

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Lee, Chair
Senator Soto, Vice Chair

MEETING DATE: Tuesday, February 4, 2014
TIME: 10:00 a.m.—12:00 noon
PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Lee, Chair; Senator Soto, Vice Chair; Senators Bradley, Gardiner, Joyner, Latvala, Richter, Ring, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	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	Favorable Yeas 8 Nays 0
2	CS/SB 526 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	Fav/CS Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, February 4, 2014, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 528 Evers (Similar H 7025)	Sex Offenses; Providing that voluntary disclosure of specified information waives a disclosure exemption for such information; requiring disclosure of additional information during the sexual predator registration process; adding additional offenses to the list of sexual offender qualifying offenses; providing criminal penalties for knowingly providing false registration information by act or omission; revising the criteria applicable to provisions that allow removal of the requirement to register as a sexual offender or sexual predator; updating provisions of the offense severity ranking chart of the Criminal Punishment Code to reflect prior changes in the law, etc. CJ 01/13/2014 Favorable JU 02/04/2014 Fav/CS AP	Fav/CS Yeas 8 Nays 0
4	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	Favorable Yeas 8 Nays 0
5	CS/SB 248 Health Policy / Children, Families, and Elder Affairs (Similar H 573, Compare H 91, H 263, S 186, S 508)	Assisted Living Facilities; Providing that Medicaid managed care plans are responsible for enrolled mental health residents; providing that managing entities under contract with the Department of Children and Families are responsible for mental health residents who are not enrolled with a Medicaid managed care plan; revising the requirement that an extended congregate care license be issued to certain facilities that have been licensed as assisted living facilities under certain circumstances and authorizing the issuance of such license if a specified condition is met, etc. HP 01/08/2014 Fav/CS JU 02/04/2014 Favorable	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, February 4, 2014, 10:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	SB 94 Margolis (Compare H 39)	Jury Composition; Requiring a 12-member jury for life felony cases; requiring that the composition of all juries empaneled in this state reflect the demographics of the county in which the case is to be tried, etc. JU 02/04/2014 Fav/CS CJ CA RC	Fav/CS Yeas 4 Nays 3
7	SB 384 Bradley	Juvenile Sentencing; Providing criminal sentences applicable to a person who was under the age of 18 years at the time the offense was committed; requiring a judge to consider certain factors before determining if life imprisonment is an appropriate sentence for a homicide defendant; providing for review of sentences of certain offenders who were under the age of 18 at the time of the offense, etc. CJ 01/08/2014 Favorable JU 02/04/2014 Favorable ACJ AP	Favorable Yeas 6 Nays 2

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: CS/SB 522

INTRODUCER: Children, Families, and Elder Affairs Committee; and Senators Grimsley and Detert

SUBJECT: Involuntary Civil Commitment of Sexually Violent Predators

DATE: February 3, 2014 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hendon	Hendon	CF	Fav/CS
2.	Brown	Cibula	JU	Favorable
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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 that assess individuals for civil commitment, in addition to the existing clinical members, will include an assistant state attorney, a law enforcement officer, and a victim advocate.
- Multidisciplinary teams must treat a sexual offender whose offense was an attempt, criminal solicitation, or conspiracy to commit a sexually violent offense as having completed the offense.
- The monitoring of sexual offenders may be facilitated by requiring notice to a sheriff 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 Department of Corrections must annually assess the performance of the sexually violent predator program by examining the recidivism rate of persons released from the program.

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 FY 2010-11 to 154 convictions in FY 2012-13) represented a 1,100 percent increase which may, in part, be due to additional sting operations conducted by law enforcement officials.

Sex offenses account for fewer than 6 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 age (s. 794.011(2)(a), F.S.) to a third degree felony punishable up to 5 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 (s. 800.04(5)(d), F.S.).

The average prison sentence of 12.7 years for sex offenders is longer than in the past. The Department of Corrections indicates a 3-year recidivism rate for sex offenders at 34 percent. The new offense, however, may not be a new 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. Economic and Demographic Research (EDR) reports that 83 percent of victims in these cases 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. Faced with these challenges, the

¹ Section 800.04(4)(a), F.S.

² Section 800.04(5)(b), F.S.

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.³

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.⁴

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.⁵

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 2012-13, 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 FY 2011-12 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

³ 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).

⁴ Section 775.21(4), F.S.

⁵ Section 943.0435(1), F.S.

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.⁶ 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.⁷
- The Act is non-punitive in nature, requires treatment during commitment, and bases commitment on mental deficiency rather than criminal intent.⁸
- A court must review commitment annually and determine whether a detainee continues to be mentally infirm.⁹
- The Act provides due process based on numerous procedural and evidentiary protections.¹⁰
- Because the commitment is civil in nature, not criminal, the Act does not violate constitutional protections against double jeopardy.¹¹
- Because the Act is not a criminal law, the Act does not violate the ex post facto clause of the U.S. Constitution.¹²

In *Kansas v. Crane*, the U.S. Supreme Court refined the *Hendricks* requirement that the offender possess a lack of behavioral control.¹³ *Crane* requires a stronger showing of a lack of control, namely, that the offender's inability to control behavior constitutes a serious public danger.¹⁴

⁶ *Kansas v. Hendricks*, 521 U.S. 346 (1997).

⁷ *Id.* at 357-358.

⁸ *Id.* at 363 and 367.

⁹ *Id.* at 364.

¹⁰ *Id.*

¹¹ *Id.* at 369.

¹² *Id.* at 371.

¹³ 534 U.S. 407 (2002).

¹⁴ *Id.* at 413.

The Florida Supreme Court upheld Florida's civil commitment program in 2002.¹⁵ 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"¹⁶

History of the Sexually Violent Predator Program and the Civil Confinement of Predators

The 1998 Florida Legislature established the Sexually Violent Predator Program (SVPP).¹⁷ 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).

Early on, the number of detainees significantly outnumbered the number of committed sexually violent predators. Additionally, 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.¹⁸

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 6 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.

¹⁵ *Westerheide v. State*, 831 So. 2d 93 (Fla. 2002).

¹⁶ *Id.* at 100.

¹⁷ Chapter 98-64, L.O.F. The 1998 Legislature created the "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act."

¹⁸ Marti Harkness, Senate Committee on Criminal Justice Appropriations, *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.¹⁹

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.²⁰

Multidisciplinary Team Review (MDT):

By law, MDT members must be licensed psychologists or psychiatrists. Administrative rules further require MDT members to have at least 1 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.²¹

- 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.²²
- 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.²³
- 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.²⁴

¹⁹ Section 394.912(9), F.S.

²⁰ Section 394.913(1), F.S.

²¹ Rule 65E-25.002, F.A.C.

²² Section 394.913(2) and (3), F.S.

²³ Section 394.913(3)(c) and (e), F.S.

²⁴ Section 394.913(3)(e), F.S.

Step 3 – Commitment Trial:

- The state attorney receives the MDT recommendation and decides whether to file a commitment petition in circuit court.²⁵
- If a petition is filed, the court determines whether there is probable cause for commitment.²⁶
- 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.²⁷
- 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.²⁸
- 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.²⁹

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.³⁰
- 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.³¹

Number and Flow of SVPP Cases as of August 31, 2013³²

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.

²⁵ Sections 394.9135(3) and 394.914, F.S.

²⁶ Section 394.915, F.S.

²⁷ Section 394.916(1) and (2), F.S.

²⁸ Section 394.916(3), F.S.

²⁹ Section 394.917(1), F.S.

³⁰ Section 394.917(1) and (2), F.S.

³¹ Section 394.917(2), F.S.

³² 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 6 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 dead 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.³³

³³ 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 (SVP), adds additional members to multidisciplinary teams (MDT) that conduct the assessments, and provides more notice to victims and sheriffs of the release of a sexual offender from the sexually violent predator program.

Expanding Notice and Review Requirements for Jail Detainees Prior to Release

This bill expands the class of sexual offenders who may be assessed for civil commitment as a sexually violent predator to include individuals sentenced to confinement in a local detention facility, such as a jail. The assessment process of these individuals begins when the agency with jurisdiction over the confined individual provides written notice to the multidisciplinary team and a state attorney that the individual in custody has a prior or current conviction for a sexually violent offense. Current law limits the assessment of sexual offenders for civil commitment to offenders confined to facilities under the jurisdiction of the Department of Corrections (DOC) or in the custody of the Department of Juvenile Justice (DJJ) or the Department of Children and Families (DCF) for individuals adjudicated not guilty by reason of insanity of a sexually violent offense.

Local detention facilities must provide notice to the state attorney and MDT of the release of any person:

- For any offense other than DUI (s. 316.193, F.S.) or worthless checks (s. 832.05, F.S.) who is a designated sexual predator or sexual offender as the result of being convicted of a sexually violent offense; or
- For any offense for which the state attorney has given the detention facility notice that, in its opinion, the offense was a sexually motivated offense.

Current law requires that notice be given by agencies with jurisdiction over a sexual offender a set number of days prior to the anticipated release of the offender. The bill anticipates shorter and unpredictable sentences of confinement for offenders detained in local detention facilities. As such, the bill requires local detention facilities to provide notice to the multidisciplinary team and state attorney as soon as practicable after the offender is taken into custody.

Multidisciplinary Team (MDT)

Membership

Current law requires a minimum of two individuals who are a licensed psychiatrist or psychologist to serve as members of the MDT. This bill designates the two clinical professionals as primary members and adds as advisory members:

- An assistant state attorney having at least 5 years of experience in prosecuting sexual offenses;
- A certified law enforcement officer having at least 10 years of experience in investigating sexual offenses; and

- A victim advocate having at least a master's degree in social work, psychology, sociology, or a related field and at least 5 years of experience representing victims of sexual violence.

Mandating that these other professionals serve as team members will ensure diversified representation on the team.

Responsibilities

The psychologists and psychiatrists must prepare a written assessment for the state attorney which recommends that a sexual offender be committed as a SVP. The bill elevates the input of the victim advocate, by requiring the recommendation to include a victim impact statement. The bill also gives the victim advocate veto power when the MDT determines that the offender does not qualify as a SVP. If the victim advocate vetoes the decision, both recommendations will be provided to the state attorney for consideration. These changes give the victim advocate a stronger say in recommending an offender as a SVP. Given the victim advocate's role, more sexual offenders may be recommended for designation as SVPs.

This bill requires the MDT to consider a sexual offender whose offense was an attempt, criminal solicitation, or conspiracy to commit a sexually violent offense as having completed the offense. This change may increase the number of sexual offenders recommended for civil commitment as a SVP.

This bill acknowledges that offenders intended for consideration for civil commitment may inadvertently be released without consideration. State attorneys are authorized to file a petition with the circuit court within 120 hours after release alleging the mistake. The court then must make a probable cause determination that the person was inadvertently released. If the court finds evidence of mistaken release, the court must order the person to be taken into custody. This change may help ensure that potentially dangerous sexual offenders are assessed for civil commitment.

Department of Children and Families (DCF)

This bill clarifies that the DCF must immediately give notice to the DOC and the appropriate sheriff of the release of a person civilly committed as a SVP or the taking into DCF custody of a person pending commitment trial. The DOC must provide this notice in writing.

Expanding Notice Requirements to Victims

Current law limits victim notification of a sexual offender's release to offenders who are already designated as a SVP. The bill requires the DCF to also provide notice to a victim prior to the release of a person who was detained, based on a probable cause finding, but not committed as a SVP.

Department of Corrections (DOC)

The DOC must collect information from the DCF on recidivism rates of SVPs committed to and released from civil commitment. Recidivism rates are defined as a return to prison or community

offense for a new sexual offense. The DOC must provide this information in an annual report to the Legislature, due by July 1, 2015 and annually thereafter of:

- Recidivism rates for persons released from detention and recidivism rates for SVPs released from civil commitment; and
- An analysis of technical violations of community supervision.

The differences in the recidivism rates of those detained but not committed and those civilly committed may aid in evaluating the accuracy of assessments by the MDT or the success of treatment provided during civil commitment.

The bill also broadens the definition of “total confinement” to include more persons as eligible for consideration for civil commitment:

- The bill includes confinement in a local detention facility.
- The bill includes situations in which the agency or a court determines that a person should have been released at an earlier date, such as when DOC or a court recalculates an inmate’s award of gain time. This provision will apply only if the person would have been subject to the SVP Act at the time of release. This change is needed due to the Florida Supreme Court’s opinion in *Larimore v. State*.³⁴

In *Larimore*, the DOC referred an offender to the MDT for assessment after his approval for release as a result of reinstatement of gain time that was erroneously forfeited by the state.³⁵ 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 Act.”³⁶ 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.³⁷

The bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

³⁴ *Larimore v. State*, 2 So. 3d 101 (Fla. 2009).

³⁵ *Id.* at 104.

³⁶ *Id.* at 107.

³⁷ *Id.* at 117.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

If additional persons are detained and civilly committed at the Florida Civil Commitment Center, the vendor operating center may receive additional funding.

C. Government Sector Impact:

State Government

A renewed emphasis on public safety required by the bill along with the expansion of the program to selected persons serving sentences in county jails will increase the number of persons evaluated and committed over time. The DCF will incur increased 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 will also incur increased costs.

Estimate of Additional Sexually Violent Predators

An unknown number of additional persons will be evaluated by the DCF due to increasing the size and composition of the MDTs. The bill expands the SVPP to apply to certain individuals in county jails. To estimate the number of persons in jails that will enter the program, the Legislature's Office of Program Performance and Government Accountability (OPPAGA) reviewed data on persons in jail with selected offenses. OPPAGA identified 890 persons currently in county jail found to meet criteria in the bill for evaluation as a SVP.³⁸ County jail sentences are less than one year so the number of persons on an annual basis may be similar to the number meeting the new criteria found

³⁸ Office of Program Policy analysis and Gov't Accountability, Florida Legislature, Research Memorandum, *Potential Number of Referrals from Jails to the Department of Children and Families' Sexually Violent Predator Program*. (December 30, 2013) (on file with the Senate Committee on Judiciary).

by OPPAGA. Some jail detainees may be sentenced to time served and therefore be released from custody before an evaluation.

Most referrals to the DCF come from the state prison system. Rates for referral, filing, and commitment may be lower for the jail population due to the difference in the severity of offenses between jail detainees and felons incarcerated by the DOC. A factor that could increase the number of new participants would be an increase in the rate of commitment recommendations due to changes in the MDTs and DCF procedures.

Table 1 shows the number of persons referred to the DCF for evaluation, the number recommended for commitment by the DCF, the number filed by the state attorney, and the number of commitments since the start of the program in 1999.³⁹ If new population from jails result in similar rates of commitment, Table 1 shows the estimated number for new program participants.

Table 1. Estimated Number of New Evaluations, Filings and Commitments

	History of SVP (1999-2013)	Percent	Jail Population Estimate
Persons evaluated by DCF	47,932	100%	890
Recommended for commitment by DCF	1,607	3.4%	30
	History of SVP (1999-2013)	Percent	Jail Population Estimate
Filed by state attorneys	1,509	3.1%	28
Civil commitments	575	1.2%	11

Department of Children and Families

The DCF will incur increased costs for evaluations of additional persons required to be assessed under the bill and the cost of housing additional SVPs. The DCF spent \$30.9 million on the SVPP to evaluate and house SVPs. The DCF will experience increased costs in evaluation, detention, and commitment of SVPs.

Costs associated with evaluations involve staff time, contracted evaluators, travel expenses, and office space. Currently, DCF evaluates approximately 3,500 individuals per year.⁴⁰ The DCF estimates that each evaluation costs an average of \$910.⁴¹

³⁹ Presentation to the Senate Committee on Children, Families and Elder Affairs and the Senate Judiciary Committee, (September 24, 2013) (on file with the Senate Committee on Judiciary).

⁴⁰ Correspondence from the Department of Children and Families, (December 6, 2013) (on file with the Senate Committee on Judiciary).

⁴¹ *Id.*

Evaluations that include face to face interviews with the individual cost more. At a unit cost of \$910, the 890 estimated new participants from county jail will cost \$809,900.

The DCF anticipates an annual cost of \$18,808 for three additional MDT members based on 240 hours of participation on the MDT for each new member.⁴² Regarding the addition of jail referrals, the DCF estimates 1,298 additional referrals. This number is based on the number of individuals added to the sex offender registry arrested solely for misdemeanors for included offenses. The DCF will need an additional master's level reviewer per 350 new referrals. The DCF also requires one psychologist per 700 new referrals. As such, the DCF will need four master level FTE and two psychologist FTE at a recurring cost of \$495,208.⁴³

Costs associated with detention and commitment of SVPs are for housing, security and treatment. The DCF contracts with a private vendor to operate the FCCC. The cost per day for detainees and committed persons is \$99.86 per day each or \$36,449 each year.

The length of time new program participants will be detained in the FCCC awaiting evaluations and hearings is unknown. Of the estimated new 890 participants, many will likely be released after evaluation. If evaluations take an average of 2 weeks and the estimated 890 new participants are held and evaluated evenly throughout the year, 34 additional participants will be screened at the center every two weeks (890/26), at a cost of \$1.2 million on an annual basis.

If new program participants are evaluated and adjudicated at similar rates to historical program participants, 11 new commitments will be made each year. At current annual cost, these new commitments will cost the state \$400,939. The current capacity of the FCCC is 720 and the current census is 647.⁴⁴ If the program needs to house more than the capacity of the current center, additional resources are needed. The amount cannot be determined at this point because the state could build a new facility, use an existing state facility not in use, or contract with a private vendor to build or convert a private facility.

Judicial Costs

The judicial system will also incur increased cost under the bill due to more cases filed for civil commitment by the state attorney. Increased judicial costs include additional judge and staff time for the state courts system and staff time and case related costs for state attorneys and public defenders.

The Florida Supreme Court uses a workload formula to estimate the need for new judges. The formula is based on the expected amount of time needed for a judge to adjudicate different case types. The court formula shows that SVP cases take an average of 16.9

⁴² Department of Children and Families, *2014 Legislative Bill Analysis, SB 522* (July 1, 2014) (on file with the Senate Committee on Judiciary).

⁴³ *Id.*

⁴⁴ Correspondence with the Senate Appropriations Committee on Health and Human Services, (January 10, 2014) (on file with the Senate Committee on Judiciary).

hours.⁴⁵ Using historical rates of filing for civil commitment, the new jail population required for evaluation will result in an estimated 28 additional filings each year. Using the standard of 2,080 hours per work year, one new judge will be able to preside over 123 additional SVP cases. When the Legislature has established and funded additional circuit judges in the past, an estimated cost of \$250,000 per year per judge has been used. This includes the judge and a judicial assistant, and associated expenses. If one judge can preside over 123 SVP cases each year, the judicial cost per case will be \$2,032 (\$250,000/123). The estimated cost of 28 additional filings each year will be \$56,896. This need for judicial resources could be more if other changes in the bill or operational changes in the department result in more persons referred for civil commitment.

Assistant state attorneys and their legal assistants must prepare the case and participate in the judicial hearing. The Florida Prosecuting Attorneys Association estimated the cost per SVP case using the number of cases per attorney and the costs per attorney at \$1,486. With an estimated 30 new cases due to expanding the program to the county jail population, state attorneys will incur a cost of \$44,580.

Most persons determined to be SVPs are indigent and qualify for representation by the public defender’s office. The Florida Public Defender Association provided information from the 2nd judicial circuit at a cost per case was \$8,566. With an estimated 30 new cases due to expanding the program to the county jail population, public defenders statewide will incur a cost of \$256,980. These costs are significantly higher than those of the state attorney although staff costs are similar. Information from the 2nd circuit, however, may not be representative of all public defender offices.

In addition to attorney time, state attorney and public defender offices incur case related costs, such as expert witnesses, recording depositions, and transcripts. Such costs are paid by the Justice Administrative Commission. During state fiscal year 2011-2012, the state paid \$2,739,875 in case related costs for 575 SVP cases.⁴⁶ While the cases can continue more than 1 year, annual cost per case is estimated at \$4,765. If there are an additional 30 cases due to expanding the program to the county jail population, the state could incur an additional \$142,950.

Table 2 shows total estimated costs to the state for evaluating an estimated 890 county jail inmates for the SVP program at \$2.9 million per year.

Table 2. Estimated Additional Costs

Department of Children and Families Costs	
Evaluations	\$809,900
Cost of estimated 34 new detainees	\$1,239,266
Cost of estimated 11 new commitments	\$400,939
DCF Subtotal	\$2,450,105

⁴⁵ Correspondence with the Office of State Courts Administrator, (November 20, 2013) (on file with the Senate Committee on Judiciary).

⁴⁶ Correspondence from the Justice Administrative Commission, (December 6, 2013) (on file with the Senate Committee on Judiciary).

State Courts System – additional judicial resources	\$56,896
State Attorney – staff and expenses	\$44,580
Public Defender – staff and expenses	\$256,980
Justice Administrative Commission – case related costs	\$142,950
Total	\$2,951,511

Prison Bed Impact

Pursuant to s. 216.136, F.S., the Criminal Justice Estimating Conference (CJEC) is charged with:

- Developing official information on the criminal justice system, including forecasts of prison admissions and population and of supervised felony offender admissions and population, as the CJEC determines is needed for the state planning and budgeting system.
- Developing official information on the number of eligible discharges and the projected number of civil commitments for determining space needs pursuant to the civil proceedings provided under part V of chapter 394.
- Developing official information on the number of sexual offenders and sexual predators required by law to be placed on community control, probation, or conditional release who are subject to electronic monitoring.

The CJEC met on January 30, 2014 and found that SB 522 will have no impact on the prison bed population.

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, but is expected to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.913, 394.9135, 394.926, 394.931, and 394.912.

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 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.

