a local jail, the custodian of the local jail shall register the offender within 3 business days after intake of the offender for any reason and upon release, and shall notify the Department of Law Enforcement of the sexual offender's release and provide to the Department of Law Enforcement the information specified in this paragraph and any information specified in subparagraph 2. that the Department of Law Enforcement requests.

2. The department may provide any other information deemed necessary, including criminal and corrections records, nonprivileged personnel and treatment records, when available.

Section 9. Paragraphs (a) and (f) of subsection (1), subsection (4), and paragraphs (b) and (c) of subsection (13) of section 944.607, Florida Statutes, are amended and a new paragraph (b) is added to subsection (1) of that section to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.—

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

(a) "Sexual offender" means a person who is in the custody or control of, or under the supervision of, the department or is in the custody of a private correctional facility:

1. On or after October 1, 1997, as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s.



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787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph; or

2. Who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard as to whether the person otherwise meets the criteria for registration as a sexual offender.

(b) "Vehicles owned" has the same meaning as provided in s. 775.21.

(g) ~~(f)~~ "Internet identifier" has the same meaning as provided in s. 775.21 ~~"Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.~~

(4) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but is not incarcerated shall ~~must~~ register with the Department of Corrections within 3 business days after sentencing for a registrable offense and otherwise provide information as



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required by this subsection.

(a) The sexual offender shall provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; all any electronic mail addresses address and Internet identifiers any ~~instant message name~~ required to be provided pursuant to s. 943.0435(4)(d); all home telephone numbers and cellular telephone numbers; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; permanent or legal residence and address of temporary residence within the state or out of state while the sexual offender is under supervision in this state, including any rural route address or post office box; if no permanent or temporary address, any transient residence within the state; and address, location or description, and dates of any current or known future temporary residence within the state or out of state. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has. The Department of Corrections shall verify the address of each sexual offender in the manner described in ss. 775.21 and 943.0435. The department shall report to the Department of Law Enforcement any failure by a sexual predator or sexual offender to comply with registration requirements.

(b) If the sexual offender is enrolled, employed, volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall



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provide the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status. Each change in enrollment, volunteer, or employment status must ~~shall~~ be reported to the department within 48 hours after the change in status. The Department of Corrections shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment, volunteer, or employment status.

(c) A sexual offender shall report in person to the sheriff's office within 48 hours after any change in vehicles owned.

(13)

(b) However, a sexual offender who is required to register as a result of a conviction for:

1. Section 787.01 or s. 787.02 where the victim is a minor and the offender is not the victim's parent or guardian;

2. Section 794.011, excluding s. 794.011(10);

3. Section 800.04(4)(b) where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

4. Section 800.04(5)(b);

5. Section 800.04(5)(c)1. where the court finds molestation involving unclothed genitals or genital area;

6. Section 800.04(5)c.2. where the court finds molestation involving use of force or coercion and unclothed genitals or genital area;

7. Section 800.04(5)(d) where the court finds the use of force or coercion and unclothed genitals or genital area;



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1432 8. Any attempt or conspiracy to commit such offense; ~~or~~
1433 9. A violation of a similar law of another jurisdiction;
1434 or
1435 10. A violation of a similar offense committed in this
1436 state which has been redesignated from a former statute number
1437 to one of those listed in this paragraph.
1438
1439 must reregister each year during the month of the sexual
1440 offender's birthday and every third month thereafter.
1441 (c) The sheriff's office may determine the appropriate
1442 times and days for reporting by the sexual offender, which must
1443 ~~shall~~ be consistent with the reporting requirements of this
1444 subsection. Reregistration must ~~shall~~ include any changes to the
1445 following information:
1446 1. Name; social security number; age; race; sex; date of
1447 birth; height; weight; tattoos or other identifying marks; hair
1448 and eye color; address of any permanent residence and address of
1449 any current temporary residence, within the state or out of
1450 state, including a rural route address and a post office box; if
1451 no permanent or temporary address, any transient residence;
1452 address, location or description, and dates of any current or
1453 known future temporary residence within the state or out of
1454 state; all any electronic mail addresses and Internet
1455 identifiers ~~address and any instant message name~~ required to be
1456 provided pursuant to s. 943.0435(4)(d); all home telephone
1457 numbers and cellular telephone numbers; date and place of any
1458 employment; the vehicle make, model, color, vehicle
1459 identification number (VIN), and license tag number of all
1460 vehicles owned; fingerprints; palm prints; and photograph. A



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post office box may ~~shall~~ not be provided in lieu of a physical residential address. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual offender shall also provide information about any professional licenses he or she has.

2. If the sexual offender is enrolled, employed, volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, ~~or~~ who fails to respond to any address verification correspondence from the department within 3



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weeks of the date of the correspondence, ~~or~~ who fails to report all electronic mail addresses or Internet identifiers prior to use or instant message names, or who knowingly provides false registration information by act or omission commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 10. Paragraph (b) of subsection (1) of section 985.481, Florida Statutes, is redesignated as paragraph (c), new paragraphs (b) and (d) are added to subsection (1), and paragraph (a) of subsection (3) of that section is amended to read:

985.481 Sexual offenders adjudicated delinquent; notification upon release.—

(1) As used in this section:

(a) "Convicted" has the same meaning as provided in s. 943.0435.

(b) "Internet Identifier" has the same meaning as provided in s. 775.21.

(c) ~~(b)~~ "Sexual offender" means a person who has been adjudicated delinquent as provided in s. 943.0435(1)(a)1.d.

(d) "Vehicles owned" has the same meaning as provided in s. 775.21.

(3)(a) The department shall ~~must~~ provide information regarding any sexual offender who is being released after serving a period of residential commitment under the department for any offense, as follows:

1. The department shall ~~must~~ provide the sexual offender's name, any change in the offender's name by reason of marriage or other legal process, and any alias, if known; the correctional



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1519 facility from which the sexual offender is released; the sexual
1520 offender's social security number, race, sex, date of birth,
1521 height, weight, and hair and eye color; tattoos or other
1522 identifying marks; the make, model, color, vehicle
1523 identification number (VIN), and license tag number of all
1524 vehicles owned; address of any planned permanent residence or
1525 temporary residence, within the state or out of state, including
1526 a rural route address and a post office box; if no permanent or
1527 temporary address, any transient residence within the state;
1528 address, location or description, and dates of any known future
1529 temporary residence within the state or out of state; date and
1530 county of disposition and each crime for which there was a
1531 disposition; a copy of the offender's fingerprints, palm prints,
1532 and a digitized photograph taken within 60 days before release;
1533 the date of release of the sexual offender; all ~~and~~ home
1534 telephone numbers ~~number~~ and ~~any~~ cellular telephone numbers; all
1535 Internet identifiers; information about any professional
1536 licenses the offender has, if known; and passport information,
1537 if he or she has a passport, and, if he or she is an alien,
1538 information about documents establishing his or her immigration
1539 status ~~number~~. The department shall notify the Department of Law
1540 Enforcement if the sexual offender escapes, absconds, or dies.
1541 If the sexual offender is in the custody of a private
1542 correctional facility, the facility shall take the digitized
1543 photograph of the sexual offender within 60 days before the
1544 sexual offender's release and also place it in the sexual
1545 offender's file. If the sexual offender is in the custody of a
1546 local jail, the custodian of the local jail shall register the
1547 offender within 3 business days after intake of the offender for



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any reason and upon release, and shall notify the Department of Law Enforcement of the sexual offender's release and provide to the Department of Law Enforcement the information specified in this subparagraph and any information specified in subparagraph 2. which the Department of Law Enforcement requests.

2. The department may provide any other information considered necessary, including criminal and delinquency records, when available.

Section 11. Paragraph (d) of subsection (1) of section 985.4815, Florida Statutes, is redesignated as paragraph (e), new paragraphs (d) and (f) are added to subsection (1), and subsection (4) and paragraph (b) of subsection (13) of that section are amended to read:

985.4815 Notification to Department of Law Enforcement of information on juvenile sexual offenders.—

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

(a) "Change in enrollment or employment status" means the commencement or termination of enrollment or employment or a change in location of enrollment or employment.

(b) "Conviction" has the same meaning as provided in s. 943.0435.

(c) "Institution of higher education" means a career center, community college, college, state university, or independent postsecondary institution.

(d) "Internet identifier" has the same meaning as provided in s. 775.21.

(e) ~~(d)~~ "Sexual offender" means a person who is in the care or custody or under the jurisdiction or supervision of the department or is in the custody of a private correctional



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facility and who:

1. Has been adjudicated delinquent as provided in s.
943.0435(1)(a)1.d.; or

2. Establishes or maintains a residence in this state and
has not been designated as a sexual predator by a court of this
state but has been designated as a sexual predator, as a
sexually violent predator, or by another sexual offender
designation in another state or jurisdiction and was, as a
result of such designation, subjected to registration or
community or public notification, or both, or would be if the
person were a resident of that state or jurisdiction, without
regard to whether the person otherwise meets the criteria for
registration as a sexual offender.

(f) "Vehicles owned" has the same meaning as provided in s.
775.21.

(4) A sexual offender, as described in this section, who is
under the supervision of the department but who is not committed
shall ~~must~~ register with the department within 3 business days
after adjudication and disposition for a registrable offense and
otherwise provide information as required by this subsection.

(a) The sexual offender shall provide his or her name; date
of birth; social security number; race; sex; height; weight;
hair and eye color; tattoos or other identifying marks; the
make, model, color, vehicle identification number (VIN), and
license tag number of all vehicles owned; permanent or legal
residence and address of temporary residence within the state or
out of state while the sexual offender is in the care or custody
or under the jurisdiction or supervision of the department in
this state, including any rural route address or post office



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box; if no permanent or temporary address, any transient residence; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all home telephone and cellular telephone numbers; all Internet identifiers; and the name and address of each school attended. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The offender shall also provide information about any professional licenses he or she has. The department shall verify the address of each sexual offender and shall report to the Department of Law Enforcement any failure by a sexual offender to comply with registration requirements.

(b) If the sexual offender is enrolled, employed, volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall provide the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status. Each change in enrollment, volunteer, or employment status must ~~shall~~ be reported to the department within 48 hours after the change in status. The department shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment, volunteer, or employment status.

(c) A sexual offender shall report in person to the sheriff's office within 48 hours after any change in vehicles owned.

(13)



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(b) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which must ~~shall~~ be consistent with the reporting requirements of this subsection. Reregistration must ~~shall~~ include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; hair and eye color; tattoos or other identifying marks; fingerprints; palm prints; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence; address, location or description, and dates of any current or known future temporary residence within the state or out of state; passport information, if he or she has a passport, and, if he or she is an alien, information about documents establishing his or her immigration status; home telephone numbers and cellular telephone numbers; all Internet identifiers; name and address of each school attended; date and place of any employment; the vehicle make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned; ~~fingerprints;~~ and photograph. A post office box may ~~shall~~ not be provided in lieu of a physical residential address. The offender shall also provide information about any professional licenses he or she has.

2. If the sexual offender is enrolled, employed, volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each



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institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual offender shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual offender's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual offender shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

4. Any sexual offender who fails to report in person as required at the sheriff's office, ~~or~~ who fails to respond to any address verification correspondence from the department within 3 weeks after the date of the correspondence, or who knowingly provides false registration information by act or omission commits a felony of the third degree, punishable as provided in ss. 775.082, 775.083, and 775.084.

Section 12. Paragraphs (g) and (i) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(g) LEVEL 7



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	Florida Statute	Felony Degree	Description
1693	316.027(1) (b)	1st	Accident involving death, failure to stop; leaving scene.
1694	316.193(3) (c) 2.	3rd	DUI resulting in serious bodily injury.
1695	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.
1696	327.35(3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
1697	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent



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1698			disability, or death.
	409.920	3rd	Medicaid provider fraud;
	(2) (b) 1.a.		\$10,000 or less.
1699			
	409.920	2nd	Medicaid provider fraud;
	(2) (b) 1.b.		more than \$10,000, but less than \$50,000.
1700			
	456.065 (2)	3rd	Practicing a health care profession without a license.
1701			
	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
1702			
	458.327 (1)	3rd	Practicing medicine without a license.
1703			
	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
1704			
	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
1705			



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1706	461.012 (1)	3rd	Practicing podiatric medicine without a license.
1707	462.17	3rd	Practicing naturopathy without a license.
1708	463.015 (1)	3rd	Practicing optometry without a license.
1709	464.016 (1)	3rd	Practicing nursing without a license.
1710	465.015 (2)	3rd	Practicing pharmacy without a license.
1711	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
1712	467.201	3rd	Practicing midwifery without a license.
1713	468.366	3rd	Delivering respiratory care services without a license.
	483.828 (1)	3rd	Practicing as clinical laboratory personnel



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1714			without a license.
	483.901(9)	3rd	Practicing medical physics without a license.
1715			
	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
1716			
	484.053	3rd	Dispensing hearing aids without a license.
1717			
	494.0018(2)	1st	Conviction of any violation of ss. 494.001- 494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
1718			
	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.
1719			
	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment



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1720			instruments exceeding \$300 but less than \$20,000.
	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
1721			
	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew <u>driver</u> ~~driver's~~ license or identification card; other registration violations.
1722			
	775.21 (10) (b)	3rd	Sexual predator working where children regularly congregate.
1723			
	775.21 (10) (g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
1724			
	782.051 (3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or



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1725			the perpetrator of an attempted felony.
	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
1726			
	782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
1727			
	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
1728			
	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1729			
	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
1730			
	784.045(1)(b)	2nd	Aggravated battery;



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1731			perpetrator aware victim pregnant.
	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
1732			
	784.048 (7)	3rd	Aggravated stalking; violation of court order.
1733			
	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
1734			
	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
1735			
	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
1736			
	784.081 (1)	1st	Aggravated battery on specified official or employee.
1737			
	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
1738			



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1739	784.083 (1)	1st	Aggravated battery on code inspector.
1740	787.06 (3) (a)	1st	Human trafficking using coercion for labor and services.
1741	787.06 (3) (e)	1st	Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.
1742	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2).
1743	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.
1744	790.165 (2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
	790.165 (3)	2nd	Possessing, displaying, or



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1745			threatening to use any hoax bomb while committing or attempting to commit a felony.
	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1746			
	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
1747			
	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
1748			
	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.
1749			



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1750	796.03	2nd	Procuring any person under <u>18</u> ~~16~~ years for prostitution.
1751	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
1752	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
1753	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
1754	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1755	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.



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1756	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1757	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1758	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
1759	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1760	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.



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1761	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
1762	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
1763	812.131(2)(a)	2nd	Robbery by sudden snatching.
1764	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1765	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
1766	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1767	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle



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			collision.
1768	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
1769	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
1770	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
1771	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
1772	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
1773			



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1774	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
1775	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
1776	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1777	838.015	2nd	Bribery.
1778	838.016	2nd	Unlawful compensation or reward for official behavior.
1779	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
1780	838.22	2nd	Bid tampering.
1781	843.0855 (2)	3rd	Impersonation of a public officer or employee.



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1782	843.0855 (3)	3rd	Unlawful simulation of legal process.
1783	843.0855 (4)	3rd	Intimidation of a public officer or employee.
1784	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1785	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1786	872.06	2nd	Abuse of a dead human body.
1787	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.



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1788

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)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

1789

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)4., within 1,000 feet of property used for religious services or a specified business site.

1790

893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.



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1791			drugs).
	893.135 (1) (a) 1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
1792			
	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1793			
	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1794			
	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1795			
	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1796			
	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1797			
	893.135	1st	Trafficking in



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1798	(1) (g) 1.a.		flunitrazepam, 4 grams or more, less than 14 grams.
	893.135	1st	Trafficking in gamma-
	(1) (h) 1.a.		hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1799			
	893.135	1st	Trafficking in 1,4-
	(1) (j) 1.a.		Butanediol, 1 kilogram or more, less than 5 kilograms.
1800			
	893.135	1st	Trafficking in
	(1) (k) 2.a.		Phenethylamines, 10 grams or more, less than 200 grams.
1801			
	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
1802			
	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1803			
	896.104 (4) (a) 1.	3rd	Structuring transactions



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1804			to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1805			
	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1806			
	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
1807			
	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1808			
	943.0435 (14)	3rd	Sexual offender; failure to report and reregister;



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1809			failure to respond to address verification; <u>providing false</u> <u>registration information.</u>
	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
1810			
	944.607(10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1811			
	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1812			
	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; <u>providing false</u> <u>registration information.</u>
1813			
	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.



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1814 985.4815(12) 3rd Failure to report or
providing false
information about a sexual
offender; harbor or
conceal a sexual offender.

1815 985.4815(13) 3rd Sexual offender; failure
to report and reregister;
failure to respond to
address verification;
providing false
registration information.

1816
1817 (i) LEVEL 9

1818	Florida Statute	Felony Degree	Description
1819	316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
1820	327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
1821	409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
1822	499.0051(9)	1st	Knowing sale or purchase of



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1823			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 money transmitter.
1824			
	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
1825			
	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
1826			
	775.0844	1st	Aggravated white collar crime.
1827			
	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
1828			
	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 specified felonies.
1829			



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1830	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
1831	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
1832	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
1833	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
1834	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
1835	787.02(3)(a)	1st, <u>PBL</u>	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
	787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of



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			an unauthorized alien.
1836	787.06(3)(g)	1st,PBL	Human trafficking for commercial sexual activity of a child under the age of 18.
1837	787.06(4)	1st	Selling or buying of minors into human trafficking.
1838	790.161	1st	Attempted capital destructive device offense.
1839	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
1840	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
1841	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
1842	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
1843	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years



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1844			by person in familial or custodial authority.
	794.08 (2)	1st	Female genital mutilation; victim younger than 18 years of age.
1845			
	796.035	1st	Selling or buying of minors into prostitution.
1846			
	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
1847			
	812.13 (2) (a)	1st, PBL	Robbery with firearm or other deadly weapon.
1848			
	812.133 (2) (a)	1st, PBL	Carjacking; firearm or other deadly weapon.
1849			
	812.135 (2) (b)	1st	Home-invasion robbery with weapon.
1850			
	817.535 (3) (b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
1851			
	817.535 (4) (a) 2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under



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1852			supervision.
	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.
1853			
	817.568 (7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
1854			
	827.03 (2) (a)	1st	Aggravated child abuse.
1855			
	847.0145 (1)	1st	Selling, or otherwise transferring custody or control, of a minor.
1856			
	847.0145 (2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
1857			
	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.



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1858	893.135	1st	Attempted capital trafficking offense.
1859	893.135 (1) (a) 3.	1st	Trafficking in cannabis, more than 10,000 lbs.
1860	893.135 (1) (b) 1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
1861	893.135 (1) (c) 1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
1862	893.135 (1) (d) 1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
1863	893.135 (1) (e) 1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
1864	893.135 (1) (f) 1.c.	1st	Trafficking in amphetamine, more than 200 grams.
1865	893.135 (1) (h) 1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
1866	893.135	1st	Trafficking in 1,4-Butanediol, 10



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(1) (j) 1.c. kilograms or more.

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

896.101 (5) (c) 1st Money laundering, financial
instruments totaling or exceeding
\$100,000.

896.104 (4) (a) 3. 1st Structuring transactions to evade
reporting or registration
requirements, financial
transactions totaling or exceeding
\$100,000.

Section 13. This act shall take effect October 1, 2014.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to sex offenses; amending s. 68.07,
F.S.; requiring the Department of Law Enforcement to
inform the clerk of the court if a person petitioning
for a name change has registered as a sexual predator
or sexual offender; requiring that each name change
petition show whether the petitioner has ever been
required to register as a sexual predator or sexual



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1885 offender; requiring certain agencies to be notified of
1886 an order granting a name change to a person required
1887 to register as a sexual predator or sexual offender;
1888 requiring the Department of Law Enforcement and
1889 certain law enforcement agencies to be notified when a
1890 person required to register as a sexual predator or
1891 sexual offender and granted a legal name change fails
1892 to meet requirements to obtain a replacement driver
1893 license or identification card; amending s. 775.21,
1894 F.S.; revising definitions; providing that voluntary
1895 disclosure of specified information waives a
1896 disclosure exemption for such information; adding
1897 additional offenses to the list of sexual predator
1898 qualifying offenses; requiring disclosure of
1899 additional information during the sexual predator
1900 registration process; requiring that a sexual predator
1901 who is unable to secure or update a driver license or
1902 identification card within a specified period report a
1903 change in certain information to the local sheriff's
1904 office within a specified time after such change and
1905 confirm that he or she also reported such information
1906 to the Department of Highway Safety and Motor
1907 Vehicles; requiring reporting of transient residence
1908 information within specified time periods; requiring
1909 sheriffs to establish procedures for reporting
1910 transient residence information; authorizing sheriffs
1911 to enter into agreements for reporting transient
1912 residence information; providing a criminal penalty
1913 for failure to report transient residence information;



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1914 revising reporting requirements if a sexual predator
1915 plans to leave the United States for more than a
1916 specified time; authorizing sheriffs to verify the
1917 address of registrants under the care, custody,
1918 control, or supervision of the Department of
1919 Corrections; providing criminal penalties for
1920 knowingly providing false registration information by
1921 act or omission; authorizing additional venues for
1922 prosecution of registration violations; conforming
1923 provisions to changes made by the act; amending s.
1924 775.25, F.S.; authorizing additional venues for
1925 prosecution of registration violations; amending s.
1926 943.043, F.S.; prohibiting display or dissemination of
1927 certain vehicle information on the Internet public
1928 registry of sexual predators and offenders; amending
1929 s. 943.0435, F.S.; adding additional offenses to the
1930 list of sexual offender qualifying offenses; revising
1931 definitions; requiring disclosure of additional sexual
1932 offender registration information; requiring reporting
1933 of transient residence information within specified
1934 time periods; requiring sheriffs to establish
1935 procedures for reporting transient residence
1936 information; authorizing sheriffs to enter into
1937 agreements for reporting transient residence
1938 information; providing a criminal penalty for failure
1939 to report transient residence information; requiring
1940 that a sexual offender who is unable to secure or
1941 update a driver license or identification card within
1942 a specified period report a change in certain



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1943 information to the local sheriff's office within a
1944 specified period of time of such change and confirm
1945 that he or she also reported such information to the
1946 Department of Highway Safety and Motor Vehicles;
1947 authorizing sheriffs to verify the address of
1948 registrants under the care, custody, and control, or
1949 supervision of the Department of Corrections;
1950 providing additional requirements for sexual offenders
1951 intending to reside outside of the United States;
1952 authorizing additional venues for prosecution of
1953 registration violations; revising criteria applicable
1954 to provisions that allow removal of the requirement to
1955 register as a sexual offender; providing criminal
1956 penalties for knowingly providing false registration
1957 information by act or omission; conforming provisions
1958 to changes made by the act; amending s. 943.04354,
1959 F.S.; revising the criteria applicable to provisions
1960 that allow removal of the requirement to register as a
1961 sexual offender or sexual predator; amending s.
1962 943.0437, F.S.; conforming terminology; amending ss.
1963 944.606 and 944.607, F.S.; adding additional offenses
1964 to the list of sexual offender qualifying offenses;
1965 revising definitions; requiring disclosure of
1966 additional registration information; providing
1967 criminal penalties for knowingly providing false
1968 registration information by act or omission;
1969 conforming provisions to changes made by the act;
1970 amending ss. 985.481 and 985.4815, F.S.; requiring
1971 disclosure of additional registration information by



924540

1972	certain sexual offenders adjudicated delinquent and
1973	certain juvenile sexual offenders; providing criminal
1974	penalties for knowingly providing false registration
1975	information by act or omission; amending s. 921.0022,
1976	F.S.; updating provisions of the offense severity
1977	ranking chart of the Criminal Punishment Code to
1978	reflect prior changes in the law; conforming
1979	provisions of the offense severity ranking chart to
1980	changes made by the act; providing an effective date.



168646

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment to Amendment (924540)

Delete line 206
and insert:
owned to report those vehicle information changes.

Delete line 778
and insert:
owned to report those vehicle information changes.

Delete line 1414
and insert:



168646

11 owned to report those vehicle information changes.
12 Delete line 1633
13 and insert:
14 owned to report those vehicle information changes.



107130

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment to Amendment (924540)

Delete lines 972 - 973

and insert:

e. For a violation of s. 800.04(5)(c)2. ~~s. 800.04(5)c.2.~~
where the court finds the offense involved the use of force or coercion and unclothed genitals or genital area;



783912

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/20/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Latvala) recommended the following:

Senate Amendment to Amendment (924540) (with title amendment)

Between lines 1685 and 1686
insert:

Section 12. Section 921.2312, Florida Statutes, is created
to read:

921.2312 Risk assessment reports.—Before sentencing, a
circuit court of the state shall refer a criminal case to a
qualified practitioner as defined in s. 948.001, if the



783912

defendant has been found guilty of, or has entered a plea of
nolo contendere or guilty to, an offense that is listed in s.
943.0435(1)(a)1.a.(I), for a crime committed on or after October
1, 2014. The qualified practitioner shall assess the defendant
by considering the components specified in s. 948.30(1)(e)1.a.-
i. and submit a written report to the circuit court at a
specified time before sentencing. The report must include the
qualified practitioner's opinion, along with the basis for that
opinion, as to the offender's risk of committing another sexual
offense.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

 Delete line 1975
and insert:
 information by act or omission; creating s. 921.2312,
 F.S.; requiring the circuit court to have a qualified
 practitioner conduct a risk assessment before
 sentencing for a defendant who has been found guilty
 of or has entered a plea of nolo contendere or guilty
 to specified sex offenses; providing reporting
 requirements for the risk assessment; amending s.
 921.0022,

By the Committee on Judiciary; and Senator Evers

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1 A bill to be entitled
 2 An act relating to sex offenses; amending s. 68.07,
 3 F.S.; requiring the Department of Law Enforcement to
 4 inform the clerk of the court if a person petitioning
 5 for a name change has registered as a sexual predator
 6 or sexual offender; requiring that each name change
 7 petition show whether the petitioner has ever been
 8 required to register as a sexual predator or sexual
 9 offender; requiring certain agencies to be notified of
 10 an order granting a name change to a person required
 11 to register as a sexual predator or sexual offender;
 12 requiring the Department of Law Enforcement and
 13 certain law enforcement agencies to be notified when a
 14 person required to register as a sexual predator or
 15 sexual offender and granted a legal name change fails
 16 to meet requirements to obtain a replacement driver
 17 license or identification card; amending s. 775.21,
 18 F.S.; revising definitions; providing that voluntary
 19 disclosure of specified information waives a
 20 disclosure exemption for such information; adding
 21 additional offenses to the list of sexual predator
 22 qualifying offenses; requiring disclosure of
 23 additional information during the sexual predator
 24 registration process; requiring that a sexual predator
 25 who is unable to secure or update a driver license or
 26 identification card within a specified period report a
 27 change in certain information to the local sheriff's
 28 office within a specified time after such change and
 29 confirm that he or she also reported such information

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30 to the Department of Highway Safety and Motor
 31 Vehicles; revising reporting requirements if a sexual
 32 predator plans to leave the United States for more
 33 than a specified time; providing criminal penalties
 34 for knowingly providing false registration information
 35 by act or omission; conforming provisions to changes
 36 made by the act; amending s. 943.043, F.S.;
 37 prohibiting display or dissemination of certain
 38 vehicle information on the Internet public registry of
 39 sexual predators and offenders; amending s. 943.0435,
 40 F.S.; adding additional offenses to the list of sexual
 41 offender qualifying offenses; revising definitions;
 42 requiring disclosure of additional sexual offender
 43 registration information; requiring that a sexual
 44 offender who is unable to secure or update a driver
 45 license or identification card within a specified
 46 period report a change in certain information to the
 47 local sheriff's office within a specified period of
 48 time of such change and confirm that he or she also
 49 reported such information to the Department of Highway
 50 Safety and Motor Vehicles; providing additional
 51 requirements for sexual offenders intending to reside
 52 outside of the United States; revising criteria
 53 applicable to provisions that allow removal of the
 54 requirement to register as a sexual offender;
 55 providing criminal penalties for knowingly providing
 56 false registration information by act or omission;
 57 conforming provisions to changes made by the act;
 58 amending s. 943.04354, F.S.; revising the criteria

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59 applicable to provisions that allow removal of the
 60 requirement to register as a sexual offender or sexual
 61 predator; amending s. 943.0437, F.S.; conforming
 62 terminology; amending ss. 944.606 and 944.607, F.S.;
 63 adding additional offenses to the list of sexual
 64 offender qualifying offenses; revising definitions;
 65 requiring disclosure of additional registration
 66 information; providing criminal penalties for
 67 knowingly providing false registration information by
 68 act or omission; conforming provisions to changes made
 69 by the act; amending ss. 985.481 and 985.4815, F.S.;
 70 requiring disclosure of additional registration
 71 information by certain sexual offenders adjudicated
 72 delinquent and certain juvenile sexual offenders;
 73 providing criminal penalties for knowingly providing
 74 false registration information by act or omission;
 75 amending s. 921.0022, F.S.; updating provisions of the
 76 offense severity ranking chart of the Criminal
 77 Punishment Code to reflect prior changes in the law;
 78 conforming provisions of the offense severity ranking
 79 chart to changes made by the act; providing an
 80 effective date.

81
 82 Be It Enacted by the Legislature of the State of Florida:

83
 84 Section 1. Paragraph (a) of subsection (2) and subsection
 85 (6) of section 68.07, Florida Statutes, are amended and a new
 86 paragraph (i) is added to subsection (3) of that section to
 87 read:

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88 68.07 Change of name.—

89 (2) (a) Before the court hearing on a petition for a name
 90 change, the petitioner must have fingerprints submitted for a
 91 state and national criminal history records check, except if a
 92 former name is being restored. Fingerprints for the petitioner
 93 shall be taken in a manner approved by the Department of Law
 94 Enforcement and shall be submitted electronically to the
 95 department for state processing for a criminal history records
 96 check. The department shall submit the fingerprints to the
 97 Federal Bureau of Investigation for national processing. The
 98 department shall submit the results of the state and national
 99 records check, which must indicate whether the petitioner has
 100 registered as a sexual predator or a sexual offender, to the
 101 clerk of the court. The court shall consider the results in
 102 reviewing the information contained in the petition and
 103 evaluating whether to grant the petition.

104 (3) Each petition shall be verified and show:

105 (i) Whether the petitioner has ever been required to
 106 register as a sexual predator under s. 775.021 or as a sexual
 107 offender under s. 943.0435.

108 (j) ~~(i)~~ Whether any money judgment has ever been entered
 109 against the petitioner and if so, the name of the judgment
 110 creditor, the amount and date thereof, the court by which
 111 entered, and whether the judgment has been satisfied.

112 (k) ~~(j)~~ That the petition is filed for no ulterior or
 113 illegal purpose and granting it will not in any manner invade
 114 the property rights of others, whether partnership, patent, good
 115 will, privacy, trademark, or otherwise.

116 (l) ~~(k)~~ That the petitioner's civil rights have never been

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suspended or, if the petitioner's civil rights have been suspended, that full restoration of civil rights has occurred.

(6) The clerk of the court must, within 5 business days after ~~upon~~ the filing of the final judgment, send a report of the judgment to the Department of Law Enforcement on a form to be furnished by that department. If the petitioner is required to register as a sexual predator or a sexual offender pursuant to s. 775.21 or s. 943.0435, the clerk of court shall electronically notify the Department of Law Enforcement of the name change, in a manner prescribed by that department, within 2 business days after the filing of the final judgment. The Department of Law Enforcement must send a copy of the report to the Department of Highway Safety and Motor Vehicles, which may be delivered by electronic transmission. The report must contain sufficient information to identify the petitioner, including the results of the criminal history records check if applicable, the new name of the petitioner, and the file number of the judgment. The Department of Highway Safety and Motor Vehicles shall monitor the records of any sexual predator or sexual offender whose name has been provided to it by the Department of Law Enforcement. If the sexual predator or sexual offender does not obtain a replacement driver license or identification card within the required time as specified in s. 775.21 or s. 943.0435, the Department of Highway Safety and Motor Vehicles shall notify the Department of Law Enforcement. The Department of Law Enforcement shall notify applicable law enforcement agencies of the offender's failure to comply with registration requirements. Any information retained by the Department of Law Enforcement and the Department of Highway Safety and Motor

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Vehicles may be revised or supplemented by said departments to reflect changes made by the final judgment. With respect to a person convicted of a felony in another state or of a federal offense, the Department of Law Enforcement must send the report to the respective state's office of law enforcement records or to the office of the Federal Bureau of Investigation. The Department of Law Enforcement may forward the report to any other law enforcement agency it believes may retain information related to the petitioner.

Section 2. Paragraph (i) of subsection (2), paragraph (a) of subsection (4), subsections (6) and (8), and paragraph (a) of subsection (10) of section 775.21, Florida Statutes, are amended and a new paragraph (n) is added to subsection (2) of that section to read:

775.21 The Florida Sexual Predators Act.—

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

(i) "Internet identifier ~~Instant message name~~" means all electronic mail, chat, instant messenger, social networking, application software, or similar names used for Internet communication, but does not include a date of birth, social security number, or personal identification number (PIN). Voluntary disclosure by a sexual predator of his or her date of birth, social security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information an identifier that allows a person to communicate in real time with another person using the Internet.

(n) "Vehicles owned" means any motor vehicle as defined in s. 320.01, which is registered, co-registered, leased, titled, or rented by a person; a rented vehicle that the person is

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authorized to drive; or a vehicle for which the person is insured as a driver.

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a "sexual predator" under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first-degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor and the defendant is not the victim's parent or guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2) (c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3) (b), (d), (f), (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8) (b); s. 825.1025 ~~s. 825.1025(2) (b);~~ s. 827.071; s. 847.0135, excluding s. 847.0135(6) ~~s. 847.0135(5);~~ s. 847.0145; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2) (c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3) (b), (d), (f),

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(g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction;

2. The offender has not received a pardon for any felony or similar law of another jurisdiction that is necessary for the operation of this paragraph; and

3. A conviction of a felony or similar law of another jurisdiction necessary to the operation of this paragraph has not been set aside in any postconviction proceeding.

(6) REGISTRATION.—

(a) A sexual predator shall ~~must~~ register with the department through the sheriff's office by providing the following information to the department:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; photograph; address of legal residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all ~~any~~ electronic mail addresses ~~address~~ and all Internet identifiers ~~any instant message name~~ required to be provided pursuant to subparagraph (g)4.; all home telephone numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; date and place of any employment; the ~~make, model, color, vehicle identification number (VIN), and~~

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license tag number of all vehicles owned by the sexual predator and all vehicles owned by a person or persons residing at the sexual predator's residence; date and place of each conviction; fingerprints; palm prints; and a brief description of the crime or crimes committed by the offender. A person is residing at the sexual predator's residence if the person abides, lodges, or resides at that residence for 5 or more consecutive days. A post office box ~~may shall~~ not be provided in lieu of a physical residential address. The sexual predator shall produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

a. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the department written notice of the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the department written notice of the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

b. If the sexual predator is enrolled, employed,

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volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status. Each change in enrollment, volunteer, or employment status ~~must shall~~ be reported in person at the sheriff's office, or the Department of Corrections if the sexual predator is in the custody or control of or under the supervision of the Department of Corrections, within 48 hours after any change in status. The sheriff or the Department of Corrections shall promptly notify each institution of the sexual predator's presence and any change in the sexual predator's enrollment, volunteer, or employment status.

2. Any other information determined necessary by the department, including criminal and corrections records; nonprivileged personnel and treatment records; and evidentiary genetic markers when available.

(b) If the sexual predator is in the custody or control of, or under the supervision of, the Department of Corrections, or is in the custody of a private correctional facility, the sexual predator shall ~~must~~ register with the Department of Corrections. A sexual predator who is under the supervision of the Department of Corrections but who is not incarcerated shall ~~must~~ register with the Department of Corrections within 3 business days after the court finds the offender to be a sexual predator. The Department of Corrections shall provide to the department registration information and the location of, and local telephone number for, any Department of Corrections office that

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is responsible for supervising the sexual predator. In addition, the Department of Corrections shall notify the department if the sexual predator escapes or absconds from custody or supervision or if the sexual predator dies.

(c) If the sexual predator is in the custody of a local jail, the custodian of the local jail shall register the sexual predator within 3 business days after intake of the sexual predator for any reason and upon release, and shall forward the registration information to the department. The custodian of the local jail shall also take a digitized photograph of the sexual predator while the sexual predator remains in custody and shall provide the digitized photograph to the department. The custodian shall notify the department if the sexual predator escapes from custody or dies.

(d) If the sexual predator is under federal supervision, the federal agency responsible for supervising the sexual predator may forward to the department any information regarding the sexual predator which is consistent with the information provided by the Department of Corrections under this section, and may indicate whether use of the information is restricted to law enforcement purposes only or may be used by the department for purposes of public notification.

(e)1. If the sexual predator is not in the custody or control of, or under the supervision of, the Department of Corrections or is not in the custody of a private correctional facility, the sexual predator shall register in person:

a. At the sheriff's office in the county where he or she establishes or maintains a residence within 48 hours after establishing or maintaining a residence in this state; and

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b. At the sheriff's office in the county where he or she was designated a sexual predator by the court within 48 hours after such finding is made.

2. Any change in the sexual predator's permanent or temporary residence, name, ~~or any~~ electronic mail addresses, or Internet identifiers address and any instant message name required to be provided pursuant to subparagraph (g)4., after the sexual predator registers in person at the sheriff's office as provided in subparagraph 1., must ~~shall~~ be accomplished in the manner provided in paragraphs (g), (i), and (j). When a sexual predator registers with the sheriff's office, the sheriff shall take a photograph, and a set of fingerprints, and palm prints of the predator and forward the photographs, palm prints, and fingerprints to the department, along with the information that the predator is required to provide pursuant to this section.

(f) Within 48 hours after the registration required under paragraph (a) or paragraph (e), a sexual predator who is not incarcerated and who resides in the community, including a sexual predator under the supervision of the Department of Corrections, shall register in person at a driver ~~driver's~~ license office of the Department of Highway Safety and Motor Vehicles and shall present proof of registration. At the driver ~~driver's~~ license office the sexual predator shall:

1. If otherwise qualified, secure a Florida driver ~~driver's~~ license, renew a Florida driver ~~driver's~~ license, or secure an identification card. The sexual predator shall identify himself or herself as a sexual predator who is required to comply with this section, provide his or her place of permanent, temporary,

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or transient residence, including a rural route address and a post office box, and submit to the taking of a photograph for use in issuing a ~~driver driver's~~ license, renewed license, or identification card, and for use by the department in maintaining current records of sexual predators. A post office box ~~may shall~~ not be provided in lieu of a physical residential address. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If a sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide to the Department of Highway Safety and Motor Vehicles the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the vessel, live-aboard vessel, or houseboat.

2. Pay the costs assessed by the Department of Highway Safety and Motor Vehicles for issuing or renewing a driver ~~driver's~~ license or identification card as required by this section. The ~~driver driver's~~ license or identification card issued to the sexual predator must comply ~~be in compliance~~ with s. 322.141(3).

3. Provide, upon request, any additional information necessary to confirm the identity of the sexual predator, including a set of fingerprints.

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(g)1. Each time a sexual predator's driver ~~driver's~~ license or identification card is subject to renewal, and, without regard to the status of the predator's ~~driver driver's~~ license or identification card, within 48 hours after any change of the predator's residence or change in the predator's name by reason of marriage or other legal process, the predator shall report in person to a driver ~~driver's~~ license office and ~~is shall be~~ subject to the requirements specified in paragraph (f). The Department of Highway Safety and Motor Vehicles shall forward to the department and to the Department of Corrections all photographs and information provided by sexual predators. Notwithstanding the restrictions set forth in s. 322.142, the Department of Highway Safety and Motor Vehicles ~~may is~~ authorized to release a reproduction of a color-photograph or digital-image license to the Department of Law Enforcement for purposes of public notification of sexual predators as provided in this section. A sexual predator who is unable to secure or update a driver license or identification card with the Department of Highway Safety and Motor Vehicles as provided in paragraph (f) and this paragraph shall also report any change of the predator's residence or change in the predator's name by reason of marriage or other legal process within 48 hours after the change to the sheriff's office in the county where the predator resides or is located and provide confirmation that he or she reported such information to the Department of Highway Safety and Motor Vehicles.

2. A sexual predator who vacates a permanent, temporary, or transient residence and fails to establish or maintain another permanent, temporary, or transient residence shall, within 48

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hours after vacating the permanent, temporary, or transient residence, report in person to the sheriff's office of the county in which he or she is located. The sexual predator shall specify the date upon which he or she intends to or did vacate such residence. The sexual predator shall ~~must~~ provide or update all of the registration information required under paragraph (a). The sexual predator shall ~~must~~ provide an address for the residence or other place that he or she is or will be located during the time in which he or she fails to establish or maintain a permanent or temporary residence.

3. A sexual predator who remains at a permanent, temporary, or transient residence after reporting his or her intent to vacate such residence shall, within 48 hours after the date upon which the predator indicated he or she would or did vacate such residence, report in person to the sheriff's office to which he or she reported pursuant to subparagraph 2. for the purpose of reporting his or her address at such residence. When the sheriff receives the report, the sheriff shall promptly convey the information to the department. An offender who makes a report as required under subparagraph 2. but fails to make a report as required under this subparagraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. A sexual predator shall ~~must~~ register all ~~any~~ electronic mail addresses and Internet identifiers ~~address or instant message name~~ with the department before ~~prior to~~ using such electronic mail addresses and Internet identifiers ~~address or instant message name~~ ~~on or after October 1, 2007~~. The department shall establish an online system through which sexual predators

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may securely access and update all electronic mail address and Internet identifier ~~instant message name~~ information.

(h) The department shall ~~must~~ notify the sheriff and the state attorney of the county and, if applicable, the police chief of the municipality, where the sexual predator maintains a residence.

(i) A sexual predator who intends to establish a permanent, temporary, or transient residence in another state or jurisdiction other than the State of Florida shall report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave this state to establish residence in another state or jurisdiction or within 21 days before his or her planned departure date if the intended residence of 5 days or more is outside of the United States. The sexual predator shall ~~must~~ provide to the sheriff the address, municipality, county, ~~and~~ state, and country of intended residence. The sheriff shall promptly provide to the department the information received from the sexual predator. The department shall notify the statewide law enforcement agency, or a comparable agency, in the intended state, ~~or~~ jurisdiction, or country of residence of the sexual predator's intended residence. The failure of a sexual predator to provide his or her intended place of residence is punishable as provided in subsection (10).

(j) A sexual predator who indicates his or her intent to establish a permanent, temporary, or transient residence in another state, ~~a~~ or jurisdiction other than the State of Florida, or another country and later decides to remain in this state shall, within 48 hours after the date upon which the

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sexual predator indicated he or she would leave this state, report in person to the sheriff to which the sexual predator reported the intended change of residence, and report his or her intent to remain in this state. If the sheriff is notified by the sexual predator that he or she intends to remain in this state, the sheriff shall promptly report this information to the department. A sexual predator who reports his or her intent to establish a permanent, temporary, or transient residence in another state, a ex jurisdiction other than the State of Florida, or another country, but who remains in this state without reporting to the sheriff in the manner required by this paragraph, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(k)1. The department is responsible for the online maintenance of current information regarding each registered sexual predator. The department shall ~~must~~ maintain hotline access for state, local, and federal law enforcement agencies to obtain instantaneous locator file and offender characteristics information on all released registered sexual predators for purposes of monitoring, tracking, and prosecution. The photograph and fingerprints do not have to be stored in a computerized format.

2. The department's sexual predator registration list, containing the information described in subparagraph (a)1., is a public record. The department may ~~is authorized to~~ disseminate this public information by any means deemed appropriate, including operating a toll-free telephone number for this purpose. When the department provides information regarding a registered sexual predator to the public, department personnel

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shall ~~must~~ advise the person making the inquiry that positive identification of a person believed to be a sexual predator cannot be established unless a fingerprint comparison is made, and that it is illegal to use public information regarding a registered sexual predator to facilitate the commission of a crime.

3. The department shall adopt guidelines as necessary regarding the registration of sexual predators and the dissemination of information regarding sexual predators as required by this section.

(1) A sexual predator shall ~~must~~ maintain registration with the department for the duration of his or her life, unless the sexual predator has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that met the criteria for the sexual predator designation.

(8) VERIFICATION.—The department and the Department of Corrections shall implement a system for verifying the addresses of sexual predators. The system must be consistent with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to such verification or required to be met as a condition for the receipt of federal funds by the state. The Department of Corrections shall verify the addresses of sexual predators who are not incarcerated but who reside in the community under the supervision of the Department of Corrections and shall report to the department any failure by a sexual predator to comply with registration requirements. County and local law enforcement agencies, in conjunction with the department, shall verify the

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addresses of sexual predators who are not under the care, custody, control, or supervision of the Department of Corrections. Local law enforcement agencies shall report to the department any failure by a sexual predator to comply with registration requirements.

(a) A sexual predator ~~shall must~~ report in person each year during the month of the sexual predator's birthday and during every third month thereafter to the sheriff's office in the county in which he or she resides or is otherwise located to reregister. The sheriff's office may determine the appropriate times and days for reporting by the sexual predator, which must ~~shall~~ be consistent with the reporting requirements of this paragraph. Reregistration must ~~shall~~ include any changes to the following information:

1. Name; social security number; age; race; sex; date of birth; height; weight; tattoos or other identifying marks; hair and eye color; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state; address, location or description, and dates of any current or known future temporary residence within the state or out of state; all any electronic mail addresses or Internet identifiers ~~address and any instant message name~~ required to be provided pursuant to subparagraph (6)(g)4.; all home telephone numbers or number and any cellular telephone numbers number; date and place of any employment; the vehicle ~~vehicle~~ make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned by the sexual predator and all

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vehicles owned by a person or persons residing at the sexual predator's residence; fingerprints; palm prints; and photograph. A person is residing at the sexual predator's residence if the person abides, lodges, or resides at that residence for 5 or more consecutive days. A post office box ~~may shall~~ not be provided in lieu of a physical residential address. The sexual predator shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The sexual predator shall also provide information about any professional licenses he or she has.

2. If the sexual predator is enrolled, employed, volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual predator shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual predator's enrollment, volunteer, or employment status.

3. If the sexual predator's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined in chapter 320, the sexual predator shall also provide the vehicle identification number; the license tag number; the registration number; and a description, including color scheme, of the motor vehicle, trailer, mobile home, or manufactured home. If the sexual predator's place of residence is a vessel, live-aboard vessel, or houseboat, as defined in chapter 327, the sexual predator shall also provide the hull identification number; the manufacturer's serial number; the name of the vessel, live-aboard vessel, or houseboat; the registration number; and a description, including color scheme, of the

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vessel, live-aboard vessel, or houseboat.

(b) The sheriff's office shall, within 2 working days, electronically submit and update all information provided by the sexual predator to the department in a manner prescribed by the department.

(10) PENALTIES.—

(a) Except as otherwise specifically provided, a sexual predator who fails to register; who fails, after registration, to maintain, acquire, or renew a driver ~~driver's~~ license or identification card; who fails to provide required location information, electronic mail address information before use, Internet identifier ~~instant message name~~ information before use, all home telephone numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~, or change-of-name information; who fails to make a required report in connection with vacating a permanent residence; who fails to reregister as required; who fails to respond to any address verification correspondence from the department within 3 weeks of the date of the correspondence; who knowingly provides false registration information by act or omission; or who otherwise fails, by act or omission, to comply with the requirements of this section, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. Subsection (1) of section 943.043, Florida Statutes, is amended to read:

943.043 Toll-free telephone number; Internet notification; sexual predator and sexual offender information.—

(1) The department may notify the public through the Internet of any information regarding sexual predators and

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sexual offenders which is not confidential and exempt from public disclosure under s. 119.07(1) and s. 24(a), Art. I of the State Constitution. The department shall determine what information shall be made available to the public through the Internet. However, the department may not display on or disseminate through the Internet public registry maintained by the department any information regarding a vehicle that is owned by a person who is not required to register as a sexual predator or sexual offender.

Section 4. Paragraphs (a) and (g) of subsection (1), subsection (2), paragraphs (a) and (d) of subsection (4), subsections (7), (8), and (11), and paragraphs (b) and (c) of subsection (14) of section 943.0435, Florida Statutes, are amended and a new paragraph (h) is added to subsection (1) of that section to read:

943.0435 Sexual offenders required to register with the department; penalty.—

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

(a)1. "Sexual offender" means a person who meets the criteria in sub-subparagraph a., sub-subparagraph b., sub-subparagraph c., or sub-subparagraph d., as follows:

a.(I) Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.

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639 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s.
 640 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.
 641 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any
 642 similar offense committed in this state which has been
 643 redesignated from a former statute number to one of those listed
 644 in this sub-sub-subparagraph; and

645 (II) Has been released on or after October 1, 1997, from
 646 the sanction imposed for any conviction of an offense described
 647 in sub-sub-subparagraph (I). For purposes of sub-sub-
 648 subparagraph (I), a sanction imposed in this state or in any
 649 other jurisdiction includes, but is not limited to, a fine,
 650 probation, community control, parole, conditional release,
 651 control release, or incarceration in a state prison, federal
 652 prison, private correctional facility, or local detention
 653 facility;

654 b. Establishes or maintains a residence in this state and
 655 who has not been designated as a sexual predator by a court of
 656 this state but who has been designated as a sexual predator, as
 657 a sexually violent predator, or by another sexual offender
 658 designation in another state or jurisdiction and was, as a
 659 result of such designation, subjected to registration or
 660 community or public notification, or both, or would be if the
 661 person were a resident of that state or jurisdiction, without
 662 regard to whether the person otherwise meets the criteria for
 663 registration as a sexual offender;

664 c. Establishes or maintains a residence in this state who
 665 is in the custody or control of, or under the supervision of,
 666 any other state or jurisdiction as a result of a conviction for
 667 committing, or attempting, soliciting, or conspiring to commit,

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668 any of the criminal offenses proscribed in the following
 669 statutes or similar offense in another jurisdiction: s.
 670 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 671 787.025(2)(c), where the victim is a minor and the defendant is
 672 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
 673 (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s.
 674 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
 675 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
 676 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.
 677 985.701(1); or any similar offense committed in this state which
 678 has been redesignated from a former statute number to one of
 679 those listed in this sub-subparagraph; or

680 d. On or after July 1, 2007, has been adjudicated
 681 delinquent for committing, or attempting, soliciting, or
 682 conspiring to commit, any of the criminal offenses proscribed in
 683 the following statutes in this state or similar offenses in
 684 another jurisdiction when the juvenile was 14 years of age or
 685 older at the time of the offense:

686 (I) Section 794.011, excluding s. 794.011(10);

687 (II) Section 800.04(4)(b) where the victim is under 12
 688 years of age or where the court finds sexual activity by the use
 689 of force or coercion;

690 (III) Section 800.04(5)(c)1. where the court finds
 691 molestation involving unclothed genitals; or

692 (IV) Section 800.04(5)(d) where the court finds the use of
 693 force or coercion and unclothed genitals.

694 2. For all qualifying offenses listed in sub-subparagraph
 695 (1)(a)1.d., the court shall make a written finding of the age of
 696 the offender at the time of the offense.

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For each violation of a qualifying offense listed in this subsection, ~~except for a violation of s. 794.011,~~ the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall also ~~additionally~~ make a written finding indicating ~~whether that~~ the offense involved ~~did or did not involve~~ sexual activity and indicating ~~whether that~~ the offense involved ~~did or did not involve~~ force or coercion. For a violation of s. 800.04(5), the court shall also ~~additionally~~ make a written finding that the offense did or did not involve unclothed genitals or genital area and that the offense did or did not involve the use of force or coercion.

(g) "Internet identifier ~~Instant message name~~" has the same meaning as provided in s. 775.21 ~~means an identifier that allows a person to communicate in real time with another person using the Internet.~~

(h) "Vehicles owned" has the same meaning as provided in s. 775.21.

(2) A sexual offender shall:

(a) Report in person at the sheriff's office:

1. In the county in which the offender establishes or maintains a permanent, temporary, or transient residence within 48 hours after:

a. Establishing permanent, temporary, or transient residence in this state; or

b. Being released from the custody, control, or supervision of the Department of Corrections or from the custody of a private correctional facility; or

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2. In the county where he or she was convicted within 48 hours after being convicted for a qualifying offense for registration under this section if the offender is not in the custody or control of, or under the supervision of, the Department of Corrections, or is not in the custody of a private correctional facility.

Any change in the information required to be provided pursuant to paragraph (b), including, but not limited to, any change in the sexual offender's permanent, temporary, or transient residence, name, ~~any~~ electronic mail addresses, or Internet identifiers ~~address and any instant message name~~ required to be provided pursuant to paragraph (4)(d), after the sexual offender reports in person at the sheriff's office, must ~~shall~~ be accomplished in the manner provided in subsections (4), (7), and (8).

(b) Provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; fingerprints; palm prints; photograph; occupation and place of employment; address of permanent or legal residence or address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence within the state, address, location or description, and dates of any current or known future temporary residence within the state or out of state; the make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned by the sexual offender and all vehicles owned by a person or persons

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755 residing at the sexual offender's residence; all home telephone
 756 numbers ~~number~~ and any cellular telephone numbers ~~number~~; all
 757 any electronic mail addresses ~~address~~ and all Internet
 758 identifiers ~~any instant message name~~ required to be provided
 759 pursuant to paragraph (4)(d); date and place of each conviction;
 760 and a brief description of the crime or crimes committed by the
 761 offender. A person is residing at the sexual offender's
 762 residence if the person abides, lodges, or resides at that
 763 residence for 5 or more consecutive days. A post office box may
 764 shall not be provided in lieu of a physical residential address.
 765 The sexual offender shall also produce his or her passport, if
 766 he or she has a passport, and, if he or she is an alien, shall
 767 produce or provide information about documents establishing his
 768 or her immigration status. The sexual offender shall also
 769 provide information about any professional licenses he or she
 770 has.

771 1. If the sexual offender's place of residence is a motor
 772 vehicle, trailer, mobile home, or manufactured home, as defined
 773 in chapter 320, the sexual offender shall also provide to the
 774 department through the sheriff's office written notice of the
 775 vehicle identification number; the license tag number; the
 776 registration number; and a description, including color scheme,
 777 of the motor vehicle, trailer, mobile home, or manufactured
 778 home. If the sexual offender's place of residence is a vessel,
 779 live-aboard vessel, or houseboat, as defined in chapter 327, the
 780 sexual offender shall also provide to the department written
 781 notice of the hull identification number; the manufacturer's
 782 serial number; the name of the vessel, live-aboard vessel, or
 783 houseboat; the registration number; and a description, including

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784 color scheme, of the vessel, live-aboard vessel, or houseboat.

785 2. If the sexual offender is enrolled, employed,
 786 volunteering, or carrying on a vocation at an institution of
 787 higher education in this state, the sexual offender shall also
 788 provide to the department through the sheriff's office the name,
 789 address, and county of each institution, including each campus
 790 attended, and the sexual offender's enrollment, volunteer, or
 791 employment status. Each change in enrollment, volunteer, or
 792 employment status must ~~shall~~ be reported in person at the
 793 sheriff's office, within 48 hours after any change in status.
 794 The sheriff shall promptly notify each institution of the sexual
 795 offender's presence and any change in the sexual offender's
 796 enrollment, volunteer, or employment status.

797 (c) Provide any other information determined necessary by
 798 the department, including criminal and corrections records;
 799 nonprivileged personnel and treatment records; and evidentiary
 800 genetic markers, when available.

801
 802 When a sexual offender reports at the sheriff's office, the
 803 sheriff shall take a photograph, ~~and~~ a set of fingerprints, and
 804 palm prints of the offender and forward the photographs, palm
 805 prints, and fingerprints to the department, along with the
 806 information provided by the sexual offender. The sheriff shall
 807 promptly provide to the department the information received from
 808 the sexual offender.

809 (4)(a) Each time a sexual offender's driver ~~driver's~~
 810 license or identification card is subject to renewal, and,
 811 without regard to the status of the offender's driver ~~driver's~~
 812 license or identification card, within 48 hours after any change

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813 in the offender's permanent, temporary, or transient residence
 814 or change in the offender's name by reason of marriage or other
 815 legal process, the offender shall report in person to a driver
 816 ~~driver's~~ license office, and ~~is shall be~~ subject to the
 817 requirements specified in subsection (3). The Department of
 818 Highway Safety and Motor Vehicles shall forward to the
 819 department all photographs and information provided by sexual
 820 offenders. Notwithstanding the restrictions set forth in s.
 821 322.142, the Department of Highway Safety and Motor Vehicles may
 822 ~~is authorized to~~ release a reproduction of a color-photograph or
 823 digital-image license to the Department of Law Enforcement for
 824 purposes of public notification of sexual offenders as provided
 825 in this section and ss. 943.043 and 944.606. A sexual offender
 826 who is unable to secure or update a driver license or
 827 identification card with the Department of Highway Safety and
 828 Motor Vehicles as provided in subsection (3) and this subsection
 829 shall also report any change in the sexual offender's permanent,
 830 temporary, or transient residence or change in the offender's
 831 name by reason of marriage or other legal process within 48
 832 hours after the change to the sheriff's office in the county
 833 where the offender resides or is located and provide
 834 confirmation that he or she reported such information to the
 835 Department of Highway Safety and Motor Vehicles.

836 (d) A sexual offender ~~shall must~~ register all any
 837 electronic mail addresses and Internet identifiers ~~address or~~
 838 ~~instant message name~~ with the department before using such
 839 electronic mail addresses and Internet identifiers ~~address or~~
 840 ~~instant message name~~. The department shall establish an online
 841 system through which sexual offenders may securely access and

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842 update all electronic mail address and Internet identifier
 843 ~~instant message name~~ information.

844 (7) A sexual offender who intends to establish a permanent,
 845 temporary, or transient residence in another state or
 846 jurisdiction other than the State of Florida shall report in
 847 person to the sheriff of the county of current residence within
 848 48 hours before the date he or she intends to leave this state
 849 to establish residence in another state or jurisdiction or
 850 within 21 days before his or her planned departure date if the
 851 intended residence of 5 days or more is outside of the United
 852 States. The notification must include the address, municipality,
 853 county, ~~and~~ state, and country of intended residence. The
 854 sheriff shall promptly provide to the department the information
 855 received from the sexual offender. The department shall notify
 856 the statewide law enforcement agency, or a comparable agency, in
 857 the intended state, ~~or~~ jurisdiction, or country of residence of
 858 the sexual offender's intended residence. The failure of a
 859 sexual offender to provide his or her intended place of
 860 residence is punishable as provided in subsection (9).

861 (8) A sexual offender who indicates his or her intent to
 862 establish a permanent, temporary, or transient residence in
 863 another state, ~~a or~~ jurisdiction other than the State of
 864 Florida, or another country and later decides to remain in this
 865 state shall, within 48 hours after the date upon which the
 866 sexual offender indicated he or she would leave this state,
 867 report in person to the sheriff to which the sexual offender
 868 reported the intended change of permanent, temporary, or
 869 transient residence, and report his or her intent to remain in
 870 this state. The sheriff shall promptly report this information

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871 to the department. A sexual offender who reports his or her
 872 intent to establish a permanent, temporary, or transient
 873 residence in another state, ~~a ex~~ jurisdiction other than the
 874 State of Florida, or another country but who remains in this
 875 state without reporting to the sheriff in the manner required by
 876 this subsection commits a felony of the second degree,
 877 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

878 (11) Except as provided in this subsection and s.
 879 943.04354, a sexual offender shall ~~must~~ maintain registration
 880 with the department for the duration of his or her life, unless
 881 the sexual offender has received a full pardon or has had a
 882 conviction set aside in a postconviction proceeding for any
 883 offense that meets the criteria for classifying the person as a
 884 sexual offender for purposes of registration. ~~However, a sexual~~
 885 ~~offender,~~

886 (a)1. A sexual offender may petition the criminal division
 887 of the circuit court of the circuit in which the sexual offender
 888 resides or previously resided, or in the county where the
 889 conviction or adjudication for the qualifying offense or
 890 qualifying offenses occurred for the purpose of removing the
 891 requirement for registration as a sexual offender if ~~Who has~~
 892 ~~been lawfully released from confinement, supervision, or~~
 893 ~~sanction, whichever is later, for at least 25 years and has not~~
 894 ~~been arrested for any felony or misdemeanor offense since~~
 895 ~~release, provided that the sexual offender's requirement to~~
 896 ~~register was not based upon an adult conviction:~~

897 a. Twenty-five years have elapsed since the beginning of
 898 the registration period for the sexual offender's most recent
 899 conviction that required the offender to register or as provided

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900 in sub-subparagraph 4.e.;

901 b. The sexual offender has not been convicted or
 902 adjudicated delinquent of a felony offense or of an offense
 903 punishable by more than 1 year of imprisonment during the 25
 904 years preceding the petition to the court;

905 c. The sexual offender's requirement to register was not
 906 based upon an adult conviction for:

907 (I) A violation of s. 787.01; s. 794.011, excluding s.
 908 794.011(10); s. 800.04(4) (b) if the court finds the offense
 909 involved a victim younger than 12 years of age or a sexual
 910 activity by the use of force or coercion; s. 800.04(5) (b); or s.
 911 800.04(5) (c)2. where the court finds the offense involved use of
 912 force or coercion and unclothed genitals or genital area;

913 (II) An attempt or conspiracy to commit any offense listed
 914 in this sub-subparagraph; or

915 (III) A violation of similar law of another jurisdiction;
 916 or a violation of a similar offense committed in this state
 917 which has been redesignated from a former statute number to one
 918 of those listed in this sub-subparagraph; and

919 d. For sexual offenders whose requirement to register is
 920 based upon a conviction in another state, the sexual offender is
 921 not required to register as a sexual offender pursuant to the
 922 laws of the state in which the conviction occurred. Such an
 923 offender must provide the court written confirmation that he or
 924 she is not required to register in the state in which the
 925 conviction occurred.

926 ~~a. For a violation of s. 787.01 or s. 787.02;~~

927 ~~b. For a violation of s. 794.011, excluding s. 794.011(10);~~

928 ~~c. For a violation of s. 800.04(4) (b) where the court finds~~

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the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;

~~d. For a violation of s. 800.04(5)(b);~~

~~e. For a violation of s. 800.04(5)c.2. where the court finds the offense involved unclothed genitals or genital area;~~

~~f. For any attempt or conspiracy to commit any such offense; or~~

~~g. For a violation of similar law of another jurisdiction;~~

may petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender.

2. A sexual offender whose requirement to register was based upon an adult conviction for a violation of s. 787.02 or s. 827.071(5), for an attempt or conspiracy to commit any offense listed in this subparagraph, or for a violation of similar law of another jurisdiction may petition the criminal division of the circuit court of the circuit in which the sexual offender resides or previously resided, or in the county where the conviction or adjudication for the qualifying offense or qualifying offenses occurred for the purpose of removing the requirement for registration as a sexual offender if:

a. Fifteen years have elapsed since the beginning of the registration period for the sexual offender's most recent conviction that required the offender to register or as provided in sub-subparagraph 4.e.;

b. The sexual offender has not been convicted or adjudicated delinquent of a felony offense or of an offense punishable by more than 1 year of imprisonment during the 10

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years preceding the petition to the court; and

c. For sexual offenders whose requirement to register is based upon a conviction in another state, the sexual offender is not required to register as a sexual offender pursuant to the laws of the state in which the conviction occurred. Such an offender must provide the court written confirmation that he or she is not required to register in the state in which the conviction occurred.

3. A sexual offender required to register under sub-subparagraph (1)(a)1.d. may petition the criminal division of the circuit court of the circuit in which the sexual offender resides or previously resided, or in the county where the conviction or adjudication for the qualifying offense or qualifying offenses occurred for the purpose of removing the requirement for registration as a sexual offender if:

a. Twenty-five years have elapsed since the beginning of the registration period for the sexual offender's most recent conviction that required the offender to register or as provided in sub-subparagraph 4.e.; and

b. The sexual offender has not been convicted or adjudicated delinquent of any felony offense or of an offense punishable by more than 1 year of imprisonment during the 25 years preceding the petition to the court.

4. For purposes of this paragraph:

a. If the sexual offender is sentenced to a term of incarceration or committed to a residential program for the most recent conviction that required the offender to register the registration begins upon the offender's release from incarceration or commitment.

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987 b. A sexual offender's registration period is tolled during
 988 any period in which the offender is incarcerated, civilly
 989 committed, detained pursuant to chapter 985, or committed to a
 990 residential program.

991 c. Except as provided in sub-subparagraph e., if the sexual
 992 offender is only sentenced to a term of supervision for the most
 993 recent conviction that required the offender to register as a
 994 sexual offender or is only subject to a period of supervision
 995 for that conviction, the registration period begins when the
 996 term or period of supervision for that conviction begins.

997 d. Except as provided in sub-subparagraph e., if the sexual
 998 offender is sentenced to a term of supervision that follows a
 999 term of incarceration for the most recent conviction that
 1000 required the offender to register as a sexual offender or is
 1001 subject to a period of supervision that follows commitment to a
 1002 residential program for that conviction, the registration period
 1003 begins when the term or period of supervision for that
 1004 conviction begins.

1005 e. If a sexual offender is subject to subparagraph (a)1. or
 1006 subparagraph (a)3. and is sentenced to a term of more than 25-
 1007 years supervision for the most recent conviction that required
 1008 the offender to register as a sexual offender, the sexual
 1009 offender may not petition for removal of the requirement for
 1010 registration as a sexual offender until the term of supervision
 1011 for that conviction is completed. If a sexual offender is
 1012 subject to subparagraph (a)2. and is sentenced to more than 15-
 1013 years supervision for the most recent conviction that required
 1014 the offender to register as a sexual offender, the sexual
 1015 offender may not petition for removal of the requirement for

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1016 registration as a sexual offender until the term of supervision
 1017 for that conviction is completed.