By the Committee on Children, Families, and Elder Affairs; and
Senators Grimsley and Detert

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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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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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59 redefining the term "agency with jurisdiction" to
60 include an agency that releases certain persons from
61 the custody of a local detention facility; redefining
62 the term "total confinement" to include persons being
63 held in a local detention facility and certain persons
64 held in custody beyond their lawful release date;
65 providing severability; providing an effective date.
66

67 Be It Enacted by the Legislature of the State of Florida:
68

69 Section 1. Section 394.913, Florida Statutes, is amended to
70 read:

71 394.913 Notice to state attorney and multidisciplinary team
72 of release of sexually violent predator; establishing
73 multidisciplinary teams; information to be provided to
74 multidisciplinary teams; requirement for recommendation and
75 victim impact statement.-

76 (1) The agency with jurisdiction over a person who has been
77 convicted of a sexually violent offense shall give written
78 notice to the multidisciplinary team, ~~and~~ shall provide a copy
79 of the notice to the state attorney of the circuit in which
80 ~~where~~ that person was last convicted of a sexually violent
81 offense. If the person has never been convicted of a sexually
82 violent offense in this state but has been convicted of a
83 sexually violent offense in another state or in federal court,
84 the agency with jurisdiction shall give written notice to the
85 multidisciplinary team and a copy to the state attorney of the
86 circuit in which ~~where~~ the person was last convicted of any
87 offense in this state. If the person is being confined in this

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88 state pursuant to interstate compact and has a prior or current
89 conviction for a sexually violent offense, the agency with
90 jurisdiction shall give written notice to the multidisciplinary
91 team and shall provide a copy to the state attorney of the
92 circuit in which ~~where~~ the person plans to reside upon release
93 or, if no residence in this state is planned, the state attorney
94 in the circuit in which ~~where~~ the facility from which the person
95 to be released is located. Except as provided in s. 394.9135,
96 the written notice shall ~~must~~ be given:

97 (a) At least 545 days before ~~prior to~~ the anticipated
98 release from total confinement of a person serving a sentence in
99 the custody of the Department of Corrections, except that in the
100 case of a person ~~persons~~ who is ~~are~~ totally confined for a
101 period of less than 545 days, written notice must be given as
102 soon as practicable;

103 (b) As soon as practicable after receipt into custody of a
104 person who is sentenced to confinement in a local detention
105 facility;

106 (c) ~~(b)~~ At least 180 days before ~~prior to~~ the anticipated
107 release from residential commitment of a person committed to the
108 custody of the Department of Juvenile Justice, except that in
109 the case of a person ~~persons~~ who is ~~are~~ committed to a low or
110 moderate risk facility, written notice must be given as soon as
111 practicable; or

112 (d) ~~(e)~~ At least 180 days before ~~prior to~~ the anticipated
113 hearing regarding possible release of a person committed to the
114 custody of the department who has been found not guilty by
115 reason of insanity or mental incapacity of a sexually violent
116 offense.

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117 (2) The agency having jurisdiction shall provide the
118 multidisciplinary team with the following information:

119 (a) The person's name; identifying characteristics;
120 anticipated future residence; the type of supervision the person
121 will receive in the community, if any; and the person's offense
122 history;

123 (b) The person's criminal history, including police
124 reports, victim statements, presentence investigation reports,
125 postsentence investigation reports, if available, and any other
126 documents containing facts of the person's criminal incidents or
127 indicating whether the criminal incidents included sexual acts
128 or were sexually motivated;

129 (c) Mental health, mental status, and medical records,
130 including all clinical records and notes concerning the person;

131 (d) Documentation of institutional adjustment and any
132 treatment received and, in the case of an adjudicated delinquent
133 committed to the Department of Juvenile Justice, copies of the
134 most recent performance plan and performance summary; and

135 (e) If the person was returned to custody after a period of
136 supervision, documentation of adjustment during supervision and
137 any treatment received.

138 (3) (a) The secretary or his or her designee shall establish
139 a multidisciplinary team or teams.

140 (b) Each team shall include, but need is not be limited to,
141 two licensed psychiatrists or psychologists or one licensed
142 psychiatrist and one licensed psychologist as primary members.
143 The team shall include as advisory members an assistant state
144 attorney with at least 5 years' experience prosecuting sexual
145 offenses; a certified law enforcement officer with at least 10

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146 years' experience investigating sexual offenses; and a victim
147 advocate who has a master's or doctoral degree in social work,
148 psychology, sociology, or a related field and at least 5 years'
149 experience representing victims of sexual violence. The
150 multidisciplinary team shall assess and evaluate each person
151 referred to the team. The assessment and evaluation must ~~shall~~
152 include a review of the person's institutional history and
153 treatment record, if any, the person's criminal background, and
154 any other factor that is relevant to the determination of
155 whether the ~~such~~ person is a sexually violent predator.

156 (c) Before recommending that a person meets the definition
157 of a sexually violent predator, the person must be offered a
158 personal interview. If the person agrees to participate in a
159 personal interview, at least one member of the team who is a
160 licensed psychiatrist or psychologist must conduct a personal
161 interview of the person. If the person refuses to fully
162 participate in a personal interview, the multidisciplinary team
163 may proceed with its recommendation without the ~~a personal~~
164 ~~interview of the person.~~

165 (d) The Attorney General's Office shall serve as legal
166 counsel to the multidisciplinary team.

167 (e)1. Within 180 days after receiving notice, the primary
168 members shall prepare ~~there shall be~~ a written assessment as to
169 whether the person meets the definition of a sexually violent
170 predator and make a written recommendation, which shall be
171 provided by the department to the state attorney. The written
172 recommendation ~~shall be provided by the Department of Children~~
173 ~~and Family Services and~~ shall include the written report of the
174 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.

229
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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291 (2) The department shall immediately give written notice to
292 the Department of Corrections' Office of Community Corrections
293 of the release of a person who is committed as ~~If~~ a sexually
294 violent predator, or who is in the department's custody based
295 upon a court finding of probable cause to believe that the
296 person is a sexually violent predator, who has an active or
297 pending term of probation, community control, parole,
298 conditional release, or other court-ordered or postprison
299 release supervision ~~is released from custody, the department~~
300 ~~must immediately notify the Department of Corrections' Office of~~
301 ~~Community Corrections in Tallahassee.~~ The Parole Commission must
302 also be immediately notified of the release ~~any releases~~ of any
303 such a sexually violent predator who has an active or pending
304 term of parole, conditional release, or other postprison release
305 supervision that is administered by the Parole Commission.

306 (3) The department shall give written notice of the release
307 of a person who is committed as a sexually violent predator, or
308 who is in the department's custody based upon a court finding of
309 probable cause to believe that the person is a sexually violent
310 predator, to the sheriff of the county in which the person
311 intends to reside or, if unknown, the sheriff of the county in
312 which the person was last convicted.

313 Section 4. Section 394.931, Florida Statutes, is amended to
314 read:

315 394.931 Quarterly and annual reports.-

316 (1) ~~Beginning July 1, 1999,~~ The Department of Corrections
317 shall collect information and compile quarterly reports with
318 statistics profiling inmates released the previous quarter who
319 fit the criteria and were referred to the Department of Children

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320 and Families ~~Family Services~~ pursuant to this act. ~~The quarterly~~
321 ~~reports must be produced beginning October 1, 1999.~~ At a
322 minimum, the information that must be collected and compiled for
323 inclusion in the reports includes: whether the qualifying
324 offense was the current offense or the prior offense; the
325 offender's most serious sexual offense; the total number of
326 distinct victims of the sexual offense; whether the victim was
327 known to the offender; whether the sexual act was consensual;
328 whether the sexual act involved multiple victims; whether direct
329 violence was involved in the sexual offense; the age of each
330 victim at the time of the offense; the age of the offender at
331 the time of the first sexual offense; whether a weapon was used;
332 length of time since the most recent sexual offense; and the
333 total number of prior and current sexual offense ~~sexual offense~~
334 convictions. In addition, the department ~~of Children and Family~~
335 ~~Services~~ shall implement a long-term study to determine the
336 overall efficacy of ~~the provisions of~~ this part.

337 (2) (a) Beginning July 1, 2014, the Department of
338 Corrections shall collect information necessary to produce an
339 annual report to the Legislature documenting recidivism rates
340 for offenders referred to and released from the civil
341 confinement facility. The Department of Children and Families
342 shall provide the necessary offender information to the
343 Department of Corrections to facilitate the recidivism report.

344 (b) The first report shall be submitted to the Legislature
345 by July 1, 2015, and annually thereafter. At a minimum, the
346 report must:

347 1. Separately report recidivism rates for persons released
348 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
375 unless the person is to be transferred or returned to total
376 confinement in the custody of the Department of Corrections, the
377 Department of Juvenile Justice, or the Department of Children

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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)

2.4.14

Meeting Date

Topic Sexually Violent Predators

Bill Number 522
(if applicable)

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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.

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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)

2-4-14

Meeting Date

Topic _____

Bill Number SB 522
(if applicable)

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(if applicable)

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Speaking: For Against Information

E-mail _____

Representing Florida Sheriffs Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

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2 / 4 / 2014

Meeting Date

Topic _____

Bill Number 522
(if applicable)

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Amendment Barcode _____
(if applicable)

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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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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2/4/14

Meeting Date

Topic Sex offenders / Redutor Bill Number 522
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City State Zip

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.

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 Judiciary

BILL: CS/CS/SB 526

INTRODUCER: Judiciary Committee; Criminal Justice Committee; and Senator Bradley

SUBJECT: Sexual Offenses

DATE: February 4, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

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. The bill also authorizes a court finding that an offense was sexually motivated, mandates community supervision of sex offenders who do not receive the maximum prison sentence, and ensures 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:

- increases the minimum sentence length of adult-on-minor sex offenses sentenced under the Criminal Punishment Code by creating a new sentence point multiplier;
- 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;
- prohibits incentive gain-time for offenders convicted of certain sexual offenses;
- allows prosecutors to request that a sentencing court make a written finding that an offense was sexually motivated;
- 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 thereby ensuring that the post-release supervision portion of the sentence is not eliminated.

II. Present Situation:

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 by enhancing the felony degree of the offenses.

It is a first degree felony¹ ranked in Level 9 of the Criminal Punishment Code offense severity ranking chart² 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.³

It is a second degree felony⁴ ranked in Level 8⁵ 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.⁶

¹ A first degree felony is generally punishable by up to 30 years in state prison. Section 775.082, F.S.

² Section 921.0022(3)(i), F.S. For a detailed discussion of level rankings, see the "Present Situation" section of this analysis.

³ Section 794.011(4), F.S.

⁴ A second degree felony is punishable by up to 15 years in state prison. Section 775.082, F.S.

⁵ Section 921.0022(3)(h), F.S.

⁶ Section 794.011(5), F.S.

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 to a person less than 18 years of age to engage in any act with that person while the person is 12 years of age or older but less than 18 years of age which constitutes sexual battery.⁷

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
- 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.⁸

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.⁹ It is a second degree felony ranked in Level 7¹⁰ 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.¹¹

Criminal Punishment Code/Sentence Point Multipliers

The Criminal Punishment Code (Code)¹² 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).¹³ 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.¹⁴

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 the multiplier applies. For example, if points are assessed only for the

⁷ Section 794.011(8)(b), F.S.

⁸ Section 800.04(4), F.S.

⁹ Section 800.04(5)(a), F.S.

¹⁰ Section 921.0022(3)(g), F.S.

¹¹ Section 800.04(5)(c)2., F.S.

¹² Sections 921.002-921.0027, F.S.

¹³ 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.

¹⁴ See s. 921.0024, F.S. Further discussion of Code sentencing is based on provisions of this statute, unless otherwise noted.

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.¹⁵ 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 range. The court must impose a nonprison sanction, unless the court 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.¹⁶ 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,¹⁷ 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.

¹⁵ 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.

¹⁶ 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.

¹⁷ 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).

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 10 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.¹⁸ 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 not entitled to gain time unless granted a pardon or clemency.¹⁹

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, care, and treatment.²⁰ The Involuntary Civil Commitment of Sexually Violent Predators Act (Act) was passed in 1998 to address the treatment needs of these offenders.²¹ 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 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 the commitment proceeding the prosecution has prevailed in 52 percent of the cases and the defendants have succeeded 48 percent of the time.²²

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.

¹⁸ Section 944.275(4)(b)3., F.S.

¹⁹ *Id.* Life imprisonment sentences are given to capitol 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.).

²⁰ Section 394.912, F.S.

²¹ Sections 394.910-394.932, F.S.

²² Telephone interview with Kristin Kanner, Director, Sexually Violent Predator Program, Florida Department of Children and Families (January 27, 2014).

As of January 24, 2014, 181 offenders are serving community supervision in the FCCC.²³ During the past fiscal year, six offenders had their sentences expire while in the FCCC and 20 offenders were released with a remaining period of community supervision.²⁴

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 FY 2012-13, 66.1 percent had 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 prison sentence at all or the offender was serving a split sentence, which is prison followed by probation. A small portion of the sex offenders (6 percent) under supervision were placed there because of a statutory requirement (conditional release).

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, which is 5.4 percent of the total community supervision population of 145,464 offenders.

As of November 30, 2013, there were 6,390 offenders convicted of sex offenses under community supervision (4.4 percent of the total supervised population of 145,464). Of those, 2,238 or 35 percent were tracked with electronic monitoring, which is a mandatory condition of supervision for certain sex offenses. The vast majority of the 6,390 were under supervision via a judge's original sentence (5,997 or 94 percent). This means the judge directly sentenced the offender to supervision (e.g., sex offender probation) without prison or the offender is serving a split sentence, meaning he or she served a prison sentence followed by a required supervision term. The remaining 393 offenders (6 percent) are serving a post-prison supervision term. In most cases, these are conditional release offenders who have served 85 percent of their prison sentences and are serving the remaining 15 percent under community supervision.²⁵

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.²⁶

²³ 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).

²⁴ E-mail from Will Kendrick, Legislative Director for the Department of Corrections (January 7, 2014) (on file with the Senate Committee on Judiciary).

²⁵ Email from David Ensley, *supra* note 23.

²⁶ See s. 947.1405, F.S.

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 FY 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.²⁷

III. Effect of Proposed Changes:

The bill makes significant changes to the punishment of sex offenders. Minimum sentences and maximum penalties are enhanced for several sexual battery and lewd offenses and incentive gain-time eligibility is eliminated. The bill also authorizes a court finding that an offense was sexually motivated, mandates community supervision of sex offenders who do not receive the maximum prison sentence, and ensures 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 held to be invalid. The bill takes effect October 1, 2014.

Enhances the Felony Degree of Certain Sex Offenses (Sections 1-3)

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 from a first degree felony, punishable by up to 30 years imprisonment, to a first degree felony, punishable by up to life imprisonment, the following offenses:²⁸

- sexual battery of a minor by a person who has custodial authority over the minor;

²⁷ Email from David Ensley, *supra* note 23.

²⁸ 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.²⁹

The bill further amends s. 794.011, F.S., to increase from a second degree felony (up to 15 years imprisonment) to a first degree felony (up to 30 years imprisonment) the following offenses:

- 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.³⁰

The bill amends s. 800.04, F.S., which addresses lewd acts, to increase from a second degree felony, punishable by up to 15 years imprisonment, to a first degree felony, punishable by up to 30 years imprisonment, the following offenses:

- 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.³¹

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, 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.

Creates a Sentence Point Multiplier for Certain Adult-on-Minor Sex Offenses (Section 4)

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

²⁹ 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.).

³⁰ *Id.*

³¹ *Id.*

primary offense, and if the primary offense was an offense committed on or after October 1, 2014, and is:

- 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., excluding s. 794.011(10), F.S.);
- unlawful sexual activity committed on a minor 16 or 17 years of age (s. 794.05, 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,³² a Level 5 offense,³³ 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 is 21 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 battery³⁴ and points accrued for other factors scores a lowest permissible sentence of 108 months in prison or approximately 9 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 increases from 108 months in prison to 237 months in prison. However, because this number of months exceeds the maximum penalty of 15 years provided in s. 775.082, F.S., for the second degree felony primary offense, the adjusted prison sentence length is 15 years in prison. Therefore, the length of offender's sentence for the sexual battery offense increases from 9 years in prison to 15 years in prison.

Prohibits Certain Sex Offenders from Receiving Incentive Gain-time (Section 6)

The bill prohibits the award of incentive gain-time to reduce the sentence for certain sexually violent offenses committed on or after October 1, 2014. As a result, an offender must serve all of the imposed sentence.³⁵ The offenses for which gain-time is prohibited are:

³² Section 847.0135(5)(b), F.S.

³³ Section 921.0022(3)(e), F.S.

³⁴ Section 794.011(5), F.S.

³⁵ 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.

- 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;³⁶
- unlawful sexual activity committed on a minor 16 or 17 years of age;³⁷ and
- lewd acts against an elderly person or disabled person (s. 825.1025, F.S.).

Authorizes Court Finding that an Offense was Sexually Motivated (Section 5)

A person may be found to be a sexually violent predator based upon conviction of an offense that is not specifically designated as a sexually violent offense. Section 394.912(9)(h), F.S., provides that any offense that is found to be sexually motivated beyond a reasonable doubt is a sexually violent offense. A finding of sexual motivation can be made either at the time of sentencing or during the civil commitment proceedings. The bill provides more specific direction that the state attorney may move the court to make a written finding on the record that an offense is sexually motivated. In making such a finding, the judge must consider the circumstances of the case and a victim impact statement.

Tolls Community Supervision During Time Offender is in DCF Custody (Sections 7 and 8)

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 Sexually Violent Predators Act. 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.

Mandates Community Supervision of Certain Sex Offenders who do not Receive Maximum Prison Sentence (Section 8)

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.

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

³⁶ 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.

³⁷ Section 794.05, F.S.

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.);
- unlawful sexual activity committed on a minor 16 or 17 years of age (s. 794.05, 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 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.

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, 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.

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 Criminal Justice Impact Conference states that the impact of these changes is insignificant. Because the bill changes only the felony degree of these offenses (not the Code ranking), there is no way to model changes.

Sentence Point Multiplier

The bill increases minimum sentence length for adult-on-minor sex offenses sentenced under the Criminal Punishment Code by creating a new sentence point multiplier. The Criminal Justice Impact Conference estimates a cumulative \$18.5 million fixed capital outlay cost (200 beds) and a cumulative \$6.3 million operational cost after 5 years. Total costs (FY 2014-15 to FY 2018-19): \$24.9 million.³⁸

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	2	2	\$17,897	\$1,524,775	\$1,542,672	\$1,542,672
2015-2016	25	23	\$246,200	\$2,964,008	\$3,210,208	\$4,752,880
2016-2017	72	47	\$901,276	\$3,977,688	\$4,878,964	\$9,631,843
2017-2018	133	61	\$1,942,888	\$4,495,633	\$6,438,521	\$16,070,364
2018-2019	200	67	\$3,219,111	\$5,623,232	\$8,842,343	\$24,912,707
TOTAL	200	200	\$6,327,371	\$18,585,336	\$24,912,707	\$24,912,707

Prepared by Florida Legislature, Office of Economic and Demographic Research, January 30, 2014.

Incentive Gain-Time Prohibition

The bill prohibits incentive gain-time for offenders convicted of certain sexual offenses. The Criminal Justice Impact Conference estimates a cumulative \$11.8 million fixed capital outlay cost (117 beds) and a cumulative \$2.93 million operational cost after 5 years. Total costs (FY 2014-15 to FY 2020-21): \$14.7 million.³⁹

³⁸ The Criminal Justice Impact Conference anticipates that the number of prison beds will continue to increase after Year 5.

³⁹ The Criminal Justice Impact Conference projects that the number of prison beds will continue to rise after Year 5.

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	\$2,086,656	\$2,411,859	\$4,226,969
2017-2018	60	32	\$834,020	\$3,824,643	\$4,658,663	\$8,885,632
2018-2019	117	57	\$1,711,059	\$4,183,136	\$5,894,195	\$14,779,827
TOTAL	117	117	\$2,934,111	\$11,845,716	\$14,779,827	\$14,779,827

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 \$28.9 million fixed capital outlay cost (298 beds), a cumulative \$8.5 million in operating costs after 5 years for the incentive gain-time prohibition and the sentence point multiplier. Total costs (FY 2014-15 to FY 2020-21): \$37.5 million.⁴⁰

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	2	2	\$17,897	\$1,646,757	\$1,664,654	1,664,654
2015-2016	27	25	\$264,437	\$3,783,840	\$4,048,277	\$5,712,931
2016-2017	87	60	\$1,059,231	\$6,129,552	\$7,188,783	\$12,901,714
2017-2018	181	94	\$2,539,970	\$7,850,583	\$10,390,553	\$23,292,267
2018-2019	298	117	\$4,630,493	\$9,532,064	\$14,162,557	\$37,454,824
TOTAL	298	298	\$8,512,028	\$28,942,796	\$37,454,824	\$37,454,824

Prepared by Florida Legislature, Office of Economic and Demographic Research, January 30, 2014.

Tolling Post-Release Supervision

The bill suspends (or tolls) post-release supervision of offenders while in DCF custody as part of the civil commitment process.

The DOC states that this provision will involve a very limited percentage of the supervised population, thus the impact is negligible. Beyond that, the overall count under supervision is unaffected by the tolling provision. What does change is when the supervision occurs in relation to the prison release date. The same total number of

⁴⁰ The Criminal Justice Impact Conference anticipates that the projected number of prison beds will continue to rise after Year 5.

offenders will be supervised, either in the DCF facility or in the open community after release from the DCF facility.⁴¹

Mandatory Community Supervision (Split Sentence)

The bill requires that courts 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 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.

The Criminal Justice Impact Conference states that the mandatory minimum 2 years of post-prison supervision will have no impact on prison beds. In FY 2012-13, there were approximately 1,300 sex offenders released (based on 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 11 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 will increase only because of the other provisions of the bill which encourage longer sentences and prohibit gain time for these inmates.⁴²

VI. Technical Deficiencies:

The Legislature may wish to amend the bill to clarify which previous violations of certain laws qualify sex offenders for heightened criminal sanctions. These clarifying changes may be needed in portions of the bill amending ss. 794.011(4)(d) and (5)(d), and 800.04(4)(c) and (5)(e), F.S.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 794.011, 800.04, 921.0022, 921.0024, 921.30, 944.275, 947.1405, and 948.012.

⁴¹ E-mail from Will Kendrick, Legislative Director for the Department of Corrections (January 8, 2014) (on file with the Senate Committee on Judiciary).