1018 5.2- The court may grant or deny relief if the offender
 1019 demonstrates to the court that ~~he or she has not been arrested~~
 1020 ~~for any crime since release~~, the requested relief complies with
 1021 this paragraph, the provisions of the federal Adam Walsh Child
 1022 Protection and Safety Act of 2006, and any other federal
 1023 standards applicable to the removal of registration requirements
 1024 for a sexual offender or required to be met as a condition for
 1025 the receipt of federal funds by the state; and the court is
 1026 otherwise satisfied that the offender is not a current or
 1027 potential threat to public safety. The state attorney in the
 1028 circuit in which the petition is filed and the department must
 1029 be given notice of the petition at least 3 weeks before the
 1030 hearing on the matter. The state attorney may present evidence
 1031 in opposition to the requested relief or may otherwise
 1032 demonstrate the reasons why the petition should be denied. If
 1033 the court grants the petition, the court shall instruct the
 1034 petitioner to provide the department with a certified copy of
 1035 the order granting relief. If the court denies the petition, the
 1036 court may set a future date at which the sexual offender may
 1037 again petition the court for relief, subject to the standards
 1038 for relief provided in this subsection.

1039 6.3- The department shall remove an offender from
 1040 classification as a sexual offender for purposes of registration
 1041 if the offender provides to the department a certified copy of
 1042 the court's written findings or order that indicates that the
 1043 offender is no longer required to comply with the requirements
 1044 for registration as a sexual offender.

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1045 (b) A sexual offender as defined in sub-subparagraph
 1046 (1)(a)1.b. must maintain registration with the department for
 1047 the duration of his or her life until the person provides the
 1048 department with an order issued by the court that designated the
 1049 person as a sexual predator, as a sexually violent predator, or
 1050 by another sexual offender designation in the state or
 1051 jurisdiction in which the order was issued which states that
 1052 such designation has been removed or demonstrates to the
 1053 department that such designation, if not imposed by a court, has
 1054 been removed by operation of law or court order in the state or
 1055 jurisdiction in which the designation was made, and provided
 1056 such person no longer meets the criteria for registration as a
 1057 sexual offender under the laws of this state.

1058 (14)

1059 (b) However, a sexual offender who is required to register
 1060 as a result of a conviction for:

1061 1. Section 787.01 or s. 787.02 where the victim is a minor
 1062 and the offender is not the victim's parent or guardian;

1063 2. Section 794.011, excluding s. 794.011(10);

1064 3. Section 800.04(4)(b) where the court finds the offense
 1065 involved a victim under 12 years of age or sexual activity by
 1066 the use of force or coercion;

1067 4. Section 800.04(5)(b);

1068 5. Section 800.04(5)(c)1. where the court finds molestation
 1069 involving unclothed genitals or genital area;

1070 6. Section 800.04(5)c.2. where the court finds molestation
 1071 involving the use of force or coercion and unclothed genitals or
 1072 genital area;

1073 7. Section 800.04(5)(d) where the court finds the use of

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1074 force or coercion and unclothed genitals or genital area;

1075 8. Any attempt or conspiracy to commit such offense; ~~or~~

1076 9. A violation of a similar law of another jurisdiction; or

1077 ~~r~~

1078 10. A violation of a similar offense committed in this
 1079 state which has been redesignated from a former statute number
 1080 to one of those listed in this paragraph,

1081

1082 must reregister each year during the month of the sexual
 1083 offender's birthday and every third month thereafter.

1084 (c) The sheriff's office may determine the appropriate
 1085 times and days for reporting by the sexual offender, which must
 1086 ~~shall~~ be consistent with the reporting requirements of this
 1087 subsection. Reregistration must ~~shall~~ include any changes to the
 1088 following information:

1089 1. Name; social security number; age; race; sex; date of
 1090 birth; height; weight; hair and eye color; address of any
 1091 permanent residence and address of any current temporary
 1092 residence, within the state or out of state, including a rural
 1093 route address and a post office box; if no permanent or
 1094 temporary address, any transient residence within the state;
 1095 address, location or description, and dates of any current or
 1096 known future temporary residence within the state or out of
 1097 state; all ~~any~~ electronic mail addresses or Internet identifiers
 1098 ~~address and any instant message name~~ required to be provided
 1099 pursuant to paragraph (4)(d); all home telephone numbers and
 1100 ~~number and any~~ cellular telephone numbers ~~number~~; date and place
 1101 of any employment; the ~~vehicle~~ make, model, color, vehicle
 1102 identification number (VIN), and license tag number of all

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1103 vehicles owned by the sexual offender and all vehicles owned by
 1104 a person or persons residing at the sexual offender's residence;
 1105 fingerprints; palm prints; and photograph. A person is residing
 1106 at the sexual offender's residence if the person abides, lodges,
 1107 or resides at that residence for 5 or more consecutive days. A
 1108 post office box may shall not be provided in lieu of a physical
 1109 residential address. The sexual offender shall also produce his
 1110 or her passport, if he or she has a passport, and, if he or she
 1111 is an alien, shall produce or provide information about
 1112 documents establishing his or her immigration status. The sexual
 1113 offender shall also provide information about any professional
 1114 licenses he or she has.

1115 2. If the sexual offender is enrolled, volunteering,
 1116 employed, or carrying on a vocation at an institution of higher
 1117 education in this state, the sexual offender shall also provide
 1118 to the department the name, address, and county of each
 1119 institution, including each campus attended, and the sexual
 1120 offender's enrollment, volunteer, or employment status.

1121 3. If the sexual offender's place of residence is a motor
 1122 vehicle, trailer, mobile home, or manufactured home, as defined
 1123 in chapter 320, the sexual offender shall also provide the
 1124 vehicle identification number; the license tag number; the
 1125 registration number; and a description, including color scheme,
 1126 of the motor vehicle, trailer, mobile home, or manufactured
 1127 home. If the sexual offender's place of residence is a vessel,
 1128 live-aboard vessel, or houseboat, as defined in chapter 327, the
 1129 sexual offender shall also provide the hull identification
 1130 number; the manufacturer's serial number; the name of the
 1131 vessel, live-aboard vessel, or houseboat; the registration

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1132 number; and a description, including color scheme, of the
 1133 vessel, live-aboard vessel or houseboat.

1134 4. Any sexual offender who fails to report in person as
 1135 required at the sheriff's office, ~~or~~ who fails to respond to any
 1136 address verification correspondence from the department within 3
 1137 weeks of the date of the correspondence, ~~or~~ who fails to report
 1138 all electronic mail addresses and all Internet identifiers prior
 1139 to use or instant message names, or who knowingly provides false
 1140 registration information by act or omission commits a felony of
 1141 the third degree, punishable as provided in s. 775.082, s.
 1142 775.083, or s. 775.084.

1143 Section 5. Section 943.04354, Florida Statutes, is amended
 1144 to read:

1145 943.04354 Removal of the requirement to register as a
 1146 sexual offender or sexual predator in special circumstances.—

1147 (1) For purposes of this section, a person shall be
 1148 considered for removal of the requirement to register as a
 1149 sexual offender or sexual predator only if the person:

1150 (a) Was or will be convicted, regardless of adjudication,
 1151 or adjudicated delinquent of a violation of s. 794.011, s.
 1152 800.04, s. 827.071, or s. 847.0135(5) or of a similar offense in
 1153 another jurisdiction or the person committed a violation of s.
 1154 794.011, s. 800.04, s. 827.071, or s. 847.0135(5) for which
 1155 adjudication of guilt was or will be withheld, and if the person
 1156 does not have any other conviction, regardless of adjudication,
 1157 or adjudication of delinquency, or withhold of adjudication of
 1158 guilt for a violation of s. 794.011, s. 800.04, s. 827.071, or
 1159 s. 847.0135(5) or for a similar offense in another jurisdiction;

1160 (b) 1. Was convicted, regardless of adjudication, or

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1161 adjudicated delinquent of an offense listed in paragraph (a) and
 1162 is required to register as a sexual offender or sexual predator
 1163 solely on the basis of this conviction or adjudication; or
 1164 violation; and

1165 2. Was convicted, regardless of adjudication, or
 1166 adjudicated delinquent of an offense in another jurisdiction
 1167 which is similar to an offense listed in paragraph (a) and no
 1168 longer meets the criteria for registration as a sexual offender
 1169 or sexual predator under the laws of the jurisdiction in which
 1170 the similar offense occurred; and

1171 (c) Is not more than 4 years older than the victim of this
 1172 violation who was 13 ~~14~~ years of age or older but younger not
 1173 ~~more~~ than 18 ~~17~~ years of age at the time the person committed
 1174 this violation.

1175 (2) If a person meets the criteria in subsection (1) ~~and~~
 1176 ~~the violation of s. 794.011, s. 800.04, s. 827.071, or s.~~
 1177 ~~847.0135(5) was committed on or after July 1, 2007,~~ the person
 1178 may move the criminal court of the circuit in which the offense
 1179 occurred or the sentencing court or, for persons convicted or
 1180 adjudicated delinquent of a qualifying offense in another
 1181 jurisdiction, the criminal court of the circuit in which the
 1182 person resides or previously resided that will sentence or
 1183 dispose of this violation to remove the requirement that the
 1184 person register as a sexual offender or sexual predator. The
 1185 person must allege in the motion that he or she meets the
 1186 criteria in subsection (1) and that removal of the registration
 1187 requirement will not conflict with federal law. A person
 1188 convicted or adjudicated delinquent of an offense in another
 1189 jurisdiction which is similar to an offense listed in paragraph

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1190 (1) (a) must provide the court written confirmation that he or
 1191 she is not required to register in the jurisdiction in which the
 1192 conviction or adjudication occurred. The state attorney and the
 1193 department must be given notice of the motion at least 21 days
 1194 before the date of sentencing, or disposition of the this
 1195 violation, or hearing on the motion and may present evidence in
 1196 opposition to the requested relief or may otherwise demonstrate
 1197 why the motion should be denied. At sentencing, ~~or~~ disposition
 1198 of the this violation, or hearing on the motion, the court shall
 1199 rule on the this motion, and, if the court determines the person
 1200 meets the criteria in subsection (1) and the removal of the
 1201 registration requirement will not conflict with federal law, it
 1202 may grant the motion and order the removal of the registration
 1203 requirement. The court shall instruct the person to provide the
 1204 department a certified copy of the order granting relief. If the
 1205 court denies the motion, the person is not authorized under this
 1206 section to file another motion petition for removal of the
 1207 registration requirement.

1208 ~~(3) (a) This subsection applies to a person who:~~

1209 ~~1. Is not a person described in subsection (2) because the~~
 1210 ~~violation of s. 794.011, s. 800.04, or s. 827.071 was not~~
 1211 ~~committed on or after July 1, 2007;~~

1212 ~~2. Is subject to registration as a sexual offender or~~
 1213 ~~sexual predator for a violation of s. 794.011, s. 800.04, or s.~~
 1214 ~~827.071; and~~

1215 ~~3. Meets the criteria in subsection (1).~~

1216 ~~(b) A person may petition the court in which the sentence~~
 1217 ~~or disposition for the violation of s. 794.011, s. 800.04, or s.~~
 1218 ~~827.071 occurred for removal of the requirement to register as a~~

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1219 ~~sexual offender or sexual predator. The person must allege in~~
 1220 ~~the petition that he or she meets the criteria in subsection (1)~~
 1221 ~~and removal of the registration requirement will not conflict~~
 1222 ~~with federal law. The state attorney must be given notice of the~~
 1223 ~~petition at least 21 days before the hearing on the petition and~~
 1224 ~~may present evidence in opposition to the requested relief or~~
 1225 ~~may otherwise demonstrate why the petition should be denied. The~~
 1226 ~~court shall rule on the petition and, if the court determines~~
 1227 ~~the person meets the criteria in subsection (1) and removal of~~
 1228 ~~the registration requirement will not conflict with federal law,~~
 1229 ~~it may grant the petition and order the removal of the~~
 1230 ~~registration requirement. If the court denies the petition, the~~
 1231 ~~person is not authorized under this section to file any further~~
 1232 ~~petition for removal of the registration requirement.~~

1233 (3)(4) If a person provides to the Department of Law
 1234 Enforcement a certified copy of the court's order removing the
 1235 requirement that the person register as a sexual offender or
 1236 sexual predator for the violation of s. 794.011, s. 800.04, s.
 1237 827.071, or s. 847.0135(5), or a similar offense in another
 1238 jurisdiction, the registration requirement will not apply to the
 1239 person and the department shall remove all information about the
 1240 person from the public registry of sexual offenders and sexual
 1241 predators maintained by the department. However, the removal of
 1242 this information from the public registry does not mean that the
 1243 public is denied access to information about the person's
 1244 criminal history or record that is otherwise available as a
 1245 public record.

1246 Section 6. Subsections (2) and (3) of section 943.0437,
 1247 Florida Statutes, are amended to read:

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1248 943.0437 Commercial social networking websites.—

1249 (2) The department may provide information relating to
 1250 electronic mail addresses and Internet identifiers, as defined
 1251 in s. 775.21, instant message names maintained as part of the
 1252 sexual offender registry to commercial social networking
 1253 websites or third parties designated by commercial social
 1254 networking websites. The commercial social networking website
 1255 may use this information for the purpose of comparing registered
 1256 users and screening potential users of the commercial social
 1257 networking website against the list of electronic mail addresses
 1258 and Internet identifiers ~~instant message names~~ provided by the
 1259 department.

1260 (3) This section does not ~~shall not be construed to~~ impose
 1261 any civil liability on a commercial social networking website
 1262 for:

1263 (a) Any action voluntarily taken in good faith to remove or
 1264 disable any profile of a registered user associated with an
 1265 electronic mail address or Internet identifier ~~instant message~~
 1266 ~~name~~ contained in the sexual offender registry.

1267 (b) Any action taken to restrict access by such registered
 1268 user to the commercial social networking website.

1269 Section 7. Paragraphs (b) and (d) of subsection (1) and
 1270 paragraph (a) of subsection (3) of section 944.606, Florida
 1271 Statutes, are amended to read:

1272 944.606 Sexual offenders; notification upon release.—

1273 (1) As used in this section:

1274 (b) "Sexual offender" means a person who has been convicted
 1275 of committing, or attempting, soliciting, or conspiring to
 1276 commit, any of the criminal offenses proscribed in the following

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1277 statutes in this state or similar offenses in another
 1278 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
 1279 787.02, or s. 787.025(2)(c), where the victim is a minor and the
 1280 defendant is not the victim's parent or guardian; s.
 1281 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
 1282 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
 1283 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
 1284 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
 1285 s. 916.1075(2); or s. 985.701(1); or any similar offense
 1286 committed in this state which has been redesignated from a
 1287 former statute number to one of those listed in this subsection,
 1288 when the department has received verified information regarding
 1289 such conviction; an offender's computerized criminal history
 1290 record is not, in and of itself, verified information.

1291 (d) "Internet identifier" has the same meaning as provided
 1292 in s. 775.21 "~~Instant message name~~" means an identifier that
 1293 ~~allows a person to communicate in real time with another person~~
 1294 ~~using the Internet.~~

1295 (3)(a) The department shall ~~must~~ provide information
 1296 regarding any sexual offender who is being released after
 1297 serving a period of incarceration for any offense, as follows:

1298 1. The department shall ~~must~~ provide: the sexual offender's
 1299 name, any change in the offender's name by reason of marriage or
 1300 other legal process, and any alias, if known; the correctional
 1301 facility from which the sexual offender is released; the sexual
 1302 offender's social security number, race, sex, date of birth,
 1303 height, weight, and hair and eye color; address of any planned
 1304 permanent residence or temporary residence, within the state or
 1305 out of state, including a rural route address and a post office

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1306 box; if no permanent or temporary address, any transient
 1307 residence within the state; address, location or description,
 1308 and dates of any known future temporary residence within the
 1309 state or out of state; date and county of sentence and each
 1310 crime for which the offender was sentenced; a copy of the
 1311 offender's fingerprints, palm prints, and a digitized photograph
 1312 taken within 60 days before release; the date of release of the
 1313 sexual offender; all ~~any~~ electronic mail addresses ~~address~~ and
 1314 all Internet identifiers ~~any instant message name~~ required to be
 1315 provided pursuant to s. 943.0435(4)(d); all ~~and~~ home telephone
 1316 numbers ~~number~~ and ~~any~~ cellular telephone numbers; information
 1317 about any professional licenses the offender has, if known; and
 1318 passport information, if he or she has a passport, and, if he or
 1319 she is an alien, information about documents establishing his or
 1320 her immigration status ~~number~~. The department shall notify the
 1321 Department of Law Enforcement if the sexual offender escapes,
 1322 absconds, or dies. If the sexual offender is in the custody of a
 1323 private correctional facility, the facility shall take the
 1324 digitized photograph of the sexual offender within 60 days
 1325 before the sexual offender's release and provide this photograph
 1326 to the Department of Corrections and also place it in the sexual
 1327 offender's file. If the sexual offender is in the custody of a
 1328 local jail, the custodian of the local jail shall register the
 1329 offender within 3 business days after intake of the offender for
 1330 any reason and upon release, and shall notify the Department of
 1331 Law Enforcement of the sexual offender's release and provide to
 1332 the Department of Law Enforcement the information specified in
 1333 this paragraph and any information specified in subparagraph 2.
 1334 that the Department of Law Enforcement requests.

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2. The department may provide any other information deemed necessary, including criminal and corrections records, nonprivileged personnel and treatment records, when available.

Section 8. Paragraphs (a) and (f) of subsection (1), subsection (4), and paragraphs (b) and (c) of subsection (13) of section 944.607, Florida Statutes, are amended and a new paragraph (b) is added to subsection (1) of that section to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.—

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

(a) "Sexual offender" means a person who is in the custody or control of, or under the supervision of, the department or is in the custody of a private correctional facility:

1. On or after October 1, 1997, as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor and the defendant is not the victim's parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph; or

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2. Who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard as to whether the person otherwise meets the criteria for registration as a sexual offender.

(b) "Vehicles owned" has the same meaning as provided in s. 775.21.

(g) ~~(f)~~ "Internet identifier" has the same meaning as provided in s. 775.21 ~~"Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.~~

(4) A sexual offender, as described in this section, who is under the supervision of the Department of Corrections but is not incarcerated shall ~~must~~ register with the Department of Corrections within 3 business days after sentencing for a registrable offense and otherwise provide information as required by this subsection.

(a) The sexual offender shall provide his or her name; date of birth; social security number; race; sex; height; weight; hair and eye color; tattoos or other identifying marks; all ~~any~~ electronic mail addresses ~~address~~ and Internet identifiers ~~any instant message name~~ required to be provided pursuant to s. 943.0435(4)(d); all home telephone numbers and cellular telephone numbers; the make, model, color, vehicle

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1393 identification number (VIN), and license tag number of all
 1394 vehicles owned by the sexual offender and all vehicles owned by
 1395 a person or persons residing at the sexual offender's residence;
 1396 permanent or legal residence and address of temporary residence
 1397 within the state or out of state while the sexual offender is
 1398 under supervision in this state, including any rural route
 1399 address or post office box; if no permanent or temporary
 1400 address, any transient residence within the state; and address,
 1401 location or description, and dates of any current or known
 1402 future temporary residence within the state or out of state. A
 1403 person is residing at the sexual offender's residence if the
 1404 person abides, lodges, or resides at that residence for 5 or
 1405 more consecutive days. The sexual offender shall also produce
 1406 his or her passport, if he or she has a passport, and, if he or
 1407 she is an alien, shall produce or provide information about
 1408 documents establishing his or her immigration status. The sexual
 1409 offender shall also provide information about any professional
 1410 licenses he or she has. The Department of Corrections shall
 1411 verify the address of each sexual offender in the manner
 1412 described in ss. 775.21 and 943.0435. The department shall
 1413 report to the Department of Law Enforcement any failure by a
 1414 sexual predator or sexual offender to comply with registration
 1415 requirements.

1416 (b) If the sexual offender is enrolled, employed,
 1417 volunteering, or carrying on a vocation at an institution of
 1418 higher education in this state, the sexual offender shall
 1419 provide the name, address, and county of each institution,
 1420 including each campus attended, and the sexual offender's
 1421 enrollment, volunteer, or employment status. Each change in

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1422 enrollment, volunteer, or employment status ~~must shall~~ be
 1423 reported to the department within 48 hours after the change in
 1424 status. The Department of Corrections shall promptly notify each
 1425 institution of the sexual offender's presence and any change in
 1426 the sexual offender's enrollment, volunteer, or employment
 1427 status.

1428 (13)

1429 (b) However, a sexual offender who is required to register
 1430 as a result of a conviction for:

1431 1. Section 787.01 or s. 787.02 where the victim is a minor
 1432 and the offender is not the victim's parent or guardian;

1433 2. Section 794.011, excluding s. 794.011(10);

1434 3. Section 800.04(4)(b) where the victim is under 12 years
 1435 of age or where the court finds sexual activity by the use of
 1436 force or coercion;

1437 4. Section 800.04(5)(b);

1438 5. Section 800.04(5)(c)1. where the court finds molestation
 1439 involving unclothed genitals or genital area;

1440 6. Section 800.04(5)c.2. where the court finds molestation
 1441 involving use of force or coercion and unclothed genitals or
 1442 genital area;

1443 7. Section 800.04(5)(d) where the court finds the use of
 1444 force or coercion and unclothed genitals or genital area;

1445 8. Any attempt or conspiracy to commit such offense; ~~or~~

1446 9. A violation of a similar law of another jurisdiction;
 1447 or

1448 10. A violation of a similar offense committed in this
 1449 state which has been redesignated from a former statute number
 1450 to one of those listed in this paragraph.

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1451

1452 must reregister each year during the month of the sexual
1453 offender's birthday and every third month thereafter.

1454 (c) The sheriff's office may determine the appropriate
1455 times and days for reporting by the sexual offender, which must
1456 ~~shall~~ be consistent with the reporting requirements of this
1457 subsection. Reregistration must ~~shall~~ include any changes to the
1458 following information:

1459 1. Name; social security number; age; race; sex; date of
1460 birth; height; weight; hair and eye color; address of any
1461 permanent residence and address of any current temporary
1462 residence, within the state or out of state, including a rural
1463 route address and a post office box; if no permanent or
1464 temporary address, any transient residence; address, location or
1465 description, and dates of any current or known future temporary
1466 residence within the state or out of state; all any electronic
1467 mail addresses and Internet identifiers ~~address and any instant~~
1468 ~~message name~~ required to be provided pursuant to s.
1469 943.0435(4)(d); all home telephone numbers and cellular
1470 telephone numbers; date and place of any employment; the vehicle
1471 make, model, color, vehicle identification number (VIN), and
1472 license tag number of all vehicles owned by the sexual offender
1473 and all vehicles owned by a person or persons residing at the
1474 sexual offender's residence; fingerprints; palm prints; and
1475 photograph. A person is residing at the sexual offender's
1476 residence if the person abides, lodges, or resides at that
1477 residence for 5 or more consecutive days. A post office box may
1478 ~~shall~~ not be provided in lieu of a physical residential address.
1479 The sexual offender shall also produce his or her passport, if

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1480

1480 he or she has a passport, and, if he or she is an alien, shall
1481 produce or provide information about documents establishing his
1482 or her immigration status. The sexual offender shall also
1483 provide information about any professional licenses he or she
1484 has.

1485 2. If the sexual offender is enrolled, employed,
1486 volunteering, or carrying on a vocation at an institution of
1487 higher education in this state, the sexual offender shall also
1488 provide to the department the name, address, and county of each
1489 institution, including each campus attended, and the sexual
1490 offender's enrollment, volunteer, or employment status.

1491 3. If the sexual offender's place of residence is a motor
1492 vehicle, trailer, mobile home, or manufactured home, as defined
1493 in chapter 320, the sexual offender shall also provide the
1494 vehicle identification number; the license tag number; the
1495 registration number; and a description, including color scheme,
1496 of the motor vehicle, trailer, mobile home, or manufactured
1497 home. If the sexual offender's place of residence is a vessel,
1498 live-aboard vessel, or houseboat, as defined in chapter 327, the
1499 sexual offender shall also provide the hull identification
1500 number; the manufacturer's serial number; the name of the
1501 vessel, live-aboard vessel, or houseboat; the registration
1502 number; and a description, including color scheme, of the
1503 vessel, live-aboard vessel or houseboat.

1504 4. Any sexual offender who fails to report in person as
1505 required at the sheriff's office, ~~or~~ who fails to respond to any
1506 address verification correspondence from the department within 3
1507 weeks of the date of the correspondence, ~~or~~ who fails to report
1508 all electronic mail addresses or Internet identifiers prior to

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1509 ~~use or instant message names, or who knowingly provides false~~
 1510 ~~registration information by act or omission~~ commits a felony of
 1511 the third degree, punishable as provided in s. 775.082, s.
 1512 775.083, or s. 775.084.

1513 Section 9. Paragraph (a) of subsection (3) of section
 1514 985.481, Florida Statutes, is amended and a new paragraph (c) is
 1515 added to subsection (1) of that section to read:

1516 985.481 Sexual offenders adjudicated delinquent;
 1517 notification upon release.—

1518 (1) As used in this section:

1519 (a) "Convicted" has the same meaning as provided in s.
 1520 943.0435.

1521 (b) "Sexual offender" means a person who has been
 1522 adjudicated delinquent as provided in s. 943.0435(1)(a)1.d.

1523 (c) "Vehicles owned" has the same meaning as provided in s.
 1524 775.21.

1525 (3)(a) The department ~~shall~~ ~~must~~ provide information
 1526 regarding any sexual offender who is being released after
 1527 serving a period of residential commitment under the department
 1528 for any offense, as follows:

1529 1. The department ~~shall~~ ~~must~~ provide the sexual offender's
 1530 name, any change in the offender's name by reason of marriage or
 1531 other legal process, and any alias, if known; the correctional
 1532 facility from which the sexual offender is released; the sexual
 1533 offender's social security number, race, sex, date of birth,
 1534 height, weight, and hair and eye color; the make, model, color,
 1535 vehicle identification number (VIN), and license tag number of
 1536 all vehicles owned by the sexual offender and all vehicles owned
 1537 by a person or persons residing at the sexual offender's

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1538 residence, if known; address of any planned permanent residence
 1539 or temporary residence, within the state or out of state,
 1540 including a rural route address and a post office box; if no
 1541 permanent or temporary address, any transient residence within
 1542 the state; address, location or description, and dates of any
 1543 known future temporary residence within the state or out of
 1544 state; date and county of disposition and each crime for which
 1545 there was a disposition; a copy of the offender's fingerprints
 1546 and a digitized photograph taken within 60 days before release;
 1547 the date of release of the sexual offender; ~~all~~ and home
 1548 telephone ~~numbers~~ number and ~~any~~ cellular telephone numbers;
 1549 information about any professional licenses the offender has, if
 1550 known; and passport information, if he or she has a passport,
 1551 and, if he or she is an alien, information about documents
 1552 establishing his or her immigration status ~~number~~. A person is
 1553 residing at the sexual offender's residence if the person
 1554 abides, lodges, or resides at that residence for 5 or more
 1555 consecutive days. The department shall notify the Department of
 1556 Law Enforcement if the sexual offender escapes, absconds, or
 1557 dies. If the sexual offender is in the custody of a private
 1558 correctional facility, the facility shall take the digitized
 1559 photograph of the sexual offender within 60 days before the
 1560 sexual offender's release and also place it in the sexual
 1561 offender's file. If the sexual offender is in the custody of a
 1562 local jail, the custodian of the local jail shall register the
 1563 offender within 3 business days after intake of the offender for
 1564 any reason and upon release, and shall notify the Department of
 1565 Law Enforcement of the sexual offender's release and provide to
 1566 the Department of Law Enforcement the information specified in

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1567 this subparagraph and any information specified in subparagraph
1568 2. which the Department of Law Enforcement requests.

1569 2. The department may provide any other information
1570 considered necessary, including criminal and delinquency
1571 records, when available.

1572 Section 10. Subsection (4) and paragraph (b) of subsection
1573 (13) of section 985.4815, Florida Statutes, are amended and a
1574 new paragraph (e) is added to subsection (1) of that section to
1575 read:

1576 985.4815 Notification to Department of Law Enforcement of
1577 information on juvenile sexual offenders.—

1578 (1) As used in this section, the term:

1579 (a) "Change in enrollment or employment status" means the
1580 commencement or termination of enrollment or employment or a
1581 change in location of enrollment or employment.

1582 (b) "Conviction" has the same meaning as provided in s.
1583 943.0435.

1584 (c) "Institution of higher education" means a career
1585 center, community college, college, state university, or
1586 independent postsecondary institution.

1587 (d) "Sexual offender" means a person who is in the care or
1588 custody or under the jurisdiction or supervision of the
1589 department or is in the custody of a private correctional
1590 facility and who:

1591 1. Has been adjudicated delinquent as provided in s.
1592 943.0435(1)(a)1.d.; or

1593 2. Establishes or maintains a residence in this state and
1594 has not been designated as a sexual predator by a court of this
1595 state but has been designated as a sexual predator, as a

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1596 sexually violent predator, or by another sexual offender
1597 designation in another state or jurisdiction and was, as a
1598 result of such designation, subjected to registration or
1599 community or public notification, or both, or would be if the
1600 person were a resident of that state or jurisdiction, without
1601 regard to whether the person otherwise meets the criteria for
1602 registration as a sexual offender.

1603 (e) "Vehicles owned" has the same meaning as provided in s.
1604 775.21.

1605 (4) A sexual offender, as described in this section, who is
1606 under the supervision of the department but who is not committed
1607 shall ~~must~~ register with the department within 3 business days
1608 after adjudication and disposition for a registrable offense and
1609 otherwise provide information as required by this subsection.

1610 (a) The sexual offender shall provide his or her name; date
1611 of birth; social security number; race; sex; height; weight;
1612 hair and eye color; tattoos or other identifying marks; the
1613 make, model, color, vehicle identification number (VIN), and
1614 license tag number of all vehicles owned by the sexual offender
1615 and all vehicles owned by a person or persons residing at the
1616 sexual offender's residence; permanent or legal residence and
1617 address of temporary residence within the state or out of state
1618 while the sexual offender is in the care or custody or under the
1619 jurisdiction or supervision of the department in this state,
1620 including any rural route address or post office box; if no
1621 permanent or temporary address, any transient residence;
1622 address, location or description, and dates of any current or
1623 known future temporary residence within the state or out of
1624 state; and the name and address of each school attended. A

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person is residing at the sexual offender's residence if the person abides, lodges, or resides at that residence for 5 or more consecutive days. The sexual offender shall also produce his or her passport, if he or she has a passport, and, if he or she is an alien, shall produce or provide information about documents establishing his or her immigration status. The offender shall also provide information about any professional licenses he or she has. The department shall verify the address of each sexual offender and shall report to the Department of Law Enforcement any failure by a sexual offender to comply with registration requirements.

(b) If the sexual offender is enrolled, employed, volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall provide the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status. Each change in enrollment, volunteer, or employment status ~~must shall~~ be reported to the department within 48 hours after the change in status. The department shall promptly notify each institution of the sexual offender's presence and any change in the sexual offender's enrollment, volunteer, or employment status.

(13)

(b) The sheriff's office may determine the appropriate times and days for reporting by the sexual offender, which ~~shall~~ must be consistent with the reporting requirements of this subsection. Reregistration ~~must shall~~ include any changes to the following information:

1. Name; social security number; age; race; sex; date of

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birth; height; weight; hair and eye color; fingerprints; palm prints; address of any permanent residence and address of any current temporary residence, within the state or out of state, including a rural route address and a post office box; if no permanent or temporary address, any transient residence; address, location or description, and dates of any current or known future temporary residence within the state or out of state; passport information, if he or she has a passport, and, if he or she is an alien, information about documents establishing his or her immigration status; name and address of each school attended; date and place of any employment; the vehicle make, model, color, vehicle identification number (VIN), and license tag number of all vehicles owned by the sexual offender and all vehicles owned by a person or persons residing at the sexual offender's residence; fingerprints; and photograph. A person is residing at the sexual offender's residence if the person abides, lodges, or resides at that residence for 5 or more consecutive days. A post office box ~~may shall~~ not be provided in lieu of a physical residential address. The offender shall also provide information about any professional licenses he or she has.

2. If the sexual offender is enrolled, employed, volunteering, or carrying on a vocation at an institution of higher education in this state, the sexual offender shall also provide to the department the name, address, and county of each institution, including each campus attended, and the sexual offender's enrollment, volunteer, or employment status.

3. If the sexual offender's place of residence is a motor vehicle, trailer, mobile home, or manufactured home, as defined

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1683 in chapter 320, the sexual offender shall also provide the
 1684 vehicle identification number; the license tag number; the
 1685 registration number; and a description, including color scheme,
 1686 of the motor vehicle, trailer, mobile home, or manufactured
 1687 home. If the sexual offender's place of residence is a vessel,
 1688 live-aboard vessel, or houseboat, as defined in chapter 327, the
 1689 sexual offender shall also provide the hull identification
 1690 number; the manufacturer's serial number; the name of the
 1691 vessel, live-aboard vessel, or houseboat; the registration
 1692 number; and a description, including color scheme, of the
 1693 vessel, live-aboard vessel, or houseboat.

1694 4. Any sexual offender who fails to report in person as
 1695 required at the sheriff's office, ~~or~~ who fails to respond to any
 1696 address verification correspondence from the department within 3
 1697 weeks after the date of the correspondence, or who knowingly
 1698 provides false registration information by act or omission
 1699 commits a felony of the third degree, punishable as provided in
 1700 ss. 775.082, 775.083, and 775.084.

1701 Section 11. Paragraphs (g) and (i) of subsection (3) of
 1702 section 921.0022, Florida Statutes, are amended to read:

1703 921.0022 Criminal Punishment Code; offense severity ranking
 1704 chart.—

1705 (3) OFFENSE SEVERITY RANKING CHART

1706 (g) LEVEL 7

1707

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death,

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			failure to stop; leaving scene.
1709	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
1710	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.
1711	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
1712	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
1713	409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.

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1714	590-01633-14	2014528c1	
	409.920	2nd	Medicaid provider fraud;
	(2) (b) 1.b.		more than \$10,000, but
			less than \$50,000.
1715	456.065(2)	3rd	Practicing a health care
			profession without a
			license.
1716	456.065(2)	2nd	Practicing a health care
			profession without a
			license which results in
			serious bodily injury.
1717	458.327(1)	3rd	Practicing medicine
			without a license.
1718	459.013(1)	3rd	Practicing osteopathic
			medicine without a
			license.
1719	460.411(1)	3rd	Practicing chiropractic
			medicine without a
			license.
1720	461.012(1)	3rd	Practicing podiatric
			medicine without a
			license.
1721			

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	462.17	3rd	Practicing naturopathy
			without a license.
1722	463.015(1)	3rd	Practicing optometry
			without a license.
1723	464.016(1)	3rd	Practicing nursing without
			a license.
1724	465.015(2)	3rd	Practicing pharmacy
			without a license.
1725	466.026(1)	3rd	Practicing dentistry or
			dental hygiene without a
			license.
1726	467.201	3rd	Practicing midwifery
			without a license.
1727	468.366	3rd	Delivering respiratory
			care services without a
			license.
1728	483.828(1)	3rd	Practicing as clinical
			laboratory personnel
			without a license.
1729	483.901(9)	3rd	Practicing medical physics
			without a license.

1730	590-01633-14	2014528c1	
	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
1731	484.053	3rd	Dispensing hearing aids without a license.
1732	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
1733	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.
1734	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
1735	655.50(10)(b)1.	3rd	Failure to report

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	590-01633-14	2014528c1	financial transactions exceeding \$300 but less than \$20,000 by financial institution.
1736	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew <u>driver</u> ~~driver's~~ license or identification card; other registration violations.
1737	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
1738	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
1739	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
1740	782.07(1)	2nd	Killing of a human being

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			by the act, procurement, or culpable negligence of another (manslaughter).	
1741	782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).	
1742	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).	
1743	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.	
1744	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.	
1745	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.	
1746	784.048(4)	3rd	Aggravated stalking;	

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			violation of injunction or court order.	
1747	784.048(7)	3rd	Aggravated stalking; violation of court order.	
1748	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.	
1749	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.	
1750	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.	
1751	784.081(1)	1st	Aggravated battery on specified official or employee.	
1752	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.	
1753	784.083(1)	1st	Aggravated battery on code inspector.	
1754	787.06(3)(a)	1st	Human trafficking using	

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			coercion for labor and services.	
1755	787.06(3)(e)	1st	Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.	
1756	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).	
1757	790.16(1)	1st	Discharge of a machine gun under specified circumstances.	
1758	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.	
1759	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.	

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	590-01633-14		2014528c1	
1760	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.	
1761	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.	
1762	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.	
1763	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.	
1764	796.03	2nd	Procuring any person under <u>18</u> ~~16~~ years for prostitution.	
1765				

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1766	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
1767	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
1768	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1769	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
1770	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1771			

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	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
1772	812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
1773	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1774	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
1775	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
1776	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.

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1777	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
1778	812.131(2)(a)	2nd	Robbery by sudden snatching.
1779	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1780	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
1781	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1782	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
1783	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.

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1784	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
1785	817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
1786	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
1787	825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.
1788	827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.

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1789	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
1790	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1791	838.015	2nd	Bribery.
1792	838.016	2nd	Unlawful compensation or reward for official behavior.
1793	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
1794	838.22	2nd	Bid tampering.
1795	843.0855 (2)	3rd	Impersonation of a public officer or employee.
1796	843.0855 (3)	3rd	Unlawful simulation of legal process.
1797	843.0855 (4)	3rd	Intimidation of a public

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1798			officer or employee.
	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1799	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1800	872.06	2nd	Abuse of a dead human body.
1801	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
1802	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
1803	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s.

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1804	893.13(1)(e)1.	1st	893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
			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)4., within 1,000 feet of property used for religious services or a specified business site.
1805	893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
1806	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less

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1807	893.135 (1)(b)1.a.	1st	than 2,000 lbs. Trafficking in cocaine, more than 28 grams, less than 200 grams.
			Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1808	893.135 (1)(c)1.a.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
			Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1809	893.135(1)(d)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
			Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1810	893.135(1)(e)1.	1st	Trafficking in gamma-
1811	893.135(1)(f)1.	1st	
1812	893.135 (1)(g)1.a.	1st	
1813	893.135	1st	

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	(1) (h) 1.a.		hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1814	893.135	1st	Trafficking in 1,4- Butanediol, 1 kilogram or more, less than 5 kilograms.
	(1) (j) 1.a.		
1815	893.135	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
	(1) (k) 2.a.		
1816	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
1817	896.101(5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1818	896.104(4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less

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			than \$20,000.
1819	943.0435(4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1820	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1821	943.0435(9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
1822	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1823	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; <u>providing false</u> <u>registration information.</u>

1824	590-01633-14	2014528c1	
	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
1825			
	944.607(10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1826			
	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1827			
	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; <u>providing false registration information.</u>
1828			
	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1829			
	985.4815(12)	3rd	Failure to report or providing false information about a sexual

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			offender; harbor or conceal a sexual offender.
1830			
	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; <u>providing false registration information.</u>
1831			
1832	(i) LEVEL 9		
1833			
	Florida Statute	Felony Degree	Description
1834			
	316.193	1st	DUI manslaughter; failing to render aid or give information.
	(3) (c) 3.b.		
1835			
	327.35(3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
1836			
	409.920	1st	Medicaid provider fraud; \$50,000 or more.
	(2) (b) 1.c.		
1837			
	499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
1838			
	560.123(8) (b) 3.	1st	Failure to report currency or

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			payment instruments totaling or exceeding \$100,000 by money transmitter.
1839	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
1840	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
1841	775.0844	1st	Aggravated white collar crime.
1842	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
1843	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 specified felonies.
1844	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).

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1845	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
1846	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
1847	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
1848	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
1849	787.02(3)(a)	1st, <u>PBL</u>	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
1850	787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized alien.
1851	787.06(3)(g)	1st,PBL	Human trafficking for commercial sexual activity of a child under

	590-01633-14		2014528c1
			the age of 18.
1852	787.06(4)	1st	Selling or buying of minors into human trafficking.
1853	790.161	1st	Attempted capital destructive device offense.
1854	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
1855	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
1856	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
1857	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
1858	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
1859	794.08(2)	1st	Female genital mutilation; victim

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

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			younger than 18 years of age.
1860	796.035	1st	Selling or buying of minors into prostitution.
1861	800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
1862	812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
1863	812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
1864	812.135(2)(b)	1st	Home-invasion robbery with weapon.
1865	817.535(3)(b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
1866	817.535(4)(a)2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
1867	817.535(5)(b)	1st	Filing false lien or other unauthorized document; second or

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

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			subsequent offense; owner of the property incurs financial loss as a result of the false instrument.
1868	817.568(7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
1869	827.03(2)(a)	1st	Aggravated child abuse.
1870	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
1871	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
1872	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.
1873	893.135	1st	Attempted capital trafficking offense.
1874			

	590-01633-14		2014528c1
	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
1875	893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
1876	893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
1877	893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
1878	893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
1879	893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
1880	893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
1881	893.135 (1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
1882	893.135 (1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.

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2014528c1

1883

896.101(5)(c) 1st Money laundering, financial
instruments totaling or exceeding
\$100,000.

1884

896.104(4)(a)3. 1st Structuring transactions to evade
reporting or registration
requirements, financial
transactions totaling or exceeding
\$100,000.

1885

1886

Section 12. This act shall take effect October 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Criminal Justice, *Chair*
Appropriations Subcommittee on Finance and Tax
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Communications, Energy, and Public Utilities
Military and Veterans Affairs, Space, and
Domestic Security
Transportation

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GREG EVERS

2nd District

February 5, 2014

Honorable Joe Negron
Senate Appropriations
412 SOB
404 S. Monroe St.
Tallahassee, FL 32399

RE: SB 528

Dear Chairman Negron:

Please allow this letter to serve as my respectful request to include SB 528 regarding Sex Offenses on the agenda for your next Appropriations Committee meeting.

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

Sincerely,

A handwritten signature in cursive script that reads "Greg Evers".

Greg Evers
State Senator, District 2

REPLY TO:

- ☐ 209 East Zaragoza Street, Pensacola, Florida 32502-6048 (850) 595-0213 FAX: (888) 263-0013
- ☐ 308 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

2-20-14

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

Meeting Date

Topic TRANSIENT OFFENDERS

Bill Number 528

Name JESS MCCARTY

Amendment Barcode 924540
(if applicable)
(if applicable)

Job Title ASST COUNTY ATTY

Address 111 NW 1ST ST 2810

Phone 305-979-7110

Street

MIAMI

33128

City

State

Zip

E-mail JMM2@MIAMIDADE.GV.

Speaking: ☒ For ☐ Against ☐ Information

Representing MIAMI- DADE COUNTY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/14
Meeting Date

Topic Sex offenses

Bill Number 528
(if applicable)

Name Lorelei Bowden-Jacobs

Amendment Barcode 168646
(if applicable)

Job Title Legislative Aide - Hillsborough County Sheriff's Office

Address 2008 E 8th Avenue
Street

Phone 813 363-0375

Tampa FL 33605
City State Zip

E-mail LBowden@hcs0.tampa-fl.us

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Sheriff's Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

This form is part of the public record for this meeting

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/14

Meeting Date

Topic Sex Offenses Bill Number 528
Name Lorelei Bowden-Jacobs Amendment Barcode _____ (if applicable)
Job Title Legislative Aide - Hillsborough County Sheriff's Office (if applicable)
Address 2008 E 8th Avenue Phone 813 363-0375
Street
City Tampa State FL Zip 33605 E-mail LBowden@HCSO.tampa.fl.us
Speaking: ☒ For ☐ Against ☐ Information
Representing Florida Sheriff's Association
Appearing at request of Chair: ☐ Yes ☒ No Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/14

Meeting Date

015

SB 528

Topic _____

Bill Number _____
(if applicable)

Name Ron Book

Amendment Barcode _____
(if applicable)

Job Title _____

Address 164 West Cufferson

Phone 850-224-3427

Street

TLH

32301

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Lauven's Kids

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

This form is part of the public record for this meeting

S-001 (10/20/11)

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 Appropriations

BILL: PCS/CS/SB 542 (409078)

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Banking and Insurance Committee; and Senator Brandes and others

SUBJECT: Flood Insurance

DATE: February 14, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow/Knudson	Knudson	BI	Fav/CS
2.	Betta	DeLoach	AGG	Fav/CS
3.	Betta	Kynoch	AP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 542 creates laws governing the sale of private flood insurance policies, contracts, and endorsements by authorized insurers with the exception of commercial lines risks policies that provide coverage in excess of an underlying policy. The bill requires insurers that write flood coverage to provide coverage for “flood” as currently defined by the National Flood Insurance Program (NFIP). The bill also permits insurers to expand flood coverage to include water intrusion originating from outside the structure.

Flood rates may be established using the existing rate review process in section 627.062, Florida Statutes. For flood rate filings made before July 1, 2024, an insurer may utilize three additional options for the development of flood insurance rates (Flood coverage rates developed under the three additional provisions are subject to section 627.062(1), Florida Statutes, which requires that rates shall not be excessive, inadequate, or unfairly discriminatory):

- A rate filing that is exempt from the filing and review requirements of sections 627.062(2)(a) and (f), Florida Statutes;
- Individual risk rating; and
- If the insurer obtains the written, signed consent of the policyholder, it may use a flood coverage rate that has not been approved by the Office of Insurance Regulation (OIR).

The bill also:

- Allows flood deductibles to be a stated dollar amount or a percentage of coverage, however, insurers must offer the standard deductibles offered by the NFIP.
- Allows flood insurance policies to be offered that adjusts flood claims on a replacement cost basis or actual cash value.
- Allows the policy limit for flood coverage to be any agreed upon amount.
- Makes the following coverages optional: (1) additional living expense coverage; (2) personal property or contents; and (3) law and ordinance coverage. The insurer must offer, however, law and ordinance coverage comparable to such coverage contained in a NFIP policy.
- Authorizes the use of flood loss projection models to establish rates for flood insurance.
- Authorizes the Florida Commission on Hurricane Loss Projection Methodology to evaluate flood models and adopt actuarial methods, principles, standards, models, or output ranges for flood loss by July 1, 2016.
- Requires the declarations page of the policy to disclose clearly all limitations on coverage or policy limits.
- Requires each flood policy, endorsement, or contract to provide notice that flood insurance is available from the NFIP.
- Requires the insurer to give 45 days prior written notice of cancellation or nonrenewal to the insured and any regulated lending institution or federal agency that is a mortgagee.
- Allows an insurer or insured to cancel during the term of the policy or upon renewal if the cancellation is for a valid reason under the NFIP.
- Requires an insurer seeking to provide flood coverage to notify the OIR at least 30 days before writing flood insurance in this state. The insurer must file a plan of operation and financial projections with the OIR unless the insurer maintains at least \$35 million in surplus and provides coverage as an endorsement to an existing property insurance form.
- Provides that the provisions of section 627.715, Florida Statutes, supersede any conflicting provisions in the insurance code.
- Requires the insurance commissioner to provide a certification if so required by federal law or federal rule as a condition of qualifying for private flood insurance or disaster relief.

The bill has no fiscal impact to state funds. The Florida Commission on Hurricane Loss projection Methodology estimates a fiscal impact of \$350,000 to develop the standards outlined in the bill. The commission is funded by the Florida Hurricane Catastrophe Fund.

II. Present Situation:

The NFIP was created by the passage of the National Flood Insurance Act of 1968.¹ The NFIP is administered by Federal Emergency Management Agency (FEMA) and provides property owners located in flood-prone areas the ability to purchase flood insurance protection from the federal government. Flood insurance through the NFIP is only available in communities that adopt and enforce federal floodplain management criteria.²

¹ <http://www.fema.gov/media-library/assets/documents/7277?id=2216> (Last accessed by staff on January 2, 2014)

² *National Flood Insurance Program: Program Description*, pgs. 2-4., Federal Emergency Management Agency/Federal Insurance and Mitigation Administration (August 1, 2002) <http://www.fema.gov/media-library/assets/documents/1150?id=1480> (Last accessed by staff on January 7, 2014).

Standard NFIP Flood Insurance

The standard flood insurance policy dwelling form offered by the NFIP³ is a single peril flood policy that pays for direct physical damage to the insured residential property up to the replacement cost⁴ (RCV) or actual cash value (ACV) or the policy limit.⁵ The maximum coverage limit for a NFIP standard flood insurance policy is \$250,000. The NFIP also offers up to \$100,000 in personal property (contents) coverage, which is always valued at ACV.⁶ Most NFIP policies also include Increased Cost of Compliance (ICC) coverage of up to \$30,000 of the cost to comply with state or community floodplain management laws or ordinances after a flood in which a building has been declared substantially damaged or repetitively damaged.⁷ The maximum coverage available to a condominium association is \$250,000 per unit multiplied by the total number of units.⁸ The limits of coverage for NFIP flood insurance on non-residential buildings are \$500,000 in coverage to the building and \$500,000 in contents coverage.⁹

Flood is defined in the standard NFIP policy as a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties from:

- Overflow of inland or tidal waters;
- Unusual and rapid accumulation or runoff of surface waters from any source;
- Mudflow; or
- Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above.¹⁰

³ The standard form insures one-to-four family residential buildings and single-family dwelling units in a condominium building. The NFIP also offers (a) a general property form that is used to insure five-or-more-family residential buildings and non-residential buildings and (b) a residential condominium building association policy form that insures residential condominium association buildings.

⁴ To obtain RCV coverage under the NFIP dwelling form, the building must be a single-family dwelling, be the principal residence of the insured at the time of loss (the insured lives there at least 80 percent of the year), and the building coverage of at least 80 percent of the full replacement cost of the building or its the maximum available for the property under the NFIP.

⁵ *National Flood Insurance Program: Summary of Coverage*, Federal Emergency Management Agency (FEMA F-679/November 2012) http://www.fema.gov/media-library-data/20130726-1620-20490-4648/f_679_summaryofcoverage_11_2012.pdf (Last accessed by staff on January 7, 2014).

⁶ See footnote 4.

⁷ The total amount of a building claim and ICC claim cannot exceed the maximum limit for building property coverage. For a single-family home, this is the \$250,000 maximum limit on coverage to the building. See footnote 4 and footnote 5 at page 26.

⁸ *FDIC Compliance Manual*, V – 6.8. <http://www.fdic.gov/regulations/compliance/manual/index.html> (Last accessed by staff on January 7, 2014).

⁹ *Reducing Damage from Localized Flooding: A Guide for Communities*, 11-2. <http://www.fema.gov/media-library/assets/documents/1012> (Last accessed by staff on January 7, 2014).

¹⁰ <http://www.fema.gov/national-flood-insurance-program/definitions> (Last accessed by staff on January 2, 2014)

The minimum deductibles for NFIP flood coverage are:

- For properties built before the effective date of the first Flood Insurance Rate Map¹¹ (FIRM) for a community, the minimum deductible is:
 - \$1,500 if the property is insured for \$100,000 or less.
 - \$2,000 if the property is insured for over \$100,000.
- For properties built after the effective date of the first Flood Insurance Rate Map (FIRM) for a community, the minimum deductible is:
 - \$1,000 if the property is insured for \$100,000 or less.
 - \$1,250 if the property is insured for over \$100,000.

Federal Requirements to Obtain Flood Insurance

The U.S. Congress passed the Flood Disaster Protection Act in 1973¹². The Act mandated property owners with mortgages issued by federally regulated or insured lenders must purchase flood insurance if their properties are located in Special Flood Hazard Areas. Special Flood Hazard Areas are defined by FEMA as high-risk areas where there is at least a one in four chance of flooding during a 30-year mortgage.¹³

The National Flood Insurance Reform Act of 1994¹⁴ (1994 Reform Act) required federal financial regulatory agencies¹⁵ to revise their flood insurance regulations. The 1994 Reform Act applied flood insurance requirements to loans purchased by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) and to agencies that provide government insurance or guarantees such as the Small Business Administration, the Federal Housing Administration, and the Veterans Administration. Lending institutions regulated by federal agencies are prohibited from offering loans on properties located in a Special Flood Hazard Area (SFHA) of a community participating in the NFIP unless the property is covered by flood insurance.¹⁶ The amount of flood insurance required by lending institutions must be at least equal to the outstanding principal balance of the loan, or the maximum amount available under the NFIP, whichever is less.

The Biggert-Waters Flood Insurance Reform Act

In 2012¹⁷ the United States Congress passed the Biggert-Waters Flood Insurance Reform Act (Biggert-Waters Act). The Biggert-Waters Act reauthorized the National Flood Insurance

¹¹ The effective date of the first FIRM for Florida communities can be found at <http://www.fema.gov/cis/FL.pdf> (Last accessed by staff on January 10, 2014).

¹² http://www.fema.gov/media-library-data/20130726-1545-20490-9247/firm_acts.pdf (Last accessed by staff on January 2, 2014).

¹³ http://www.floodsmart.gov/floodsmart/pages/flooding_flood_risks/defining_flood_risks.jsp (Last accessed by staff on January 2, 2014).

¹⁴ Title V of the Riegle Community Development and Regulatory Improvement Act of 1994. Pub. L. 103-325, Title V, 108 Stat. 2160, 2255-87 (September 23, 1994).

¹⁵ Office of Comptroller of Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, Farm Credit Administration and Federal Reserve.

¹⁶ *FDIC Compliance Manual*, V – 6.1. <http://www.fdic.gov/regulations/compliance/manual/index.html> (Last accessed by staff on January 7, 2014).

¹⁷ <http://www.fema.gov/flood-insurance-reform-act-2012> (Last accessed by staff on January 2, 2014).

Program for five years. Key provisions of the legislation require the NFIP to raise rates to reflect true flood risk, make the program more financially stable, and change how Flood Insurance Rate Map updates impact policyholders. These changes by Congress have resulted in premium rate increases for approximately 20 percent of NFIP policyholders nationwide.

The Biggert-Waters Act increases flood insurance premiums purchased through the program for second homes, business properties, severe repetitive loss properties, and substantially improved damaged properties by requiring premium increases of 25 percent per year until premiums meet the full actuarial cost of flood coverage. Most residences immediately lose their subsidized rates if the property is sold, the policy lapses, repeated and severe flood losses occur, or a new policy is purchased. Policyholders whose communities adopt a new, updated Flood Insurance Rate Map (FIRM) that results in higher rates will experience a five-year phase in of rate increases to achieve rates that incorporate the full actuarial cost of coverage.

NFIP Flood Insurance in Florida

Over two million NFIP policies are written on Florida properties, with approximately 268,500 policies receiving subsidized rates.¹⁸ This accounts for approximately 37 percent of the total policies written by the NFIP.

Historically, properties insured in Florida have paid approximately \$3.60 in premium for NFIP flood coverage for every \$1 received in claims payments.¹⁹ The rate impact of the Biggert-Waters Act on subsidized policies in Florida is approximately as follows:

- Approximately 50,000 secondary residences, businesses, and severe repetitive loss properties are subject to immediate, annual 25 percent increases until their premiums are full risk premiums.
- Approximately 103,000 primary residences will lose their subsidy if the property is sold, the policy lapses, the property suffers severe, repeated flood losses, or a new policy is purchased.
- Approximately 115,000 non-primary residences, business properties, and severe repetitive loss properties are subject to the elimination of subsidies once FEMA develops guidance for their removal.

III. Effect of Proposed Changes:

The bill creates laws governing the sale of flood insurance policies, contracts, and endorsements by authorized insurers.

¹⁸ Office of Insurance Regulation, *The Biggert-Waters Flood Insurance Reform Act of 2012*, (Presentation to the Florida Senate Banking and Insurance Committee on October 8, 2013). http://flsenate.gov/PublishedContent/Committees/2012-2014/BI/MeetingRecords/MeetingPacket_2346.pdf.

¹⁹ Wharton Center for Risk Management and Decision Processes, *Who's Paying and Who's Benefiting Most From Flood Insurance Under the NFIP? A Financial Analysis of the U.S. National Flood Insurance Program (NFIP)*, (Issue Brief, Fall 2011).

Condition Covered by Private Market Flood Coverage [s. 627.715(2) and (3), F.S.]

The bill requires insurers that write flood coverage to provide coverage for “flood” as currently defined by the NFIP. The bill also permits insurers to expand flood coverage to include water intrusion originating from outside the structure which is not otherwise covered within the definition of flood provided in the bill and as also defined by the NFIP. Water intrusion, if offered, is defined by the insurance policy.

The bill defines “flood” in the same way as the NFIP: a general and temporary condition of partial or complete inundation of two acres or more of normally dry land area or of two or more properties, at least one of which is the policyholder’s property. The NFIP definition includes four causes of inundation of normally dry land that constitute flood: (1) overflow of inland or tidal waters; (2) unusual or rapid accumulation or runoff of surface waters from any source; (3) mudflow; or (4) collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels which results in flood.

Deductibles [s. 627.715(4)(a), F.S.]

Flood deductibles may be a stated dollar amount or a percentage of coverage. Insurers, however, must offer deductible amounts for flood losses that equal the standard deductibles offered by the NFIP.

Adjustment of Flood Claims [s. 627.715(4)(b), F.S.]

The bill authorizes the sale of flood insurance that adjusts claims on a replacement cost basis or actual cash value.

Option to Restrict Flood Coverage Principal Building [s. 627.415(4)(c), F.S.]

The bill allows, but does not require, the restriction of flood coverage to the principal building, as defined in the insurance policy.

Policy Limits [s. 627.715(4)(d), F.S.]

The policy limit for flood coverage may be any agreed upon amount. This includes the full replacement cost of the property, a set dollar amount, or the amount of the outstanding mortgages on the property.

Optional Coverage [s. 627.715(4)(e), F.S.]

Flood insurance is not required to include any of the following coverages: (1) additional living expense coverage; (2) personal property or contents; and (3) law and ordinance coverage.

The insurer is required to offer law and ordinance coverage for flood comparable to the law and ordinance coverage contained in the standard NFIP policy. Such coverage is called increased cost of compliance (ICC) coverage under the NFIP and, for the NFIP standard policy, provides up to \$30,000 to elevate, demolish, or relocate the insured dwelling if such action is required

because a floodplain management ordinance finds the structure is substantially damaged or repetitively damaged by flood. Under the NFIP, ICC coverage cannot increase the maximum limit for coverage to the structure (\$250,000 for a dwelling or \$500,000 for a business). The insurer must include the following written disclosure with flood insurance that includes NFIP-type law and ordinance coverage: “Law and ordinance coverage under this policy might have limitations on what is covered in the event of a loss. You should consult with your agent if you have questions about the coverage offered under this policy.”

Notice Provisions [s. 627.715(5), (7) and (9), F.S.]

The declarations page of the policy must disclose prominently, in at least 12-point type, and clearly all limitations on coverage or policy limits on the declarations page. Limitations requiring disclosure include, but are not limited to, deductibles and coverage limited to the amount of outstanding mortgages. The following specific disclosures are required:

- If the dwelling is insured for less than the full replacement cost: “This policy limits flood coverage to less than the full cost of replacement for the property, which may result in high out-of-pocket expenses to you and may put your equity in this property at risk.”
- If the dwelling is insured on an actual cash value basis: “This policy pays you the depreciated value of your property that is damaged by flood, which may result in high out-of-pocket expenses to you if your property needs to be repaired or replaced.”

Each flood policy, endorsement, or contract must provide notice that flood insurance is available from the NFIP.

The insurer must give 45 days prior written notice of cancellation or nonrenewal to the insured and any regulated lending institution or federal agency that is a mortgagee. An insurer or insured may cancel during the term of the policy or upon renewal if the cancellation is for a valid reason under the NFIP.

Rate Standards for Flood Coverage [s. 627.715(6), F.S.]

The bill allows insurers to develop flood insurance rates under the full rate review process provided for in s. 627.062, F.S. Flood insurance rates may be developed using three additional options in any flood insurance rate filing submitted to the OIR before July 1, 2024:

Rate Filing Exempt from the File and Use and Use and File Requirements

A flood insurance rate filing is exempt from the filing and review requirements of s. 627.062(2)(a) and (f), F.S., and instead requires an informational filing by the insurer. The rates are not subject to the “file and use” or “use and file” process under s. 627.062(2)(a), F.S.

An insurer must notify the OIR of any change to its flood insurance rates, including the average statewide percentage change in rates, no later than 30 days after the effective date of the change in rates. Insurers that utilize this option must maintain actual data regarding its flood insurance rates for two years after the effective date of those rates.

Individual Risk Rating

Insurers may individually rate a flood risk, under the procedure provided under current law in s. 627.062(3)(a) and (b), F.S. The insurer must maintain documentation on each individually rated risk that specifies the characteristics and classification of the risk supporting the reason for the risk being individually rated and also maintain modifications to existing forms. Modifications to flood insurance forms are subject to the provisions of this section and provisions of the insurance code that do not conflict with the bill.

Consent to Rate

If the insurer obtains the written, signed consent of the policyholder, the insurer may use a flood coverage rate that has not been approved by the OIR. The signed consent form must notify the insured that the rate is not subject to OIR approval. Upon policy renewal, the insurer must provide notice that the rate is not subject to OIR approval. The insurer must maintain a copy of the signed consent form for three years and make it available for OIR review. The consent to rate provision in current law under s. 627.171, F.S., contains the same requirements to authorize insurers to use rates in excess of the insurer's approved rate but limits the practice to ten percent of the insurer's commercial lines policies and five percent of its personal lines (homeowners, auto; etc.) policies.

For all three of the options, the OIR is authorized to require the insurer to submit to an examination under which the OIR may determine whether the rate is excessive, inadequate, or unfairly discriminatory.

Authorization of Flood Loss Projection Models to Establish Flood Rates [s. 627.062, F.S., and s. 627.0628, F.S.]

The bill authorizes the use of flood models as a factor in rate filings under s. 627.062, F.S. The insurer may project flood losses using a model, method, or an average of models or methods found acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology, and as further provided in the statute governing the commission, s. 627.0628, F.S.

To assist the methodology commission in evaluating flood models, the bill expands the membership of the commission to include a licensed professional engineer who is an expert in floodplain management and not regularly retained by a property and casualty insurer and a meteorologist who specializes in flood. The commission is authorized to consider the accuracy and reliability of flood loss projection models. The commission must adopt actuarial methods, principles, standards, models, or output ranges for flood loss by July 1, 2016.

Placement of Flood Insurance with Surplus Lines Insurers [s. 627.715(8), F.S.]

A surplus lines agent may export flood coverage to an eligible surplus lines insurer without making a diligent effort to seek such coverage from three or more authorized insurers as generally required by s. 626.916(1)(a), F.S. This provision expires July 1, 2017.

Authorization to Write Flood Insurance [s. 627.715(10), F.S.]

An insurer seeking to provide flood coverage must notify the OIR at least 30 days before writing flood insurance in this state. The insurer must file a plan of operation and financial projections with the OIR unless the insurer maintains at least \$35 million in surplus and provides coverage as an endorsement to an existing property insurance form. The insurer must also comply with all other applicable requirements contained in the insurance code.

Conflict of Laws [s. 627.715(11), F.S.]

The provisions of s. 627.715, F.S., supersede any conflicting provisions in the rest of the insurance code.

Certification That Private Flood Insurance Complies With Federal Law and Requirements

The bill requires the insurance commissioner to provide a certification if so required by federal law or federal rule as a condition of qualifying for private flood insurance or disaster relief. The certification is not subject to review under ch. 120, F.S.

Citizens Property Insurance Corporation

The bill prohibits Citizens Property Insurance Corporation from providing insurance for the peril of flood.

Florida Hurricane Catastrophe Fund

The bill prohibits the Florida Hurricane Catastrophe Fund from providing reimbursement for losses caused by the peril of flood.

Effective Date

The bill is effective upon becoming a law.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

It is anticipated that the implementation of PCS/CS/SB 542 will result in additional private insurers offering flood insurance which may increase competition in the marketplace and provide consumers with more coverage options.

C. Government Sector Impact:

The bill requires the Florida Commission on Hurricane Loss Projection Methodology to develop standards for the review of flood models. The commission estimates the fiscal impact of the bill is \$350,000. The commission is funded by the Florida Hurricane Catastrophe Fund. The development of such standards will require the commission to incur costs associated with additional commission meetings, research, workshops, consultants, and possible meetings at the location of each modeler.

According to the OIR, the bill will be implemented within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.062 and 627.0628.

This bill creates section 627.715 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**Recommended CS/CS by Appropriations Subcommittee on General Government on February 6, 2014:**

- Changes the sunset that limits the use of alternative rate filing options for flood insurance to filings submitted to the OIR from July 1, 2017, to July 1, 2024.

- Eliminates the provision restricting surplus lines insurers from providing flood coverage only valued at \$1 million or more.
- Deletes the provision of the bill which added two members to the Florida Commission on Hurricane Loss Projection Methodology thereby keeping the commission membership the same as in current law.
- Changes the date by which the Florida Commission on Hurricane Loss Projection Methodology must adopt actuarial methods, principles, standards, models, or output ranges for flood loss from July 1, 2015, to July 1, 2016.
- Authorizes the OIR to require insurers offering flood insurance coverage submit to an examination under which the OIR may determine whether the rates charged are excessive, inadequate, or unfairly discriminatory when the rates charged are based on an “individual risk rating” or a “written consent rating”.
- Prohibits Citizens Property Insurance Corporation from providing insurance for the peril of flood.
- Prohibits the Florida Hurricane Catastrophe Fund from providing reimbursement for losses caused by the peril of flood.

CS by Banking and Insurance on January 8, 2014:

- Limits the use of alternative rate filing options for flood insurance to filings submitted to the OIR before July 1, 2017.
- Limits the ability of a surplus lines agent to export flood insurance to a surplus lines insurer without making a diligent effort to place coverage with authorized insurers to coverage of \$1 million or more. The provision expires July 1, 2017.
- Requires the insurance commissioner to provide a certification if so required by federal law or federal rule as a condition of qualifying for private flood insurance or disaster relief.
- Requires insurers to offer law and ordinance coverage for flood equivalent to NFIP law and ordinance coverage.