⁴² *Id.*

IX. Additional Information:

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

CS/CS/SB 526 by Judiciary on February 4, 2012:

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.



781464

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2014	.	
	.	
	.	
	.	

The Committee on Judiciary (Bradley) recommended the following:

Senate Amendment

Delete lines 53 - 129
and insert:

(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:



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12 1. Section 787.01(2) or s. 787.02(2) when the violation
13 involved a victim who was a minor and, in the course of
14 committing that violation, the defendant committed against the
15 minor a sexual battery under this chapter or a lewd act under s.
16 800.04 or s. 847.0135(5);

17 2. Section 787.01(3)(a)2. or 3.;

18 3. Section 787.02(3)(a)2. or 3.;

19 4. Section 800.04;

20 5. Section 825.1025;

21 6. Section 847.0135(5); or

22 7. This chapter, excluding subsection (10) of this section.

23 (e) The following circumstances apply to paragraphs (a)-
24 (d):

25 1. ~~(a) When~~ The victim is physically helpless to resist.

26 2. ~~(b) When~~ The offender coerces the victim to submit by
27 threatening to use force or violence likely to cause serious
28 personal injury on the victim, and the victim reasonably
29 believes that the offender has the present ability to execute
30 the threat.

31 3. ~~(c) When~~ The offender coerces the victim to submit by
32 threatening to retaliate against the victim, or any other
33 person, and the victim reasonably believes that the offender has
34 the ability to execute the threat in the future.

35 4. ~~(d) When~~ The offender, without the prior knowledge or
36 consent of the victim, administers or has knowledge of someone
37 else administering to the victim any narcotic, anesthetic, or
38 other intoxicating substance that ~~which~~ mentally or physically
39 incapacitates the victim.

40 5. ~~(e) When~~ The victim is mentally defective, and the



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41 offender has reason to believe this or has actual knowledge of
42 this fact.

43 ~~6.(f) When~~ The victim is physically incapacitated.

44 ~~7.(g) When~~ The offender is a law enforcement officer,
45 correctional officer, or correctional probation officer as
46 defined ~~in~~ by s. 943.10(1), (2), (3), (6), (7), (8), or (9), who
47 is certified under ~~the provisions of~~ s. 943.1395 or is an
48 elected official exempt from such certification by virtue of s.
49 943.253, or any other person in a position of control or
50 authority in a probation, community control, controlled release,
51 detention, custodial, or similar setting, and such officer,
52 official, or person is acting in such a manner as to lead the
53 victim to reasonably believe that the offender is in a position
54 of control or authority as an agent or employee of government.

55 (5) (a) A person 18 years of age or older who commits sexual
56 battery upon a person 12 years of age or older but younger than
57 18 years of age, without that person's consent, and in the
58 process thereof does not use physical force and violence likely
59 to cause serious personal injury commits a felony of the first
60 second degree, punishable as provided in s. 775.082, s. 775.083,
61 s. 775.084, or s. 794.0115.

62 (b) A person 18 years of age or older who commits sexual
63 battery upon a person 18 years of age or older, without that
64 person's consent, and in the process does not use physical force
65 and violence likely to cause serious personal injury commits a
66 felony of the second degree, punishable as provided in s.
67 775.082, s. 775.083, s. 775.084, or s. 794.0115.

68 (c) A person younger than 18 years of age who commits
69 sexual battery upon a person 12 years of age or older, without



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70 that person's consent, and in the process does not use physical
71 force and violence likely to cause serious personal injury
72 commits a felony of the second degree, punishable as provided in
73 s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

74 (d) A person commits a felony of the first degree,
75 punishable as provided in s. 775.082, s. 775.083, s. 775.084, or
76 s. 794.0115 if the person commits sexual battery upon a person
77 12 years of age or older, without that person's consent, and in
78 the process does not use physical force and violence likely to
79 cause serious personal injury and the person was previously
80 convicted of a violation of:

81 1. Section 787.01(2) or s. 787.02(2) when the violation
82 involved a victim who was a minor and, in the course of
83 committing that violation, the defendant committed against the
84 minor a sexual battery under this chapter or a lewd act under s.
85 800.04 or s. 847.0135(5);

86 2. Section 787.01(3)(a)2. or 3.;

87 3. Section 787.02(3)(a)2. or 3.;

88 4. Section 800.04;

89 5. Section 825.1025;

90 6. Section 847.0135(5); or

91 7. This chapter, excluding subsection (10) of this section.
92



255662

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2014	.	
	.	
	.	
	.	

The Committee on Judiciary (Bradley) recommended the following:

Senate Amendment

Delete lines 185 - 242
and insert:

(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



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12 committing that violation, the defendant committed against the
13 minor a sexual battery under chapter 794 or a lewd act under
14 this section or s. 847.0135(5);

15 2. Section 787.01(3)(a)2. or 3.;

16 3. Section 787.02(3)(a)2. or 3.;

17 4. Chapter 794, excluding s. 794.011(10);

18 5. Section 825.1025;

19 6. Section 847.0135(5); or

20 7. This section.

21 ~~(a) Engages in sexual activity with a person 12 years of~~
22 ~~age or older but less than 16 years of age; or~~

23 ~~(b) Encourages, forces, or entices any person less than 16~~
24 ~~years of age to engage in sadomasochistic abuse, sexual~~
25 ~~bestiality, prostitution, or any other act involving sexual~~
26 ~~activity~~

27
28 ~~commits lewd or lascivious battery, a felony of the second~~
29 ~~degree, punishable as provided in s. 775.082, s. 775.083, or s.~~
30 ~~775.084.~~

31 (5) LEWD OR LASCIVIOUS MOLESTATION.—

32 (a) A person who intentionally touches in a lewd or
33 lascivious manner the breasts, genitals, genital area, or
34 buttocks, or the clothing covering them, of a person less than
35 16 years of age, or forces or entices a person under 16 years of
36 age to so touch the perpetrator, commits lewd or lascivious
37 molestation.

38 (b) An offender 18 years of age or older who commits lewd
39 or lascivious molestation against a victim less than 12 years of
40 age commits a life felony, punishable as provided in s.



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41 775.082(3)(a)4.

42 (c)1. An offender less than 18 years of age who commits
43 lewd or lascivious molestation against a victim less than 12
44 years of age; or

45 2. An offender 18 years of age or older who commits lewd or
46 lascivious molestation against a victim 12 years of age or older
47 but less than 16 years of age

48
49 commits a felony of the second degree, punishable as provided in
50 s. 775.082, s. 775.083, or s. 775.084.

51 (d) An offender less than 18 years of age who commits lewd
52 or lascivious molestation against a victim 12 years of age or
53 older but less than 16 years of age commits a felony of the
54 third degree, punishable as provided in s. 775.082, s. 775.083,
55 or s. 775.084.

56 (e) A person commits a felony of the first degree,
57 punishable as provided in s. 775.082, s. 775.083, or s. 775.084
58 if the person is 18 years of age or older and commits lewd or
59 lascivious molestation against a victim 12 years of age or older
60 but less than 16 years of age and the person was previously
61 convicted of a violation of:

62 1. Section 787.01(2) or s. 787.02(2) when the violation
63 involved a victim who was a minor and, in the course of
64 committing the violation, the defendant committed against the
65 minor a sexual battery under chapter 794 or a lewd act under
66 this section or s. 847.0135(5);

67 2. Section 787.01(3)(a)2. or 3.;

68 3. Section 787.02(3)(a)2. or 3.;

69 4. Chapter 794, excluding s. 794.011(10);



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- 70 5. Section 825.1025;
- 71 6. Section 847.0135(5); or
- 72 7. This section.
- 73

By the Committee on Criminal Justice; and Senator Bradley

591-01047A-14

2014526c1

1 A bill to be entitled
2 An act relating to sexual offenses; amending s.
3 794.011, F.S.; revising and creating offenses
4 involving sexual battery; increasing felony degree of
5 certain sexual battery offenses; amending s. 800.04,
6 F.S.; revising and creating offenses involving lewd or
7 lascivious battery and molestation; increasing felony
8 degree of certain lewd or lascivious battery and
9 molestation offenses; amending s. 921.0022, F.S.;
10 assigning new offense severity rankings for lewd or
11 lascivious molestation and sexual battery offenses;
12 amending s. 921.0024, F.S.; providing that sentence
13 points are multiplied for specified sex offenses
14 committed by an adult upon a minor under certain
15 circumstances; creating s. 921.30, F.S.; authorizing a
16 state attorney to move a court to make a written
17 finding that an offense was a sexually motivated
18 offense under certain circumstances; amending s.
19 944.275, F.S.; prohibiting award of gain-time for
20 certain offenses; amending s. 947.1405, F.S.;
21 providing for tolling of conditional release
22 supervision; providing applicability; amending s.
23 948.012, F.S.; requiring split sentence for certain
24 sexual offenses; providing for tolling of probation or
25 community control; providing applicability; providing
26 severability; providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
29

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30 Section 1. Subsections (4), (5), and (6), paragraph (b) of
31 subsection (8), and subsections (9) and (10) of section 794.011,
32 Florida Statutes, are amended to read:

33 794.011 Sexual battery.—

34 (4) (a) A person 18 years of age or older who commits sexual
35 battery upon a person 12 years of age or older but younger than
36 18 years of age without that person's consent, under any of the
37 following circumstances listed in paragraph (e), commits a
38 felony of the first degree, punishable by a term of years not
39 exceeding life or as provided in s. 775.082, s. 775.083, s.
40 775.084, or s. 794.0115.‡

41 (b) A person 18 years of age or older who commits sexual
42 battery upon a person 18 years of age or older without that
43 person's consent, under any of the circumstances listed in
44 paragraph (e), commits a felony of the first degree, punishable
45 as provided in s. 775.082, s. 775.083, s. 775.084, or s.
46 794.0115.

47 (c) A person younger than 18 years of age who commits
48 sexual battery upon a person 12 years of age or older without
49 that person's consent, under any of the circumstances listed in
50 paragraph (e), commits a felony of the first degree, punishable
51 as provided in s. 775.082, s. 775.083, s. 775.084, or s.
52 794.0115.

53 (d) If a person who has previously been convicted of a
54 violation of s. 787.01(2) or s. 787.02(2), if the violation
55 involved a victim who was a minor and, in the course of
56 committing that violation, the defendant committed a sexual
57 battery under chapter 794 or a lewd act under s. 800.04 or s.
58 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.

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59 787.02(3)(a)2. or 3.; s. 800.04; s. 825.1025; s. 847.0135(5); or
60 this chapter, excluding subsection (10) of this section, commits
61 sexual battery upon a person 12 years of age or older without
62 that person's consent, under any of the circumstances listed in
63 paragraph (e), such person commits a felony of the first degree,
64 punishable by a term of years not exceeding life or as provided
65 in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

66 (e) The following circumstances apply to paragraphs (a)-

67 (d):

68 1.(a) When The victim is physically helpless to resist.

69 2.(b) When The offender coerces the victim to submit by
70 threatening to use force or violence likely to cause serious
71 personal injury on the victim, and the victim reasonably
72 believes that the offender has the present ability to execute
73 the threat.

74 3.(c) When The offender coerces the victim to submit by
75 threatening to retaliate against the victim, or any other
76 person, and the victim reasonably believes that the offender has
77 the ability to execute the threat in the future.

78 4.(d) When The offender, without the prior knowledge or
79 consent of the victim, administers or has knowledge of someone
80 else administering to the victim any narcotic, anesthetic, or
81 other intoxicating substance that ~~which~~ mentally or physically
82 incapacitates the victim.

83 5.(e) When The victim is mentally defective, and the
84 offender has reason to believe this or has actual knowledge of
85 this fact.

86 6.(f) When The victim is physically incapacitated.

87 7.(g) When The offender is a law enforcement officer,

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88 correctional officer, or correctional probation officer as
89 defined in ~~by~~ s. 943.10(1), (2), (3), (6), (7), (8), or (9), who
90 is certified under ~~the provisions of~~ s. 943.1395 or is an
91 elected official exempt from such certification by virtue of s.
92 943.253, or any other person in a position of control or
93 authority in a probation, community control, controlled release,
94 detention, custodial, or similar setting, and such officer,
95 official, or person is acting in such a manner as to lead the
96 victim to reasonably believe that the offender is in a position
97 of control or authority as an agent or employee of government.

98 (5) (a) A person 18 years of age or older who commits sexual
99 battery upon a person 12 years of age or older but younger than
100 18 years of age, without that person's consent, and in the
101 process thereof does not use physical force and violence likely
102 to cause serious personal injury commits a felony of the first
103 ~~second~~ degree, punishable as provided in s. 775.082, s. 775.083,
104 s. 775.084, or s. 794.0115.

105 (b) A person 18 years of age or older who commits sexual
106 battery upon a person 18 years of age or older, without that
107 person's consent, and in the process does not use physical force
108 and violence likely to cause serious personal injury commits a
109 felony of the second degree, punishable as provided in s.
110 775.082, s. 775.083, s. 775.084, or s. 794.0115.

111 (c) A person younger than 18 years of age who commits
112 sexual battery upon a person 12 years of age or older, without
113 that person's consent, and in the process does not use physical
114 force and violence likely to cause serious personal injury
115 commits a felony of the second degree, punishable as provided in
116 s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

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117 (d) If a person who has previously been convicted of a
118 violation of s. 787.01(2) or s. 787.02(2), if the violation
119 involved a victim who was a minor and, in the course of
120 committing that violation, the defendant committed a sexual
121 battery under chapter 794 or a lewd act under s. 800.04 or s.
122 847.0135(5) against the minor; s. 787.01(3) (a)2. or 3.; s.
123 787.02(3) (a)2. or 3.; s. 800.04; s. 825.1025; s. 847.0135(5); or
124 this chapter, excluding subsection (10) of this section, commits
125 sexual battery upon a person 12 years of age or older, without
126 that person's consent, and in the process does not use physical
127 force and violence likely to cause serious personal injury, such
128 person commits a felony of the first degree, punishable as
129 provided in s. 775.082, s. 775.083, s. 775.084, or s. 794.0115.

130 (6) (a) The offenses ~~offense~~ described in paragraphs (5) (a)-
131 (c) are ~~subsection (5) is~~ included in any sexual battery offense
132 charged under subsection (3) or ~~subsection (4).~~

133 (b) The offense described in paragraph (5) (a) is included
134 in an offense charged under paragraph (4) (a).

135 (c) The offense described in paragraph (5) (b) is included
136 in an offense charged under paragraph (4) (b).

137 (d) The offense described in paragraph (5) (c) is included
138 in an offense charged under paragraph (4) (c).

139 (e) The offense described in paragraph (5) (d) is included
140 in an offense charged under paragraph (4) (d).

141 (8) Without regard to the willingness or consent of the
142 victim, which is not a defense to prosecution under this
143 subsection, a person who is in a position of familial or
144 custodial authority to a person less than 18 years of age and
145 who:

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146 (b) Engages in any act with that person while the person is
147 12 years of age or older but younger ~~less~~ than 18 years of age
148 which constitutes sexual battery under paragraph (1)(h) commits
149 a felony of the first degree, punishable by a term of years not
150 exceeding life or as provided in s. 775.082, s. 775.083, or s.
151 775.084.

152 (9) For prosecution under paragraph (4)(a), paragraph
153 (4)(b), paragraph (4)(c), or paragraph (4)(d) which involves an
154 offense committed under any of the circumstances listed in
155 subparagraph (4)(e)7. ~~paragraph (4)(g),~~ acquiescence to a person
156 reasonably believed by the victim to be in a position of
157 authority or control does not constitute consent, and it is not
158 a defense that the perpetrator was not actually in a position of
159 control or authority if the circumstances were such as to lead
160 the victim to reasonably believe that the person was in such a
161 position.

162 (10) A ~~Any~~ person who falsely accuses a ~~any~~ person listed
163 in subparagraph (4)(e)7. ~~paragraph (4)(g)~~ or other person in a
164 position of control or authority as an agent or employee of
165 government of violating paragraph (4)(a), paragraph (4)(b),
166 paragraph (4)(c), or paragraph (4)(d) commits ~~(4)(g) is guilty~~
167 ~~of~~ a felony of the third degree, punishable as provided in s.
168 775.082, s. 775.083, or s. 775.084.

169 Section 2. Subsections (4) and (5) of section 800.04,
170 Florida Statutes, are amended to read:

171 800.04 Lewd or lascivious offenses committed upon or in the
172 presence of persons less than 16 years of age.—

173 (4) LEWD OR LASCIVIOUS BATTERY. ~~A person who:~~

174 (a) A person commits lewd or lascivious battery by:

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175 1. Engaging in sexual activity with a person 12 years of
176 age or older but less than 16 years of age; or

177 2. Encouraging, forcing, or enticing any person less than
178 16 years of age to engage in sadomasochistic abuse, sexual
179 bestiality, prostitution, or any other act involving sexual
180 activity.

181 (b) Except as provided in paragraph (c), an offender who
182 commits lewd or lascivious battery commits a felony of the
183 second degree, punishable as provided in s. 775.082, s. 775.083,
184 or s. 775.084.

185 (c) An offender 18 years of age or older who commits lewd
186 or lascivious battery commits a felony of the first degree,
187 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
188 if the offender has previously been convicted of a violation of
189 this section or a violation of s. 787.01(2) or s. 787.02(2), if
190 the violation involved a victim who was a minor and, in the
191 course of committing that violation, the defendant committed a
192 sexual battery under chapter 794 or a lewd act under this
193 section or s. 847.0135(5) against the minor; s. 787.01(3)(a)2.
194 or 3.; s. 787.02(3)(a)2. or 3.; chapter 794, excluding s.
195 794.011(10); s. 825.1025; or s. 847.0135(5).

196 ~~(a) Engages in sexual activity with a person 12 years of~~
197 ~~age or older but less than 16 years of age; or~~

198 ~~(b) Encourages, forces, or entices any person less than 16~~
199 ~~years of age to engage in sadomasochistic abuse, sexual~~
200 ~~bestiality, prostitution, or any other act involving sexual~~
201 ~~activity~~

202
203 ~~commits lewd or lascivious battery, a felony of the second~~

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204 ~~degree, punishable as provided in s. 775.082, s. 775.083, or s.~~
205 ~~775.084.~~

206 (5) LEWD OR LASCIVIOUS MOLESTATION.—

207 (a) A person who intentionally touches in a lewd or
208 lascivious manner the breasts, genitals, genital area, or
209 buttocks, or the clothing covering them, of a person less than
210 16 years of age, or forces or entices a person under 16 years of
211 age to so touch the perpetrator, commits lewd or lascivious
212 molestation.

213 (b) An offender 18 years of age or older who commits lewd
214 or lascivious molestation against a victim less than 12 years of
215 age commits a life felony, punishable as provided in s.
216 775.082(3)(a)4.

217 (c)1. An offender less than 18 years of age who commits
218 lewd or lascivious molestation against a victim less than 12
219 years of age; or

220 2. An offender 18 years of age or older who commits lewd or
221 lascivious molestation against a victim 12 years of age or older
222 but less than 16 years of age

223
224 commits a felony of the second degree, punishable as provided in
225 s. 775.082, s. 775.083, or s. 775.084.

226 (d) An offender less than 18 years of age who commits lewd
227 or lascivious molestation against a victim 12 years of age or
228 older but less than 16 years of age commits a felony of the
229 third degree, punishable as provided in s. 775.082, s. 775.083,
230 or s. 775.084.

231 (e) An offender 18 years of age or older who commits lewd
232 or lascivious molestation against a victim 12 years of age or

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233 older but less than 16 years of age commits a felony of the
 234 first degree, punishable as provided in s. 775.082, s. 775.083,
 235 or s. 775.084, if the offender has previously been convicted of
 236 a violation of this section or a violation of s. 787.01(2) or s.
 237 787.02(2), if the violation involved a victim who was a minor
 238 and, in the course of committing that violation, the defendant
 239 committed a sexual battery under chapter 794 or a lewd act under
 240 this section or s. 847.0135(5) against the minor; s.
 241 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; chapter 794,
 242 excluding s. 794.011(10); s. 825.1025; or s. 847.0135(5).

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

245 921.0022 Criminal Punishment Code; offense severity ranking
 246 chart.—

247 (3) OFFENSE SEVERITY RANKING CHART

248 (g) LEVEL 7

249

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

250

251

252

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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.

253

327.35(3)(c)2.

3rd

Vessel BUI resulting in serious bodily injury.

254

402.319(2)

2nd

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

255

409.920
(2)(b)1.a.

3rd

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

256

409.920
(2)(b)1.b.

2nd

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

257

456.065(2)

3rd

Practicing a health care profession without a license.

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258

456.065 (2) 2nd Practicing a health care profession without a license which results in serious bodily injury.

259

458.327 (1) 3rd Practicing medicine without a license.

260

459.013 (1) 3rd Practicing osteopathic medicine without a license.

261

460.411 (1) 3rd Practicing chiropractic medicine without a license.

262

461.012 (1) 3rd Practicing podiatric medicine without a license.

263

462.17 3rd Practicing naturopathy without a license.

264

463.015 (1) 3rd Practicing optometry without a license.

265

464.016 (1) 3rd Practicing nursing without a license.

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272
273
274

465.015 (2)	3rd	Practicing pharmacy without a license.
466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901 (9)	3rd	Practicing medical physics without a license.
484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.

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275 494.0018 (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.

276 560.123 (8) (b) 1. 3rd Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.

277 560.125 (5) (a) 3rd Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

278 655.50 (10) (b) 1. 3rd Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

775.21 (10) (a) 3rd Sexual predator; failure to register; failure to renew driver ~~driver's~~

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license or identification
card; other registration
violations.

279

775.21 (10) (b)

3rd

Sexual predator working
where children regularly
congregate.

280

775.21 (10) (g)

3rd

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

281

782.051 (3)

2nd

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

282

782.07 (1)

2nd

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

283

782.071

2nd

Killing of a human being
or viable fetus by the
operation of a motor
vehicle in a reckless

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manner (vehicular
homicide).

284

782.072

2nd

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

285

784.045 (1) (a) 1.