B. Amendments:

None.



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Proposed Committee Substitute by the Committee on Appropriations
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to flood insurance; amending s. 627.062, F.S.; adding projected flood losses to the factors that must be considered by the Office of Insurance Regulation in reviewing certain rate filings; amending s. 627.0628, F.S.; requiring the commission to adopt standards and guidelines relating to flood loss by a certain date; creating s. 627.715, F.S.; authorizing insurers to offer flood insurance on residential property in this state; providing legislative findings; defining the term "flood"; establishing the minimum coverage requirements for a flood insurance policy; providing coverage limitations that an insurer may include in such policies; requiring that certain limitations be noted on the policy declarations or face page; providing the insurer with rate options; requiring the insurer to provide notice that flood insurance is available from the National Flood Insurance Program; authorizing an insurer to export a contract or endorsement to a surplus lines insurer without meeting certain requirements; requiring prior notice for cancellation or nonrenewal of a policy; providing additional requirements with respect to notifying the Office of Insurance Regulation before writing flood insurance, filing a plan of operation with the office, using forms that have been approved by the office, and



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filing reinsurance contracts before a certain date; requiring that policies replacing subsidized policies include a statement that the subsidized rate may be lost; prohibiting Citizens Property Insurance Corporation from writing flood insurance; prohibiting the Florida Hurricane Catastrophe Fund from reimbursing losses caused by flooding; preempting any conflicts with other provisions of the Florida Insurance Code; requiring the Commissioner of the Office of Insurance Regulation to provide certification that a condition qualifies for flood insurance or disaster assistance; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(2) As to all such classes of insurance:

(b) Upon receiving a rate filing, the office shall review the filing to determine if a rate is excessive, inadequate, or unfairly discriminatory. In making that determination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the following factors:

1. Past and prospective loss experience within and without this state.
2. Past and prospective expenses.
3. The degree of competition among insurers for the risk



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insured.

4. Investment income reasonably expected by the insurer, consistent with the insurer's investment practices, from investable premiums anticipated in the filing, plus any other expected income from currently invested assets representing the amount expected on unearned premium reserves and loss reserves. The commission may adopt rules using reasonable techniques of actuarial science and economics to specify the manner in which insurers calculate investment income attributable to classes of insurance written in this state and the manner in which investment income is used to calculate insurance rates. Such manner must contemplate allowances for an underwriting profit factor and full consideration of investment income that produces ~~which produce~~ a reasonable rate of return; however, investment income from invested surplus may not be considered.

5. The reasonableness of the judgment reflected in the filing.

6. Dividends, savings, or unabsorbed premium deposits allowed or returned to ~~Florida~~ policyholders, members, or subscribers in this state.

7. The adequacy of loss reserves.

8. The cost of reinsurance. The office may not disapprove a rate as excessive solely due to the insurer having obtained catastrophic reinsurance to cover the insurer's estimated 250-year probable maximum loss or any lower level of loss.

9. Trend factors, including trends in actual losses per insured unit for the insurer making the filing.

10. Conflagration and catastrophe hazards, if applicable.

11. Projected hurricane losses, if applicable, which must



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be estimated using a model or method found to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology, and as further provided in s. 627.0628.

12. Projected flood losses, if applicable, which may be estimated using a model, a method, or an average of models or methods determined to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology, and as further provided in s. 627.0628.

13.12. A reasonable margin for underwriting profit and contingencies.

14.13. The cost of medical services, if applicable.

15.14. Other relevant factors that affect the frequency or severity of claims or expenses.

The provisions of this subsection do not apply to workers' compensation, employer's liability insurance, and motor vehicle insurance.

Section 2. Subsection (3) of section 627.0628, Florida Statutes, is amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(a) The commission shall consider ~~any~~ actuarial methods, principles, standards, models, or output ranges that have the potential for improving the accuracy ~~of~~ or reliability of the hurricane loss projections and flood loss projections used in residential property insurance rate filings. The commission shall, ~~from time to time~~, adopt and update findings, as needed,



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115 as to the accuracy or reliability of particular methods,
116 principles, standards, models, or output ranges.

117 (b) The commission shall consider ~~any~~ actuarial methods,
118 principles, standards, or models that have the potential for
119 improving the accuracy ~~of~~ or reliability of projecting probable
120 maximum loss levels. The commission shall adopt and update
121 findings, as needed, as to the accuracy or reliability of
122 particular methods, principles, standards, or models related to
123 probable maximum loss calculations.

124 (c) In establishing reimbursement premiums for the Florida
125 Hurricane Catastrophe Fund, the State Board of Administration
126 must, to the extent feasible, employ actuarial methods,
127 principles, standards, models, or output ranges found by the
128 commission to be accurate or reliable.

129 (d) With respect to a rate filing under s. 627.062, an
130 insurer shall employ and may not modify or adjust actuarial
131 methods, principles, standards, models, or output ranges found
132 by the commission to be accurate or reliable in determining
133 hurricane loss factors for use in a rate filing under s.
134 627.062. An insurer shall employ and may not modify or adjust
135 models found by the commission to be accurate or reliable in
136 determining probable maximum loss levels pursuant to paragraph
137 (b) with respect to a rate filing under s. 627.062 made more
138 than 60 days after the commission has made such findings. This
139 paragraph does not prohibit an insurer from averaging model
140 results or output ranges or from using an average for the
141 purpose of a flood insurance rate filing under s. 627.062.

142 (e) The commission shall adopt actuarial methods,
143 principles, standards, models, or output ranges for flood loss



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144 by July 1, 2016.

145 ~~(f)-(e)~~ The commission shall revise ~~adopt revisions to~~
146 previously adopted actuarial methods, principles, standards,
147 models, or output ranges every odd-numbered ~~odd~~ year.

148 ~~(g)-(f)~~ 1. A trade secret, as defined in s. 688.002, which
149 ~~that~~ is used in designing and constructing a hurricane loss
150 model and which ~~that~~ is provided pursuant to this section, by a
151 private company, to the commission, office, or consumer advocate
152 appointed pursuant to s. 627.0613, is confidential and exempt
153 from s. 119.07(1) and s. 24(a), Art. I of the State
154 Constitution.

155 2.a. That portion of a meeting of the commission or of a
156 rate proceeding on an insurer's rate filing at which a trade
157 secret made confidential and exempt by this paragraph is
158 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the
159 State Constitution. The closed meeting must be recorded, and no
160 portion of the closed meeting may be off the record.

161 b. The recording of a closed portion of a meeting is exempt
162 from s. 119.07(1) and s. 24(a), Art. I of the State
163 Constitution.

164 c. This subparagraph is subject to the Open Government
165 Sunset Review Act in accordance with s. 119.15 and shall stand
166 repealed on October 2, 2015, unless reviewed and saved from
167 repeal through reenactment by the Legislature.

168 Section 3. Section 627.715, Florida Statutes, is created to
169 read:

170 627.715 Flood insurance.-Subject to the requirements of
171 this section, an insurer may issue an insurance policy,
172 contract, or endorsement providing coverage for the peril of



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173 flood on any residential structure or its contents in this
174 state. This section does not apply to commercial lines risks
175 policies that provide coverage in excess of an underlying
176 policy.

177 (1) The Legislature finds that:

178 (a) The National Flood Insurance Program (NFIP) is a
179 federal program that enables property owners in participating
180 communities to purchase flood insurance. A community
181 participates in the federal program by adopting and enforcing
182 floodplain management regulations that meet or exceed federal
183 floodplain management criteria designed to reduce future flood
184 risk to new construction in floodplains. The program was created
185 by Congress in 1968 because insurance covering the peril of
186 flood was often unavailable in the private insurance market and
187 was intended to reduce the amount of financial aid paid by the
188 Federal Government in the aftermath of flood-related disasters.
189 After the creation of the NFIP, flood insurance coverage
190 continued to be generally unavailable for purchase from private
191 market insurance companies.

192 (b) The Biggert-Waters Flood Insurance Reform Act of 2012
193 reauthorized and revised the NFIP. The act increased flood
194 insurance premiums purchased through the program for second
195 homes, business properties, severe repetitive loss properties,
196 and substantially improved damaged properties by requiring
197 premium increases of 25 percent per year until premiums meet the
198 full actuarial cost. Most residences lose their subsidized rates
199 if the property is sold, the policy lapses, repeated and severe
200 flood losses occur, or a new policy is purchased. Policyholders
201 whose communities adopt a new, updated Flood Insurance Rate Map



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202 (FIRM) that results in higher rates will experience a 5-year
203 phase in of rate increases to achieve required rate levels.

204 (c) The Biggert-Waters Flood Insurance Reform Act of 2012
205 also encourages the use and acceptance of private market flood
206 insurance. The Legislature finds, however, that there has been a
207 long-term inadequacy of private market flood insurance available
208 in this state. Such inadequacy suggests that the private market
209 in this state is unlikely to expand unless the Legislature
210 provides multiple options for the regulation of flood insurance.
211 The Legislature also finds that the consumers of this state
212 would benefit from the availability of competitively priced
213 private market flood insurance due to the continued availability
214 of the NFIP flood insurance, the likely availability of
215 alternative private market flood insurance coverage options, and
216 the oversight of the Office of Insurance Regulation.

217 (d) The NFIP, as amended by the Biggert-Waters Flood
218 Insurance Reform Act of 2012, is likely to prevent many property
219 owners from obtaining affordable flood insurance coverage in
220 this state. The absence of affordable flood insurance threatens
221 the public health, safety, and welfare and the economic health
222 of this state. Therefore, the state has a compelling public
223 purpose and interest in providing alternatives to coverage from
224 the NFIP by promoting the availability of flood insurance from
225 private market insurers at potentially lower premium rates in an
226 effort to facilitate the remediation, reconstruction, and
227 replacement of damaged or destroyed property in order to reduce
228 or avoid harm to public health, safety, and welfare, to the
229 economy of this state, and to the revenues of state and local
230 governments which are needed to provide for the public welfare.



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231 (2) As used in this section, the term "flood" means a
232 general and temporary condition of partial or complete
233 inundation of 2 acres or more of normally dry land area or of
234 two or more properties, at least one of which is the
235 policyholder's property, from:

236 (a) Overflow of inland or tidal waters;

237 (b) Unusual and rapid accumulation or runoff of surface
238 waters from any source;

239 (c) Mudflow; or

240 (d) Collapse or subsidence of land along the shore of a
241 lake or similar body of water as a result of erosion or
242 undermining caused by waves or currents of water exceeding
243 anticipated cyclical levels.

244 (3) At a minimum, coverage for the peril of flood must
245 cover a flood as defined in subsection (2). Coverage for the
246 peril of flood may also include water intrusion, as defined by
247 the policy, which originates from outside the structure and is
248 not otherwise covered under the definition of flood.

249 (4) An insurer may offer a flood coverage policy, contract,
250 or endorsement that:

251 (a) Has a flood deductible based on a stated dollar amount
252 or a percentage of the coverage amount. The deductible amount
253 must be acceptable to federal mortgage and banking regulators if
254 such policy, contract, or endorsement is intended to satisfy a
255 mortgage requirement;

256 (b) Provides that any flood loss will be adjusted on the
257 basis of:

258 1. The actual cash value of the property; or

259 2. Replacement costs up to the policy limits as provided



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260 under s. 627.7011(3);

261 (c) Restricts flood coverage to the principal building, as
262 defined in the applicable policy;

263 (d) Is in an agreed-upon amount, including coverage limited
264 to the amount of all outstanding mortgages applicable to the
265 covered property. However, if a policy, contract, or endorsement
266 does not limit flood coverage to the replacement cost of the
267 covered property, the policy, contract, or endorsement may not
268 include a provision penalizing the policyholder for not insuring
269 the covered property up to replacement cost; or

270 (e) As to the peril of flood, does not cover:

271 1. Additional living expenses;

272 2. Personal property or contents; or

273 3. Law and ordinance coverage. However, an insurer must
274 offer law and ordinance coverage that is comparable to the law
275 and ordinance coverage offered in the standard NFIP policy. A
276 policy, contract, or endorsement that includes the law and
277 ordinance coverage that must be offered under this paragraph
278 must include the following disclosure in at least 12-point
279 uppercase and boldfaced type: "LAW AND ORDINANCE COVERAGE UNDER
280 THIS POLICY MIGHT HAVE LIMITATIONS ON WHAT IS COVERED IN THE
281 EVENT OF A LOSS. YOU SHOULD CONSULT WITH YOUR AGENT IF YOU HAVE
282 QUESTIONS ABOUT THE COVERAGE OFFERED UNDER THIS POLICY."

283 (5) Any limitations on flood coverage or policy limits as
284 to the peril of flood, including, but not limited to, flood
285 deductibles or flood coverage limited to the amount of all
286 outstanding mortgages, must be prominently disclosed on the
287 declarations page or face page of the policy in at least 12-
288 point uppercase and boldfaced type and be sufficiently clear so



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289 as to be readily understandable by the agent and the property
290 owner.

291 (a) A policy that limits flood coverage to an amount less
292 than the full replacement cost of the property must include the
293 following statement: "THIS POLICY LIMITS FLOOD COVERAGE TO LESS
294 THAN THE FULL COST OF REPLACEMENT FOR THE PROPERTY, WHICH MAY
295 RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU AND MAY PUT YOUR
296 EQUITY IN THIS PROPERTY AT RISK."

297 (b) A policy that insures a dwelling on the basis of actual
298 cash value must include the following statement: "THIS POLICY
299 PAYS YOU THE DEPRECIATED VALUE OF YOUR PROPERTY THAT IS DAMAGED
300 BY FLOOD, WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU
301 IF YOUR PROPERTY NEEDS TO BE REPAIRED OR REPLACED."

302 (6) An insurer may establish and use flood coverage rates
303 in accordance with the rate standards under s. 627.062. For
304 flood coverage rates filed with the office before July 1, 2024,
305 the insurer may also elect one or more of the following options:

306 (a) In accordance with the rates, rating schedules, or
307 rating manuals filed by the insurer with the office which allow
308 the insurer a reasonable rate of return on flood coverage
309 written in this state. Flood coverage rates established under
310 this paragraph are not subject to s. 627.062(2)(a) and (f). An
311 insurer shall notify the office of any change to rates within 30
312 days after the effective date of the change. The notice must
313 include the name of the insurer and the average statewide
314 percentage change in rates. Actuarial data with regard to rates
315 for flood coverage must be maintained by the insurer for 2 years
316 after the effective date of such rate change and is subject to
317 examination by the office. The office may require the insurer to



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318 incur the costs associated with an examination. Upon
319 examination, the office, in accordance with generally accepted
320 and reasonable actuarial techniques, shall consider the rate
321 factors and standards specified in s. 627.062 to determine if
322 the rate is excessive, inadequate, or unfairly discriminatory.

323 (b) Through individual risk rating as provided in
324 627.062(3)(a) and (b). Upon examination, the office, in
325 accordance with generally accepted and reasonable actuarial
326 techniques, shall determine if the rate is excessive,
327 inadequate, or unfairly discriminatory.

328 (c) With the written consent of the insured signed before
329 the policy inception date and filed with the insurer, using a
330 flood coverage rate that has not been approved by the office.
331 The signed consent form must notify the insured that the rate is
332 not subject to the approval of the office. A copy of the form
333 shall be maintained by the insurer for 3 years and must be
334 available for review by the office. An insurer is not required
335 to obtain subsequent written consents upon renewal, but shall
336 provide notice at each renewal that the rate is not subject to
337 office approval. Section 627.171(2) does not apply to policies
338 issued under this section. Upon examination, the office, in
339 accordance with generally accepted and reasonable actuarial
340 techniques, shall determine if the rate is excessive,
341 inadequate, or unfairly discriminatory.

342 (7) A policy, contract, or endorsement providing coverage
343 for the peril of flood must provide notice that flood insurance
344 coverage is available from the NFIP.

345 (8) A surplus lines agent may export a contract or
346 endorsement to an eligible surplus lines insurer without making



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347 a diligent effort to seek such coverage from three or more
348 authorized insurers under s. 626.916(1)(a). This subsection
349 expires July 1, 2017.

350 (9) A policy, contract, or endorsement providing coverage
351 for the peril of flood must require the insurer to give 45 days'
352 written notice before cancellation or nonrenewal to the insured
353 and any regulated lending institution or federal agency that is
354 a mortgagee. An insurer or insured may cancel during the term of
355 the policy or upon renewal if the cancellation is for a valid
356 reason under the NFIP.

357 (10) In addition to any other applicable requirements, an
358 insurer providing flood coverage under this section must:

359 (a) Notify the office at least 30 days before writing flood
360 insurance in this state;

361 (b) File a plan of operation and financial projections or
362 revisions to such plan, as applicable, with the office unless
363 the insurer maintains at least \$35 million in surplus. For
364 purposes of this paragraph, an insurer may demonstrate such
365 surplus if the insurer group surplus is used to support covered
366 flood insurance risks through a pooling arrangement or
367 intercompany reinsurance;

368 (c) Offer flood insurance on a form that has been filed
369 with and approved by the office pursuant to s. 627.410. If an
370 insurer files a form with the office that is substantially
371 similar to a form used by the NFIP, the office may not extend
372 the 30-day period as provided under s. 627.410(2); and

373 (d) File all reinsurance contracts with the office on or
374 before June 30 of each year.

375 (11) For a policy on a structure that was previously



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376 insured through the NFIP at a subsidized rate, the policy must
377 include the following statement: "BY ACCEPTING A PRIVATE FLOOD
378 INSURANCE POLICY, YOU MAY LOSE YOUR SUBSIDIZED RATE IN THE
379 NATIONAL FLOOD INSURANCE PROGRAM WHEN RETURN TO THE NATIONAL
380 FLOOD INSURANCE PROGRAM AT A LATER TIME."

381 (12) Citizens Property Insurance Corporation may not
382 provide insurance for the peril of flood.

383 (13) The Florida Hurricane Catastrophe Fund may not provide
384 reimbursement for losses proximately caused by the peril of
385 flood, including losses that occur during a covered event as
386 defined under s. 215.555(2).

387 (14) With respect to the regulation of flood insurance
388 coverage written in this state by private insurers, this section
389 supersedes any other provision in the Florida Insurance Code in
390 the event of a conflict.

391 Section 4. If federal law or rule requires a certification
392 by a state insurance regulatory official as a condition of
393 qualifying for private flood insurance or disaster assistance,
394 the Commissioner of the Office of Insurance Regulation shall
395 provide such certification, and such certification is not
396 subject to review under chapter 120.

397 Section 5. This act shall take effect upon becoming a law.

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 Appropriations

BILL: CS/CS/SB 542

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on General Government); Banking and Insurance Committee; and Senator Brandes and others

SUBJECT: Flood Insurance

DATE: February 24, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow/Knudson	Knudson	BI	Fav/CS
2.	Betta	DeLoach	AGG	Fav/CS
3.	Betta	Kynoch	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 542 creates laws governing the sale of private flood insurance policies, contracts, and endorsements by authorized insurers with the exception of commercial lines risks policies that provide coverage in excess of an underlying policy. The bill requires insurers that write flood coverage to provide coverage for “flood” as currently defined by the National Flood Insurance Program (NFIP). The bill also permits insurers to expand flood coverage to include water intrusion originating from outside the structure.

Flood rates may be established using the existing rate review process in section 627.062, Florida Statutes. For flood rate filings made before July 1, 2024, an insurer may utilize three additional options for the development of flood insurance rates (Flood coverage rates developed under the three additional provisions are subject to section 627.062(1), Florida Statutes, which requires that rates shall not be excessive, inadequate, or unfairly discriminatory):

- A rate filing that is exempt from the filing and review requirements of sections 627.062(2)(a) and (f), Florida Statutes;
- Individual risk rating; and
- If the insurer obtains the written, signed consent of the policyholder, it may use a flood coverage rate that has not been approved by the Office of Insurance Regulation (OIR).

The bill also:

- Allows flood deductibles to be a stated dollar amount or a percentage of coverage, however, insurers must offer the standard deductibles offered by the NFIP.
- Allows flood insurance policies to be offered that adjusts flood claims on a replacement cost basis or actual cash value.
- Allows the policy limit for flood coverage to be any agreed upon amount.
- Makes the following coverages optional: (1) additional living expense coverage; (2) personal property or contents; and (3) law and ordinance coverage. The insurer must offer, however, law and ordinance coverage comparable to such coverage contained in a NFIP policy.
- Authorizes the use of flood loss projection models to establish rates for flood insurance.
- Authorizes the Florida Commission on Hurricane Loss Projection Methodology to evaluate flood models and adopt actuarial methods, principles, standards, models, or output ranges for flood loss by July 1, 2016.
- Requires the declarations page of the policy to disclose clearly all limitations on coverage or policy limits.
- Requires each flood policy, endorsement, or contract to provide notice that flood insurance is available from the NFIP.
- Requires the insurer to give 45 days prior written notice of cancellation or nonrenewal to the insured and any regulated lending institution or federal agency that is a mortgagee.
- Allows an insurer or insured to cancel during the term of the policy or upon renewal if the cancellation is for a valid reason under the NFIP.
- Requires an insurer seeking to provide flood coverage to notify the OIR at least 30 days before writing flood insurance in this state. The insurer must file a plan of operation and financial projections with the OIR unless the insurer maintains at least \$35 million in surplus and provides coverage as an endorsement to an existing property insurance form.
- Provides that the provisions of section 627.715, Florida Statutes, supersede any conflicting provisions in the insurance code.
- Requires the insurance commissioner to provide a certification if so required by federal law or federal rule as a condition of qualifying for private flood insurance or disaster relief.

The bill has no fiscal impact to state funds. The Florida Commission on Hurricane Loss projection Methodology estimates a fiscal impact of \$350,000 to develop the standards outlined in the bill. The commission is funded by the Florida Hurricane Catastrophe Fund.

II. Present Situation:

The NFIP was created by the passage of the National Flood Insurance Act of 1968.¹ The NFIP is administered by Federal Emergency Management Agency (FEMA) and provides property owners located in flood-prone areas the ability to purchase flood insurance protection from the federal government. Flood insurance through the NFIP is only available in communities that adopt and enforce federal floodplain management criteria.²

¹ <http://www.fema.gov/media-library/assets/documents/7277?id=2216> (Last accessed by staff on January 2, 2014)

² *National Flood Insurance Program: Program Description*, pgs. 2-4., Federal Emergency Management Agency/Federal Insurance and Mitigation Administration (August 1, 2002) <http://www.fema.gov/media-library/assets/documents/1150?id=1480> (Last accessed by staff on January 7, 2014).

Standard NFIP Flood Insurance

The standard flood insurance policy dwelling form offered by the NFIP³ is a single peril flood policy that pays for direct physical damage to the insured residential property up to the replacement cost⁴ (RCV) or actual cash value (ACV) or the policy limit.⁵ The maximum coverage limit for a NFIP standard flood insurance policy is \$250,000. The NFIP also offers up to \$100,000 in personal property (contents) coverage, which is always valued at ACV.⁶ Most NFIP policies also include Increased Cost of Compliance (ICC) coverage of up to \$30,000 of the cost to comply with state or community floodplain management laws or ordinances after a flood in which a building has been declared substantially damaged or repetitively damaged.⁷ The maximum coverage available to a condominium association is \$250,000 per unit multiplied by the total number of units.⁸ The limits of coverage for NFIP flood insurance on non-residential buildings are \$500,000 in coverage to the building and \$500,000 in contents coverage.⁹

Flood is defined in the standard NFIP policy as a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties from:

- Overflow of inland or tidal waters;
- Unusual and rapid accumulation or runoff of surface waters from any source;
- Mudflow; or
- Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above.¹⁰

The minimum deductibles for NFIP flood coverage are:

³ The standard form insures one-to-four family residential buildings and single-family dwelling units in a condominium building. The NFIP also offers (a) a general property form that is used to insure five-or-more-family residential buildings and non-residential buildings and (b) a residential condominium building association policy form that insures residential condominium association buildings.

⁴ To obtain RCV coverage under the NFIP dwelling form, the building must be a single-family dwelling, be the principal residence of the insured at the time of loss (the insured lives there at least 80 percent of the year), and the building coverage of at least 80 percent of the full replacement cost of the building or its the maximum available for the property under the NFIP.

⁵ *National Flood Insurance Program: Summary of Coverage*, Federal Emergency Management Agency (FEMA F-679/November 2012) http://www.fema.gov/media-library-data/20130726-1620-20490-4648/f_679_summaryofcoverage_11_2012.pdf (Last accessed by staff on January 7, 2014).

⁶ See footnote 4.

⁷ The total amount of a building claim and ICC claim cannot exceed the maximum limit for building property coverage. For a single-family home, this is the \$250,000 maximum limit on coverage to the building. See footnote 4 and footnote 5 at page 26.

⁸ *FDIC Compliance Manual*, V – 6.8. <http://www.fdic.gov/regulations/compliance/manual/index.html> (Last accessed by staff on January 7, 2014).

⁹ *Reducing Damage from Localized Flooding: A Guide for Communities*, 11-2. <http://www.fema.gov/media-library/assets/documents/1012> (Last accessed by staff on January 7, 2014).

¹⁰ <http://www.fema.gov/national-flood-insurance-program/definitions> (Last accessed by staff on January 2, 2014)

- For properties built before the effective date of the first Flood Insurance Rate Map¹¹ (FIRM) for a community, the minimum deductible is:
 - \$1,500 if the property is insured for \$100,000 or less.
 - \$2,000 if the property is insured for over \$100,000.
- For properties built after the effective date of the first Flood Insurance Rate Map (FIRM) for a community, the minimum deductible is:
 - \$1,000 if the property is insured for \$100,000 or less.
 - \$1,250 if the property is insured for over \$100,000.

Federal Requirements to Obtain Flood Insurance

The U.S. Congress passed the Flood Disaster Protection Act in 1973¹². The Act mandated property owners with mortgages issued by federally regulated or insured lenders must purchase flood insurance if their properties are located in Special Flood Hazard Areas. Special Flood Hazard Areas are defined by FEMA as high-risk areas where there is at least a one in four chance of flooding during a 30-year mortgage.¹³

The National Flood Insurance Reform Act of 1994¹⁴ (1994 Reform Act) required federal financial regulatory agencies¹⁵ to revise their flood insurance regulations. The 1994 Reform Act applied flood insurance requirements to loans purchased by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) and to agencies that provide government insurance or guarantees such as the Small Business Administration, the Federal Housing Administration, and the Veterans Administration. Lending institutions regulated by federal agencies are prohibited from offering loans on properties located in a Special Flood Hazard Area (SFHA) of a community participating in the NFIP unless the property is covered by flood insurance.¹⁶ The amount of flood insurance required by lending institutions must be at least equal to the outstanding principal balance of the loan, or the maximum amount available under the NFIP, whichever is less.

The Biggert-Waters Flood Insurance Reform Act

In 2012¹⁷ the United States Congress passed the Biggert-Waters Flood Insurance Reform Act (Biggert-Waters Act). The Biggert-Waters Act reauthorized the National Flood Insurance Program for five years. Key provisions of the legislation require the NFIP to raise rates to reflect true flood risk, make the program more financially stable, and change how Flood Insurance Rate

¹¹ The effective date of the first FIRM for Florida communities can be found at <http://www.fema.gov/cis/FL.pdf> (Last accessed by staff on January 10, 2014).

¹² http://www.fema.gov/media-library-data/20130726-1545-20490-9247/firm_acts.pdf (Last accessed by staff on January 2, 2014).

¹³ http://www.floodsmart.gov/floodsmart/pages/flooding_flood_risks/defining_flood_risks.jsp (Last accessed by staff on January 2, 2014).

¹⁴ Title V of the Riegle Community Development and Regulatory Improvement Act of 1994. Pub. L. 103-325, Title V, 108 Stat. 2160, 2255-87 (September 23, 1994).

¹⁵ Office of Comptroller of Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, Farm Credit Administration and Federal Reserve.

¹⁶ *FDIC Compliance Manual*, V – 6.1. <http://www.fdic.gov/regulations/compliance/manual/index.html> (Last accessed by staff on January 7, 2014).

¹⁷ <http://www.fema.gov/flood-insurance-reform-act-2012> (Last accessed by staff on January 2, 2014).

Map updates impact policyholders. These changes by Congress have resulted in premium rate increases for approximately 20 percent of NFIP policyholders nationwide.

The Biggert-Waters Act increases flood insurance premiums purchased through the program for second homes, business properties, severe repetitive loss properties, and substantially improved damaged properties by requiring premium increases of 25 percent per year until premiums meet the full actuarial cost of flood coverage. Most residences immediately lose their subsidized rates if the property is sold, the policy lapses, repeated and severe flood losses occur, or a new policy is purchased. Policyholders whose communities adopt a new, updated Flood Insurance Rate Map (FIRM) that results in higher rates will experience a five-year phase in of rate increases to achieve rates that incorporate the full actuarial cost of coverage.

NFIP Flood Insurance in Florida

Over two million NFIP policies are written on Florida properties, with approximately 268,500 policies receiving subsidized rates.¹⁸ This accounts for approximately 37 percent of the total policies written by the NFIP.

Historically, properties insured in Florida have paid approximately \$3.60 in premium for NFIP flood coverage for every \$1 received in claims payments.¹⁹ The rate impact of the Biggert-Waters Act on subsidized policies in Florida is approximately as follows:

- Approximately 50,000 secondary residences, businesses, and severe repetitive loss properties are subject to immediate, annual 25 percent increases until their premiums are full risk premiums.
- Approximately 103,000 primary residences will lose their subsidy if the property is sold, the policy lapses, the property suffers severe, repeated flood losses, or a new policy is purchased.
- Approximately 115,000 non-primary residences, business properties, and severe repetitive loss properties are subject to the elimination of subsidies once FEMA develops guidance for their removal.

III. Effect of Proposed Changes:

The bill creates laws governing the sale of flood insurance policies, contracts, and endorsements by authorized insurers.

Condition Covered by Private Market Flood Coverage [s. 627.715(2) and (3), F.S.]

The bill requires insurers that write flood coverage to provide coverage for “flood” as currently defined by the NFIP. The bill also permits insurers to expand flood coverage to include water intrusion originating from outside the structure which is not otherwise covered within the

¹⁸ Office of Insurance Regulation, *The Biggert-Waters Flood Insurance Reform Act of 2012*, (Presentation to the Florida Senate Banking and Insurance Committee on October 8, 2013). http://flsenate.gov/PublishedContent/Committees/2012-2014/BI/MeetingRecords/MeetingPacket_2346.pdf.

¹⁹ Wharton Center for Risk Management and Decision Processes, *Who's Paying and Who's Benefiting Most From Flood Insurance Under the NFIP? A Financial Analysis of the U.S. National Flood Insurance Program (NFIP)*, (Issue Brief, Fall 2011).

definition of flood provided in the bill and as also defined by the NFIP. Water intrusion, if offered, is defined by the insurance policy.

The bill defines “flood” in the same way as the NFIP: a general and temporary condition of partial or complete inundation of two acres or more of normally dry land area or of two or more properties, at least one of which is the policyholder’s property. The NFIP definition includes four causes of inundation of normally dry land that constitute flood: (1) overflow of inland or tidal waters; (2) unusual or rapid accumulation or runoff of surface waters from any source; (3) mudflow; or (4) collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels which results in flood.

Deductibles [s. 627.715(4)(a), F.S.]

Flood deductibles may be a stated dollar amount or a percentage of coverage. Insurers, however, must offer deductible amounts for flood losses that equal the standard deductibles offered by the NFIP.

Adjustment of Flood Claims [s. 627.715(4)(b), F.S.]

The bill authorizes the sale of flood insurance that adjusts claims on a replacement cost basis or actual cash value.

Option to Restrict Flood Coverage Principal Building [s. 627.415(4)(c), F.S.]

The bill allows, but does not require, the restriction of flood coverage to the principal building, as defined in the insurance policy.

Policy Limits [s. 627.715(4)(d), F.S.]

The policy limit for flood coverage may be any agreed upon amount. This includes the full replacement cost of the property, a set dollar amount, or the amount of the outstanding mortgages on the property.

Optional Coverage [s. 627.715(4)(e), F.S.]

Flood insurance is not required to include any of the following coverages: (1) additional living expense coverage; (2) personal property or contents; and (3) law and ordinance coverage.

The insurer is required to offer law and ordinance coverage for flood comparable to the law and ordinance coverage contained in the standard NFIP policy. Such coverage is called increased cost of compliance (ICC) coverage under the NFIP and, for the NFIP standard policy, provides up to \$30,000 to elevate, demolish, or relocate the insured dwelling if such action is required because a floodplain management ordinance finds the structure is substantially damaged or repetitively damaged by flood. Under the NFIP, ICC coverage cannot increase the maximum limit for coverage to the structure (\$250,000 for a dwelling or \$500,000 for a business). The insurer must include the following written disclosure with flood insurance that includes NFIP-type law and ordinance coverage: “Law and ordinance coverage under this policy might have

limitations on what is covered in the event of a loss. You should consult with your agent if you have questions about the coverage offered under this policy.”

Notice Provisions [s. 627.715(5), (7) and (9), F.S.]

The declarations page of the policy must disclose prominently, in at least 12-point type, and clearly all limitations on coverage or policy limits on the declarations page. Limitations requiring disclosure include, but are not limited to, deductibles and coverage limited to the amount of outstanding mortgages. The following specific disclosures are required:

- If the dwelling is insured for less than the full replacement cost: “This policy limits flood coverage to less than the full cost of replacement for the property, which may result in high out-of-pocket expenses to you and may put your equity in this property at risk.”
- If the dwelling is insured on an actual cash value basis: “This policy pays you the depreciated value of your property that is damaged by flood, which may result in high out-of-pocket expenses to you if your property needs to be repaired or replaced.”

Each flood policy, endorsement, or contract must provide notice that flood insurance is available from the NFIP.

The insurer must give 45 days prior written notice of cancellation or nonrenewal to the insured and any regulated lending institution or federal agency that is a mortgagee. An insurer or insured may cancel during the term of the policy or upon renewal if the cancellation is for a valid reason under the NFIP.

Rate Standards for Flood Coverage [s. 627.715(6), F.S.]

The bill allows insurers to develop flood insurance rates under the full rate review process provided for in s. 627.062, F.S. Flood insurance rates may be developed using three additional options in any flood insurance rate filing submitted to the OIR before July 1, 2024:

Rate Filing Exempt from the File and Use and Use and File Requirements

A flood insurance rate filing is exempt from the filing and review requirements of s. 627.062(2)(a) and (f), F.S., and instead requires an informational filing by the insurer. The rates are not subject to the “file and use” or “use and file” process under s. 627.062(2)(a), F.S.

An insurer must notify the OIR of any change to its flood insurance rates, including the average statewide percentage change in rates, no later than 30 days after the effective date of the change in rates. Insurers that utilize this option must maintain actual data regarding its flood insurance rates for two years after the effective date of those rates.

Individual Risk Rating

Insurers may individually rate a flood risk, under the procedure provided under current law in s. 627.062(3)(a) and (b), F.S. The insurer must maintain documentation on each individually rated risk that specifies the characteristics and classification of the risk supporting the reason for

the risk being individually rated and also maintain modifications to existing forms. Modifications to flood insurance forms are subject to the provisions of this section and provisions of the insurance code that do not conflict with the bill.

Consent to Rate

If the insurer obtains the written, signed consent of the policyholder, the insurer may use a flood coverage rate that has not been approved by the OIR. The signed consent form must notify the insured that the rate is not subject to OIR approval. Upon policy renewal, the insurer must provide notice that the rate is not subject to OIR approval. The insurer must maintain a copy of the signed consent form for three years and make it available for OIR review. The consent to rate provision in current law under s. 627.171, F.S., contains the same requirements to authorize insurers to use rates in excess of the insurer's approved rate but limits the practice to ten percent of the insurer's commercial lines policies and five percent of its personal lines (homeowners, auto; etc.) policies.

For all three of the options, the OIR is authorized to require the insurer to submit to an examination under which the OIR may determine whether the rate is excessive, inadequate, or unfairly discriminatory.

Authorization of Flood Loss Projection Models to Establish Flood Rates [s. 627.062, F.S., and s. 627.0628, F.S.]

The bill authorizes the use of flood models as a factor in rate filings under s. 627.062, F.S. The insurer may project flood losses using a model, method, or an average of models or methods found acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology, and as further provided in the statute governing the commission, s. 627.0628, F.S.

To assist the methodology commission in evaluating flood models, the bill expands the membership of the commission to include a licensed professional engineer who is an expert in floodplain management and not regularly retained by a property and casualty insurer and a meteorologist who specializes in flood. The commission is authorized to consider the accuracy and reliability of flood loss projection models. The commission must adopt actuarial methods, principles, standards, models, or output ranges for flood loss by July 1, 2016.

Placement of Flood Insurance with Surplus Lines Insurers [s. 627.715(8), F.S.]

A surplus lines agent may export flood coverage to an eligible surplus lines insurer without making a diligent effort to seek such coverage from three or more authorized insurers as generally required by s. 626.916(1)(a), F.S. This provision expires July 1, 2017.

Authorization to Write Flood Insurance [s. 627.715(10), F.S.]

An insurer seeking to provide flood coverage must notify the OIR at least 30 days before writing flood insurance in this state. The insurer must file a plan of operation and financial projections with the OIR unless the insurer maintains at least \$35 million in surplus and provides coverage

as an endorsement to an existing property insurance form. The insurer must also comply with all other applicable requirements contained in the insurance code.

Conflict of Laws [s. 627.715(11), F.S.]

The provisions of s. 627.715, F.S., supersede any conflicting provisions in the rest of the insurance code.

Certification That Private Flood Insurance Complies With Federal Law and Requirements

The bill requires the insurance commissioner to provide a certification if so required by federal law or federal rule as a condition of qualifying for private flood insurance or disaster relief. The certification is not subject to review under ch. 120, F.S.

Citizens Property Insurance Corporation

The bill prohibits Citizens Property Insurance Corporation from providing insurance for the peril of flood.

Florida Hurricane Catastrophe Fund

The bill prohibits the Florida Hurricane Catastrophe Fund from providing reimbursement for losses caused by the peril of flood.

Effective Date

The bill is effective upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

It is anticipated that the implementation of CS/CS/SB 542 will result in additional private insurers offering flood insurance which may increase competition in the marketplace and provide consumers with more coverage options.

C. Government Sector Impact:

The bill requires the Florida Commission on Hurricane Loss Projection Methodology to develop standards for the review of flood models. The commission estimates the fiscal impact of the bill is \$350,000. The commission is funded by the Florida Hurricane Catastrophe Fund. The development of such standards will require the commission to incur costs associated with additional commission meetings, research, workshops, consultants, and possible meetings at the location of each modeler.

According to the OIR, the bill will be implemented within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.062 and 627.0628.

This bill creates section 627.715 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Appropriations on February 20, 2014:**

- Changes the sunset that limits the use of alternative rate filing options for flood insurance to filings submitted to the OIR from July 1, 2017, to July 1, 2024.
- Eliminates the provision restricting surplus lines insurers from providing flood coverage only valued at \$1 million or more.
- Deletes the provision of the bill which added two members to the Florida Commission on Hurricane Loss Projection Methodology thereby keeping the commission membership the same as in current law.

- Changes the date by which the Florida Commission on Hurricane Loss Projection Methodology must adopt actuarial methods, principles, standards, models, or output ranges for flood loss from July 1, 2015, to July 1, 2016.
- Authorizes the OIR to require insurers offering flood insurance coverage submit to an examination under which the OIR may determine whether the rates charged are excessive, inadequate, or unfairly discriminatory when the rates charged are based on an “individual risk rating” or a “written consent rating”.
- Prohibits Citizens Property Insurance Corporation from providing insurance for the peril of flood.
- Prohibits the Florida Hurricane Catastrophe Fund from providing reimbursement for losses caused by the peril of flood.

CS by Banking and Insurance on January 8, 2014:

- Limits the use of alternative rate filing options for flood insurance to filings submitted to the OIR before July 1, 2017.
- Limits the ability of a surplus lines agent to export flood insurance to a surplus lines insurer without making a diligent effort to place coverage with authorized insurers to coverage of \$1 million or more. The provision expires July 1, 2017.
- Requires the insurance commissioner to provide a certification if so required by federal law or federal rule as a condition of qualifying for private flood insurance or disaster relief.
- Requires insurers to offer law and ordinance coverage for flood equivalent to NFIP law and ordinance coverage.

B. Amendments:

None.

By the Committee on Banking and Insurance; and Senators Brandes, Simpson, and Benacquisto

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1 A bill to be entitled
 2 An act relating to flood insurance; amending s.
 3 627.062, F.S.; adding projected flood losses to the
 4 factors that must be considered by the Office of
 5 Insurance Regulation in reviewing certain rate
 6 filings; amending s. 627.0628, F.S.; increasing the
 7 membership of the Florida Commission on Hurricane Loss
 8 Projection Methodology to include an engineer who is
 9 an expert in floodplain management and a meteorologist
 10 who specializes in floods; requiring the commission to
 11 adopt standards and guidelines relating to flood loss
 12 by a certain date; creating s. 627.715, F.S.;
 13 authorizing insurers to offer flood insurance in this
 14 state; providing legislative findings; defining the
 15 term "flood"; establishing the minimum coverage
 16 requirements for such policies; providing coverage
 17 limitations that an insurer may include in such
 18 policies; requiring that certain limitations be noted
 19 on the policy declarations or face page; providing the
 20 insurer with rate options; requiring the insurer to
 21 provide notice that flood insurance is available from
 22 the National Flood Insurance Program; allowing an
 23 insurer to export a contract or endorsement of a
 24 certain amount to a surplus lines insurer without
 25 meeting certain requirements; providing prior notice
 26 requirements for cancellation or nonrenewal of a
 27 policy; requiring the insurer to notify the office
 28 before writing flood insurance and to file a plan of
 29 operation with the office; providing that any

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30 conflicts with other provisions of the Florida
 31 Insurance Code are preempted by this section;
 32 requiring the Commissioner of the Office of Insurance
 33 Regulation to provide certification that a condition
 34 qualifies for flood insurance or disaster assistance;
 35 providing an effective date.
 36
 37 Be It Enacted by the Legislature of the State of Florida:
 38
 39 Section 1. Paragraph (b) of subsection (2) of section
 40 627.062, Florida Statutes, is amended to read:
 41 627.062 Rate standards.—
 42 (2) As to all such classes of insurance:
 43 (b) Upon receiving a rate filing, the office shall review
 44 the filing to determine if a rate is excessive, inadequate, or
 45 unfairly discriminatory. In making that determination, the
 46 office shall, in accordance with generally accepted and
 47 reasonable actuarial techniques, consider the following factors:
 48 1. Past and prospective loss experience within and without
 49 this state.
 50 2. Past and prospective expenses.
 51 3. The degree of competition among insurers for the risk
 52 insured.
 53 4. Investment income reasonably expected by the insurer,
 54 consistent with the insurer's investment practices, from
 55 investable premiums anticipated in the filing, plus any other
 56 expected income from currently invested assets representing the
 57 amount expected on unearned premium reserves and loss reserves.
 58 The commission may adopt rules using reasonable techniques of

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actuarial science and economics to specify the manner in which insurers calculate investment income attributable to classes of insurance written in this state and the manner in which investment income is used to calculate insurance rates. Such manner must contemplate allowances for an underwriting profit factor and full consideration of investment income that produces ~~which produce~~ a reasonable rate of return; however, investment income from invested surplus may not be considered.

5. The reasonableness of the judgment reflected in the filing.

6. Dividends, savings, or unabsorbed premium deposits allowed or returned to ~~Florida~~ policyholders, members, or subscribers in this state.

7. The adequacy of loss reserves.

8. The cost of reinsurance. The office may not disapprove a rate as excessive solely due to the insurer having obtained catastrophic reinsurance to cover the insurer's estimated 250-year probable maximum loss or any lower level of loss.

9. Trend factors, including trends in actual losses per insured unit for the insurer making the filing.

10. Conflagration and catastrophe hazards, if applicable.

11. Projected hurricane losses, if applicable, which must be estimated using a model or method found to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology, and as further provided in s. 627.0628.

12. Projected flood losses, if applicable, which may be estimated using a model, a method, or an average of models or methods determined to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology, and as

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further provided in s. 627.0628.

~~13.12.~~ A reasonable margin for underwriting profit and contingencies.

~~14.13.~~ The cost of medical services, if applicable.

~~15.14.~~ Other relevant factors that affect the frequency or severity of claims or expenses.

The provisions of this subsection do not apply to workers' compensation, employer's liability insurance, and motor vehicle insurance.

Section 2. Paragraph (b) of subsection (2) and subsection (3) of section 627.0628, Florida Statutes, are amended to read:
627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

(2) COMMISSION CREATED.—

(b) The commission shall consist of the following 14 ~~12~~ members:

1. The insurance consumer advocate.

2. The senior employee of the State Board of Administration responsible for the operations of the Florida Hurricane Catastrophe Fund.

3. The Executive Director of the Citizens Property Insurance Corporation.

4. The Director of the Division of Emergency Management.

5. The actuary member of the Florida Hurricane Catastrophe Fund Advisory Council.

6. An employee of the office who is an actuary responsible for property insurance rate filings and who is appointed by the

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117 director of the office.

118 7. ~~Seven~~ Five members appointed by the Chief Financial
119 Officer, as follows:

120 a. An actuary who is employed full time by a property and
121 casualty insurer that was responsible for at least 1 percent of
122 the aggregate statewide direct written premium for homeowner's
123 insurance in the calendar year preceding the member's
124 appointment to the commission.

125 b. An expert in insurance finance who is a full-time member
126 of the faculty of the State University System and who has a
127 background in actuarial science.

128 c. An expert in statistics who is a full-time member of the
129 faculty of the State University System and who has a background
130 in insurance.

131 d. An expert in computer system design who is a full-time
132 member of the faculty of the State University System.

133 e. An expert in meteorology who is a full-time member of
134 the faculty of the State University System and who specializes
135 in hurricanes.

136 f. A licensed professional engineer who is an expert in
137 floodplain management and who is not regularly retained by or on
138 behalf of a property and casualty insurer.

139 g. A meteorologist who specializes in floods.

140 8. A licensed professional structural engineer who is a
141 full-time faculty member in the State University System and who
142 has expertise in wind mitigation techniques. This appointment
143 shall be made by the Governor.

144 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

145 (a) The commission shall consider ~~any~~ actuarial methods,

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146 principles, standards, models, or output ranges that have the
147 potential for improving the accuracy of or reliability of the
148 hurricane loss projections and flood loss projections used in
149 residential property insurance rate filings. The commission
150 shall, ~~from time to time~~, adopt and update findings as to the
151 accuracy or reliability of particular methods, principles,
152 standards, models, or output ranges.

153 (b) The commission shall consider ~~any~~ actuarial methods,
154 principles, standards, or models that have the potential for
155 improving the accuracy of or reliability of projecting probable
156 maximum loss levels. The commission shall adopt and update
157 findings as to the accuracy or reliability of particular
158 methods, principles, standards, or models related to probable
159 maximum loss calculations.

160 (c) In establishing reimbursement premiums for the Florida
161 Hurricane Catastrophe Fund, the State Board of Administration
162 must, to the extent feasible, employ actuarial methods,
163 principles, standards, models, or output ranges found by the
164 commission to be accurate or reliable.

165 (d) With respect to a rate filing under s. 627.062, an
166 insurer shall employ and may not modify or adjust actuarial
167 methods, principles, standards, models, or output ranges found
168 by the commission to be accurate or reliable in determining
169 hurricane loss factors for use in a rate filing under s.
170 627.062. An insurer shall employ and may not modify or adjust
171 models found by the commission to be accurate or reliable in
172 determining probable maximum loss levels pursuant to paragraph
173 (b) with respect to a rate filing under s. 627.062 made more
174 than 60 days after the commission has made such findings. This

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paragraph does not prohibit an insurer from averaging model results or output ranges or using an average for the purpose of a flood insurance rate filing under s. 627.062.

(e) The commission shall adopt actuarial methods, principles, standards, models, or output ranges for flood loss by July 1, 2015.

(f) ~~(e)~~ The commission shall revise ~~adopt revisions to~~ previously adopted actuarial methods, principles, standards, models, or output ranges every odd-numbered ~~odd~~ year.

(g) ~~(f)~~ 1. A trade secret, as defined in s. 688.002, which ~~that~~ is used in designing and constructing a hurricane loss model and which ~~that~~ is provided pursuant to this section, by a private company, to the commission, office, or consumer advocate appointed pursuant to s. 627.0613, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2.a. That portion of a meeting of the commission or of a rate proceeding on an insurer's rate filing at which a trade secret made confidential and exempt by this paragraph is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. The closed meeting must be recorded, and no portion of the closed meeting may be off the record.

b. The recording of a closed portion of a meeting is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. This subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2015, unless reviewed and saved from repeal through reenactment by the Legislature.

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Section 3. Section 627.715, Florida Statutes, is created to read:

627.715 Flood insurance.—Subject to the requirements of this section, an insurer may issue an insurance policy, contract, or endorsement providing coverage for the peril of flood on any structure or on the contents of personal property on a form that has been filed with and approved by the office pursuant to s. 627.410(2) and that may be substantially similar to the form used by the National Flood Insurance Program (NFIP).

(1) The Legislature finds that:

(a) The National Flood Insurance Program is a federal program that enables property owners in participating communities to purchase flood insurance. A community participates in the federal program by adopting and enforcing floodplain management regulations that meet or exceed federal floodplain management criteria designed to reduce future flood risk to new construction in floodplains. The program was created by Congress in 1968 because insurance covering the peril of flood was often unavailable in the private insurance market and was intended to reduce the amount of financial aid paid by the Federal Government in the aftermath of flood-related disasters. After the creation of the NFIP, flood insurance coverage continued to be generally unavailable for purchase from private market insurance companies.

(b) The Biggert-Waters Flood Insurance Reform Act of 2012 reauthorized and revised the NFIP. The act increases flood insurance premiums purchased through the program for second homes, business properties, severe repetitive loss properties, and substantially improved damaged properties by requiring

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premium increases of 25 percent per year until premiums meet the full actuarial cost. Most residences lose their subsidized rates if the property is sold, the policy lapses, repeated and severe flood losses occur, or a new policy is purchased. Policyholders whose communities adopt a new, updated Flood Insurance Rate Map (FIRM) that results in higher rates will experience a 5-year phase-in of rate increases to achieve required rate levels.

(c) The Biggert-Waters Flood Insurance Reform Act of 2012 also encourages the use and acceptance of private market flood insurance. The Legislature finds, however, that there has been a long-term inadequacy of private market flood insurance available in this state. Such inadequacy suggests that the private market in this state is unlikely to expand unless the Legislature provides multiple options for the regulation of flood insurance. The Legislature also finds that the consumers of this state would benefit from the availability of competitively priced private market flood insurance due to the continued availability of NFIP flood insurance, the likely availability of alternative private market flood insurance coverage options, and the oversight of the Office of Insurance Regulation.

(d) The NFIP, as amended by the Biggert-Waters Flood Insurance Reform Act of 2012, will prevent many property owners from obtaining affordable flood insurance coverage in this state. The absence of affordable flood insurance threatens the public health, safety, and welfare and the economic health of this state. Therefore, the state has a compelling public purpose and interest in providing alternatives to coverage from NFIP by promoting the availability of flood insurance from private market insurers at potentially lower premium rates so as to

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facilitate the remediation, reconstruction, and replacement of damaged or destroyed property in order to reduce or avoid harm to the public health, safety, and welfare, to the economy of this state, and to the revenues of state and local governments which are needed to provide for the public welfare.

(2) As used in this section, the term "flood" means a general and temporary condition of partial or complete inundation of 2 acres or more of normally dry land area or of two or more properties, at least one of which is the policyholder's property, from:

(a) Overflow of inland or tidal waters;

(b) Unusual and rapid accumulation or runoff of surface waters from any source;

(c) Mudflow; or

(d) Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels which result in a flood.

(3) At a minimum, coverage for the peril of flood must cover a flood as defined in subsection (2). Coverage for the peril of flood may also include water intrusion, as defined by the policy, which originates from outside the structure and is not otherwise covered under the definition of flood.

(4) An insurer may offer a flood coverage policy, contract, or endorsement:

(a) That has a flood deductible based on a stated dollar amount or a percentage of the coverage amount. At a minimum, an insurer must offer deductible amounts applicable to flood losses that equal the standard deductibles offered under the National

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291 Flood Insurance Program;

292 (b) That provides that any flood loss will be adjusted on
 293 the basis of:

294 1. The actual cash value of the property; or

295 2. Replacement costs up to the policy limits as provided
 296 under s. 627.7011(3);

297 (c) That restricts flood coverage to the principal
 298 building, as defined in the applicable policy;

299 (d) In an agreed-upon amount, including coverage limited to
 300 the amount of all outstanding mortgages applicable to the
 301 covered property. However, if a policy, contract, or endorsement
 302 does not limit flood coverage to the replacement cost of the
 303 covered property, the contract or endorsement may not include a
 304 provision penalizing the policyholder for not insuring the
 305 covered property up to replacement cost; or

306 (e) That, as to the peril of flood, does not cover:

307 1. Additional living expenses;

308 2. Personal property or contents; or

309 3. Law and ordinance coverage. However, an insurer, must
 310 offer law and ordinance coverage that is comparable to the law
 311 and ordinance coverage offered in the standard NFIP policy. A
 312 policy, endorsement, or contract that includes the law and
 313 ordinance coverage that must be offered under this paragraph
 314 must include the following disclosure in uppercase bold
 315 lettering of at least 12-point type: "LAW AND ORDINANCE COVERAGE
 316 UNDER THIS POLICY MIGHT HAVE LIMITATIONS ON WHAT IS COVERED IN
 317 THE EVENT OF A LOSS. YOU SHOULD CONSULT WITH YOUR AGENT IF YOU
 318 HAVE QUESTIONS ABOUT THE COVERAGE OFFERED UNDER THIS POLICY."

319 (5) Any limitations on flood coverage or policy limits as

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320 to the peril of flood, including, but not limited to, flood
 321 deductibles or flood coverage limited to the amount of all
 322 outstanding mortgages, must be prominently disclosed on the
 323 declarations page or face page of the policy in uppercase bold
 324 lettering of at least 12-point type and be sufficiently clear so
 325 as to be readily understandable by both the agent and the
 326 property owner.

327 (a) A policy that limits flood coverage to an amount less
 328 than the full replacement cost of the property must include the
 329 statement: "THIS POLICY LIMITS FLOOD COVERAGE TO LESS THAN THE
 330 FULL COST OF REPLACEMENT FOR THE PROPERTY, WHICH MAY RESULT IN
 331 HIGH OUT-OF-POCKET EXPENSES TO YOU AND MAY PUT YOUR EQUITY IN
 332 THIS PROPERTY AT RISK."

333 (b) A policy that insures a dwelling on the basis of actual
 334 cash value must include the statement: "THIS POLICY PAYS YOU THE
 335 DEPRECIATED VALUE OF YOUR PROPERTY THAT IS DAMAGED BY FLOOD,
 336 WHICH MAY RESULT IN HIGH OUT-OF-POCKET EXPENSES TO YOU IF YOUR
 337 PROPERTY NEEDS TO BE REPAIRED OR REPLACED."

338 (6) An insurer may establish and use flood coverage rates
 339 in accordance with the rate standards under s. 627.062. For
 340 flood coverage rates filed with the office before July 1, 2017,
 341 the insurer may also elect one or more of the following options:

342 (a) In accordance with the rates, rating schedules, or
 343 rating manuals filed by the insurer with the office which allow
 344 the insurer a reasonable rate of return on flood coverage
 345 written in this state. Flood coverage rates established under
 346 this paragraph are not subject to s. 627.062(2)(a) and (f). An
 347 insurer shall notify the office of any change to rates within 30
 348 days after the effective date of the change. The notice must

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include the name of the insurer and the average statewide percentage change in rates. Actuarial data with regard to rates for flood coverage must be maintained by the insurer for 2 years after the effective date of such rate change and is subject to examination by the office. The office may require the insurer to incur the costs associated with an examination. Upon examination, the office, in accordance with generally accepted and reasonable actuarial techniques, shall consider the rate factors and standards specified in s. 627.062 to determine if the rate is excessive, inadequate, or unfairly discriminatory.

(b) Through individual risk rating as provided in s. 627.062(3)(a) and (b).

(c) With the written consent of the insured signed before the policy inception date and filed with the insurer, using a flood coverage rate that has not been approved by the office. The signed consent form must notify the insured that the rate is not subject to the approval of the office. A copy of the form shall be maintained by the insurer for 3 years and must be available for review by the office. An insurer is not required to obtain subsequent written consents upon renewal, but shall provide notice at each renewal that the rate is not subject to office approval.

(7) A policy, endorsement, or contract providing coverage for the peril of flood must provide notice that flood insurance coverage is available from the NFIP.

(8) A surplus lines agent may export a contract or endorsement providing flood coverage of \$1 million or more to an eligible surplus lines insurer without making a diligent effort to seek such coverage from three or more authorized insurers

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under s. 626.916(1)(a). This subsection expires July 1, 2017.

(9) A policy, endorsement, or contract providing coverage for the peril of flood must require the insurer to give 45 days' prior written notice of cancellation or nonrenewal to the insured and any regulated lending institution or federal agency that is a mortgagee. An insurer or insured may cancel during the term of the policy or upon renewal if the cancellation is for a valid reason under the NFIP.

(10) In addition to any other applicable requirements, an insurer providing flood coverage in this state must:

(a) Notify the office at least 30 days before writing flood insurance in this state; and

(b) File a plan of operation and financial projections or revisions to such plan, as applicable, with the office, unless the insurer maintains at least \$35 million in surplus and provides coverage as an endorsement to an existing property insurance form.

(11) With respect to the regulation of flood insurance coverage written in this state by private insurers, this section supersedes any other provision in the Florida Insurance Code in the event of a conflict.

Section 4. If federal law or rule requires a certification by a state insurance regulatory official as a condition of qualifying for private flood insurance or disaster assistance, the Commissioner of the Office of Insurance Regulation shall provide such certification, and such certification is not subject to review under chapter 120.

Section 5. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Joe Negron, Chair
Committee on Appropriations

Subject: Committee Agenda Request

Date: February 6, 2014

I respectfully request that **Senate Bill #542**, relating to Flood Insurance, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes".

Senator Jeff Brandes
Florida Senate, District 22

SENATE APPROPRIATIONS
RECEIVED
15 FEB - 6 PM 4: 00
STAFF DIR. STAFF

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/2/14

Meeting Date

Topic "Flood" Insurance

Bill Number 542
(if applicable)

Name Reggie Garcia

Amendment Barcode —
(if applicable)

Job Title —

Address P.O. Box 11069

Phone 933-7150

Street
Tallahassee, Fla. 32302
City *State* *Zip*

E-mail reggiegarcia/law@icloud.com

Speaking: ☐ For ☐ Against ☒ Information

Representing the Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-20-14

Meeting Date

Topic FLOOD INSURANCE

Bill Number 542
(if applicable)

Name MONTE STEVENS

Amendment Barcode _____
(if applicable)

Job Title DEPUTY CHIEF OF STAFF

Address 260 E. GAINES ST
Street

Phone _____

TALLY FL 32399
City State Zip

E-mail Monte.Stevens@flair.com

Speaking: ☒ For ☐ Against ☐ Information

Representing OIR

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/2014
Meeting Date

Topic _____

Bill Number CS/SB 542
(if applicable)

Name STEVE BURGESS

Amendment Barcode _____
(if applicable)

Job Title INSURANCE CONSUMER ADVOCATE

Address MADISON ST.
Street
TALL., FL
City State Zip

Phone 413-5923

E-mail STEVE.BURGESS@MYFLORIDA
CFR.COM

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/2014

Meeting Date

Topic Flood Insurance Bill

Bill Number 542
(if applicable)

Name Jay Ralstin

Amendment Barcode _____
(if applicable)

Job Title President Elect.

Address 1275 Turkey Roost Knl
Street

Phone 850/509-1154

Tallahassee FL 32317
City State Zip

E-mail jralstin@envoymortgage.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Mortgage Bankers Assn. of FL

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/14

Meeting Date

Topic Flood

Bill Number SB 542
(if applicable)

Name Carolyn Johnson

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 130 S Bronough
Street

Phone 521-1235

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20

Meeting Date

Topic Flood Insurance

Bill Number SB 542
(if applicable)

Name John Sebree

Amendment Barcode _____
(if applicable)

Job Title Sr. Vice President Public Policy

Address 200 S Monroe St.
Street

Phone 850 224-1400

Tallahassee, FL 32301
City State Zip

E-mail JohnS@FAR.ORG

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Realtors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

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 Appropriations

BILL: CS/SB 696

INTRODUCER: Appropriations Committee and Transportation Committee

SUBJECT: Department of Transportation

DATE: February 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Price	Eichen	TR	TR SPB 7012 as introduced
1.	Carey	Kynoch	AP	Fav/CS

I. Summary:

CS/SB 696 makes a number of revisions to statutes addressing the functions and responsibilities of the Florida Department of Transportation (FDOT). The bill:

- Authorizes the FDOT to fund up to 100 percent of strategic airport investment projects under specified conditions;
- Revises various provisions relating to mitigation for environmental impacts of transportation projects;
- Prohibits the FDOT from entering into any lease-purchase agreements with any expressway authority, regional transportation authority, or other entity and preserves existing lease-purchase agreements;
- Revises provisions relating to the uses of tolls collected on Alligator Alley to include the operation of a fire station;
- Revises provisions relating to FDOT purchases of plant materials for roadside landscaping to allow compliance with federal law;
- Allows a federally-approved higher weight to be used in calculating whether a vehicle equipped with idle-reduction technology is overweight;
- Revises provisions relating to water management district public information systems to address federal law issues;
- Makes technical changes; and
- Repeals obsolete statutory provisions.

The fiscal impact of the bill is indeterminate. A net positive revenue impact to the State Transportation Trust Fund is expected.

II. Present Situation:

The present situation is discussed below in Effect of Proposed Changes in this bill analysis.

III. Effect of Proposed Changes:

Wrecker Permits/Disabled Vehicles

Current Situation

Section 316.515(8), F.S., allows wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over legal weight, provided that the wrecker is operating under a special use permit. This provision was enacted during the 1997 session to comply with federal requirements and avoid a potential federal funds penalty. During the same session, s. 316.550(5), F.S., was enacted to authorize the Florida Department of Transportation (FDOT) to issue such overweight permits.¹ However, s. 316.530(3), F.S., (originally enacted as s. 316.205(3), F.S., in 1976) which allows wreckers to tow disabled vehicles when the combination of wrecker and towed vehicle are over the legal weight without a special use permit, was inadvertently overlooked and still remains in current law, despite the direct conflict with subsequently passed legislation. The provisions of s. 316.515(8), F.S., and s. 316.550(5), F.S., have been enforced since s 1997 since these revisions were enacted more recently.

Effect of Proposed Changes

Section 1 repeals s. 316.530(3), F.S., to remove obsolete language authorizing wreckers to tow disabled vehicles without a special use permit when the combination of wrecker and towed vehicle are over the legal weight.

Commercial Motor Vehicles/Auxiliary Power Units

Current Situation

Section 756 of the Energy Policy Act of 2005, “Idle Reduction and Energy Conservation Deployment Program,” amended 23 U.S.C. 127(a)(12) to allow for a national 400-pound exemption on the maximum weight limit on the interstate system for the additional weight of idle reduction technology (“auxiliary power units” or “APUs”)² on heavy-duty vehicles. Section 316.545(3)(c), F.S., was enacted by the 2010 Legislature to provide for a 400-pound reduction in the gross weight of commercial motor vehicles equipped with idle reduction technology when calculating a penalty for exceeding maximum weight limits. The reauthorized Federal-aid highway program, Moving Ahead for Progress in the 21st Century (MAP-21) further amended 23 U.S.C. 127(a)(12) to increase from 400 to 550 pounds the allowable exemption for additional weight of APUs.

¹ These changes are consistent with federal law, specifically 23 U.S.C. 127(a) and 23 C.F.R. 658.17, which authorize states to permit nondivisible loads and vehicles (defined to include emergency response vehicles) exceeding maximum weight limits upon the issuance of special permits in accordance with state law.

² An APU is a portable, truck-mounted system that can provide climate control and power for trucks without idling, keeping drivers comfortable during resting periods while reducing negative economic impact (fuel costs) and environmental impact (greenhouse gases and other pollutants, as well as noise).

Effect of Proposed Changes

Section 2 amends s. 316.545(3)(c), F.S., to increase from 400 to 550 pounds the authorized weight to be used in calculating a fine for an overweight vehicle equipped with fully functional APUs, as authorized by federal law, reducing a potential fine by \$7.50.

Strategic Airport Investment*Current Situation*

Section 332.007, F.S., requires the (FDOT) to prepare and continuously update an aviation and airport work program that separately identifies development projects and discretionary capacity improvement projects. A “Development project” is defined as “...any activity associated with the design, construction, purchase, improvement, or repair of a public-use airport or portion thereof...”³ “Discretionary capacity improvement projects” are defined as “capacity improvements ... which enhance intercontinental capacity at [specified] airports...”⁴

Subject to the availability of appropriated funds, the FDOT is authorized to participate in the capital cost of eligible public airport and aviation development projects, unless otherwise directed, at percentage rates that vary depending on factors such as available federal funding. The FDOT is also authorized, subject to the availability of appropriated funds in addition to aviation fuel tax revenues, to participate in the capital cost of eligible public airport and aviation discretionary capacity improvement projects, at percentage rates that vary.

The FDOT notes that the Legislature created a Strategic Investment Initiative within its Seaport Office during the 2012 Legislative Session and that the FDOT does not have a similar investment initiative or authority for the Aviation Program.