2nd

Aggravated battery;
intentionally causing
great bodily harm or
disfigurement.

286

784.045 (1) (a) 2.

2nd

Aggravated battery; using
deadly weapon.

287

784.045 (1) (b)

2nd

Aggravated battery;
perpetrator aware victim
pregnant.

288

784.048 (4)

3rd

Aggravated stalking;
violation of injunction or
court order.

289

784.048 (7)

3rd

Aggravated stalking;
violation of court order.

290

784.07 (2) (d)

1st

Aggravated battery on law
enforcement officer.

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291

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

292

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

293

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

294

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

295

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

296

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

297

787.06 (3) (e) 1st Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside

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Florida to within the
state.

298

790.07(4)

1st

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

299

790.16(1)

1st

Discharge of a machine gun
under specified
circumstances.

300

790.165(2)

2nd

Manufacture, sell,
possess, or deliver hoax
bomb.

301

790.165(3)

2nd

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

302

790.166(3)

2nd

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

303

790.166(4)

2nd

Possessing, displaying, or
threatening to use a hoax

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weapon of mass destruction
while committing or
attempting to commit a
felony.

304

790.23

1st,PBL

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

305

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.

306

796.03

2nd

Procuring any person under
16 years for prostitution.

307

800.04 (5) (c) 1.

2nd

Lewd or lascivious
molestation; victim
younger ~~less~~ than 12 years
of age; offender younger
~~less~~ than 18 years.

308

800.04 (5) (c) 2.

2nd

Lewd or lascivious
molestation; victim 12
years of age or older but

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younger ~~less~~ than 16
years; offender 18 years
or older.

309

800.04 (5) (e)

1st

Lewd or lascivious
molestation; victim 12
years of age or older but
younger than 16 years;
offender 18 years or
older; prior conviction
for specified sex offense.

310

806.01 (2)

2nd

Maliciously damage
structure by fire or
explosive.

311

810.02 (3) (a)

2nd

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

312

810.02 (3) (b)

2nd

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

313

810.02 (3) (d)

2nd

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

314

810.02 (3) (e)

2nd

Burglary of authorized

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emergency vehicle.

315

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.

316

812.014 (2) (b) 2.

2nd

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

317

812.014 (2) (b) 3.

2nd

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

318

812.014 (2) (b) 4.

2nd

Property stolen, law enforcement equipment from authorized emergency vehicle.

319

812.0145 (2) (a)

1st

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

320

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321	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
322	812.131 (2) (a)	2nd	Robbery by sudden snatching.
323	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
324	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
325	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
326	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
327	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.

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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)

328

817.535 (2) (a)

3rd

Filing false lien or other unauthorized document.

329

825.102 (3) (b)

2nd

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

330

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.

331

827.03 (2) (b)

2nd

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

332

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333	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
334	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
335	838.015	2nd	Bribery.
336	838.016	2nd	Unlawful compensation or reward for official behavior.
337	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
338	838.22	2nd	Bid tampering.
339	843.0855 (2)	3rd	Impersonation of a public officer or employee.
340	843.0855 (3)	3rd	Unlawful simulation of legal process.
	843.0855 (4)	3rd	Intimidation of a public officer or employee.

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341

847.0135 (3) 3rd Solicitation of a child, via a computer service, to commit an unlawful sex act.

342

847.0135 (4) 2nd Traveling to meet a minor to commit an unlawful sex act.

343

872.06 2nd Abuse of a dead human body.

344

874.05 (2) (b) 1st Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.

345

874.10 1st,PBL Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

346

893.13 (1) (c) 1. 1st Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1) (a), (1) (b),

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(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.

347

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.

348

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).

349

893.135 (1) (a) 1.

1st

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

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350

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

351

893.135 (1) (c) 1.a. 1st Trafficking in illegal drugs, more than 4 grams, less than 14 grams.

352

893.135 (1) (d) 1. 1st Trafficking in phencyclidine, more than 28 grams, less than 200 grams.

353

893.135 (1) (e) 1. 1st Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.

354

893.135 (1) (f) 1. 1st Trafficking in amphetamine, more than 14 grams, less than 28 grams.

355

893.135 (1) (g) 1.a. 1st Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

356

893.135 (1) (h) 1.a. 1st Trafficking in gamma-hydroxybutyric acid (GHB),

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1 kilogram or more, less than 5 kilograms.

357

893.135
(1) (j) 1.a.

1st

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

358

893.135
(1) (k) 2.a.

1st

Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.

359

893.1351 (2)

2nd

Possession of place for trafficking in or manufacturing of controlled substance.

360

896.101 (5) (a)

3rd

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

361

896.104 (4) (a) 1.

3rd

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

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362

943.0435 (4) (c) 2nd Sexual offender vacating permanent residence; failure to comply with reporting requirements.

363

943.0435 (8) 2nd Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

364

943.0435 (9) (a) 3rd Sexual offender; failure to comply with reporting requirements.

365

943.0435 (13) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

366

943.0435 (14) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

367

944.607 (9) 3rd Sexual offender; failure to comply with reporting

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requirements.

368

944.607(10)(a)

3rd

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

369

944.607(12)

3rd

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

370

944.607(13)

3rd

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

371

985.4815(10)

3rd

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

372

985.4815(12)

3rd

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

373

985.4815(13)

3rd

Sexual offender; failure to report and reregister;

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failure to respond to
address verification.

374
375
376
377
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381
382
383

(h) LEVEL 8

Florida Statute	Felony Degree	Description
316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
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.

384

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.

385

655.50 (10) (b) 2.

2nd

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

386

777.03 (2) (a)

1st

Accessory after the fact, capital felony.

387

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.

388

782.051 (2)

1st

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

389

782.071 (1) (b)

1st

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

390

782.072 (2)

1st

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

391

787.06 (3) (b)

1st

Human trafficking using
 coercion for commercial
 sexual activity.

392

787.06 (3) (c)

1st

Human trafficking using
 coercion for labor and

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services of an
unauthorized alien.

393

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.

394

790.161(3)

1st

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

395

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.

396

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

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serious injury.

397

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.

398

794.011 (5) (d)

1st

Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.

399

~~794.011 (5)~~

~~2nd~~

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

400

794.08 (3)

2nd

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

401

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402

800.04 (4) (b)

2nd

Lewd or lascivious
battery.

403

800.04 (4) (c)

1st

Lewd or lascivious
battery; offender 18
years of age or older;
prior conviction for
specified sex offense.

404

~~800.04 (4)~~

~~2nd~~

~~Lewd or lascivious
battery.~~

405

806.01 (1)

1st

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

406

810.02 (2) (a)

1st, PBL

Burglary with assault or
battery.

407

810.02 (2) (b)

1st, PBL

Burglary; armed with
explosives or dangerous
weapon.

810.02 (2) (c)

1st

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

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damage.

408

812.014 (2) (a) 2.

1st

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

409

812.13 (2) (b)

1st

Robbery with a weapon.

410

812.135 (2) (c)

1st

Home-invasion robbery, no firearm, deadly weapon, or other weapon.

411

817.535 (2) (b)

2nd

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

412

817.535 (3) (a)

2nd

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

413

817.535 (4) (a) 1.

2nd

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

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414

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.

415

817.568 (6)

2nd

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

416

825.102 (2)

1st

Aggravated abuse of an elderly person or disabled adult.

417

825.1025 (2)

2nd

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

418

825.103 (2) (a)

1st

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

419

837.02 (2)

2nd

Perjury in official proceedings relating to

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prosecution of a capital
felony.

420

837.021(2)

2nd

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

421

860.121(2)(c)

1st

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

422

860.16

1st

Aircraft piracy.

423

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).

424

893.13(2)(b)

1st

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

425

893.13(6)(c)

1st

Possess in excess of 10
grams of any substance

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specified in s.
893.03(1) (a) or (b).

426

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

427

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

428

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

429

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

430

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

431

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

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grams.

432

893.135
(1) (g) 1.b.

1st

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

433

893.135
(1) (h) 1.b.

1st

Trafficking in gamma-
hydroxybutyric acid
(GHB), 5 kilograms or
more, less than 10
kilograms.

434

893.135
(1) (j) 1.b.

1st

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

435

893.135
(1) (k) 2.b.

1st

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

436

893.1351 (3)

1st

Possession of a place
used to manufacture
controlled substance when
minor is present or
resides there.

437

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438

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

439

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

440

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

441

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

896.104 (4) (a) 2. 2nd Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.

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449
450

(i) LEVEL 9

Florida Statute	Felony Degree	Description
316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
499.0051 (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.

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451

560.125 (5) (c)

1st

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

452

655.50 (10) (b) 3.

1st

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

453

775.0844

1st

Aggravated white collar crime.

454

782.04 (1)

1st

Attempt, conspire, or solicit to commit premeditated murder.

455

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.

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456

782.051(1) 1st Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).

457

782.07(2) 1st Aggravated manslaughter of an elderly person or disabled adult.

458

787.01(1)(a)1. 1st,PBL Kidnapping; hold for ransom or reward or as a shield or hostage.

459

787.01(1)(a)2. 1st,PBL Kidnapping with intent to commit or facilitate commission of any felony.

460

787.01(1)(a)4. 1st,PBL Kidnapping with intent to interfere with performance of any governmental or political function.

461

787.02(3)(a) 1st False imprisonment; child under age 13; perpetrator also commits

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

462

787.06 (3) (d)

1st

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

463

787.06 (3) (g)

1st,PBL

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

464

787.06 (4)

1st

Selling or buying of
minors into human
trafficking.

465

790.161

1st

Attempted capital
destructive device
offense.

466

790.166 (2)

1st,PBL

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

467

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468

794.011 (2)

1st

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

469

794.011 (2)

Life

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

470

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.

471

794.011 (4) (b)

1st

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

472

794.011 (4) (c)

1st

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

794.011 (4) (d)

1st, PBL

Sexual battery, certain

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

473

~~794.011(4)~~

~~1st~~

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

474

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.

475

794.08(2)

1st

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

476

796.035

1st

Selling or buying of
minors into
prostitution.

477

800.04(5)(b)

Life

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

478

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479 812.13 (2) (a) 1st,PBL Robbery with firearm or
other deadly weapon.

480 812.133 (2) (a) 1st,PBL Carjacking; firearm or
other deadly weapon.

481 812.135 (2) (b) 1st Home-invasion robbery
with weapon.

482 817.535 (3) (b) 1st Filing false lien or
other unauthorized
document; second or
subsequent offense;
property owner is a
public officer or
employee.

483 817.535 (4) (a) 2. 1st Filing false claim or
other unauthorized
document; defendant is
incarcerated or under
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

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a result of the false
instrument.

484

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.

485

827.03 (2) (a)

1st

Aggravated child abuse.

486

847.0145 (1)

1st

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

487

847.0145 (2)

1st

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

488

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

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person.

489

893.135

1st

Attempted capital
trafficking offense.

490

893.135 (1) (a) 3.

1st

Trafficking in cannabis,
more than 10,000 lbs.

491

893.135
(1) (b) 1.c.

1st

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

492

893.135
(1) (c) 1.c.

1st

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

493

893.135
(1) (d) 1.c.

1st

Trafficking in
phencyclidine, more than
400 grams.

494

893.135
(1) (e) 1.c.

1st

Trafficking in
methaqualone, more than
25 kilograms.

495

893.135
(1) (f) 1.c.

1st

Trafficking in
amphetamine, more than
200 grams.

496

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893.135
(1) (h) 1.c.

1st

Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.

497

893.135
(1) (j) 1.c.

1st

Trafficking in 1,4-Butanediol, 10 kilograms or more.

498

893.135
(1) (k) 2.c.

1st

Trafficking in Phenethylamines, 400 grams or more.

499

896.101 (5) (c)

1st

Money laundering, financial instruments totaling or exceeding \$100,000.

500

896.104 (4) (a) 3.

1st

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

501

502

503 Section 4. Section 921.0024, Florida Statutes, is amended
504 to read:

505 921.0024 Criminal Punishment Code; worksheet computations;

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506 scoresheets.-

507 (1) (a) The Criminal Punishment Code worksheet is used to
508 compute the subtotal and total sentence points as follows:

509
510 FLORIDA CRIMINAL PUNISHMENT CODE

511 WORKSHEET

512
513 OFFENSE SCORE

514 Primary Offense

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

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525	2	10	=
526	1	4	=
527				
528				Total

Additional Offenses

531	Level	Sentence Points		Counts		Total
532	10	58	x	=
533	9	46	x	=
534	8	37	x	=
535	7	28	x	=
536	6	18	x	=
537	5	5.4	x	=
538	4	3.6	x	=
539	3	2.4	x	=

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540

2	1.2	x	=
---	-----	---	-------	---	-------

541

1	0.7	x	=
---	-----	---	-------	---	-------

542

M	0.2	x	=
---	-----	---	-------	---	-------

543

544

Total

545

546

547

Victim Injury

548

Level	Sentence Points		Number		Total
-------	--------------------	--	--------	--	-------

549

2nd degree murder- death	240	x	=
--------------------------------	-----	---	-------	---	-------

550

Death	120	x	=
-------	-----	---	-------	---	-------

551

Severe	40	x	=
--------	----	---	-------	---	-------

552

Moderate	18	x	=
----------	----	---	-------	---	-------

553

Slight	4	x	=
--------	---	---	-------	---	-------

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554
555
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566
567
568
569
570

Sexual penetration	80	x	=
Sexual contact	40	x	=

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	=

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571	6	9	x	=
572	5	3.6	x	=
573	4	2.4	x	=
574	3	1.6	x	=
575	2	0.8	x	=
576	1	0.5	x	=
577	M	0.2	x	=

Total

579

580

581 TOTAL OFFENSE SCORE.....

582 TOTAL PRIOR RECORD SCORE.....

583

584 LEGAL STATUS.....

585 COMMUNITY SANCTION VIOLATION.....

586 PRIOR SERIOUS FELONY.....

587 PRIOR CAPITAL FELONY.....

588 FIREARM OR SEMIAUTOMATIC WEAPON.....

589 SUBTOTAL.....

590

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591 PRISON RELEASEE REOFFENDER (no) (yes).....

592 VIOLENT CAREER CRIMINAL (no) (yes).....

593 HABITUAL VIOLENT OFFENDER (no) (yes).....

594 HABITUAL OFFENDER (no) (yes).....

595 DRUG TRAFFICKER (no) (yes) (x multiplier).....

596 LAW ENF. PROTECT. (no) (yes) (x multiplier).....

597 MOTOR VEHICLE THEFT (no) (yes) (x multiplier).....

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

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

600 (x multiplier).....

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

602

603 TOTAL SENTENCE POINTS.....

605 (b) WORKSHEET KEY:

606

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

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

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

610 an offender's legal status.

611

612 Community sanction violation points are assessed when a

613 community sanction violation is before the court for sentencing.

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

615 violation and each successive community sanction violation,

616 unless any of the following apply:

- 617 1. If the community sanction violation includes a new
- 618 felony conviction before the sentencing court, twelve (12)
- 619 community sanction violation points are assessed for the

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620 violation, and for each successive community sanction violation
621 involving a new felony conviction.

622 2. If the community sanction violation is committed by a
623 violent felony offender of special concern as defined in s.
624 948.06:

625 a. Twelve (12) community sanction violation points are
626 assessed for the violation and for each successive violation of
627 felony probation or community control where:

628 I. The violation does not include a new felony conviction;
629 and

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

633 b. Twenty-four (24) community sanction violation points are
634 assessed for the violation and for each successive violation of
635 felony probation or community control where the violation
636 includes a new felony conviction.

637

638 Multiple counts of community sanction violations before the
639 sentencing court shall not be a basis for multiplying the
640 assessment of community sanction violation points.

641

642 Prior serious felony points: If the offender has a primary
643 offense or any additional offense ranked in level 8, level 9, or
644 level 10, and one or more prior serious felonies, a single
645 assessment of thirty (30) points shall be added. For purposes of
646 this section, a prior serious felony is an offense in the
647 offender's prior record that is ranked in level 8, level 9, or
648 level 10 under s. 921.0022 or s. 921.0023 and for which the

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649 offender is serving a sentence of confinement, supervision, or
650 other sanction or for which the offender's date of release from
651 confinement, supervision, or other sanction, whichever is later,
652 is within 3 years before the date the primary offense or any
653 additional offense was committed.

654
655 Prior capital felony points: If the offender has one or more
656 prior capital felonies in the offender's criminal record, points
657 shall be added to the subtotal sentence points of the offender
658 equal to twice the number of points the offender receives for
659 the primary offense and any additional offense. A prior capital
660 felony in the offender's criminal record is a previous capital
661 felony offense for which the offender has entered a plea of nolo
662 contendere or guilty or has been found guilty; or a felony in
663 another jurisdiction which is a capital felony in that
664 jurisdiction, or would be a capital felony if the offense were
665 committed in this state.

666
667 Possession of a firearm, semiautomatic firearm, or machine gun:
668 If the offender is convicted of committing or attempting to
669 commit any felony other than those enumerated in s. 775.087(2)
670 while having in his or her possession: a firearm as defined in
671 s. 790.001(6), an additional eighteen (18) sentence points are
672 assessed; or if the offender is convicted of committing or
673 attempting to commit any felony other than those enumerated in
674 s. 775.087(3) while having in his or her possession a
675 semiautomatic firearm as defined in s. 775.087(3) or a machine
676 gun as defined in s. 790.001(9), an additional twenty-five (25)
677 sentence points are assessed.

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678

679 Sentencing multipliers:

680

681 Drug trafficking: If the primary offense is drug trafficking
682 under s. 893.135, the subtotal sentence points are multiplied,
683 at the discretion of the court, for a level 7 or level 8
684 offense, by 1.5. The state attorney may move the sentencing
685 court to reduce or suspend the sentence of a person convicted of
686 a level 7 or level 8 offense, if the offender provides
687 substantial assistance as described in s. 893.135(4).

688

689 Law enforcement protection: If the primary offense is a
690 violation of the Law Enforcement Protection Act under s.
691 775.0823(2), (3), or (4), the subtotal sentence points are
692 multiplied by 2.5. If the primary offense is a violation of s.
693 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
694 are multiplied by 2.0. If the primary offense is a violation of
695 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
696 Protection Act under s. 775.0823(10) or (11), the subtotal
697 sentence points are multiplied by 1.5.

698

699 Grand theft of a motor vehicle: If the primary offense is grand
700 theft of the third degree involving a motor vehicle and in the
701 offender's prior record, there are three or more grand thefts of
702 the third degree involving a motor vehicle, the subtotal
703 sentence points are multiplied by 1.5.

704

705 Offense related to a criminal gang: If the offender is convicted
706 of the primary offense and committed that offense for the

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707 purpose of benefiting, promoting, or furthering the interests of
708 a criminal gang as defined in s. 874.03, the subtotal sentence
709 points are multiplied by 1.5. If applying the multiplier results
710 in the lowest permissible sentence exceeding the statutory
711 maximum sentence for the primary offense under chapter 775, the
712 court may not apply the multiplier and must sentence the
713 defendant to the statutory maximum sentence.

714

715 Domestic violence in the presence of a child: If the offender is
716 convicted of the primary offense and the primary offense is a
717 crime of domestic violence, as defined in s. 741.28, which was
718 committed in the presence of a child under 16 years of age who
719 is a family or household member as defined in s. 741.28(3) with
720 the victim or perpetrator, the subtotal sentence points are
721 multiplied by 1.5.

722

723 Adult-on-minor sex offense: If the offender was 18 years of age
724 or older and the victim was younger than 18 years of age at the
725 time the offender committed the primary offense, and if the
726 primary offense was an offense committed on or after October 1,
727 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
728 violation involved a victim who was a minor and, in the course
729 of committing that violation, the defendant committed a sexual
730 battery under chapter 794 or a lewd act under s. 800.04 or s.
731 847.0135(5) against the minor; s. 787.01(3) (a)2. or 3.; s.
732 787.02(3) (a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
733 794.05; s. 800.04; or s. 847.0135(5), the subtotal sentence
734 points are multiplied by 2.0. If applying the multiplier results
735 in the lowest permissible sentence exceeding the statutory

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736 maximum sentence for the primary offense under chapter 775, the
737 court may not apply the multiplier and must sentence the
738 defendant to the statutory maximum sentence.

739 (2) The lowest permissible sentence is the minimum sentence
740 that may be imposed by the trial court, absent a valid reason
741 for departure. The lowest permissible sentence is any nonstate
742 prison sanction in which the total sentence points equals or is
743 less than 44 points, unless the court determines within its
744 discretion that a prison sentence, which may be up to the
745 statutory maximums for the offenses committed, is appropriate.
746 When the total sentence points exceeds 44 points, the lowest
747 permissible sentence in prison months shall be calculated by
748 subtracting 28 points from the total sentence points and
749 decreasing the remaining total by 25 percent. The total sentence
750 points shall be calculated only as a means of determining the
751 lowest permissible sentence. The permissible range for
752 sentencing shall be the lowest permissible sentence up to and
753 including the statutory maximum, as defined in s. 775.082, for
754 the primary offense and any additional offenses before the court
755 for sentencing. The sentencing court may impose such sentences
756 concurrently or consecutively. However, any sentence to state
757 prison must exceed 1 year. If the lowest permissible sentence
758 under the code exceeds the statutory maximum sentence as
759 provided in s. 775.082, the sentence required by the code must
760 be imposed. If the total sentence points are greater than or
761 equal to 363, the court may sentence the offender to life
762 imprisonment. An offender sentenced to life imprisonment under
763 this section is not eligible for any form of discretionary early
764 release, except executive clemency or conditional medical

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765 release under s. 947.149.

766 (3) A single scoresheet shall be prepared for each
767 defendant to determine the permissible range for the sentence
768 that the court may impose, except that if the defendant is
769 before the court for sentencing for more than one felony and the
770 felonies were committed under more than one version or revision
771 of the guidelines or the code, separate scoresheets must be
772 prepared. The scoresheet or scoresheets must cover all the
773 defendant's offenses pending before the court for sentencing.
774 The state attorney shall prepare the scoresheet or scoresheets,
775 which must be presented to the defense counsel for review for
776 accuracy in all cases unless the judge directs otherwise. The
777 defendant's scoresheet or scoresheets must be approved and
778 signed by the sentencing judge.