Effect of Proposed Changes

Section 3 creates s. 332.007(10), F.S., to authorize the FDOT to fund 100 percent of the project cost of strategic airport investment projects if the project:

- Provides important access and on-airport capacity improvements;
- Provides capital improvements that strategically position the state to maximize opportunities in international trade, logistics, and the aviation industry;
- Achieves state goals of an integrated intermodal transportation system; and
- Demonstrates the feasibility of available matching funds.

³ Section 332.004(4), F.S.

⁴ Section 332.004(5), F.S.

Lease-purchase Agreements

Current Situation

Expressway and bridge authorities created under ch. 348, F.S., in addition to the FDOT, currently operate toll facilities and collect and reinvest toll revenues. Various sections of ch. 348, F.S., authorize certain authorities to enter into lease-purchase agreements with the FDOT. In addition to authorities created under ch. 348, F.S., two transportation authorities created under ch. 343, F.S., and a bridge authority established by a special act, are authorized to enter into lease-purchase agreements with the FDOT. The FDOT has entered into lease-purchase agreements with some, but not all, of these authorities.

The FDOT is authorized to enter these agreements by s. 334.044, F.S. Additionally, s. 339.08(1)(g), F.S., allows the FDOT to lend or pay a portion of the operation and maintenance (O&M) and capital costs of any revenue-producing transportation project located on the State Highway System (SHS) or that is demonstrated to relieve traffic congestion on the SHS. The FDOT pays such costs using funds from the State Transportation Trust Fund (STTF).

In a typical lease-purchase agreement between the FDOT and a toll authority, the FDOT, as lessee, agrees to pay the O&M (which usually includes replacement and renewal, or the R&R) costs of the associated toll facility. At the end of the lease-purchase agreement, ownership of the facility is transferred to the State and the FDOT retains all revenues collected from the project, as well as the O&M responsibility.

The FDOT paid \$8.5 million of O&M expenses under existing lease-purchase agreements in Fiscal Year 2012-2013 and an additional \$38.4 million for R&R expenses, periodic maintenance, and toll equipment capital costs, on behalf of the authorities. Such payments accrue to an authority's long-term debt to the FDOT. When the O&M and the R&R expenses are not reimbursed by a toll authority on a current basis, *e.g.*, monthly or annually, the amounts paid from the STTF are added to the authority's long-term debt due to the FDOT. As of June 30, 2013, the total amount owed to FDOT by various toll authorities for such expenses totaled \$451.8 million.⁵

Plant Purchases for Roadside Landscaping

The FDOT is responsible for enhancing environmental benefits, preventing roadside erosion, conserving natural roadside growth and scenery, and providing for the implementation and maintenance of roadside conservation, enhancement, and stabilization programs.⁶ The FDOT is required to purchase all plant materials from Florida commercial nursery stock on a uniform, competitive basis. This requirement conflicts with federal requirements that specify a state transportation department cannot require the use of materials produced in-state or restrict the use of materials produced out-of-state.⁷ Failure to comply with federal requirements for purchases of

⁵ The FDOT email, October 22, 2013, on file in the Senate Transportation Committee.

⁶ See s. 334.044(26), F.S.

⁷ See 23 C.F.R. s. 635.409.

plant material for roadside landscaping may subject the FDOT to a significant federal funds penalty, generally 10 percent loss of annual federal highway funds.⁸

Effect of Proposed Changes

Section 4 amends s. 334.044(16), F.S., to prohibit the FDOT from entering into any lease-purchase agreement with any expressway authority, regional transportation authority or other entity effective July 1, 2014. Lease-purchase agreements existing as of July 1, 2013, will remain in effect. The bill will not limit FDOT's authority to enter into agreements with private entities to build, operate, own and finance a transportation facility under s. 334.30, F.S.

This section also amends s. 334.044(26), F.S., to authorize the FDOT to purchase all plant materials from Florida commercial nursery stock in this state on a uniform competitive bid basis, except as prohibited by applicable federal law or regulation. This revision will ensure compliance with federal regulation, avoiding a potential penalty which may result in a 10 percent loss of federal highway funds.

Toll Collection/Interoperable Facilities

Current Situation

During the 2012 Legislative Session, the Legislature enacted both HB 599 and SB 1998; both contained language authorizing the FDOT to enter into agreements with owners of public or private transportation facilities to allow the use of the FDOT's electronic toll collection and video billing systems to collect and enforce tolls and other charges related to the use of those facilities. However, the provisions of HB 599 and SB 1998 are not identical and portions are ambiguous. Section 338.161, F.S., now reflects four different history notes highlighting the differences between the two 2012 bills.

Effect of Proposed Changes

Section 5 amends s. 338.161(5), F.S., to clarify the potentially ambiguous language regarding agreements for use of the FDOT toll collection systems that were enacted in HB 599 and SB 1998 during the 2012 Legislative Session.

Alligator Alley

Current Situation

Section 338.26, F.S., provides that any excess revenues from Alligator Alley, after facility operation and maintenance, contractual obligations, reconstruction and restoration, and the development and operation of a fire station at mile marker 63, *may* be transferred to the South Florida Water Management District (SFWMD) Everglades Fund for specified projects.

⁸ See 23 U.S.C. s. 131(b).

The FDOT advises, based on Collier County projections, that operation of the fire station is expected to begin in County Fiscal Year 2014-2015 (October 1, 2014 through September 30, 2015).⁹ The FDOT finance plan for the Alligator Alley supports the funding levels requested by Collier County, but the funding is not currently in the Fiscal Year 2013-14 Adopted Work Program¹⁰. The FDOT and Collier County are still renegotiating the agreement. The funding levels requested by the county for operation of the fire station are:¹¹

FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
\$1,724,760	\$1,447,500	\$1,447,500	\$1,447,500	\$1,447,500

Effect of Proposed Changes

Section 6 amends s. 338.26, F.S., is amended to remove the obligation of Alligator Alley excess toll revenues to indefinitely operate and maintain the fire station at mile marker 63 and to authorize use of such revenues to reimburse a county or another local governmental entity for the direct actual costs of operating the fire station by interlocal agreement ending on June 30, 2018.

Toll Facilities Revolving Trust Fund

Current Situation

The Legislature repealed s. 338.251, F.S., during the 2012 Legislative Session.¹² That section created the Toll Facilities Revolving Trust Fund, a loan program created to develop and enhance the financial feasibility of revenue-producing road projects undertaken by local governmental entities and the Turnpike Enterprise. Two references to the now repealed trust fund remain in statute.

Effect of Proposed Changes

Sections 7 and 8 amend ss. 343.82(3)(d) and 343.922(4), F.S., to remove references to the previously repealed Toll Facilities Revolving Trust Fund.

Environmental Mitigation for Transportation Projects

Current Situation

Under s. 373.4137, F.S., the FDOT and participating transportation authorities offset adverse environmental impacts of transportation projects through the use of mitigation banks and other

⁹ The FDOT notes that another fire station is located on the Alley in Broward County. Broward County provided the funding for construction of that station and provides the funding for its operation.

¹⁰ Work Program Amendment W0063 submitted to the Governor's Office of Policy and Budget on February 13, 2014, adds \$1,724,760 to the Fiscal Year 2013-2014 Adopted Work Program. The amendment is on 14 day consultation (ending February 28, 2014) pursuant to s. 339.135, F.S.

¹¹ The FDOT email, February 13, 2014, on file in the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development.

¹² Ch. 2012-128, L.O.F.

mitigation options, including the payment of funds to the water management districts (WMDs) to develop and implement mitigation plans. The mitigation plan is developed by the WMDs and is ultimately approved by the Department of Environmental Protection (DEP). The FDOT, a participating transportation authority, or a WMD may exclude a specific project from the mitigation plan.

In 2012, HB 599 modified s. 373.413, F.S., to reflect that adverse impacts may be offset by the use of mitigation banks or the payment of funds to develop and implement mitigation plans. The mitigation plan is based on an environmental impact inventory that is created by the FDOT and reflects habitats that would be adversely impacted by transportation projects listed in the next three years of the FDOT's tentative work program. The FDOT provides funding in its work program to the DEP or the WMDs for its mitigation requirements. To fund the programs, the statute directs the FDOT and the authorities to pay \$75,000 per impacted acre, adjusted by a calculation using the Consumer Product Index (CPI).¹³

Under s. 373.4137, F.S., mitigation plans developed by the WMDs must consider water resource needs and focus on activities in wetlands and surface waters, including preservation, restoration and enhancement, as well as control of invasive and exotic vegetation. The WMDs must also consider the purchase of credits from public and private mitigation banks if the purchase provides equal benefit to water resources and is the most cost effective option. Before transportation projects are added to the WMDs mitigation plans, the FDOT must consider if using mitigation bank credits will be more cost-effective and efficient. The WMD mitigation plans are updated annually to reflect the most recent FDOT work program and transportation authority project list and may be amended throughout the year. The mitigation plans are submitted to the governing board of the WMD or its designee for approval, and to the DEP for final approval.¹⁴

The FDOT and the participating expressway authorities are required to transfer funds each year to pay for mitigation of the projected impact acreage resulting from projects identified in the inventory. The projected impact acreage and costs are reconciled quarterly with the actual impact acreage, and the costs and balances are adjusted.¹⁵

Effect of Proposed Changes

Section 9 amends s. 373.4137, F.S., to provide that mitigation options which satisfy state and federal requirements be carried out in a manner that promotes efficiency, timely project delivery, and cost-effectiveness. Environmental impact inventories for transportation projects proposed by the FDOT or a transportation authority must include:

- An environmental impact inventory of habitat impacts and the anticipated mitigation needed, and may include the anticipated amount of mitigation needed for future projects; and

¹³ See s. 373.4137, F.S.

¹⁴ *Id.*

¹⁵ *Id.*

- The anticipated mitigation needed based on the Uniform Mitigation Assessment Method (UMAM) adopted in Chapter 62-345, Florida Administrative Code, and must identify the proposed mitigation option.

The FDOT is required to consider using credits from a permitted mitigation bank before projects are identified for inclusion in a WMD plan, taking into account specified factors, including but not limited to the ability to satisfy state and federal requirements, maintenance, and liability.

The FDOT is authorized to implement the mitigation option identified in the environmental impact inventory by:

- Purchasing credits for current and future use directly from a mitigation bank;
- Purchasing mitigation services through the WMDs or the DEP;
- Conducting its own mitigation; or
- Using other mitigation options that meet state and federal requirements.

Funding for the identified mitigation option in the inventory must be included in the FDOT's work program under s. 339.135, F.S. The amount programmed each year must correspond to an estimated cost to mitigate for the functional loss identified in the inventory.

For mitigation implemented by the WMDs or the DEP, the amount paid each year, by FDOT or a transportation authority, must be based on mitigation services provided by the WMD or the DEP pursuant to an approved WMD mitigation plan. The WMDs or the DEP may request payment no sooner than 30 days before the date the funds are needed.

Each quarter, the projected amount of mitigation must be reconciled with the actual amount of mitigation needed for projects as permitted. The programming of funds must be adjusted to reflect the mitigation as permitted.

The FDOT may use the associated funds for the purchase of mitigation bank credits or any other mitigation option that satisfies the requirements if the WMD:

- Excludes a project from an approved WMD mitigation plan;
- Cannot timely permit a mitigation site to offset the impacts of an FDOT project identified in the inventory; or if
- The proposed mitigation does not meet state and federal requirements.

The WMD or the DEP, as appropriate, has continuing responsibility for the mitigation project upon final payment for mitigation as permitted, and the FDOT's or the participating transportation authority's obligation is satisfied.

Each WMD or the DEP is required to invoice the FDOT for mitigation services to offset only the impacts of an FDOT project identified in the inventory, beginning with the March 2015 WMD plans. If the WMD identifies the use of mitigation bank credits to offset an FDOT impact, the WMD must exclude that purchase from the mitigation plan and the FDOT must purchase the bank credits.

For mitigation activities occurring on existing WMD or DEP mitigation sites initiated with FDOT mitigation funds prior to July 1, 2013, the WMD or the DEP is required to invoice FDOT at \$75,000 per acre multiplied by the projected acres of impact. The cost per acre must be adjusted by a calculation using the CPI.

The WMD must maintain records of the costs incurred including:

- Land acquisition;
- Design and construction;
- Staff support, long-term maintenance and monitoring of the mitigation site; and
- Other costs necessary to meet federal requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. s. 332.

For purposes of preparing and implementing the mitigation plans to be adopted by the WMDs on or before March 1, 2014, the funds identified in the FDOT's work program or participating transportation authorities' escrow accounts are required to correspond to \$75,000 per acre multiplied by the projected acres of impact, adjusted by the CPI. The WMD must maintain records of the costs incurred in implementing the mitigation. If moneys paid to a WMD exceed the amount spent by the WMD to implement the mitigation, the funds must be refunded to the FDOT or the participating transportation authority. This provision expires June 30, 2015.

Each WMD is required annually by March 1 to develop a plan to offset only the impacts of transportation projects in the inventory for which a WMD is implementing mitigation. The WMD plan must:

- Identify the site where the WMD will mitigate;
- Identify the scope of the mitigation activities at each mitigation site;
- Identify the functional gain at each mitigation site as determined using the UMAM;
- Describe how the mitigation offsets the impacts of each transportation project as permitted; and
- Provide a schedule for the mitigation services.

The WMD must maintain records of costs incurred and payments received and refund to the FDOT or the participating transportation authority moneys that exceed the amount spent by the WMD to implement the mitigation.

The mitigation plan must be submitted to the WMD's governing board for review and approval. The WMD must provide a copy of the draft mitigation plan to the DEP and any person requesting a copy at least 14 days before governing board approval. The plan may not be implemented until it is subsequently approved by the DEP.

The existing requirement that the mitigation plan must include an explanation of why a mitigation bank was or was not chosen as a mitigation option for each transportation project with a funding request for the next fiscal year is removed.

The FDOT or a participating authority is prohibited from excluding a transportation project from the mitigation plan if mitigation is scheduled for implementation by the WMD in the current fiscal year, unless:

- The transportation project is removed from the FDOT's work program or a transportation authority's funding plan;
- The mitigation cannot be timely permitted to offset the impacts of an FDOT project identified in the inventory; or
- The proposed mitigation does not meet state and federal requirements.

If a project is removed from the work program or the mitigation plan, costs incurred by the WMD prior to removal are eligible for reimbursement by the FDOT or the participating authority.

The FDOT is required to exclude a project from the mitigation plan when the FDOT's finds that using mitigation credits promotes efficiency, timeliness in project delivery, cost effectiveness, and transfer of liability for success and long-term maintenance.

The WMDs are required to comply with specified federal permitting requirements in developing and implementing the mitigation plan. The WMDs must provide notice and coordinate with the FDOT, or the participating transportation authority, when federal permitting requirements require deviation from the approved mitigation plan. The FDOT must consider mitigation banks and other available mitigation options before amending the mitigation plan to include new projects.

Control of Outdoor Advertising/WMD Public Information Systems

Current Situation

Since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along Federal-aid Primary, Interstate, and National Highway System roads. The HBA allows the location of billboards in commercial or industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.¹⁶

Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation (USDOT)¹⁷ incorporating the HBA's required controls, the FDOT requires

¹⁶ 23 U.S.C. § 131(b)

¹⁷ Copy on file in the Senate Transportation Committee.

commercial signs to meet certain requirements when they are within a “controlled area”: *i.e.*, within 660 feet of Interstate and Federal-Aid Primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas. The agreement embodies the federally-required “effective control of the erection and maintenance of outdoor advertising signs, displays, and devices.” Absent this effective control, the non-compliance penalty of 10 percent of federal highway funds may be imposed.

Florida’s outdoor advertising laws are found in ch. 479, F.S., and are based on federal law and regulations and the 1972 agreement. Compliance with the provisions of ch. 479, F.S., ensures that the state remains in effective control of outdoor advertising as required by the HBA.

The federal-state agreement and s. 479.07, F.S., with limited exception, prohibit a person from erecting, operating, using, or maintaining any sign on the State Highway System outside an urban area or on any portion of the interstate or federal-aid primary highway system¹⁸ without first obtaining a permit for the sign and paying an annual fee. Certain signs, commonly referred to as “on-premise” signs, are expressly exempted by s. 479.16, F.S., from the requirement to obtain a permit, if the signs comply with the provisions of s. 479.11(4)-(8), F.S. However, that section expressly specifies that the following types of messages shall not be considered information regarding government services, activities, events, or entertainment:

- Messages which specifically reference any commercial enterprise;
- Messages which reference a commercial sponsor of any event;
- Personal messages; and,
- Political campaign messages.

SB 1986 (2012 Regular Session) created s. 373.618, F.S., authorizing public information systems to be located on property owned by the WMDs when certain terms and conditions are met. The system must display messages to the general public concerning water management services, activities, events, and sponsors, as well as other public service announcements, including watering restrictions, severe weather reports, amber alerts, and other essential information needed by the public. The law expressly prohibits use of the WMD funds to pay the cost to acquire, develop, construct, operate, or manage a public information system and requires that any necessary funds for a public information system be paid for and collected from private sponsors who may display commercial messages.

To the extent that any WMD public information system is not located within a “controlled area,” the provisions of s. 373.618, F.S., have no effect on the requirements of ch. 479, F.S. However, to the extent that any public information system is located within a “controlled area” and contains commercial messages or corporate sponsorship, that system violates both the federal-state agreement and provisions of ch. 479, F.S., which potentially subjects the FDOT to an annual loss of 10 percent of federal highway funding as a result of loss of control of outdoor advertising.

¹⁸ Also includes the national highway system pursuant to 23 U.S.C. 131(t) and s. 479.01(9), F.S.

Effect of Proposed Changes

Section 10 amends s. 373.618, F.S., to require local government review and approval of WMD public information systems and to remove the current exemption to the provisions of ch. 479, F.S., This will avoid a potential penalty which may result in a 10 percent loss of federal highway funds.

The bill takes effect July 1, 2014.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Section 2. The increased allowable weight of auxiliary power units (APUs) will decrease the potential fine for a commercial motor vehicle overweight violations by \$7.50.

Section 4. Motor fuel tax funds paid by citizens and businesses in a particular locality may be at less risk of diversion to a different area of the state in a manner contrary to the statutory allocation for those funds if the funds were expended by the Florida Department of Transportation (FDOT) through its normal work program process, rather than through a lease-purchase agreement.

Section 9. Private mitigation banks may experience increased participation associated with mitigation of transportation project environmental impacts.

C. Government Sector Impact:

Section 2. The increased allowable weight of APUs will decrease the potential fine for a commercial motor vehicle overweight violations by \$7.50. Overweight penalty fine revenues are deposited in the State Transportation Trust Fund (STTF). The maximum potential revenue loss based on number of violations in Fiscal Year 2012-2013 is

\$195,000 and will likely be less because all commercial motor vehicles are not equipped with APUs.

Section 4. The potential federal penalty (loss of 10 percent of federal highway funds) associated with the violation of the federal prohibition on in-state preferences for purchases of plant materials is eliminated.

Section 6. The obligation of Alligator Alley toll revenues to operate indefinitely a local fire station is removed. A positive fiscal impact to the STTF is expected.

Section 9. The FDOT expects a positive fiscal impact because:

- Mitigation will be based upon actual environmental impacts, rather than impact acres;
- Mitigation implemented by the water management districts (WMDs) will be based upon actual cost, rather than a CPI-adjusted cost; and
- Mitigation bank purchases will be conducted through the competitive bid process.

The costs to mitigate for the environmental impacts of transportation projects are included in the FDOT work program budget submitted annually to the Legislature for approval.

Section 10. The potential federal penalty (loss of 10 percent of federal highway funds) associated with loss of control of outdoor advertising related to WMD public information systems within “controlled areas” in violation of federal laws is eliminated.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.545, 332.007, 334.044, 338.161, 338.26, 343.82, 343.922, 373.4137, and 373.618.

This bill repeals section 316.530(3) 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/SB 696 by Appropriations on February 20, 2014: The Committee Substitute:

- Authorizes the FDOT to program funds in its Work Program based on the estimated cost of the necessary mitigation, rather than the fixed value of \$150,000 per mitigation credit;
- Restores existing bonding authority of the SFWMD to further Everglades restoration efforts using Alligator Alley excess toll revenues; and
- Extends the agreement, from 2017 to 2018, to fund the operating costs of a fire station on Alligator Alley using excess toll revenues.

B. Amendments:

None.

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



968900

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 207 - 246
and insert:

5. By interlocal agreement effective July 1, 2014, through no later than June 30, 2018, to reimburse a county or another local governmental entity for the direct actual costs of operating such fire station.

(b) Funds generated annually in excess of those required to pay the expenses in paragraph (a) may be transferred to the



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Everglades Fund of the South Florida Water Management District. The South Florida Water Management District shall deposit funds for projects undertaken pursuant to s. 373.4592 in the Everglades Trust Fund pursuant to s. 373.45926(4)(a). Any funds remaining in the Everglades Fund may be used for environmental projects to restore the natural values of the Everglades, subject to compliance with any applicable federal laws and regulations. Projects must ~~shall~~ be limited to:

1. ~~(a)~~ Highway redesign to allow for improved sheet flow of water across the southern Everglades.

2. ~~(b)~~ Water conveyance projects to enable more water resources to reach Florida Bay to replenish marine estuary functions.

3. ~~(c)~~ Engineering design plans for wastewater treatment facilities as recommended in the Water Quality Protection Program Document for the Florida Keys National Marine Sanctuary.

4. ~~(d)~~ Acquisition of lands to move STA 3/4 out of the Toe of the Boot, provided such lands are located within 1 mile of the northern border of STA 3/4.

5. ~~(e)~~ Other Everglades Construction Projects as described in the February 15, 1994, conceptual design document.

==== D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete line 189

and insert:

Section 6. Subsection (3) of section 338.26,

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



968900

40 And the title is amended as follows:
41 Delete lines 29 - 31
42 and insert:
43 Everglades Trust Fund;



639220

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/21/2014	.	
	.	
	.	
	.	

The Committee on Appropriations (Hays) recommended the following:

Senate Amendment

Delete lines 362 - 370

and insert:

~~current fiscal year.~~ The amount programmed each year by the Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 must correspond to an estimated cost to mitigate for the functional loss identified in the environmental impact inventory described in subsection (2) ~~The escrow account shall be~~

By the Committee on Transportation

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1 A bill to be entitled
 2 An act relating to the Department of Transportation;
 3 repealing s. 316.530(3), F.S., relating to load limits
 4 for certain towed vehicles; amending s. 316.545, F.S.;
 5 increasing the weight used in calculating whether a
 6 vehicle equipped with fully functional idle-reduction
 7 technology is overweight; updating terminology;
 8 amending s. 332.007, F.S.; authorizing the department
 9 to fund strategic airport investments; providing
 10 criteria; amending s. 334.044, F.S.; prohibiting the
 11 department from entering into a lease-purchase
 12 agreement with certain transportation authorities;
 13 providing that certain lease-purchase agreements are
 14 not invalidated; providing an exception from the
 15 requirement to purchase all plant materials from
 16 Florida commercial nursery stock; amending s. 338.161,
 17 F.S.; revising the authorization of the department to
 18 enter into an agreement with an owner of a
 19 transportation facility under which the department
 20 uses its electronic toll collection and video billing
 21 systems to collect for the owner certain charges for
 22 use of the owner's transportation facility; amending
 23 s. 338.26, F.S.; revising the uses of fees generated
 24 from Alligator Alley tolls to include the cost of
 25 design and construction of a fire station that may be
 26 used by certain local governments and certain related
 27 operating costs; providing that excess tolls, after
 28 payment of certain expenses, be transferred to the
 29 Everglades Trust Fund in accordance with a specified

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

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30 memorandum; removing authority of the South Florida
 31 Water Management District to issue bonds or notes;
 32 amending ss. 343.82 and 343.922, F.S.; removing
 33 references to advances from the previously repealed
 34 Toll Facilities Revolving Trust Fund as a source of
 35 funding for certain authority projects; amending s.
 36 373.4137, F.S.; providing legislative intent that
 37 environmental mitigation be implemented in a manner
 38 that promotes efficiency, timeliness in project
 39 delivery, and cost-effectiveness; revising the
 40 criteria for the environmental impact inventory and
 41 for mitigation of projected impacts identified in the
 42 environmental impact inventory; requiring the
 43 Department of Transportation to include funding for
 44 environmental mitigation for projects in its work
 45 program; revising the process and criteria for the
 46 payment by the department or participating
 47 transportation authorities of mitigation implemented
 48 by water management districts or the Department of
 49 Environmental Protection; revising the requirements
 50 for the payment to a water management district or the
 51 Department of Environmental Protection of the costs of
 52 mitigation planning and implementation of the
 53 mitigation required by a permit; revising the payment
 54 criteria for preparing and implementing mitigation
 55 plans adopted by water management districts for
 56 transportation impacts based on the environmental
 57 impact inventory; adding federal requirements for the
 58 development of a mitigation plan; providing for

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transportation projects in the environmental mitigation plan for which mitigation has not been specified; revising a water management district's responsibilities relating to a mitigation plan; amending s. 373.618, F.S.; subjecting certain public information systems to local government review or approval and to the requirements of ch. 479, F.S., relating to outdoor advertising; providing an effective date.

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

Section 1. Subsection (3) of section 316.530, Florida Statutes, is repealed.

Section 2. Subsection (3) of section 316.545, Florida Statutes, is amended to read:

316.545 Weight and load unlawful; special fuel and motor fuel tax enforcement; inspection; penalty; review.—

(3) A ~~Any~~ person who violates the overloading provisions of this chapter ~~is shall be~~ conclusively presumed to have damaged the highways of this state by reason of such overloading, and a fine shall be assessed which damage is hereby fixed as follows:

(a) When the excess weight is 200 pounds or less than the maximum ~~herein~~ provided in this chapter, the fine is ~~penalty shall be~~ \$10;

(b) Five cents per pound for each pound of weight in excess of the maximum ~~herein~~ provided in this chapter if when the excess weight is greater than exceeds 200 pounds. If However, ~~whenever~~ the gross weight of the vehicle or combination of

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vehicles is not greater than ~~does not exceed~~ the maximum allowable gross weight, the maximum fine for the first 600 pounds of unlawful axle weight ~~is shall be~~ \$10;

(c) For a vehicle equipped with fully functional idle-reduction technology, the fine is ~~any penalty shall be~~ calculated by reducing the actual gross vehicle weight or the internal bridge weight by the certified weight of the idle-reduction technology or by 550 ~~400~~ pounds, whichever is less. The vehicle operator must present written certification of the weight of the idle-reduction technology and must demonstrate or certify that the idle-reduction technology is fully functional at all times. This calculation is not allowed for vehicles described in s. 316.535(6);

(d) An apportionable vehicle, as defined in s. 320.01, operating on the highways of this state which is not without ~~being~~ properly licensed and registered is shall be subject to the penalties ~~as~~ provided in this section; and

(e) A vehicle ~~Vehicles~~ operating on the highways of this state from nonmember International Registration Plan jurisdictions which is are ~~are~~ not in compliance with ~~the provisions~~ of s. 316.605 is shall be subject to the penalties ~~as herein~~ provided in this section.

Section 3. Subsection (10) is added to section 332.007, Florida Statutes, to read:

332.007 Administration and financing of aviation and airport programs and projects; state plan.—

(10) The department may fund strategic airport investment projects at up to 100 percent of the project's cost if:

(a) Important access and on-airport capacity improvements

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are provided;

(b) Capital improvements that strategically position the state to maximize opportunities in international trade, logistics, and the aviation industry are provided;

(c) Goals of an integrated intermodal transportation system for the state are achieved; and

(d) Feasibility and availability of matching funds through federal, local, or private partners are demonstrated.

Section 4. Subsections (16) and (26) of section 334.044, Florida Statutes, are amended to read:

334.044 Department; powers and duties.—The department shall have the following general powers and duties:

(16) To plan, acquire, lease, construct, maintain, and operate toll facilities; to authorize the issuance and refunding of bonds; and to fix and collect tolls or other charges for travel on any such facilities. Notwithstanding any other law, the department may not enter into a lease-purchase agreement with an expressway authority, regional transportation authority, or other entity. This provision does not invalidate a lease-purchase agreement authorized under chapter 348 or chapter 2000-411, Laws of Florida, existing as of July 1, 2013, and does not limit the department's authority under s. 334.30.

(26) To provide for the enhancement of environmental benefits, including air and water quality; to prevent roadside erosion; to conserve the natural roadside growth and scenery; and to provide for the implementation and maintenance of roadside conservation, enhancement, and stabilization programs. At least No less than 1.5 percent of the amount contracted for construction projects shall be allocated by the department on a

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statewide basis for the purchase of plant materials. Department districts may not expend funds for landscaping in connection with any project that is limited to resurfacing existing lanes unless the expenditure has been approved by the department's secretary or the secretary's designee. To the greatest extent practical, at least a minimum of 50 percent of the funds allocated under this subsection shall be allocated for large plant materials and the remaining funds for other plant materials. Except as prohibited by applicable federal law or regulation, all plant materials shall be purchased from Florida commercial nursery stock in this state on a uniform competitive bid basis. The department shall develop grades and standards for landscaping materials purchased through this process. To accomplish these activities, the department may contract with nonprofit organizations having the primary purpose of developing youth employment opportunities.

Section 5. Subsection (5) of section 338.161, Florida Statutes, is amended to read:

338.161 Authority of department or toll agencies to advertise and promote electronic toll collection; expanded uses of electronic toll collection system; authority of department to collect tolls, fares, and fees for private and public entities.—

(5) If the department finds that it can increase nontoll revenues or add convenience or other value for its customers, and if a public or private transportation facility owner agrees that its facility will become interoperable with the department's electronic toll collection and video billing systems, the department may is authorized to enter into an agreement with the owner of such facility under which the

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175 ~~department uses private or public entities for the department's~~
 176 ~~use of its electronic toll collection and video billing systems~~
 177 ~~to collect and enforce for the owner tolls, fares,~~
 178 ~~administrative fees, and other applicable charges due imposed in~~
 179 ~~connection with use of the owner's facility transportation~~
 180 ~~facilities of the private or public entities that become~~
 181 ~~interoperable with the department's electronic toll collection~~
 182 ~~system.~~ The department may modify its rules regarding toll
 183 collection procedures and the imposition of administrative
 184 charges to be applicable to toll facilities that are not part of
 185 the turnpike system or otherwise owned by the department. This
 186 subsection ~~does may not be construed to~~ limit the authority of
 187 the department under any other ~~provision of~~ law or under any
 188 agreement entered into ~~before prior to~~ July 1, 2012.

189 Section 6. Subsections (3) and (4) of section 338.26,
 190 Florida Statutes, are amended to read:

191 338.26 Alligator Alley toll road.—

192 (3) (a) Fees generated from tolls shall be deposited in the
 193 State Transportation Trust Fund and shall be used: ~~and any~~
 194 ~~amount of funds generated annually in excess of that required~~

195 1. To reimburse outstanding contractual obligations; ~~and~~

196 2. To operate and maintain the highway and toll facilities,
 197 including reconstruction and restoration; ~~and~~

198 3. To pay for those projects that are funded with Alligator
 199 Alley toll revenues and that are contained in the 1993-1994
 200 adopted work program or the 1994-1995 tentative work program
 201 submitted to the Legislature on February 22, 1994; ~~and~~

202 4. To design develop and construct operate a fire station
 203 at mile marker 63 on Alligator Alley, which may be used by a

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204 county or another local governmental entity to provide fire,
 205 rescue, and emergency management services to the public on
 206 ~~adjacent counties along Alligator Alley; and~~

207 5. By interlocal agreement effective July 1, 2014, through
 208 no later than June 30, 2017, to reimburse a county or another
 209 local governmental entity for the direct actual costs of
 210 operating such fire station. ~~r~~

211 (b) Funds generated annually in excess of those required to
 212 pay the expenses in paragraph (a) may be transferred to the
 213 Everglades Fund of the South Florida Water Management District
 214 in accordance with the memorandum of understanding of June 30,
 215 1997, between the district and the department. The South Florida
 216 Water Management District shall deposit funds for projects
 217 undertaken pursuant to s. 373.4592 in the Everglades Trust Fund
 218 pursuant to s. 373.45926(4)(a). Any funds remaining in the
 219 Everglades Fund may be used for environmental projects to
 220 restore the natural values of the Everglades, subject to
 221 compliance with any applicable federal laws and regulations.
 222 Projects must ~~shall~~ be limited to:

223 1. ~~(a)~~ Highway redesign to allow for improved sheet flow of
 224 water across the southern Everglades.

225 2. ~~(b)~~ Water conveyance projects to enable more water
 226 resources to reach Florida Bay to replenish marine estuary
 227 functions.

228 3. ~~(c)~~ Engineering design plans for wastewater treatment
 229 facilities as recommended in the Water Quality Protection
 230 Program Document for the Florida Keys National Marine Sanctuary.

231 4. ~~(d)~~ Acquisition of lands to move STA 3/4 out of the Toe
 232 of the Boot, provided such lands are located within 1 mile of

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the northern border of STA 3/4.