779 (4) The Department of Corrections, in consultation with the
780 Office of the State Courts Administrator, state attorneys, and
781 public defenders, must develop and submit the revised Criminal
782 Punishment Code scoresheet to the Supreme Court for approval by
783 June 15 of each year, as necessary. Upon the Supreme Court's
784 approval of the revised scoresheet, the Department of
785 Corrections shall produce and provide sufficient copies of the
786 revised scoresheets by September 30 of each year, as necessary.
787 Scoresheets must include item entries for the scoresheet
788 preparer's use in indicating whether any prison sentence imposed
789 includes a mandatory minimum sentence or the sentence imposed
790 was a downward departure from the lowest permissible sentence
791 under the Criminal Punishment Code.

792 (5) The Department of Corrections shall distribute
793 sufficient copies of the Criminal Punishment Code scoresheets to

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794 those persons charged with the responsibility for preparing
795 scoresheets.

796 (6) The clerk of the circuit court shall transmit a
797 complete, accurate, and legible copy of the Criminal Punishment
798 Code scoresheet used in each sentencing proceeding to the
799 Department of Corrections. Scoresheets must be transmitted no
800 less frequently than monthly, by the first of each month, and
801 may be sent collectively.

802 (7) A sentencing scoresheet must be prepared for every
803 defendant who is sentenced for a felony offense. A copy of the
804 individual offender's Criminal Punishment Code scoresheet and
805 any attachments thereto prepared pursuant to Rule 3.701, Rule
806 3.702, or Rule 3.703, Florida Rules of Criminal Procedure, or
807 any other rule pertaining to the preparation and submission of
808 felony sentencing scoresheets, must be attached to the copy of
809 the uniform judgment and sentence form provided to the
810 Department of Corrections.

811 Section 5. Section 921.30, Florida Statutes, is created to
812 read:

813 921.30 Court finding that offense was sexually motivated.-
814 For offenses other than those specifically defined as a sexually
815 violent offense in s. 394.912(9) (a)-(f), the state attorney may
816 move the court to make a written finding on the record that,
817 based on the circumstances of the case, including consideration
818 of a victim impact statement, the person's offense was sexually
819 motivated.

820 Section 6. Paragraph (e) is added to subsection (4) of
821 section 944.275, Florida Statutes, to read:

822 944.275 Gain-time.-

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823 (4)

824 (e) Notwithstanding subparagraph (b)3., for sentences
825 imposed for offenses committed on or after October 1, 2014, the
826 department may not grant incentive gain-time if the offense is a
827 violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s.
828 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
829 794.05; s. 800.04; s. 825.1025; or s. 847.0135(5).

830 Section 7. Subsection (13) is added to section 947.1405,
831 Florida Statutes, to read:

832 947.1405 Conditional release program.—

833 (13) If a person who is transferred to the custody of the
834 Department of Children and Families pursuant to part V of
835 chapter 394 is subject to conditional release supervision, the
836 period of conditional release supervision is tolled until such
837 person is no longer in the custody of the Department of Children
838 and Families. This subsection applies to all periods of
839 conditional release supervision which begin on or after October
840 1, 2014, regardless of the date of the underlying offense.

841 Section 8. Subsection (1) of section 948.012, Florida
842 Statutes, is amended, and subsections (5) and (6) are added to
843 that section, to read:

844 948.012 Split sentence of probation or community control
845 and imprisonment.—

846 (1) ~~If Whenever~~ punishment by imprisonment for a
847 misdemeanor or a felony, except for a capital felony, is
848 prescribed, the court, ~~in its discretion,~~ may, at the time of
849 sentencing, impose a split sentence whereby the defendant is to
850 be placed on probation or, with respect to any such felony, into
851 community control upon completion of any specified period of

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852 such sentence which may include a term of years or less. In such
853 case, the court shall stay and withhold the imposition of the
854 remainder of sentence imposed upon the defendant and direct that
855 the defendant be placed upon probation or into community control
856 after serving such period as may be imposed by the court. Except
857 as provided in subsection (6), the period of probation or
858 community control shall commence immediately upon the release of
859 the defendant from incarceration, whether by parole or gain-time
860 allowances.

861 (5) (a) Effective for offenses committed on or after October
862 1, 2014, if the court imposes a term of years in accordance with
863 s. 775.082 which is less than the maximum sentence for the
864 offense, the court must impose a split sentence pursuant to
865 subsection (1) for any person who is convicted of a violation
866 of:

- 867 1. Section 782.04(1)(a)2.c.;
- 868 2. Section 787.01(3)(a)2. or 3.;
- 869 3. Section 787.02(3)(a)2. or 3.;
- 870 4. Section 794.011, excluding s. 794.011(10);
- 871 5. Section 794.05;
- 872 6. Section 800.04;
- 873 7. Section 825.1025; or
- 874 8. Section 847.0135(5).

875 (b) The probation or community control portion of the split
876 sentence imposed by the court must extend for at least 2 years.
877 However, if the term of years imposed by the court extends to
878 within 2 years of the maximum sentence for the offense, the
879 probation or community control portion of the split sentence
880 must extend for the remainder of the maximum sentence.

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881 (6) If a defendant who has been sentenced to a split
882 sentence pursuant to subsection (1) is transferred to the
883 custody of the Department of Children and Families pursuant to
884 part V of chapter 394, the period of probation or community
885 control is tolled until such person is no longer in the custody
886 of the Department of Children and Families. This subsection
887 applies to all sentences of probation or community control which
888 begin on or after October 1, 2014, regardless of the date of the
889 underlying offense.

890 Section 9. If any provision of this act or its application
891 to any person or circumstance is held invalid, the invalidity
892 does not affect other provisions or applications of this act
893 which can be given effect without the invalid provision or
894 application, and to this end the provisions of this act are
895 severable.

896 Section 10. This act shall take effect October 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-9-14

Meeting Date

Topic _____

Bill Number SB 524
(if applicable)

Name Lindsey Perkins

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address _____
Street

Phone (850) 671-4401

City

State

Zip

Speaking: For Against Information

E-mail _____

Representing Florida Sheriffs 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)

2.14.14
Meeting Date

Topic SEXUAL OFFENSES

Bill Number 526
(if applicable)

Name RANA BROWN

Amendment Barcode _____
(if applicable)

Job Title consultant

Address 18851 NE 29 Ave

Phone 305 935 1866

Street Aventura FL 33188
City *State* *Zip*

E-mail RANA@RLBWKPA.COM

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2 / 4 / 2014

Meeting Date

Topic _____

Bill Number 526
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

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)

2/04/14
Meeting Date

Topic Sex Offenders / Predators Bill Number 526
Name Gail Colletta Amendment Barcode _____ (if applicable)
Job Title President Florida Actu Committee
Address 7054 Palmyra Road Phone 3613054959
BB FL 33437 E-mail gail@floridaactin
City State Zip Committee.org

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.

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 Judiciary

BILL: CS/SB 528

INTRODUCER: Judiciary Committee and Senator Evers

SUBJECT: Sex Offenses

DATE: February 5, 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>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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.

Specifically, 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 with the registrant, Internet identifiers (prior to their use), 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;
- specifies additional "sexual misconduct" offenses 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; and
- modifies provisions relevant to seeking removal of registration requirements to allow for additional sexual offenders to petition for registration removal if criteria are met.

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

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).

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 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

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-Tt1GRPwWASHTSbLUQVw> (last visited on January 15, 2014).

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).

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;
- 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;

¹⁰ Sections 775.21(6)(e) and 943.0435(2)(a), F.S.

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.

- 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

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

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.

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.

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

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 are taken in a manner approved by the FDLE and are submitted electronically to the department for state processing for a criminal history records check. The FDLE submits the fingerprints to the Federal Bureau of Investigation for national processing. The FDLE submits the results of the state and national records check to the clerk of the court. The results do not specifically alert the clerk or judge that the petitioner is a registrant.

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 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.

The court considers the results in reviewing the information contained in the petition and its evaluation on whether to grant the petition.

Each 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

On the 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 judgment.³² Any information retained by the FDLE and the DHSMV may be revised or supplemented by these 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.

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.

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

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, 4, and 8)

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
- 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) in the list of registration-qualifying offenses in s. 775.21, F.S., to exclude 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

³⁶ Section 393.135(2), F.S.

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.

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. 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 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, 4, 8 and 9)

The bill amends ss. 775.21, 943.0435, 944.607, and 985.481, 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 that are owned by the registrant and all vehicles that are owned by a person who resides with the registrant;
- Internet identifiers (prior to their use);
- palm prints;
- passports;
- professional license information;
- immigration status information; and
- volunteer status at a Florida institution of higher education.

For the purpose of the vehicle information reporting requirement, a person is residing at the registrant’s residence if the person abides, lodges, or resides at the residence for 5 or more consecutive days. The bill also defines the term “vehicles owned” as any motor vehicle defined in s. 320.01, F.S., that is registered, co-registered, leased, titled, or rented by a person; a rented vehicle that the person is authorized to drive; or a vehicle for which the person is insured as a driver.

The bill also 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 4)

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

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.*

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 4)

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 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.

Prohibits and Punishes Certain Acts (Sections 2, 4, 8, 10, 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; 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 Code⁴³ to reflect these changes.

Reports Internet Identifiers to Commercial Social Networking Websites (Section 6)

The bill amends s. 943.0437, F.S., to authorize the FDLE to provide information on Internet identifiers⁴⁴ and 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.

⁴³ 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 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.*

⁴⁴ The bill replaced 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.

Reports Sexual Offender Information to the FDLE (Sections 7 and 9)

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.⁴⁵

Allows Additional Sexual Offenders to Petition for Registration Removal if Criteria are Met (Sections 4 and 5)

The bill revises criteria in s. 943.0435, F.S., for a person to become eligible for registration removal. In some cases, the bill reduces the time period to 15 years from 25 in which a registered person must remain registered before becoming eligible for registration removal. Additionally, under existing law, a registrant must be arrest free for 25 years before becoming eligible for registration removal. Under the bill, a person will remain eligible for registration removal despite misdemeanor convictions during the applicable time period.

Petition for Registration Removal after 25 Years

The bill authorizes a sexual offender to petition for removal of registration requirements⁴⁶ if 25 years have elapsed since the beginning of the registration period for the most recent registration-qualifying conviction or juvenile adjudication⁴⁷ and:

- during the 25 years preceding the petition, the sexual offender has not been convicted or adjudicated delinquent of a felony of a felony offense or an offense punishable by more than 1-year of imprisonment;⁴⁸
- registration was not based upon an adult conviction for an offense for which registration removal is prohibited;⁴⁹ and
- pertinent only to sexual offenders whose requirement to register is based on a conviction in another state, registration is not required in that state.

⁴⁵ The DJJ must also report vehicle information.

⁴⁶ The petition for removal of registration requirements (after 25 years or 15 years, as applicable) is filed in 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 occurred).

⁴⁷ The offenses pertinent to juvenile adjudication are listed in s. 943.0435(1)(a)1.d., F.S.

⁴⁸ A registrant will lose eligibility as the result of a felony conviction, but misdemeanor convictions do not void a registrant’s eligibility for removal of the sexual offender registration requirements.

⁴⁹ Removal of registration requirement is prohibited if the adult conviction was for: kidnapping (s. 787.01, F.S.); sexual battery (s. 794.011, F.S., excluding s. 794.011(10), F.S.); lewd battery under s. 800.04(4)(b), F.S., where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion; lewd molestation under s. 800.04(5)(b), F.S., or s. 800.04(5)(c)2., F.S., where the court finds the offense involved use of force and unclothed genitals or genital area; any attempt or conspiracy to commit any of these offenses; or a violation of a similar law of another jurisdiction.

Petition for Registration Removal after 15 Years

An exception to the 25-year requirement is a registration-qualifying adult conviction of certain sex offenses. Specifically, a sexual offender may petition for removal of registration requirements if 15 years have elapsed since the sexual offender's registration period began for an adult conviction for committing, attempting to commit, or conspiring to commit false imprisonment⁵⁰ or possession of materials showing sexual conduct by a child (or a violation of a similar law of another jurisdiction) and:

- during the 10 years preceding the petition, the sexual offender has not been convicted or adjudicated delinquent of a felony offense or an offense punishable by more than 1 year of imprisonment during the 10 years preceding the petition to the court;
- registration was not based upon an adult conviction for an offense for which registration removal is prohibited; and
- pertinent only to sexual offenders whose requirement to register is based on a conviction in another state, registration is not required in that state.

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 the 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 supervision term exceeds 25 years (for those subject to either of the two 25-year registration-removal provisions) or 15 years (for those subject to the 1-year registration removal provision), 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;⁵¹
- changing the offender age criterion so that the offender may be as old as 18 (current law: 17 years of age) when the offense was committed;
- 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

⁵⁰ "False imprisonment" means forcibly, by threat, or secretly confining, abducting, imprisoning, or restraining another person without lawful authority and against his or her will. Section 787.02, F.S.

⁵¹"SORNA § 111(5)(C) qualifies the foregoing definition of '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).

- authorizing the FDLE to contest the motion for removal of the registration requirements.

Effective Date (Section 12)

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.

B. Private Sector Impact:

None.

C. Government Sector Impact:**Impact to FDLE**

The Florida Department of Law Enforcement (FDLE) has already submitted Legislative Budget Request (LBR) Issue #3004500 "Support Critical FDLE Information Systems" which includes 2 Systems Analysts positions (one recurring and one non-recurring) for the sexual offender/predator registry. According to the FDLE, "the recurring position is to provide support for the additional functionality and enhancements that have been added and absorbed by the FDLE over the past 4 to 5 years. The non-recurring position is to provide further development/enhancements to the registry that improve data sharing, data accuracy, automation of manual processes as well as gaps identified by local law enforcement having evolved from previous legislative changes that were made and now identified as issues."

The LBR was submitted before consideration of any potential fiscal impact of the bill. The FDLE has indicated that most of the changes to the bill are to add additional data to the existing registry. According to the FDLE, these changes could be accomplished using existing fields and data could be collected, but the FDLE does not believe that the data

necessarily would be “in a usable format for law enforcement to share.” Accordingly, the FDLE has provided two options for funding the impact on the department of implementing provisions of the bill:

Option 1: Amend the LBR to make the second System Analyst position recurring. This would not add additional costs for Year One of the LBR, but would require continued funding in Year 2 and beyond. The FDLE indicates that this option would allow continuing adjustments to the registry “as challenges in implementation are identified by law enforcement and prosecutors and as needs for the successful investigation and identification of offenders who are not complying are detected.” The department believes this option will allow it to “provide timely, accurate data” to all partners and to provide a “usable and searchable format for not only registration and accountability of offenders but for investigative purposes in missing children and sexual battery investigations.”

Option 2: Add a second non-recurring programmer in addition to the new recurring and non-recurring programmer provided for in the LBR. The FDLE believes this option will permit additional training and programming necessary to “make the changes to the system” required by the bill. However, the FDLE analysis does not specifically identify what the changes will provide as an end product. The option will require an appropriation of \$150,000 to allow for training and 1271 hours of programming.⁵²

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 bill on the state courts system, the OSCA states 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 OSCA indicates that jury instructions will need to be revised.⁵³

Prison Bed Impact

Pursuant to s. 216.136, F.S., the Criminal Justice Estimating Conference is charged with:

- Developing such official information relating to the criminal justice system, including forecasts of prison admissions and population and of supervised felony offender admissions and population, as the conference determines is needed for the state planning and budgeting system.

⁵² Analysis of SB 528 (January 7, 2014), Florida Department of Law Enforcement (on file with the Senate Committee on Judiciary).

⁵³ Analysis of SB 528 (January 9, 2014), Office of the State Courts Administrator (on file with the Senate Committee on Judiciary).

- Developing such official information relating to the number of eligible discharges and the projected number of civil commitments for determining space needs pursuant to the civil proceedings provided under part V of chapter 394.
- Developing official information relating to the number of sexual offenders and sexual predators who are required by law to be placed on community control, probation, or conditional release who are subject to electronic monitoring.

The Criminal Justice Estimating Conference met on January 30, 2014 and found that SB 528 will have an insignificant impact on the prison bed population.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 68.07, 775.21, 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 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	.	
02/05/2014	.	
	.	
	.	
	.	

The Committee on Judiciary (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, is amended and a new
paragraph (i) is added to subsection (3) to read:

68.07 Change of name.—

(2) (a) Before the court hearing on a petition for a name
change, the petitioner must have fingerprints submitted for a
state and national criminal history records check, except if a



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12 former name is being restored. Fingerprints for the petitioner
13 shall be taken in a manner approved by the Department of Law
14 Enforcement and shall be submitted electronically to the
15 department for state processing for a criminal history records
16 check. The department shall submit the fingerprints to the
17 Federal Bureau of Investigation for national processing. The
18 department shall submit the results of the state and national
19 records check, which will indicate whether the petitioner has
20 registered as a sexual predator or a sexual offender, to the
21 clerk of the court. The court shall consider the results in
22 reviewing the information contained in the petition and
23 evaluating whether to grant the petition.

24 (3) Each petition shall be verified and show:

25 (i) Whether the petitioner has ever been required to
26 register as a sexual predator under s. 775.021, or as a sexual
27 offender under s. 943.0435.

28 (j)~~(i)~~ Whether any money judgment has ever been entered
29 against the petitioner and if so, the name of the judgment
30 creditor, the amount and date thereof, the court by which
31 entered, and whether the judgment has been satisfied.

32 (k)~~(j)~~ That the petition is filed for no ulterior or
33 illegal purpose and granting it will not in any manner invade
34 the property rights of others, whether partnership, patent, good
35 will, privacy, trademark, or otherwise.

36 (l)~~(k)~~ That the petitioner's civil rights have never been
37 suspended or, if the petitioner's civil rights have been
38 suspended, that full restoration of civil rights has occurred.

39 (6) The clerk of the court must, within five business days
40 from ~~upon~~ the filing of the final judgment, send a report of the



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41 judgment to the Department of Law Enforcement on a form to be
42 furnished by that department. If the petitioner is required to
43 register as a sexual predator or a sexual offender pursuant to
44 s. 775.21 or s. 943.0435, the clerk of court shall
45 electronically notify the Department of Law Enforcement of the
46 name change, in a manner prescribed by that department, within
47 two business days from the filing of the final judgment. The
48 Department of Law Enforcement must send a copy of the report to
49 the Department of Highway Safety and Motor Vehicles, which may
50 be delivered by electronic transmission. The report must contain
51 sufficient information to identify the petitioner, including the
52 results of the criminal history records check if applicable, the
53 new name of the petitioner, and the file number of the judgment.
54 The Department of Highway Safety and Motor Vehicles will monitor
55 the records of any sexual predator or sexual offender whose name
56 has been provided to it by the Department of Law Enforcement. If
57 the sexual predator or sexual offender does not obtain a
58 replacement driver license or identification card within the
59 required time as specified in s. 775.21 or s. 943.0435, the
60 Department of Highway Safety and Motor Vehicles will notify the
61 Department of Law Enforcement. The Department of Law Enforcement
62 will notify applicable law enforcement agencies of the
63 offender's failure to comply with registration requirements. Any
64 information retained by the Department of Law Enforcement and
65 the Department of Highway Safety and Motor Vehicles may be
66 revised or supplemented by said departments to reflect changes
67 made by the final judgment. With respect to a person convicted
68 of a felony in another state or of a federal offense, the
69 Department of Law Enforcement must send the report to the



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70 respective state's office of law enforcement records or to the
71 office of the Federal Bureau of Investigation. The Department of
72 Law Enforcement may forward the report to any other law
73 enforcement agency it believes may retain information related to
74 the petitioner.

75 Section 2. Paragraph (i) of subsection (2), paragraph (a)
76 of subsection (4), subsections (6) and (8), and paragraph (a) of
77 subsection (10) of section 775.21, Florida Statutes, are amended
78 and a new paragraph (n) is added to subsection (2) of that
79 section to read:

80 775.21 The Florida Sexual Predators Act.—

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

82 (i) "Internet identifier ~~Instant message name~~" means all
83 electronic mail, chat, instant messenger, social networking,
84 application software, or similar names used for Internet
85 communication, but does not include a date of birth, social
86 security number, or personal identification number (PIN).

87 Voluntary disclosure by a sexual predator of his or her date of
88 birth, social security number, or PIN as an Internet identifier
89 waives the disclosure exemption in this paragraph for such
90 personal information ~~an identifier that allows a person to~~
91 communicate in real time with another person using the Internet.

92 (n) "Vehicles owned" means any motor vehicle as defined in
93 s. 320.01, that is registered, co-registered, leased, titled, or
94 rented by a person; a rented vehicle that the person is
95 authorized to drive; or a vehicle for which the person is
96 insured as a driver.

97 (4) SEXUAL PREDATOR CRITERIA.—

98 (a) For a current offense committed on or after October 1,



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99 1993, upon conviction, an offender shall be designated as a
100 "sexual predator" under subsection (5), and subject to
101 registration under subsection (6) and community and public
102 notification under subsection (7) if:

103 1. The felony is:

104 a. A capital, life, or first-degree felony violation, or
105 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
106 is a minor and the defendant is not the victim's parent or
107 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
108 violation of a similar law of another jurisdiction; or

109 b. Any felony violation, or any attempt thereof, of s.
110 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
111 787.025(2)(c), where the victim is a minor and the defendant is
112 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
113 (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s.
114 796.03; s. 796.035; s. 800.04; s. 810.145(8)(b); ~~s. 825.1025~~
115 ~~825.1025(2)(b);~~ s. 827.071; s. 847.0135, excluding s.
116 847.0135(6) ~~s. 847.0135(5);~~ s. 847.0145; s. 916.1075(2); or s.
117 985.701(1); or a violation of a similar law of another
118 jurisdiction, and the offender has previously been convicted of
119 or found to have committed, or has pled nolo contendere or
120 guilty to, regardless of adjudication, any violation of s.
121 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
122 787.025(2)(c), where the victim is a minor and the defendant is
123 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
124 (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s.
125 796.03; s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s.
126 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s.
127 916.1075(2); or s. 985.701(1); or a violation of a similar law



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128 of another jurisdiction;

129 2. The offender has not received a pardon for any felony or
130 similar law of another jurisdiction that is necessary for the
131 operation of this paragraph; and

132 3. A conviction of a felony or similar law of another
133 jurisdiction necessary to the operation of this paragraph has
134 not been set aside in any postconviction proceeding.