~~5.(e) Other Everglades Construction Projects as described in the February 15, 1994, conceptual design document.~~

~~(4) The district may issue revenue bonds or notes under s. 373.584 and pledge the revenue from the transfers from the Alligator Alley toll revenues as security for such bonds or notes. The proceeds from such revenue bonds or notes shall be used for environmental projects; at least 50 percent of said proceeds must be used for projects that benefit Florida Bay, as described in this section subject to resolutions approving such activity by the Board of Trustees of the Internal Improvement Trust Fund and the governing board of the South Florida Water Management District and the remaining proceeds must be used for restoration activities in the Everglades Protection Area.~~

Section 7. Paragraph (d) of subsection (3) of section 343.82, Florida Statutes, is amended to read:

343.82 Purposes and powers.—

(3)

(d) The authority may undertake projects or other improvements in the master plan in phases as particular projects or segments thereof become feasible, as determined by the authority. In carrying out its purposes and powers, the authority may request funding and technical assistance from the department and appropriate federal and local agencies, including, but not limited to, state infrastructure bank loans, ~~advances from the Toll Facilities Revolving Trust Fund, and from any other sources.~~

Section 8. Subsection (4) of section 343.922, Florida Statutes, is amended to read:

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343.922 Powers and duties.—

(4) The authority may undertake projects or other improvements in the master plan in phases as particular projects or segments become feasible, as determined by the authority. The authority shall coordinate project planning, development, and implementation with the applicable local governments. The authority's projects that are transportation oriented must ~~shall~~ be consistent to the maximum extent feasible with the adopted local government comprehensive plans at the time such projects they are funded for construction. Authority projects that are not transportation oriented and meet the definition of development pursuant to s. 380.04 must ~~shall~~ be consistent with the local comprehensive plans. In carrying out its purposes and powers, the authority may request funding and technical assistance from the department and appropriate federal and local agencies, including, but not limited to, state infrastructure bank loans, ~~advances from the Toll Facilities Revolving Trust Fund, and funding and technical assistance from any other source.~~

Section 9. Section 373.4137, Florida Statutes, is amended to read:

373.4137 Mitigation requirements for specified transportation projects.—

(1) The Legislature finds that environmental mitigation for the impact of transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 can be more effectively achieved by regional, long-range mitigation planning rather than on a project-by-project basis. It is the intent of the

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

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Legislature that mitigation to offset the adverse effects of these transportation projects be funded by the Department of Transportation and be carried out by the use of mitigation banks and any other mitigation options that satisfy state and federal requirements in a manner that promotes efficiency, timeliness in project delivery, and cost-effectiveness.

(2) Environmental impact inventories for transportation projects proposed by the Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 shall be developed as follows:

(a) By July 1 of each year, the Department of Transportation, or a transportation authority established pursuant to chapter 348 or chapter 349 which chooses to participate in the program, shall submit to the water management districts a list of its projects in the adopted work program and an environmental impact inventory of habitat impacts and the anticipated mitigation needed to offset impacts as described in paragraph (b). The environmental impact inventory must be based on habitats addressed in the rules adopted pursuant to this part, and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344, and the Department of Transportation's which may be impacted by its plan of construction for transportation projects in the next 3 years of the tentative work program. The Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 may also include in its environmental impact inventory the habitat impacts and the anticipated amount of mitigation needed for ~~of~~ any future transportation project. The Department of Transportation and each transportation authority established pursuant to chapter

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348 or chapter 349 may fund any mitigation activities for future projects using current year funds.

(b) The environmental impact inventory ~~must~~ shall include a description of ~~these~~ the habitat impacts, including ~~their~~ the location, acreage, and type; the anticipated mitigation needed based on the functional loss as determined through the Uniform Mitigation Assessment Method (UMAM) adopted in chapter 62-345, Florida Administrative Code; identification of the proposed mitigation option; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a list of threatened species, endangered species, and species of special concern affected by the proposed project.

(c) Before projects are identified for inclusion in a water management district mitigation plan as described in subsection (4), the Department of Transportation must consider using credits from a permitted mitigation bank. The Department of Transportation must consider the availability of suitable and sufficient mitigation bank credits within the transportation project's area, the ability to satisfy commitments to regulatory and resource agencies, the availability of suitable and sufficient mitigation purchased or developed under this section, the ability to complete suitable existing water management district or Department of Environmental Protection mitigation sites initiated with Department of Transportation mitigation funds, and the ability to satisfy state and federal requirements, including long-term maintenance and liability.

(3) (a) To implement the mitigation option ~~fund development and implementation of the mitigation plan for the projected~~

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impacts identified in the environmental impact inventory described in subsection (2), the Department of Transportation may purchase credits for current and future use directly from a mitigation bank, purchase mitigation services through the water management districts or the Department of Environmental Protection, conduct its own mitigation, or use other mitigation options that meet state and federal requirements. Funding for the identified mitigation option as described in the environmental impact inventory must be included in ~~shall~~ identify funds quarterly in an escrow account within the State Transportation Trust Fund for the environmental mitigation phase of projects budgeted by the Department of Transportation's work program developed pursuant to s. 339.135 Transportation for the current fiscal year. The amount programmed each year by the Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 must correspond to an estimated cost per credit of \$150,000 multiplied by the projected number of credits identified in the environmental impact inventory described in subsection (2). This estimated cost per credit must be adjusted every 2 years by the Department of Transportation based on the average cost per UMAM credit paid through this section. The escrow account shall be maintained by the Department of Transportation for the benefit of the water management districts. Any interest earnings from the escrow account shall remain with the Department of Transportation.

(b) Each transportation authority established pursuant to chapter 348 or chapter 349 which ~~that~~ chooses to participate in this program shall create an escrow account within its financial

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structure and deposit funds in the account to pay for the environmental mitigation phase of projects budgeted for the current fiscal year. The escrow account shall be maintained by the authority for the benefit of the water management districts. Any interest earnings from the escrow account must ~~shall~~ remain with the authority.

(c) For mitigation implemented by the water management district or the Department of Environmental Protection, as appropriate, the amount paid each year must be based on mitigation services provided by the water management districts or the Department of Environmental Protection pursuant to an approved water management district mitigation plan, as described in subsection (4). Except for current mitigation projects in the monitoring and maintenance phase and except as allowed by paragraph (d), The water management districts or the Department of Environmental Protection, as appropriate, may request payment a transfer of funds from an escrow account no sooner than 30 days before the date the funds are needed to pay for activities associated with development or implementation of permitted mitigation that meets the requirements of this part, 33 U.S.C. s. 1344, and 33 C.F.R. part 332, in the approved water management district mitigation plan described in subsection (4) for the current fiscal year, ~~including, but not limited to,~~ design, engineering, production, and staff support. Actual conceptual plan preparation costs incurred before plan approval may be submitted to the Department of Transportation or the appropriate transportation authority each year with the plan. The conceptual plan preparation costs of each water management district will be paid from mitigation funds associated with the

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environmental impact inventory for the current year. The amount transferred to the escrow accounts each year by the Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 shall correspond to a cost per acre of \$75,000 multiplied by the projected acres of impact identified in the environmental impact inventory described in subsection (2). However, the \$75,000 cost per acre does not constitute an admission against interest by the state or its subdivisions and is not admissible as evidence of full compensation for any property acquired by eminent domain or through inverse condemnation. Each July 1, the cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. Each quarter, The projected amount of mitigation acreage of impact shall be reconciled each quarter with the actual amount of mitigation needed for acreage of impact of projects as permitted, including permit modifications, pursuant to this part and s. 404 of the Clean Water Act, 33 U.S.C. s. 1344. The subject year's programming transfer of funds shall be adjusted accordingly to reflect the mitigation acreage of impacts as permitted. If the water management district excludes a project from an approved water management district mitigation plan, if the water management district cannot timely permit a mitigation site to offset the impacts of a Department of Transportation project identified in the environmental impact inventory, or if the proposed mitigation does not meet state and federal

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requirements, the Department of Transportation may use the associated funds for the purchase of mitigation bank credits or any other mitigation option that satisfies state and federal requirements. The Department of Transportation and participating transportation authorities established pursuant to chapter 348 or chapter 349 are authorized to transfer such funds from the escrow accounts to the water management districts to carry out the mitigation programs. Environmental mitigation funds that are identified for or maintained in an escrow account for the benefit of a water management district may be released if the associated transportation project is excluded in whole or part from the mitigation plan. For a mitigation project that is in the maintenance and monitoring phase, the water management district may request and receive a one-time payment based on the project's expected future maintenance and monitoring costs. Upon final disbursement of the final maintenance and monitoring payment for mitigation of a transportation project as permitted, the obligation of the Department of Transportation or the participating transportation authority is satisfied, and the water management district or the Department of Environmental Protection, as appropriate, has continuing responsibility for the mitigation project, the escrow account for the project established by the Department of Transportation or the participating transportation authority may be closed. Any interest earned on these disbursed funds shall remain with the water management district and must be used as authorized under this section.

(d) Beginning with the March 2015 water management district mitigation plans in the 2005-2006 fiscal year, each water

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management district or the Department of Environmental Protection, as appropriate, shall invoice the Department of Transportation for mitigation services to offset only the impacts of a Department of Transportation project identified in the environmental impact inventory, including planning, design, construction, maintenance and monitoring, and other costs necessary to meet the requirements of this section, 33 U.S.C. s. 1344, and 33 C.F.R. part 332 ~~be paid a lump-sum amount of \$75,000 per acre, adjusted as provided under paragraph (c), for federally funded transportation projects that are included on the environmental impact inventory and that have an approved mitigation plan. If the water management district identifies the use of mitigation bank credits to offset a Department of Transportation impact, the water management district shall exclude that purchase from the mitigation plan, and the Department of Transportation shall purchase the bank credits. Beginning in the 2009-2010 fiscal year, each water management district shall be paid a lump-sum amount of \$75,000 per acre, adjusted as provided under paragraph (c), for federally funded and nonfederally funded transportation projects that have an approved mitigation plan. All mitigation costs, including, but not limited to, the costs of preparing conceptual plans and the costs of design, construction, staff support, future maintenance, and monitoring the mitigated acres shall be funded through these lump-sum amounts.~~

(e) For mitigation activities occurring on existing water management district or Department of Environmental Protection mitigation sites initiated with Department of Transportation mitigation funds before July 1, 2013, the water management

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district or the Department of Environmental Protection, as appropriate, shall invoice the Department of Transportation or a participating transportation authority at a cost per acre of \$75,000 multiplied by the projected acres of impact as identified in the environmental impact inventory. The cost per acre must be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. When implementing the mitigation activities necessary to offset the permitted impacts as provided in the approved mitigation plan, the water management district shall maintain records of the costs incurred in implementing the mitigation. The records must include, but are not limited to, costs for planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332.

(f) For purposes of preparing and implementing the mitigation plans to be adopted by the water management districts on or before March 1, 2014, for impacts based on the July 1, 2013, environmental impact inventory, the funds identified in the Department of Transportation's work program or participating transportation authorities' escrow accounts must correspond to a cost per acre of \$75,000 multiplied by the projected acres of impact as identified in the environmental impact inventory. The cost per acre must be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States

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Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. Payment under this paragraph is limited to mitigation activities that are identified in the first year of the 2013 mitigation plan and for which the transportation project is permitted and are in the Department of Transportation's adopted work program, or equivalent for a transportation authority. When implementing the mitigation activities necessary to offset the permitted impacts as provided in the approved mitigation plan, the water management district shall maintain records of the costs incurred in implementing the mitigation. The records must include, but are not limited to, costs for planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332. To the extent moneys paid to a water management district by the Department of Transportation or a participating transportation authority are greater than the amount spent by the water management districts in implementing the mitigation to offset the permitted impacts, these funds must be refunded to the Department of Transportation or participating transportation authority. This paragraph expires June 30, 2015.

(4) Before March 1 of each year, each water management district shall develop a mitigation plan to offset only the impacts of transportation projects in the environmental impact inventory for which a water management district is implementing mitigation that meets the requirements of this section, 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management

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district mitigation plan must be developed, in consultation with the Department of Environmental Protection, the United States Army Corps of Engineers, the Department of Transportation, participating transportation authorities established pursuant to chapter 348 or chapter 349, ~~and~~ other appropriate federal, state, and local governments, and other interested parties, including entities operating mitigation banks, ~~shall develop a plan for the primary purpose of complying with the mitigation requirements adopted pursuant to this part and 33 U.S.C. s. 1344.~~ In developing such plans, the water management districts shall use sound ecosystem management practices to address significant water resource needs and consider ~~shall focus on~~ activities of the Department of Environmental Protection and the water management districts, such as surface water improvement and management (SWIM) projects and lands identified for potential acquisition for preservation, restoration, or enhancement, and the control of invasive and exotic plants in wetlands and other surface waters, to the extent that the activities comply with the mitigation requirements adopted under this part, ~~and~~ 33 U.S.C. s. 1344, and 33 C.F.R. part 332. The water management district mitigation plan must identify each site where the water management district will mitigate for a transportation project. For each mitigation site, the water management district shall provide the scope of the mitigation services; provide the functional gain as determined through the UMAM adopted in chapter 62-345, Florida Administrative Code; describe how the mitigation offsets the impacts of each transportation project as permitted; and provide a schedule for the mitigation services. The water management districts shall

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581 maintain records of costs incurred and payments received for
 582 providing these services. Records must include, but are not
 583 limited to, planning, land acquisition, design, construction,
 584 staff support, long-term maintenance and monitoring of the
 585 mitigation site, and other costs necessary to meet the
 586 requirements of 33 U.S.C. s. 1344 and 33 C.F.R. part 332. To the
 587 extent moneys paid to a water management district by the
 588 Department of Transportation or a participating transportation
 589 authority are greater than the amount spent by the water
 590 management districts in providing the mitigation services to
 591 offset the permitted transportation project impacts, these
 592 moneys must be refunded to the Department of Transportation or
 593 participating transportation authority In determining the
 594 activities to be included in the plans, the districts shall
 595 consider the purchase of credits from public or private
 596 mitigation banks permitted under s. 373.4136 and associated
 597 federal authorization and shall include the purchase as a part
 598 of the mitigation plan when the purchase would offset the impact
 599 of the transportation project, provide equal benefits to the
 600 water resources than other mitigation options being considered,
 601 and provide the most cost-effective mitigation option. These
 602 mitigation plan shall be submitted to the water management
 603 district governing board, or its designee, for review and
 604 approval. At least 14 days before approval by the governing
 605 board, the water management district shall provide a copy of the
 606 draft mitigation plan to the Department of Environmental
 607 Protection and any person who has requested a copy. Subsequent
 608 to the governing board approval, the mitigation plan shall be
 609 submitted to the Department of Environmental Protection for

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610 approval. The plan may not be implemented until it is submitted
 611 to, and approved, in part or in its entirety, by, the Department
 612 of Environmental Protection.

613 ~~(a) For each transportation project with a funding request~~
 614 ~~for the next fiscal year, the mitigation plan must include a~~
 615 ~~brief explanation of why a mitigation bank was or was not chosen~~
 616 ~~as a mitigation option, including an estimation of identifiable~~
 617 ~~costs of the mitigation bank and nonbank options and other~~
 618 ~~factors such as time saved, liability for success of the~~
 619 ~~mitigation, and long-term maintenance.~~

620 (a)(b) Specific projects may be excluded from the
 621 mitigation plan, in whole or in part, and are not subject to
 622 this section upon the election of the Department of
 623 Transportation, a transportation authority if applicable, or the
 624 appropriate water management district. The Department of
 625 Transportation or a participating transportation authority may
 626 not exclude a transportation project from the mitigation plan if
 627 mitigation is scheduled for implementation by the water
 628 management district in the current fiscal year unless the
 629 transportation project is removed from the Department of
 630 Transportation's work program or transportation authority
 631 funding plan, the mitigation cannot be timely permitted to
 632 offset the impacts of a Department of Transportation project
 633 identified in the environmental impact inventory, or the
 634 proposed mitigation does not meet state and federal
 635 requirements. If a project is removed from the work program or
 636 the mitigation plan, costs spent by the water management
 637 district before removal are eligible for reimbursement by the
 638 Department of Transportation or participating transportation

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639 authority.

640 ~~(b)(e)~~ When determining which projects to include in or
 641 exclude from the mitigation plan, the Department of
 642 Transportation shall investigate using credits from a permitted
 643 mitigation bank before those projects are submitted for
 644 inclusion in a water management district mitigation ~~the~~ plan.
 645 The Department of Transportation shall exclude a project from
 646 the mitigation plan if the investigation undertaken pursuant to
 647 this paragraph results in the conclusion that the use of credits
 648 from a permitted mitigation bank promotes efficiency, timeliness
 649 in project delivery. ~~The investigation shall consider the cost-~~
 650 ~~effectiveness, and of mitigation bank credits, including, but~~
 651 ~~not limited to, factors such as time saved, transfer of~~
 652 ~~liability for success of the mitigation, and long-term~~
 653 ~~maintenance.~~

654 (5) The water management district shall ensure that
 655 mitigation requirements pursuant to 33 U.S.C. s. 1344 and 33
 656 C.F.R. part 332 are met for the impacts identified in the
 657 environmental impact inventory for which the water management
 658 district will implement mitigation described in subsection (2),
 659 by implementation of the approved mitigation plan described in
 660 subsection (4) to the extent funding is provided by the
 661 Department of Transportation, or a transportation authority
 662 established pursuant to chapter 348 or chapter 349, if
 663 applicable. In developing and implementing the mitigation plan,
 664 the water management district shall comply with federal
 665 permitting requirements pursuant to 33 U.S.C. s. 1344 and 33
 666 C.F.R. part 332. During the federal permitting process, the
 667 water management district may deviate from the approved

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668 mitigation plan in order to comply with federal permitting
 669 requirements upon notice and coordination with the Department of
 670 Transportation or participating transportation authority.

671 (6) The water management district mitigation plans shall be
 672 updated annually to reflect the most current Department of
 673 Transportation work program and project list of a transportation
 674 authority established pursuant to chapter 348 or chapter 349, if
 675 applicable, and may be amended throughout the year to anticipate
 676 schedule changes or additional projects that ~~which~~ may arise.
 677 Before amending the mitigation plan to include new projects, the
 678 Department of Transportation must consider mitigation banks and
 679 other available mitigation options that meet state and federal
 680 requirements. Each update and amendment of the mitigation plan
 681 shall be submitted to the governing board of the water
 682 management district or its designee for approval. However, such
 683 approval does ~~shall~~ not apply ~~be applicable~~ to a deviation as
 684 described in subsection (5).

685 (7) Upon approval by the governing board of the water
 686 management district and the Department of Environmental
 687 Protection ~~or its designee~~, the mitigation plan shall ~~be deemed~~
 688 ~~to~~ satisfy the mitigation requirements under this part for
 689 impacts specifically identified in the environmental impact
 690 inventory described in subsection (2) and any other mitigation
 691 requirements imposed by local, regional, and state agencies for
 692 these same impacts. The approval of the governing board of the
 693 water management district and the Department of Environmental
 694 Protection authorizes ~~or its designee shall authorize~~ the
 695 activities proposed in the mitigation plan, and no other state,
 696 regional, or local permit or approval is ~~shall be~~ necessary.

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697 (8) This section ~~does shall~~ not be ~~constructed to~~ eliminate
 698 the need for the Department of Transportation or a
 699 transportation authority established pursuant to chapter 348 or
 700 chapter 349 to comply with the requirement to implement
 701 practicable design modifications, including realignment of
 702 transportation projects, to reduce or eliminate the impacts of
 703 its transportation projects on wetlands and other surface waters
 704 as required by rules adopted pursuant to this part, or to
 705 diminish the authority under this part to regulate other
 706 impacts, including water quantity or water quality impacts, or
 707 impacts regulated under this part which ~~that~~ are not identified
 708 in the environmental impact inventory described in subsection
 709 (2).

710 ~~(9) The process for environmental mitigation for the impact~~
 711 ~~of transportation projects under this section shall be available~~
 712 ~~to an expressway, bridge, or transportation authority~~
 713 ~~established under chapter 348 or chapter 349. Use of this~~
 714 ~~process may be initiated by an authority depositing the~~
 715 ~~requisite funds into an escrow account set up by the authority~~
 716 ~~and filing an environmental impact inventory with the~~
 717 ~~appropriate water management district. An authority that~~
 718 ~~initiates the environmental mitigation process established by~~
 719 ~~this section shall comply with subsection (6) by timely~~
 720 ~~providing the appropriate water management district with the~~
 721 ~~requisite work program information. A water management district~~
 722 ~~may draw down funds from the escrow account as provided in this~~
 723 ~~section.~~

724 Section 10. Section 373.618, Florida Statutes, is amended
 725 to read:

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726 373.618 Public service warnings, alerts, and
 727 announcements.—The Legislature believes it is in the public
 728 interest that ~~each all~~ water management ~~district districts~~
 729 created pursuant to s. 373.069 own, acquire, develop, construct,
 730 operate, and manage public information systems. Public
 731 information systems may be located on property owned by the
 732 water management district, upon terms and conditions approved by
 733 the water management district, and must display messages to the
 734 general public concerning water management services, activities,
 735 events, and sponsors, as well as other public service
 736 announcements, including watering restrictions, severe weather
 737 reports, amber alerts, and other essential information needed by
 738 the public. ~~Local government review or approval is not required~~
 739 ~~for a public information system owned or hereafter acquired,~~
 740 ~~developed, or constructed by the water management district on~~
 741 ~~its own property.~~ A public information system is subject to
 742 exempt from the requirements of chapter 479. Water management
 743 district funds may not be used to pay the cost to acquire,
 744 develop, construct, operate, or manage a public information
 745 system. Such system ~~Any necessary funds for a public information~~
 746 ~~system~~ shall be paid for with funds and collected from private
 747 sponsors, who may display commercial messages.

748 Section 11. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/20/14

Meeting Date

Topic DOT

Bill Number 696
(if applicable)

Name Leticia Adams

Amendment Barcode _____
(if applicable)

Job Title Senior Policy Director

Address 136 S. Bronough St.
Street

Phone 850 544 6866

Tall FL 32301
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic F-DOT

Bill Number 694
(if applicable)

Name Gina Evans

Amendment Barcode _____
(if applicable)

Job Title Dir. of Gov Affairs

Address PO Box 20027

Phone 813 575 0955

Street

Tampa

FL

33622

City

State

Zip

E-mail gevans@tampaairport.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Tampa International Airport

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
 Appropriations Subcommittee on Transportation,
 Tourism, and Economic Development, *Chair*
 Appropriations
 Appropriations Subcommittee on Finance and Tax
 Environmental Preservation and Conservation
 Ethics and Elections
 Gaming
 Judiciary
 Military Affairs, Space, and Domestic Security
 Rules

JOINT COMMITTEE:
 Joint Legislative Budget Commission

SENATOR ANDY GARDINER
 13th District

February 19, 2014

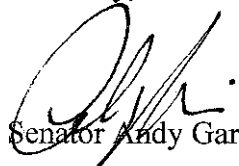
The Honorable Joe Negron, Chair
 Committee on Appropriations
 201 The Capitol
 404 South Monroe Street
 Tallahassee, FL 32399

Dear Chair Negron:

I am writing to respectfully request that I be excused from the Committee on Appropriations meeting scheduled for Thursday, February 20. I have a prior commitment and will not be able to attend.

If you have any questions regarding this request, please do not hesitate to call my office. Thank you for your time and consideration of this matter.

Sincerely,


 Senator Andy Gardiner



AG:gh

Cc: Cindy Kynoch, Staff Director
 Alicia Weiss, Administrative Assistant

SENATE APPROPRIATIONS
 RECEIVED
 14 FEB 19 PM 3:38
 SENT TO: CHAIRMAN
 STAFF DIR. STAFF

REPLY TO:

- ☐ 1013 East Michigan Street, Orlando, Florida 32806 (407) 428-5800
- ☐ 420 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5013

Senate's Website: www.flsenate.gov

DON GAETZ
 President of the Senate

GARRETT RICHTER
 President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Gaming, Chair
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health
and Human Services
Banking and Insurance
Commerce and Tourism
Judiciary
Rules
Transportation

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR GARRETT RICHTER

President Pro Tempore
23rd District

February 13, 2014

The Honorable Joe Negron, Chair
Committee on Appropriations
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Negron:

I respectfully asked to be excused from the Appropriations Committee meeting scheduled for February 20, 2014.

Sincerely,

A handwritten signature in black ink, appearing to read "Garrett Richter".

Garrett Richter

A handwritten signature in black ink, appearing to read "Joe Negron".

cc: Cindy Kynoch, Staff Director

REPLY TO:

- ☐ 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
- ☐ 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
- ☐ 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33636 (239) 338-2777

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JEREMY RING
29th District

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Appropriations Subcommittee on Finance and
Tax, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Commerce and Tourism
Judiciary
Rules

JOINT COMMITTEES:
Joint Legislative Auditing Committee
Joint Select Committee on Collective Bargaining

February 17, 2014

Senator Joe Negron
412 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Negron,

I am requesting to be excused from the Senate Appropriations Committee scheduled for February 20th due to conflicts that require me to return home from Tallahassee.

Thank you in advance for considering this request to be excused from the Appropriations Committee meeting on the 20th due to these unforeseen conflicts. Please do not hesitate to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Jeremy Ring".

Jeremy Ring
Senator District 29

A handwritten signature in cursive script that reads "Joe Negron".

CC: Cynthia Kynoch, Staff Director

REPLY TO:

- ☐ 5790 Margate Boulevard, Margate, Florida 33063 (954) 917-1392 FAX: (954) 917-1394
- ☐ 405 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: KN 412

Caption: Senate Appropriations Committee

Case:

Judge:

Type:

Started: 2/20/2014 1:01:05 PM

Ends: 2/20/2014 2:53:10 PM

Length: 01:52:06

1:01:07 PM	Sen. Negron (Chair)
1:02:23 PM	S 676
1:02:50 PM	Sen. Negron
1:04:07 PM	S 678
1:04:13 PM	Sen. Hays
1:04:21 PM	Sen. Negron
1:05:23 PM	S 680
1:05:30 PM	Sen. Hays
1:05:42 PM	Sen. Negron
1:06:38 PM	S 682
1:06:44 PM	Sen. Hays
1:06:55 PM	Sen. Negron
1:07:47 PM	S 684
1:07:59 PM	Sen. Benacquisto
1:08:09 PM	Sen. Negron
1:09:01 PM	S 686
1:09:23 PM	Sen. Benacquisto
1:09:37 PM	Sen. Negron
1:10:32 PM	S 688
1:10:41 PM	Sen. Benacquisto
1:10:51 PM	Sen. Negron
1:12:10 PM	S 224
1:12:15 PM	Sen. Benacquisto
1:12:35 PM	Sen. Negron
1:12:40 PM	Am. 755288
1:12:51 PM	Sen. Benacquisto
1:13:16 PM	Sen. Negron
1:13:53 PM	Sen. Lee
1:14:37 PM	Sen. Negron
1:15:43 PM	S 224
1:16:00 PM	Stephen Winn, Executive Director, Florida Osteopathic Medical Association (waives in support)
1:16:08 PM	Beth Labasky, Consultant, Chronic Obstructive Pulmonary Disease Foundation/Alpha 1 Foundation
(waives in support)	
1:16:21 PM	Sen. Benacquisto
1:17:28 PM	Sen. Negron
1:17:33 PM	Sen. Lee
1:17:39 PM	Sen. Benacquisto
1:17:49 PM	Sen. Lee
1:18:01 PM	Sen. Benacquisto
1:18:22 PM	Sen. Lee
1:18:55 PM	Sen. Benacquisto
1:19:44 PM	Sen. Lee
1:19:50 PM	Sen. Negron
1:20:02 PM	Sen. Benacquisto
1:20:38 PM	Sen. Negron
1:20:53 PM	Sen. Lee
1:22:10 PM	Sen. Joyner
1:23:32 PM	Sen. Negron
1:23:42 PM	Sen. Benacquisto
1:25:06 PM	Sen. Negron
1:26:02 PM	S 360
1:26:09 PM	Sen. Bradley

1:27:53 PM	Sen. Negron
1:28:03 PM	Sen. Evers
1:28:16 PM	Sen. Negron
1:28:42 PM	PCS 125880
1:29:03 PM	Sen. Negron
1:29:44 PM	Sen. Bradley
1:30:38 PM	Sen. Negron
1:31:26 PM	S 522
1:31:35 PM	Sen. Grimsley
1:31:57 PM	PCS 387996
1:32:04 PM	Sen. Grimsley
1:35:39 PM	Sen. Negron
1:36:10 PM	Sen. Joyner
1:36:31 PM	Sen. Negron
1:36:35 PM	Sen. Grimsley
1:36:53 PM	Sen. Negron
1:37:10 PM	Am. 891372
1:37:19 PM	Sen. Grimsley
1:37:32 PM	Sen. Negron
1:37:35 PM	Am. 589988
1:37:37 PM	Sen. Grimsley
1:37:38 PM	Sen. Negron
1:37:41 PM	Am. 739700
1:37:49 PM	Sen Grimsley
1:37:58 PM	Sen. Negron
1:38:22 PM	Diena Thompson, Program Coordinator, Monique Burr Foundation for Children, Inc & Sumr Thompson Foundation
1:39:22 PM	Sen. Negron
1:39:30 PM	Sen. Benacquisto
1:39:55 PM	Sen. Bradley
1:41:02 PM	Sen. Sobel
1:41:40 PM	Sen. Negron
1:41:55 PM	Ron Book, Lauren's Kids
1:49:59 PM	Sen. Negron
1:51:23 PM	Sen. Bean
1:52:27 PM	Sen. Smith
1:53:18 PM	S 542
1:53:31 PM	Sen. Brandes
1:55:12 PM	Sen. Negron
1:55:20 PM	PCS 409078
1:55:35 PM	Sen. Joyner
1:56:17 PM	Sen. Brandes
1:56:45 PM	Sen. Joyner
1:57:19 PM	Sen. Brandes
1:57:54 PM	Sen. Joyner
1:58:40 PM	Sen. Thrasher
1:58:46 PM	Sen. Joyner
1:59:01 PM	Sen. Negron
2:00:12 PM	John Sebree, Sr. Vice President Public Policy, Florida Realtors
2:01:33 PM	Sen. Negron
2:01:43 PM	Reggie Garcia, The Florida Justice Association
2:04:22 PM	Sen. Negron
2:04:25 PM	Sen. Lee
2:05:09 PM	Sen. Negron
2:06:52 PM	Sen. Margolis
2:08:15 PM	Sen. Negron
2:08:21 PM	R. Garcia
2:09:09 PM	Sen. Negron
2:09:29 PM	Sen. Joyner
2:10:56 PM	Sen. Negron
2:11:12 PM	Sen. Brandes
2:11:36 PM	Sen. Negron

2:12:02 PM	S 696
2:12:09 PM	Sen. Brandes
2:12:45 PM	Sen. Negron
2:13:12 PM	Am. 698900
2:13:17 PM	Sen. Brandes
2:13:24 PM	Sen. Negron
2:13:40 PM	Am. 639220
2:13:48 PM	Sen. Brandes
2:14:07 PM	Sen. Negron
2:14:18 PM	S 696
2:14:39 PM	Sen. Joyner
2:15:21 PM	Sen. Brandes
2:15:34 PM	Sen. Negron
2:15:43 PM	S 524
2:16:46 PM	Sen. Sobel
2:17:39 PM	Sen. Negron
2:17:46 PM	Am. 115236
2:17:56 PM	Sen. Sobel
2:20:01 PM	Sen. Negron
2:20:11 PM	Am. 393766
2:20:16 PM	Sen. Sobel
2:20:24 PM	Sen. Negron
2:22:13 PM	S 526
2:22:17 PM	Sen. Bradley
2:24:53 PM	Sen. Negron
2:24:59 PM	Am. 937968
2:25:10 PM	Sen. Joyner
2:25:21 PM	Sen. Bradley
2:27:32 PM	Sen. Negron
2:27:38 PM	Sen. Joyner
2:28:11 PM	Sen. Bradley
2:29:01 PM	Sen. Negron
2:30:06 PM	S 526
2:30:15 PM	Ron Book, Lauren's Kids
2:38:46 PM	Sen. Negron
2:38:58 PM	Brian Pitts, Trustee, Justice-2-Jesus
2:43:51 PM	Sen. Negron
2:44:44 PM	Sen. Bradley
2:45:11 PM	Sen. Negron
2:46:19 PM	S 528
2:47:03 PM	Sen. Evers
2:47:11 PM	Am. 924520
2:48:38 PM	Sen. Negron
2:49:25 PM	Am. 168646
2:49:44 PM	Sen. Evers
2:49:53 PM	Sen. Negron
2:50:18 PM	Am. 107130
2:50:22 PM	Sen. Evers
2:50:32 PM	Sen. Negron
2:51:39 PM	Sen. Benacquisto
2:52:38 PM	Sen. Negron
2:52:43 PM	Sen. Thrasher
2:52:50 PM	Sen. Negron
2:52:53 PM	Sen. Smith
2:52:58 PM	Sen. Negron