135 (6) REGISTRATION.—

136 (a) A sexual predator shall ~~must~~ register with the
137 department through the sheriff's office by providing the
138 following information to the department:

139 1. Name; social security number; age; race; sex; date of
140 birth; height; weight; tattoos or other identifying marks; hair
141 and eye color; photograph; address of legal residence and
142 address of any current temporary residence, within the state or
143 out of state, including a rural route address and a post office
144 box; if no permanent or temporary address, any transient
145 residence within the state; address, location or description,
146 and dates of any current or known future temporary residence
147 within the state or out of state; all ~~any~~ electronic mail
148 addresses ~~address~~ and all Internet identifiers ~~any instant~~
149 ~~message name~~ required to be provided pursuant to subparagraph
150 (g)4.; all home telephone numbers ~~number~~ and ~~any~~ cellular
151 telephone numbers ~~number~~; date and place of any employment; the
152 make, model, color, vehicle identification number (VIN), and
153 license tag number of all vehicles owned by the sexual predator
154 and all vehicles owned by a person or persons residing at the
155 sexual predator's residence; date and place of each conviction;
156 fingerprints; palm prints; and a brief description of the crime



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157 or crimes committed by the offender. A person is residing at the
158 sexual predator's residence if the person abides, lodges, or
159 resides at that residence for 5 or more consecutive days. A post
160 office box may ~~shall~~ not be provided in lieu of a physical
161 residential address. The sexual predator shall produce his or
162 her passport, if he or she has a passport, and, if he or she is
163 an alien, shall produce or provide information about documents
164 establishing his or her immigration status. The sexual predator
165 shall also provide information about any professional licenses
166 he or she has.

167 a. If the sexual predator's place of residence is a motor
168 vehicle, trailer, mobile home, or manufactured home, as defined
169 in chapter 320, the sexual predator shall also provide to the
170 department written notice of the vehicle identification number;
171 the license tag number; the registration number; and a
172 description, including color scheme, of the motor vehicle,
173 trailer, mobile home, or manufactured home. If a sexual
174 predator's place of residence is a vessel, live-aboard vessel,
175 or houseboat, as defined in chapter 327, the sexual predator
176 shall also provide to the department written notice of the hull
177 identification number; the manufacturer's serial number; the
178 name of the vessel, live-aboard vessel, or houseboat; the
179 registration number; and a description, including color scheme,
180 of the vessel, live-aboard vessel, or houseboat.

181 b. If the sexual predator is enrolled, employed,
182 volunteering, or carrying on a vocation at an institution of
183 higher education in this state, the sexual predator shall also
184 provide to the department the name, address, and county of each
185 institution, including each campus attended, and the sexual



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186 predator's enrollment, volunteer, or employment status. Each
187 change in enrollment, volunteer, or employment status must ~~shall~~
188 be reported in person at the sheriff's office, or the Department
189 of Corrections if the sexual predator is in the custody or
190 control of or under the supervision of the Department of
191 Corrections, within 48 hours after any change in status. The
192 sheriff or the Department of Corrections shall promptly notify
193 each institution of the sexual predator's presence and any
194 change in the sexual predator's enrollment, volunteer, or
195 employment status.

196 2. Any other information determined necessary by the
197 department, including criminal and corrections records;
198 nonprivileged personnel and treatment records; and evidentiary
199 genetic markers when available.

200 (b) If the sexual predator is in the custody or control of,
201 or under the supervision of, the Department of Corrections, or
202 is in the custody of a private correctional facility, the sexual
203 predator shall ~~must~~ register with the Department of Corrections.
204 A sexual predator who is under the supervision of the Department
205 of Corrections but who is not incarcerated shall ~~must~~ register
206 with the Department of Corrections within 3 business days after
207 the court finds the offender to be a sexual predator. The
208 Department of Corrections shall provide to the department
209 registration information and the location of, and local
210 telephone number for, any Department of Corrections office that
211 is responsible for supervising the sexual predator. In addition,
212 the Department of Corrections shall notify the department if the
213 sexual predator escapes or absconds from custody or supervision
214 or if the sexual predator dies.



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215 (c) If the sexual predator is in the custody of a local
216 jail, the custodian of the local jail shall register the sexual
217 predator within 3 business days after intake of the sexual
218 predator for any reason and upon release, and shall forward the
219 registration information to the department. The custodian of the
220 local jail shall also take a digitized photograph of the sexual
221 predator while the sexual predator remains in custody and shall
222 provide the digitized photograph to the department. The
223 custodian shall notify the department if the sexual predator
224 escapes from custody or dies.

225 (d) If the sexual predator is under federal supervision,
226 the federal agency responsible for supervising the sexual
227 predator may forward to the department any information regarding
228 the sexual predator which is consistent with the information
229 provided by the Department of Corrections under this section,
230 and may indicate whether use of the information is restricted to
231 law enforcement purposes only or may be used by the department
232 for purposes of public notification.

233 (e)1. If the sexual predator is not in the custody or
234 control of, or under the supervision of, the Department of
235 Corrections or is not in the custody of a private correctional
236 facility, the sexual predator shall register in person:

237 a. At the sheriff's office in the county where he or she
238 establishes or maintains a residence within 48 hours after
239 establishing or maintaining a residence in this state; and

240 b. At the sheriff's office in the county where he or she
241 was designated a sexual predator by the court within 48 hours
242 after such finding is made.

243 2. Any change in the sexual predator's permanent or



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244 temporary residence, name, ~~or any~~ electronic mail addresses, or
245 Internet identifiers ~~address and any instant message name~~
246 required to be provided pursuant to subparagraph (g)4., after
247 the sexual predator registers in person at the sheriff's office
248 as provided in subparagraph 1., must ~~shall~~ be accomplished in
249 the manner provided in paragraphs (g), (i), and (j). When a
250 sexual predator registers with the sheriff's office, the sheriff
251 shall take a photograph, ~~and~~ a set of fingerprints, and palm
252 prints of the predator and forward the photographs, palm prints,
253 and fingerprints to the department, along with the information
254 that the predator is required to provide pursuant to this
255 section.

256 (f) Within 48 hours after the registration required under
257 paragraph (a) or paragraph (e), a sexual predator who is not
258 incarcerated and who resides in the community, including a
259 sexual predator under the supervision of the Department of
260 Corrections, shall register in person at a driver ~~driver's~~
261 license office of the Department of Highway Safety and Motor
262 Vehicles and shall present proof of registration. At the driver
263 ~~driver's~~ license office the sexual predator shall:

264 1. If otherwise qualified, secure a Florida driver ~~driver's~~
265 license, renew a Florida driver ~~driver's~~ license, or secure an
266 identification card. The sexual predator shall identify himself
267 or herself as a sexual predator who is required to comply with
268 this section, provide his or her place of permanent, temporary,
269 or transient residence, including a rural route address and a
270 post office box, and submit to the taking of a photograph for
271 use in issuing a driver ~~driver's~~ license, renewed license, or
272 identification card, and for use by the department in



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273 maintaining current records of sexual predators. A post office
274 box may ~~shall~~ not be provided in lieu of a physical residential
275 address. If the sexual predator's place of residence is a motor
276 vehicle, trailer, mobile home, or manufactured home, as defined
277 in chapter 320, the sexual predator shall also provide to the
278 Department of Highway Safety and Motor Vehicles the vehicle
279 identification number; the license tag number; the registration
280 number; and a description, including color scheme, of the motor
281 vehicle, trailer, mobile home, or manufactured home. If a sexual
282 predator's place of residence is a vessel, live-aboard vessel,
283 or houseboat, as defined in chapter 327, the sexual predator
284 shall also provide to the Department of Highway Safety and Motor
285 Vehicles the hull identification number; the manufacturer's
286 serial number; the name of the vessel, live-aboard vessel, or
287 houseboat; the registration number; and a description, including
288 color scheme, of the vessel, live-aboard vessel, or houseboat.

289 2. Pay the costs assessed by the Department of Highway
290 Safety and Motor Vehicles for issuing or renewing a driver
291 ~~driver's~~ license or identification card as required by this
292 section. The driver ~~driver's~~ license or identification card
293 issued to the sexual predator must comply ~~be in compliance~~ with
294 s. 322.141(3).

295 3. Provide, upon request, any additional information
296 necessary to confirm the identity of the sexual predator,
297 including a set of fingerprints.

298 (g)1. Each time a sexual predator's driver ~~driver's~~ license
299 or identification card is subject to renewal, and, without
300 regard to the status of the predator's driver ~~driver's~~ license
301 or identification card, within 48 hours after any change of the



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302 predator's residence or change in the predator's name by reason
303 of marriage or other legal process, the predator shall report in
304 person to a driver ~~driver's~~ license office and is ~~shall be~~
305 subject to the requirements specified in paragraph (f). The
306 Department of Highway Safety and Motor Vehicles shall forward to
307 the department and to the Department of Corrections all
308 photographs and information provided by sexual predators.
309 Notwithstanding the restrictions set forth in s. 322.142, the
310 Department of Highway Safety and Motor Vehicles may ~~is~~
311 ~~authorized to~~ release a reproduction of a color-photograph or
312 digital-image license to the Department of Law Enforcement for
313 purposes of public notification of sexual predators as provided
314 in this section. A sexual predator who is unable to secure or
315 update a driver license or identification card with the
316 Department of Highway Safety and Motor Vehicles as provided in
317 paragraph (f) and this paragraph shall also report any change of
318 the predator's residence or change in the predator's name by
319 reason of marriage or other legal process within 48 hours after
320 the change to the sheriff's office in the county where the
321 predator resides or is located and provide confirmation that he
322 or she reported such information to the Department of Highway
323 Safety and Motor Vehicles.

324 2. A sexual predator who vacates a permanent, temporary, or
325 transient residence and fails to establish or maintain another
326 permanent, temporary, or transient residence shall, within 48
327 hours after vacating the permanent, temporary, or transient
328 residence, report in person to the sheriff's office of the
329 county in which he or she is located. The sexual predator shall
330 specify the date upon which he or she intends to or did vacate



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331 such residence. The sexual predator shall ~~must~~ provide or update
332 all of the registration information required under paragraph
333 (a). The sexual predator shall ~~must~~ provide an address for the
334 residence or other place that he or she is or will be located
335 during the time in which he or she fails to establish or
336 maintain a permanent or temporary residence.

337 3. A sexual predator who remains at a permanent, temporary,
338 or transient residence after reporting his or her intent to
339 vacate such residence shall, within 48 hours after the date upon
340 which the predator indicated he or she would or did vacate such
341 residence, report in person to the sheriff's office to which he
342 or she reported pursuant to subparagraph 2. for the purpose of
343 reporting his or her address at such residence. When the sheriff
344 receives the report, the sheriff shall promptly convey the
345 information to the department. An offender who makes a report as
346 required under subparagraph 2. but fails to make a report as
347 required under this subparagraph commits a felony of the second
348 degree, punishable as provided in s. 775.082, s. 775.083, or s.
349 775.084.

350 4. A sexual predator shall ~~must~~ register all any electronic
351 mail addresses and Internet identifiers ~~address or instant~~
352 ~~message name~~ with the department before ~~prior to~~ using such
353 electronic mail addresses and Internet identifiers ~~address or~~
354 ~~instant message name on or after October 1, 2007~~. The department
355 shall establish an online system through which sexual predators
356 may securely access and update all electronic mail address and
357 Internet identifier ~~instant message name~~ information.

358 (h) The department shall ~~must~~ notify the sheriff and the
359 state attorney of the county and, if applicable, the police



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360 chief of the municipality, where the sexual predator maintains a
361 residence.

362 (i) A sexual predator who intends to establish a permanent,
363 temporary, or transient residence in another state or
364 jurisdiction other than the State of Florida shall report in
365 person to the sheriff of the county of current residence within
366 48 hours before the date he or she intends to leave this state
367 to establish residence in another state or jurisdiction or
368 within 21 days before his or her planned departure date if the
369 intended residence of 5 days or more is outside of the United
370 States. The sexual predator shall ~~must~~ provide to the sheriff
371 the address, municipality, county, ~~and~~ state, and country of
372 intended residence. The sheriff shall promptly provide to the
373 department the information received from the sexual predator.
374 The department shall notify the statewide law enforcement
375 agency, or a comparable agency, in the intended state, ~~or~~
376 jurisdiction, or country of residence of the sexual predator's
377 intended residence. The failure of a sexual predator to provide
378 his or her intended place of residence is punishable as provided
379 in subsection (10).

380 (j) A sexual predator who indicates his or her intent to
381 establish a permanent, temporary, or transient residence in
382 another state, a ~~or~~ jurisdiction other than the State of
383 Florida, or another country and later decides to remain in this
384 state shall, within 48 hours after the date upon which the
385 sexual predator indicated he or she would leave this state,
386 report in person to the sheriff to which the sexual predator
387 reported the intended change of residence, and report his or her
388 intent to remain in this state. If the sheriff is notified by



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389 the sexual predator that he or she intends to remain in this
390 state, the sheriff shall promptly report this information to the
391 department. A sexual predator who reports his or her intent to
392 establish a permanent, temporary, or transient residence in
393 another state, a ~~ex~~ jurisdiction other than the State of
394 Florida, or another country, but who remains in this state
395 without reporting to the sheriff in the manner required by this
396 paragraph, commits a felony of the second degree, punishable as
397 provided in s. 775.082, s. 775.083, or s. 775.084.

398 (k)1. The department is responsible for the online
399 maintenance of current information regarding each registered
400 sexual predator. The department shall ~~must~~ maintain hotline
401 access for state, local, and federal law enforcement agencies to
402 obtain instantaneous locator file and offender characteristics
403 information on all released registered sexual predators for
404 purposes of monitoring, tracking, and prosecution. The
405 photograph and fingerprints do not have to be stored in a
406 computerized format.

407 2. The department's sexual predator registration list,
408 containing the information described in subparagraph (a)1., is a
409 public record. The department may ~~is authorized to~~ disseminate
410 this public information by any means deemed appropriate,
411 including operating a toll-free telephone number for this
412 purpose. When the department provides information regarding a
413 registered sexual predator to the public, department personnel
414 shall ~~must~~ advise the person making the inquiry that positive
415 identification of a person believed to be a sexual predator
416 cannot be established unless a fingerprint comparison is made,
417 and that it is illegal to use public information regarding a



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418 registered sexual predator to facilitate the commission of a
419 crime.

420 3. The department shall adopt guidelines as necessary
421 regarding the registration of sexual predators and the
422 dissemination of information regarding sexual predators as
423 required by this section.

424 (1) A sexual predator shall ~~must~~ maintain registration with
425 the department for the duration of his or her life, unless the
426 sexual predator has received a full pardon or has had a
427 conviction set aside in a postconviction proceeding for any
428 offense that met the criteria for the sexual predator
429 designation.

430 (8) VERIFICATION.—The department and the Department of
431 Corrections shall implement a system for verifying the addresses
432 of sexual predators. The system must be consistent with the
433 provisions of the federal Adam Walsh Child Protection and Safety
434 Act of 2006 and any other federal standards applicable to such
435 verification or required to be met as a condition for the
436 receipt of federal funds by the state. The Department of
437 Corrections shall verify the addresses of sexual predators who
438 are not incarcerated but who reside in the community under the
439 supervision of the Department of Corrections and shall report to
440 the department any failure by a sexual predator to comply with
441 registration requirements. County and local law enforcement
442 agencies, in conjunction with the department, shall verify the
443 addresses of sexual predators who are not under the care,
444 custody, control, or supervision of the Department of
445 Corrections. Local law enforcement agencies shall report to the
446 department any failure by a sexual predator to comply with



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447 registration requirements.

448 (a) A sexual predator shall ~~must~~ report in person each year
449 during the month of the sexual predator's birthday and during
450 every third month thereafter to the sheriff's office in the
451 county in which he or she resides or is otherwise located to
452 reregister. The sheriff's office may determine the appropriate
453 times and days for reporting by the sexual predator, which must
454 ~~shall~~ be consistent with the reporting requirements of this
455 paragraph. Reregistration must ~~shall~~ include any changes to the
456 following information:

457 1. Name; social security number; age; race; sex; date of
458 birth; height; weight; tattoos or other identifying marks; hair
459 and eye color; address of any permanent residence and address of
460 any current temporary residence, within the state or out of
461 state, including a rural route address and a post office box; if
462 no permanent or temporary address, any transient residence
463 within the state; address, location or description, and dates of
464 any current or known future temporary residence within the state
465 or out of state; all any electronic mail addresses or Internet
466 identifiers ~~address and any instant message name~~ required to be
467 provided pursuant to subparagraph (6)(g)4.; all home telephone
468 numbers or number ~~and any cellular telephone numbers number~~;
469 date and place of any employment; the vehicle ~~vehicle~~ make, model,
470 color, vehicle identification number (VIN), and license tag
471 number of all vehicles owned by the sexual predator and all
472 vehicles owned by a person or persons residing at the sexual
473 predator's residence; fingerprints; palm prints; and photograph.
474 A person is residing at the sexual predator's residence if the
475 person abides, lodges, or resides at that residence for 5 or



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476 more consecutive days. A post office box may ~~shall~~ not be
477 provided in lieu of a physical residential address. The sexual
478 predator shall also produce his or her passport, if he or she
479 has a passport, and, if he or she is an alien, shall produce or
480 provide information about documents establishing his or her
481 immigration status. The sexual predator shall also provide
482 information about any professional licenses he or she has.

483 2. If the sexual predator is enrolled, employed,
484 volunteering, or carrying on a vocation at an institution of
485 higher education in this state, the sexual predator shall also
486 provide to the department the name, address, and county of each
487 institution, including each campus attended, and the sexual
488 predator's enrollment, volunteer, or employment status.

489 3. If the sexual predator's place of residence is a motor
490 vehicle, trailer, mobile home, or manufactured home, as defined
491 in chapter 320, the sexual predator shall also provide the
492 vehicle identification number; the license tag number; the
493 registration number; and a description, including color scheme,
494 of the motor vehicle, trailer, mobile home, or manufactured
495 home. If the sexual predator's place of residence is a vessel,
496 live-aboard vessel, or houseboat, as defined in chapter 327, the
497 sexual predator shall also provide the hull identification
498 number; the manufacturer's serial number; the name of the
499 vessel, live-aboard vessel, or houseboat; the registration
500 number; and a description, including color scheme, of the
501 vessel, live-aboard vessel, or houseboat.

502 (b) The sheriff's office shall, within 2 working days,
503 electronically submit and update all information provided by the
504 sexual predator to the department in a manner prescribed by the



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505 department.

506 (10) PENALTIES.—

507 (a) Except as otherwise specifically provided, a sexual
508 predator who fails to register; who fails, after registration,
509 to maintain, acquire, or renew a driver ~~driver's~~ license or
510 identification card; who fails to provide required location
511 information, electronic mail address information before use,
512 Internet identifier ~~instant message name~~ information before use,
513 all home telephone numbers ~~number~~ and ~~any~~ cellular telephone
514 numbers ~~number~~, or change-of-name information; who fails to make
515 a required report in connection with vacating a permanent
516 residence; who fails to reregister as required; who fails to
517 respond to any address verification correspondence from the
518 department within 3 weeks of the date of the correspondence; who
519 knowingly provides false registration information by act or
520 omission; or who otherwise fails, by act or omission, to comply
521 with the requirements of this section, commits a felony of the
522 third degree, punishable as provided in s. 775.082, s. 775.083,
523 or s. 775.084.

524 Section 3. Subsection (1) of section 943.043, Florida
525 Statutes, is amended to read:

526 943.043 Toll-free telephone number; Internet notification;
527 sexual predator and sexual offender information.—

528 (1) The department may notify the public through the
529 Internet of any information regarding sexual predators and
530 sexual offenders which is not confidential and exempt from
531 public disclosure under s. 119.07(1) and s. 24(a), Art. I of the
532 State Constitution. The department shall determine what
533 information shall be made available to the public through the



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534 Internet. However, the department shall not display on or
535 disseminate through the Internet public registry maintained by
536 the department any information regarding a vehicle that is owned
537 by a person who is not required to register as a sexual predator
538 or sexual offender.

539 Section 4. Paragraphs (a) and (g) of subsection (1),
540 subsection (2), paragraphs (a) and (d) of subsection (4),
541 subsections (7), (8), and (11), and paragraphs (b) and (c) of
542 subsection (14) of section 943.0435, Florida Statutes, are
543 amended and a new paragraph (h) is added to subsection (1) of
544 that section to read:

545 943.0435 Sexual offenders required to register with the
546 department; penalty.—

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

548 (a)1. "Sexual offender" means a person who meets the
549 criteria in sub-subparagraph a., sub-subparagraph b., sub-
550 subparagraph c., or sub-subparagraph d., as follows:

551 a.(I) Has been convicted of committing, or attempting,
552 soliciting, or conspiring to commit, any of the criminal
553 offenses proscribed in the following statutes in this state or
554 similar offenses in another jurisdiction: s. 393.135(2); s.
555 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
556 the victim is a minor and the defendant is not the victim's
557 parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s.
558 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
559 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s.
560 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.
561 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any
562 similar offense committed in this state which has been



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563 redesignated from a former statute number to one of those listed
564 in this sub-sub-subparagraph; and

565 (II) Has been released on or after October 1, 1997, from
566 the sanction imposed for any conviction of an offense described
567 in sub-sub-subparagraph (I). For purposes of sub-sub-
568 subparagraph (I), a sanction imposed in this state or in any
569 other jurisdiction includes, but is not limited to, a fine,
570 probation, community control, parole, conditional release,
571 control release, or incarceration in a state prison, federal
572 prison, private correctional facility, or local detention
573 facility;

574 b. Establishes or maintains a residence in this state and
575 who has not been designated as a sexual predator by a court of
576 this state but who has been designated as a sexual predator, as
577 a sexually violent predator, or by another sexual offender
578 designation in another state or jurisdiction and was, as a
579 result of such designation, subjected to registration or
580 community or public notification, or both, or would be if the
581 person were a resident of that state or jurisdiction, without
582 regard to whether the person otherwise meets the criteria for
583 registration as a sexual offender;

584 c. Establishes or maintains a residence in this state who
585 is in the custody or control of, or under the supervision of,
586 any other state or jurisdiction as a result of a conviction for
587 committing, or attempting, soliciting, or conspiring to commit,
588 any of the criminal offenses proscribed in the following
589 statutes or similar offense in another jurisdiction: s.
590 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
591 787.025(2)(c), where the victim is a minor and the defendant is



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592 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
593 (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s.
594 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
595 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
596 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.
597 985.701(1); or any similar offense committed in this state which
598 has been redesignated from a former statute number to one of
599 those listed in this sub-subparagraph; or

600 d. On or after July 1, 2007, has been adjudicated
601 delinquent for committing, or attempting, soliciting, or
602 conspiring to commit, any of the criminal offenses proscribed in
603 the following statutes in this state or similar offenses in
604 another jurisdiction when the juvenile was 14 years of age or
605 older at the time of the offense:

606 (I) Section 794.011, excluding s. 794.011(10);

607 (II) Section 800.04(4)(b) where the victim is under 12
608 years of age or where the court finds sexual activity by the use
609 of force or coercion;

610 (III) Section 800.04(5)(c)1. where the court finds
611 molestation involving unclothed genitals; or

612 (IV) Section 800.04(5)(d) where the court finds the use of
613 force or coercion and unclothed genitals.

614 2. For all qualifying offenses listed in sub-subparagraph
615 (1)(a)1.d., the court shall make a written finding of the age of
616 the offender at the time of the offense.

617
618 For each violation of a qualifying offense listed in this
619 subsection, except for a violation of s. 794.011, the court
620 shall make a written finding of the age of the victim at the



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621 time of the offense. For a violation of s. 800.04(4), the court
622 shall also ~~additionally~~ make a written finding indicating
623 whether ~~that~~ the offense involved ~~did or did not involve~~ sexual
624 activity and indicating whether ~~that~~ the offense involved ~~did or~~
625 ~~did not involve~~ force or coercion. For a violation of s.
626 800.04(5), the court shall also ~~additionally~~ make a written
627 finding that the offense did or did not involve unclothed
628 genitals or genital area and that the offense did or did not
629 involve the use of force or coercion.

630 (g) "Internet identifier Instant message name" has the same
631 meaning as provided in s. 775.21 ~~means an identifier that allows~~
632 ~~a person to communicate in real time with another person using~~
633 ~~the Internet.~~

634 (h) "Vehicles owned" has the same meaning as provided in s.
635 775.21.

636 (2) A sexual offender shall:

637 (a) Report in person at the sheriff's office:

638 1. In the county in which the offender establishes or
639 maintains a permanent, temporary, or transient residence within
640 48 hours after:

641 a. Establishing permanent, temporary, or transient
642 residence in this state; or

643 b. Being released from the custody, control, or supervision
644 of the Department of Corrections or from the custody of a
645 private correctional facility; or

646 2. In the county where he or she was convicted within 48
647 hours after being convicted for a qualifying offense for
648 registration under this section if the offender is not in the
649 custody or control of, or under the supervision of, the



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650 Department of Corrections, or is not in the custody of a private
651 correctional facility.

652
653 Any change in the information required to be provided pursuant
654 to paragraph (b), including, but not limited to, any change in
655 the sexual offender's permanent, temporary, or transient
656 residence, name, ~~any~~ electronic mail addresses, or Internet
657 identifiers ~~address and any instant message name~~ required to be
658 provided pursuant to paragraph (4) (d), after the sexual offender
659 reports in person at the sheriff's office, must ~~shall~~ be
660 accomplished in the manner provided in subsections (4), (7), and
661 (8).

662 (b) Provide his or her name; date of birth; social security
663 number; race; sex; height; weight; hair and eye color; tattoos
664 or other identifying marks; fingerprints; palm prints;
665 photograph; occupation and place of employment; address of
666 permanent or legal residence or address of any current temporary
667 residence, within the state or out of state, including a rural
668 route address and a post office box; if no permanent or
669 temporary address, any transient residence within the state,
670 address, location or description, and dates of any current or
671 known future temporary residence within the state or out of
672 state; the make, model, color, vehicle identification number
673 (VIN), and license tag number of all vehicles owned by the
674 sexual offender and all vehicles owned by a person or persons
675 residing at the sexual offender's residence; all home telephone
676 numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; all
677 ~~any~~ electronic mail addresses ~~address~~ and all Internet
678 identifiers ~~any instant message name~~ required to be provided



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679 pursuant to paragraph (4) (d); date and place of each conviction;
680 and a brief description of the crime or crimes committed by the
681 offender. A person is residing at the sexual offender's
682 residence if the person abides, lodges, or resides at that
683 residence for 5 or more consecutive days. A post office box may
684 ~~shall~~ not be provided in lieu of a physical residential address.
685 The sexual offender shall also produce his or her passport, if
686 he or she has a passport, and, if he or she is an alien, shall
687 produce or provide information about documents establishing his
688 or her immigration status. The sexual offender shall also
689 provide information about any professional licenses he or she
690 has.

691 1. If the sexual offender's place of residence is a motor
692 vehicle, trailer, mobile home, or manufactured home, as defined
693 in chapter 320, the sexual offender shall also provide to the
694 department through the sheriff's office written notice of the
695 vehicle identification number; the license tag number; the
696 registration number; and a description, including color scheme,
697 of the motor vehicle, trailer, mobile home, or manufactured
698 home. If the sexual offender's place of residence is a vessel,
699 live-aboard vessel, or houseboat, as defined in chapter 327, the
700 sexual offender shall also provide to the department written
701 notice of the hull identification number; the manufacturer's
702 serial number; the name of the vessel, live-aboard vessel, or
703 houseboat; the registration number; and a description, including
704 color scheme, of the vessel, live-aboard vessel, or houseboat.

705 2. If the sexual offender is enrolled, employed,
706 volunteering, or carrying on a vocation at an institution of
707 higher education in this state, the sexual offender shall also



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708 provide to the department through the sheriff's office the name,
709 address, and county of each institution, including each campus
710 attended, and the sexual offender's enrollment, volunteer, or
711 employment status. Each change in enrollment, volunteer, or
712 employment status must ~~shall~~ be reported in person at the
713 sheriff's office, within 48 hours after any change in status.
714 The sheriff shall promptly notify each institution of the sexual
715 offender's presence and any change in the sexual offender's
716 enrollment, volunteer, or employment status.

717 (c) Provide any other information determined necessary by
718 the department, including criminal and corrections records;
719 nonprivileged personnel and treatment records; and evidentiary
720 genetic markers, when available.

721
722 When a sexual offender reports at the sheriff's office, the
723 sheriff shall take a photograph, and a set of fingerprints, and
724 palm prints of the offender and forward the photographs, palm
725 prints, and fingerprints to the department, along with the
726 information provided by the sexual offender. The sheriff shall
727 promptly provide to the department the information received from
728 the sexual offender.

729 (4) (a) Each time a sexual offender's driver ~~driver's~~
730 license or identification card is subject to renewal, and,
731 without regard to the status of the offender's driver ~~driver's~~
732 license or identification card, within 48 hours after any change
733 in the offender's permanent, temporary, or transient residence
734 or change in the offender's name by reason of marriage or other
735 legal process, the offender shall report in person to a driver
736 ~~driver's~~ license office, and is ~~shall be~~ subject to the



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737 requirements specified in subsection (3). The Department of
738 Highway Safety and Motor Vehicles shall forward to the
739 department all photographs and information provided by sexual
740 offenders. Notwithstanding the restrictions set forth in s.
741 322.142, the Department of Highway Safety and Motor Vehicles may
742 ~~is authorized to~~ release a reproduction of a color-photograph or
743 digital-image license to the Department of Law Enforcement for
744 purposes of public notification of sexual offenders as provided
745 in this section and ss. 943.043 and 944.606. A sexual offender
746 who is unable to secure or update a driver license or
747 identification card with the Department of Highway Safety and
748 Motor Vehicles as provided in subsection (3) and this subsection
749 shall also report any change in the sexual offender's permanent,
750 temporary, or transient residence or change in the offender's
751 name by reason of marriage or other legal process within 48
752 hours after the change to the sheriff's office in the county
753 where the offender resides or is located and provide
754 confirmation that he or she reported such information to the
755 Department of Highway Safety and Motor Vehicles.

756 (d) A sexual offender shall ~~must~~ register all ~~any~~
757 electronic mail addresses and Internet identifiers ~~address or~~
758 ~~instant message name~~ with the department before using such
759 electronic mail addresses and Internet identifiers ~~address or~~
760 ~~instant message name~~. The department shall establish an online
761 system through which sexual offenders may securely access and
762 update all electronic mail address and Internet identifier
763 ~~instant message name~~ information.

764 (7) A sexual offender who intends to establish a permanent,
765 temporary, or transient residence in another state or



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766 jurisdiction other than the State of Florida shall report in
767 person to the sheriff of the county of current residence within
768 48 hours before the date he or she intends to leave this state
769 to establish residence in another state or jurisdiction or
770 within 21 days before his or her planned departure date if the
771 intended residence of 5 days or more is outside of the United
772 States. The notification must include the address, municipality,
773 county, ~~and~~ state, and country of intended residence. The
774 sheriff shall promptly provide to the department the information
775 received from the sexual offender. The department shall notify
776 the statewide law enforcement agency, or a comparable agency, in
777 the intended state, ~~or~~ jurisdiction, or country of residence of
778 the sexual offender's intended residence. The failure of a
779 sexual offender to provide his or her intended place of
780 residence is punishable as provided in subsection (9).

781 (8) A sexual offender who indicates his or her intent to
782 establish a permanent, temporary, or transient residence in
783 another state, a ~~or~~ jurisdiction other than the State of
784 Florida, or another country and later decides to remain in this
785 state shall, within 48 hours after the date upon which the
786 sexual offender indicated he or she would leave this state,
787 report in person to the sheriff to which the sexual offender
788 reported the intended change of permanent, temporary, or
789 transient residence, and report his or her intent to remain in
790 this state. The sheriff shall promptly report this information
791 to the department. A sexual offender who reports his or her
792 intent to establish a permanent, temporary, or transient
793 residence in another state, a ~~or~~ jurisdiction other than the
794 State of Florida, or another country but who remains in this



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795 state without reporting to the sheriff in the manner required by
796 this subsection commits a felony of the second degree,
797 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

798 (11) Except as provided in this subsection and s.
799 943.04354, a sexual offender shall ~~must~~ maintain registration
800 with the department for the duration of his or her life, unless
801 the sexual offender has received a full pardon or has had a
802 conviction set aside in a postconviction proceeding for any
803 offense that meets the criteria for classifying the person as a
804 sexual offender for purposes of registration. ~~However, a sexual~~
805 ~~offender:~~

806 (a)1. A sexual offender may petition the criminal division
807 of the circuit court of the circuit in which the sexual offender
808 resides or previously resided, or in the county where the
809 conviction or adjudication for the qualifying offense or
810 qualifying offenses occurred for the purpose of removing the
811 requirement for registration as a sexual offender if ~~who has~~
812 ~~been lawfully released from confinement, supervision, or~~
813 ~~sanction, whichever is later, for at least 25 years and has not~~
814 ~~been arrested for any felony or misdemeanor offense since~~
815 ~~release, provided that the sexual offender's requirement to~~
816 ~~register was not based upon an adult conviction:~~

817 a. Twenty-five years have elapsed since the beginning of
818 the registration period for the sexual offender's most recent
819 conviction that required the offender to register or as provided
820 in sub-subparagraph 4.e.;

821 b. The sexual offender has not been convicted or
822 adjudicated delinquent of a felony offense or of an offense
823 punishable by more than 1 year of imprisonment during the 25



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824 years preceding the petition to the court;
825 c. The sexual offender's requirement to register was not
826 based upon an adult conviction for:
827 (I) A violation of s. 787.01; s. 794.011, excluding s.
828 794.011(10); s. 800.04(4) (b) if the court finds the offense
829 involved a victim younger than 12 years of age or a sexual
830 activity by the use of force or coercion; s. 800.04(5) (b); or s.
831 800.04(5) (c)2. where the court finds the offense involved use of
832 force or coercion and unclothed genitals or genital area;
833 (II) An attempt or conspiracy to commit any offense listed
834 in this sub-subparagraph; or
835 (III) A violation of similar law of another jurisdiction;
836 or a violation of a similar offense committed in this state
837 which has been redesignated from a former statute number to one
838 of those listed in this sub-subparagraph; and
839 d. For sexual offenders whose requirement to register is
840 based upon a conviction in another state, the sexual offender is
841 not required to register as a sexual offender pursuant to the
842 laws of the state in which the conviction occurred. Such an
843 offender must provide the court written confirmation that he or
844 she is not required to register in the state in which the
845 conviction occurred.
846 ~~a. For a violation of s. 787.01 or s. 787.02;~~
847 ~~b. For a violation of s. 794.011, excluding s. 794.011(10);~~
848 ~~c. For a violation of s. 800.04(4) (b) where the court finds~~
849 ~~the offense involved a victim under 12 years of age or sexual~~
850 ~~activity by the use of force or coercion;~~
851 ~~d. For a violation of s. 800.04(5) (b);~~
852 ~~e. For a violation of s. 800.04(5)c.2. where the court~~



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853 ~~finds the offense involved unclothed genitals or genital area;~~
854 ~~f. For any attempt or conspiracy to commit any such~~
855 ~~offense; or~~
856 ~~g. For a violation of similar law of another jurisdiction,~~
857
858 ~~may petition the criminal division of the circuit court of the~~
859 ~~circuit in which the sexual offender resides for the purpose of~~
860 ~~removing the requirement for registration as a sexual offender.~~
861 2. A sexual offender whose requirement to register was
862 based upon an adult conviction for a violation of s. 787.02 or
863 s. 827.071(5), for an attempt or conspiracy to commit any
864 offense listed in this subparagraph, or for a violation of
865 similar law of another jurisdiction may petition the criminal
866 division of the circuit court of the circuit in which the sexual
867 offender resides or previously resided, or in the county where
868 the conviction or adjudication for the qualifying offense or
869 qualifying offenses occurred for the purpose of removing the
870 requirement for registration as a sexual offender if:
871 a. Fifteen years have elapsed since the beginning of the
872 registration period for the sexual offender's most recent
873 conviction that required the offender to register or as provided
874 in sub-subparagraph 4.e.;
875 b. The sexual offender has not been convicted or
876 adjudicated delinquent of a felony offense or of an offense
877 punishable by more than 1 year of imprisonment during the 10
878 years preceding the petition to the court; and
879 c. For sexual offenders whose requirement to register is
880 based upon a conviction in another state, the sexual offender is
881 not required to register as a sexual offender pursuant to the



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882 laws of the state in which the conviction occurred. Such an
883 offender must provide the court written confirmation that he or
884 she is not required to register in the state in which the
885 conviction occurred.

886 3. A sexual offender required to register under sub-
887 subparagraph (1)(a)1.d. may petition the criminal division of
888 the circuit court of the circuit in which the sexual offender
889 resides or previously resided, or in the county where the
890 conviction or adjudication for the qualifying offense or
891 qualifying offenses occurred for the purpose of removing the
892 requirement for registration as a sexual offender if:

893 a. Twenty-five years have elapsed since the beginning of
894 the registration period for the sexual offender's most recent
895 conviction that required the offender to register or as provided
896 in sub-subparagraph 4.e.; and

897 b. The sexual offender has not been convicted or
898 adjudicated delinquent of any felony offense or of an offense
899 punishable by more than 1 year of imprisonment during the 25
900 years preceding the petition to the court.

901 4. For purposes of this paragraph:

902 a. If the sexual offender is sentenced to a term of
903 incarceration or committed to a residential program for the most
904 recent conviction that required the offender to register the
905 registration begins upon the offender's release from
906 incarceration or commitment.

907 b. A sexual offender's registration period is tolled during
908 any period in which the offender is incarcerated, civilly
909 committed, detained pursuant to chapter 985, or committed to a
910 residential program.



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911 c. Except as provided in sub-subparagraph e., if the sexual
912 offender is only sentenced to a term of supervision for the most
913 recent conviction that required the offender to register as a
914 sexual offender or is only subject to a period of supervision
915 for that conviction, the registration period begins when the
916 term or period of supervision for that conviction begins.

917 d. Except as provided in sub-subparagraph e., if the sexual
918 offender is sentenced to a term of supervision that follows a
919 term of incarceration for the most recent conviction that
920 required the offender to register as a sexual offender or is
921 subject to a period of supervision that follows commitment to a
922 residential program for that conviction, the registration period
923 begins when the term or period of supervision for that
924 conviction begins.

925 e. If a sexual offender is subject to subparagraph (a)1. or
926 subparagraph (a)3. and is sentenced to a term of more than 25-
927 years supervision for the most recent conviction that required
928 the offender to register as a sexual offender, the sexual
929 offender may not petition for removal of the requirement for
930 registration as a sexual offender until the term of supervision
931 for that conviction is completed. If a sexual offender is
932 subject to subparagraph (a)2. and is sentenced to more than 15-
933 years supervision for the most recent conviction that required
934 the offender to register as a sexual offender, the sexual
935 offender may not petition for removal of the requirement for
936 registration as a sexual offender until the term of supervision
937 for that conviction is completed.

938 5.2. The court may grant or deny relief if the offender
939 demonstrates to the court that ~~he or she has not been arrested~~



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940 ~~for any crime since release,~~ the requested relief complies with
941 this paragraph, the provisions of the federal Adam Walsh Child
942 Protection and Safety Act of 2006, and any other federal
943 standards applicable to the removal of registration requirements
944 for a sexual offender or required to be met as a condition for
945 the receipt of federal funds by the state; and the court is
946 otherwise satisfied that the offender is not a current or
947 potential threat to public safety. The state attorney in the
948 circuit in which the petition is filed and the department must
949 be given notice of the petition at least 3 weeks before the
950 hearing on the matter. The state attorney may present evidence
951 in opposition to the requested relief or may otherwise
952 demonstrate the reasons why the petition should be denied. If
953 the court grants the petition, the court shall instruct the
954 petitioner to provide the department with a certified copy of
955 the order granting relief. If the court denies the petition, the
956 court may set a future date at which the sexual offender may
957 again petition the court for relief, subject to the standards
958 for relief provided in this subsection.

959 ~~6.3.~~ The department shall remove an offender from
960 classification as a sexual offender for purposes of registration
961 if the offender provides to the department a certified copy of
962 the court's written findings or order that indicates that the
963 offender is no longer required to comply with the requirements
964 for registration as a sexual offender.

965 (b) A sexual offender as defined in sub-subparagraph
966 (1)(a)1.b. must maintain registration with the department for
967 the duration of his or her life until the person provides the
968 department with an order issued by the court that designated the



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969 person as a sexual predator, as a sexually violent predator, or
970 by another sexual offender designation in the state or
971 jurisdiction in which the order was issued which states that
972 such designation has been removed or demonstrates to the
973 department that such designation, if not imposed by a court, has
974 been removed by operation of law or court order in the state or
975 jurisdiction in which the designation was made, and provided
976 such person no longer meets the criteria for registration as a
977 sexual offender under the laws of this state.

978 (14)

979 (b) However, a sexual offender who is required to register
980 as a result of a conviction for:

981 1. Section 787.01 or s. 787.02 where the victim is a minor
982 and the offender is not the victim's parent or guardian;

983 2. Section 794.011, excluding s. 794.011(10);

984 3. Section 800.04(4)(b) where the court finds the offense
985 involved a victim under 12 years of age or sexual activity by
986 the use of force or coercion;

987 4. Section 800.04(5)(b);

988 5. Section 800.04(5)(c)1. where the court finds molestation
989 involving unclothed genitals or genital area;

990 6. Section 800.04(5)c.2. where the court finds molestation
991 involving the use of force or coercion and unclothed genitals or
992 genital area;

993 7. Section 800.04(5)(d) where the court finds the use of
994 force or coercion and unclothed genitals or genital area;

995 8. Any attempt or conspiracy to commit such offense; ~~or~~

996 9. A violation of a similar law of another jurisdiction; or

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998 10. A violation of a similar offense committed in this
999 state which has been redesignated from a former statute number
1000 to one of those listed in this paragraph,

1001
1002 must reregister each year during the month of the sexual
1003 offender's birthday and every third month thereafter.

1004 (c) The sheriff's office may determine the appropriate
1005 times and days for reporting by the sexual offender, which must
1006 ~~shall~~ be consistent with the reporting requirements of this
1007 subsection. Reregistration must ~~shall~~ include any changes to the
1008 following information:

1009 1. Name; social security number; age; race; sex; date of
1010 birth; height; weight; hair and eye color; address of any
1011 permanent residence and address of any current temporary
1012 residence, within the state or out of state, including a rural
1013 route address and a post office box; if no permanent or
1014 temporary address, any transient residence within the state;
1015 address, location or description, and dates of any current or
1016 known future temporary residence within the state or out of
1017 state; all any electronic mail addresses or Internet identifiers
1018 ~~address and any instant message name~~ required to be provided
1019 pursuant to paragraph (4) (d); all home telephone numbers and
1020 ~~number and any cellular telephone numbers number~~; date and place
1021 of any employment; the vehicle make, model, color, vehicle
1022 identification number (VIN), and license tag number of all
1023 vehicles owned by the sexual offender and all vehicles owned by
1024 a person or persons residing at the sexual offender's residence;
1025 fingerprints; palm prints; and photograph. A person is residing
1026 at the sexual offender's residence if the person abides, lodges,



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1027 or resides at that residence for 5 or more consecutive days. A
1028 post office box may ~~shall~~ not be provided in lieu of a physical
1029 residential address. The sexual offender shall also produce his
1030 or her passport, if he or she has a passport, and, if he or she
1031 is an alien, shall produce or provide information about
1032 documents establishing his or her immigration status. The sexual
1033 offender shall also provide information about any professional
1034 licenses he or she has.

1035 2. If the sexual offender is enrolled, volunteering,
1036 employed, or carrying on a vocation at an institution of higher
1037 education in this state, the sexual offender shall also provide
1038 to the department the name, address, and county of each
1039 institution, including each campus attended, and the sexual
1040 offender's enrollment, volunteer, or employment status.

1041 3. If the sexual offender's place of residence is a motor
1042 vehicle, trailer, mobile home, or manufactured home, as defined
1043 in chapter 320, the sexual offender shall also provide the
1044 vehicle identification number; the license tag number; the
1045 registration number; and a description, including color scheme,
1046 of the motor vehicle, trailer, mobile home, or manufactured
1047 home. If the sexual offender's place of residence is a vessel,
1048 live-aboard vessel, or houseboat, as defined in chapter 327, the
1049 sexual offender shall also provide the hull identification
1050 number; the manufacturer's serial number; the name of the
1051 vessel, live-aboard vessel, or houseboat; the registration
1052 number; and a description, including color scheme, of the
1053 vessel, live-aboard vessel or houseboat.

1054 4. Any sexual offender who fails to report in person as
1055 required at the sheriff's office, ~~or~~ who fails to respond to any



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1056 address verification correspondence from the department within 3
1057 weeks of the date of the correspondence, ~~or~~ who fails to report
1058 all electronic mail addresses and all Internet identifiers prior
1059 to use ~~or instant message names,~~ or who knowingly provides false
1060 registration information by act or omission commits a felony of
1061 the third degree, punishable as provided in s. 775.082, s.
1062 775.083, or s. 775.084.

1063 Section 5. Section 943.04354, Florida Statutes, is amended
1064 to read:

1065 943.04354 Removal of the requirement to register as a
1066 sexual offender or sexual predator in special circumstances.—

1067 (1) For purposes of this section, a person shall be
1068 considered for removal of the requirement to register as a
1069 sexual offender or sexual predator only if the person:

1070 (a) Was ~~or will be~~ convicted, regardless of adjudication,
1071 or adjudicated delinquent of a violation of s. 794.011, s.
1072 800.04, s. 827.071, or s. 847.0135(5) or of a similar offense in
1073 another jurisdiction ~~or the person committed a violation of s.~~
1074 ~~794.011, s. 800.04, s. 827.071, or s. 847.0135(5) for which~~
1075 ~~adjudication of guilt was or will be withheld,~~ and if the person
1076 does not have any other conviction, regardless of adjudication,
1077 or adjudication of delinquency, ~~or withhold of adjudication of~~
1078 ~~guilt~~ for a violation of s. 794.011, s. 800.04, s. 827.071, or
1079 s. 847.0135(5) or for a similar offense in another jurisdiction;

1080 (b) 1. Was convicted, regardless of adjudication, or
1081 adjudicated delinquent of an offense listed in paragraph (a) and
1082 is required to register as a sexual offender or sexual predator
1083 solely on the basis of this conviction or adjudication; or
1084 violation; and



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1085 2. Was convicted, regardless of adjudication, or
1086 adjudicated delinquent of an offense in another jurisdiction
1087 which is similar to an offense listed in paragraph (a) and no
1088 longer meets the criteria for registration as a sexual offender
1089 or sexual predator under the laws of the jurisdiction in which
1090 the similar offense occurred; and

1091 (c) Is not more than 4 years older than the victim of this
1092 violation who was 13 ~~14~~ years of age or older but younger ~~not~~
1093 ~~more~~ than 18 ~~17~~ years of age at the time the person committed
1094 this violation.

1095 (2) If a person meets the criteria in subsection (1) ~~and~~
1096 ~~the violation of s. 794.011, s. 800.04, s. 827.071, or s.~~
1097 ~~847.0135(5) was committed on or after July 1, 2007,~~ the person
1098 may move the criminal court of the circuit in which the offense
1099 occurred or the sentencing court or, for persons convicted or
1100 adjudicated delinquent of a qualifying offense in another
1101 jurisdiction, the criminal court of the circuit in which the
1102 person resides or previously resided ~~that will sentence or~~
1103 ~~dispose of this violation~~ to remove the requirement that the
1104 person register as a sexual offender or sexual predator. The
1105 person must allege in the motion that he or she meets the
1106 criteria in subsection (1) and that removal of the registration
1107 requirement will not conflict with federal law. A person
1108 convicted or adjudicated delinquent of an offense in another
1109 jurisdiction which is similar to an offense listed in paragraph
1110 (1) (a) must provide the court written confirmation that he or
1111 she is not required to register in the jurisdiction in which the
1112 conviction or adjudication occurred. The state attorney and the
1113 department must be given notice of the motion at least 21 days



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1114 before the date of sentencing, ~~or~~ disposition of the this
1115 violation, or hearing on the motion and may present evidence in
1116 opposition to the requested relief or may otherwise demonstrate
1117 why the motion should be denied. At sentencing, ~~or~~ disposition
1118 of the this violation, or hearing on the motion, the court shall
1119 rule on the this motion, and, if the court determines the person
1120 meets the criteria in subsection (1) and the removal of the
1121 registration requirement will not conflict with federal law, it
1122 may grant the motion and order the removal of the registration
1123 requirement. The court shall instruct the person to provide the
1124 department a certified copy of the order granting relief. If the
1125 court denies the motion, the person is not authorized under this
1126 section to file another motion ~~petition~~ for removal of the
1127 registration requirement.

1128 ~~(3)(a) This subsection applies to a person who:~~

1129 ~~1. Is not a person described in subsection (2) because the~~
1130 ~~violation of s. 794.011, s. 800.04, or s. 827.071 was not~~
1131 ~~committed on or after July 1, 2007;~~

1132 ~~2. Is subject to registration as a sexual offender or~~
1133 ~~sexual predator for a violation of s. 794.011, s. 800.04, or s.~~
1134 ~~827.071; and~~

1135 ~~3. Meets the criteria in subsection (1).~~

1136 ~~(b) A person may petition the court in which the sentence~~
1137 ~~or disposition for the violation of s. 794.011, s. 800.04, or s.~~
1138 ~~827.071 occurred for removal of the requirement to register as a~~
1139 ~~sexual offender or sexual predator. The person must allege in~~
1140 ~~the petition that he or she meets the criteria in subsection (1)~~
1141 ~~and removal of the registration requirement will not conflict~~
1142 ~~with federal law. The state attorney must be given notice of the~~



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1143 ~~petition at least 21 days before the hearing on the petition and~~
1144 ~~may present evidence in opposition to the requested relief or~~
1145 ~~may otherwise demonstrate why the petition should be denied. The~~
1146 ~~court shall rule on the petition and, if the court determines~~
1147 ~~the person meets the criteria in subsection (1) and removal of~~
1148 ~~the registration requirement will not conflict with federal law,~~
1149 ~~it may grant the petition and order the removal of the~~
1150 ~~registration requirement. If the court denies the petition, the~~
1151 ~~person is not authorized under this section to file any further~~
1152 ~~petition for removal of the registration requirement.~~

1153 (3)~~(4)~~ If a person provides to the Department of Law
1154 Enforcement a certified copy of the court's order removing the
1155 requirement that the person register as a sexual offender or
1156 sexual predator for the violation of s. 794.011, s. 800.04, s.
1157 827.071, or s. 847.0135(5), or a similar offense in another
1158 jurisdiction, the registration requirement will not apply to the
1159 person and the department shall remove all information about the
1160 person from the public registry of sexual offenders and sexual
1161 predators maintained by the department. However, the removal of
1162 this information from the public registry does not mean that the
1163 public is denied access to information about the person's
1164 criminal history or record that is otherwise available as a
1165 public record.

1166 Section 6. Subsections (2) and (3) of section 943.0437,
1167 Florida Statutes, are amended to read:

1168 943.0437 Commercial social networking websites.—

1169 (2) The department may provide information relating to
1170 electronic mail addresses and Internet identifiers, as defined
1171 in s. 775.21, ~~instant message names~~ maintained as part of the



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1172 sexual offender registry to commercial social networking
1173 websites or third parties designated by commercial social
1174 networking websites. The commercial social networking website
1175 may use this information for the purpose of comparing registered
1176 users and screening potential users of the commercial social
1177 networking website against the list of electronic mail addresses
1178 and Internet identifiers ~~instant message names~~ provided by the
1179 department.

1180 (3) This section does not ~~shall not be construed to~~ impose
1181 any civil liability on a commercial social networking website
1182 for:

1183 (a) Any action voluntarily taken in good faith to remove or
1184 disable any profile of a registered user associated with an
1185 electronic mail address or Internet identifier ~~instant message~~
1186 ~~name~~ contained in the sexual offender registry.

1187 (b) Any action taken to restrict access by such registered
1188 user to the commercial social networking website.

1189 Section 7. Paragraphs (b) and (d) of subsection (1) and
1190 paragraph (a) of subsection (3) of section 944.606, Florida
1191 Statutes, are amended to read:

1192 944.606 Sexual offenders; notification upon release.—

1193 (1) As used in this section:

1194 (b) "Sexual offender" means a person who has been convicted
1195 of committing, or attempting, soliciting, or conspiring to
1196 commit, any of the criminal offenses proscribed in the following
1197 statutes in this state or similar offenses in another
1198 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
1199 787.02, or s. 787.025(2)(c), where the victim is a minor and the
1200 defendant is not the victim's parent or guardian; s.



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1201 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
1202 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
1203 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
1204 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
1205 s. 916.1075(2); or s. 985.701(1); or any similar offense
1206 committed in this state which has been redesignated from a
1207 former statute number to one of those listed in this subsection,
1208 when the department has received verified information regarding
1209 such conviction; an offender's computerized criminal history
1210 record is not, in and of itself, verified information.

1211 (d) "Internet identifier" has the same meaning as provided
1212 in s. 775.21 "Instant message name" means an identifier that
1213 allows a person to communicate in real time with another person
1214 using the Internet.

1215 (3)(a) The department shall ~~must~~ provide information
1216 regarding any sexual offender who is being released after
1217 serving a period of incarceration for any offense, as follows:

1218 1. The department shall ~~must~~ provide: the sexual offender's
1219 name, any change in the offender's name by reason of marriage or
1220 other legal process, and any alias, if known; the correctional
1221 facility from which the sexual offender is released; the sexual
1222 offender's social security number, race, sex, date of birth,
1223 height, weight, and hair and eye color; address of any planned
1224 permanent residence or temporary residence, within the state or
1225 out of state, including a rural route address and a post office
1226 box; if no permanent or temporary address, any transient
1227 residence within the state; address, location or description,
1228 and dates of any known future temporary residence within the
1229 state or out of state; date and county of sentence and each



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1230 crime for which the offender was sentenced; a copy of the
1231 offender's fingerprints, palm prints, and a digitized photograph
1232 taken within 60 days before release; the date of release of the
1233 sexual offender; all any electronic mail addresses ~~address~~ and
1234 all Internet identifiers ~~any instant message name~~ required to be
1235 provided pursuant to s. 943.0435(4)(d); all ~~and~~ home telephone
1236 numbers ~~number~~ and ~~any~~ cellular telephone numbers; information
1237 about any professional licenses the offender has, if known; and
1238 passport information, if he or she has a passport, and, if he or
1239 she is an alien, information about documents establishing his or
1240 her immigration status ~~number~~. The department shall notify the
1241 Department of Law Enforcement if the sexual offender escapes,
1242 absconds, or dies. If the sexual offender is in the custody of a
1243 private correctional facility, the facility shall take the
1244 digitized photograph of the sexual offender within 60 days
1245 before the sexual offender's release and provide this photograph
1246 to the Department of Corrections and also place it in the sexual
1247 offender's file. If the sexual offender is in the custody of a
1248 local jail, the custodian of the local jail shall register the
1249 offender within 3 business days after intake of the offender for
1250 any reason and upon release, and shall notify the Department of
1251 Law Enforcement of the sexual offender's release and provide to
1252 the Department of Law Enforcement the information specified in
1253 this paragraph and any information specified in subparagraph 2.
1254 that the Department of Law Enforcement requests.

1255 2. The department may provide any other information deemed
1256 necessary, including criminal and corrections records,
1257 nonprivileged personnel and treatment records, when available.

1258 Section 8. Paragraphs (a) and (f) of subsection (1),



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1259 subsection (4), and paragraphs (b) and (c) of subsection (13) of
1260 section 944.607, Florida Statutes, are amended and a new
1261 paragraph (b) is added to subsection (1) of that section to
1262 read:

1263 944.607 Notification to Department of Law Enforcement of
1264 information on sexual offenders.—

1265 (1) As used in this section, the term:

1266 (a) "Sexual offender" means a person who is in the custody
1267 or control of, or under the supervision of, the department or is
1268 in the custody of a private correctional facility:

1269 1. On or after October 1, 1997, as a result of a conviction
1270 for committing, or attempting, soliciting, or conspiring to
1271 commit, any of the criminal offenses proscribed in the following
1272 statutes in this state or similar offenses in another
1273 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.

1274 787.02, or s. 787.025(2)(c), where the victim is a minor and the
1275 defendant is not the victim's parent or guardian; s.

1276 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.

1277 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.

1278 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,

1279 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;

1280 s. 916.1075(2); or s. 985.701(1); or any similar offense

1281 committed in this state which has been redesignated from a

1282 former statute number to one of those listed in this paragraph;

1283 or

1284 2. Who establishes or maintains a residence in this state
1285 and who has not been designated as a sexual predator by a court
1286 of this state but who has been designated as a sexual predator,
1287 as a sexually violent predator, or by another sexual offender



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1288 designation in another state or jurisdiction and was, as a
1289 result of such designation, subjected to registration or
1290 community or public notification, or both, or would be if the
1291 person were a resident of that state or jurisdiction, without
1292 regard as to whether the person otherwise meets the criteria for
1293 registration as a sexual offender.

1294 (b) "Vehicles owned" has the same meaning as provided in s.
1295 775.21.

1296 (g) ~~(f)~~ "Internet identifier" has the same meaning as
1297 provided in s. 775.21 ~~"Instant message name" means an identifier~~
1298 ~~that allows a person to communicate in real time with another~~
1299 ~~person using the Internet.~~

1300 (4) A sexual offender, as described in this section, who is
1301 under the supervision of the Department of Corrections but is
1302 not incarcerated shall ~~must~~ register with the Department of
1303 Corrections within 3 business days after sentencing for a
1304 registrable offense and otherwise provide information as
1305 required by this subsection.

1306 (a) The sexual offender shall provide his or her name; date
1307 of birth; social security number; race; sex; height; weight;
1308 hair and eye color; tattoos or other identifying marks; all ~~any~~
1309 electronic mail addresses ~~address~~ and Internet identifiers ~~any~~
1310 ~~instant message name~~ required to be provided pursuant to s.
1311 943.0435(4)(d); all home telephone numbers and cellular
1312 telephone numbers; the make, model, color, vehicle
1313 identification number (VIN), and license tag number of all
1314 vehicles owned by the sexual offender and all vehicles owned by
1315 a person or persons residing at the sexual offender's residence;
1316 permanent or legal residence and address of temporary residence



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1317 within the state or out of state while the sexual offender is
1318 under supervision in this state, including any rural route
1319 address or post office box; if no permanent or temporary
1320 address, any transient residence within the state; and address,
1321 location or description, and dates of any current or known
1322 future temporary residence within the state or out of state. A
1323 person is residing at the sexual offender's residence if the
1324 person abides, lodges, or resides at that residence for 5 or
1325 more consecutive days. The sexual offender shall also produce
1326 his or her passport, if he or she has a passport, and, if he or
1327 she is an alien, shall produce or provide information about
1328 documents establishing his or her immigration status. The sexual
1329 offender shall also provide information about any professional
1330 licenses he or she has. The Department of Corrections shall
1331 verify the address of each sexual offender in the manner
1332 described in ss. 775.21 and 943.0435. The department shall
1333 report to the Department of Law Enforcement any failure by a
1334 sexual predator or sexual offender to comply with registration
1335 requirements.

1336 (b) If the sexual offender is enrolled, employed,
1337 volunteering, or carrying on a vocation at an institution of
1338 higher education in this state, the sexual offender shall
1339 provide the name, address, and county of each institution,
1340 including each campus attended, and the sexual offender's
1341 enrollment, volunteer, or employment status. Each change in
1342 enrollment, volunteer, or employment status must ~~shall~~ be
1343 reported to the department within 48 hours after the change in
1344 status. The Department of Corrections shall promptly notify each
1345 institution of the sexual offender's presence and any change in



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1346 the sexual offender's enrollment, volunteer, or employment
1347 status.
1348 (13)
1349 (b) However, a sexual offender who is required to register
1350 as a result of a conviction for:
1351 1. Section 787.01 or s. 787.02 where the victim is a minor
1352 and the offender is not the victim's parent or guardian;
1353 2. Section 794.011, excluding s. 794.011(10);
1354 3. Section 800.04(4)(b) where the victim is under 12 years
1355 of age or where the court finds sexual activity by the use of
1356 force or coercion;
1357 4. Section 800.04(5)(b);
1358 5. Section 800.04(5)(c)1. where the court finds molestation
1359 involving unclothed genitals or genital area;
1360 6. Section 800.04(5)c.2. where the court finds molestation
1361 involving use of force or coercion and unclothed genitals or
1362 genital area;
1363 7. Section 800.04(5)(d) where the court finds the use of
1364 force or coercion and unclothed genitals or genital area;
1365 8. Any attempt or conspiracy to commit such offense; ~~or~~
1366 9. A violation of a similar law of another jurisdiction;
1367 or
1368 10. A violation of a similar offense committed in this
1369 state which has been redesignated from a former statute number
1370 to one of those listed in this paragraph.
1371
1372 must reregister each year during the month of the sexual
1373 offender's birthday and every third month thereafter.
1374 (c) The sheriff's office may determine the appropriate



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1375 times and days for reporting by the sexual offender, which must
1376 ~~shall~~ be consistent with the reporting requirements of this
1377 subsection. Reregistration must ~~shall~~ include any changes to the
1378 following information:

1379 1. Name; social security number; age; race; sex; date of
1380 birth; height; weight; hair and eye color; address of any
1381 permanent residence and address of any current temporary
1382 residence, within the state or out of state, including a rural
1383 route address and a post office box; if no permanent or
1384 temporary address, any transient residence; address, location or
1385 description, and dates of any current or known future temporary
1386 residence within the state or out of state; all any electronic
1387 mail addresses and Internet identifiers ~~address and any instant~~
1388 ~~message name~~ required to be provided pursuant to s.
1389 943.0435(4)(d); all home telephone numbers and cellular
1390 telephone numbers; date and place of any employment; the vehicle
1391 make, model, color, vehicle identification number (VIN), and
1392 license tag number of all vehicles owned by the sexual offender
1393 and all vehicles owned by a person or persons residing at the
1394 sexual offender's residence; fingerprints; palm prints; and
1395 photograph. A person is residing at the sexual offender's
1396 residence if the person abides, lodges, or resides at that
1397 residence for 5 or more consecutive days. A post office box may
1398 ~~shall~~ not be provided in lieu of a physical residential address.
1399 The sexual offender shall also produce his or her passport, if
1400 he or she has a passport, and, if he or she is an alien, shall
1401 produce or provide information about documents establishing his
1402 or her immigration status. The sexual offender shall also
1403 provide information about any professional licenses he or she



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1404 has.

1405 2. If the sexual offender is enrolled, employed,
1406 volunteering, or carrying on a vocation at an institution of
1407 higher education in this state, the sexual offender shall also
1408 provide to the department the name, address, and county of each
1409 institution, including each campus attended, and the sexual
1410 offender's enrollment, volunteer, or employment status.

1411 3. If the sexual offender's place of residence is a motor
1412 vehicle, trailer, mobile home, or manufactured home, as defined
1413 in chapter 320, the sexual offender shall also provide the
1414 vehicle identification number; the license tag number; the
1415 registration number; and a description, including color scheme,
1416 of the motor vehicle, trailer, mobile home, or manufactured
1417 home. If the sexual offender's place of residence is a vessel,
1418 live-aboard vessel, or houseboat, as defined in chapter 327, the
1419 sexual offender shall also provide the hull identification
1420 number; the manufacturer's serial number; the name of the
1421 vessel, live-aboard vessel, or houseboat; the registration
1422 number; and a description, including color scheme, of the
1423 vessel, live-aboard vessel or houseboat.

1424 4. Any sexual offender who fails to report in person as
1425 required at the sheriff's office, ~~or~~ who fails to respond to any
1426 address verification correspondence from the department within 3
1427 weeks of the date of the correspondence, ~~or~~ who fails to report
1428 all electronic mail addresses or Internet identifiers prior to
1429 use or instant message names, or who knowingly provides false
1430 registration information by act or omission commits a felony of
1431 the third degree, punishable as provided in s. 775.082, s.
1432 775.083, or s. 775.084.



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1433 Section 9. Paragraph (a) of subsection (3) of section
1434 985.481, Florida Statutes, is amended and a new paragraph (c) is
1435 added to subsection (1) of that section to read:

1436 985.481 Sexual offenders adjudicated delinquent;
1437 notification upon release.-

1438 (1) As used in this section:

1439 (a) "Convicted" has the same meaning as provided in s.
1440 943.0435.

1441 (b) "Sexual offender" means a person who has been
1442 adjudicated delinquent as provided in s. 943.0435(1)(a)1.d.

1443 (c) "Vehicles owned" has the same meaning as provided in s.
1444 775.21.

1445 (3)(a) The department shall ~~must~~ provide information
1446 regarding any sexual offender who is being released after
1447 serving a period of residential commitment under the department
1448 for any offense, as follows:

1449 1. The department shall ~~must~~ provide the sexual offender's
1450 name, any change in the offender's name by reason of marriage or
1451 other legal process, and any alias, if known; the correctional
1452 facility from which the sexual offender is released; the sexual
1453 offender's social security number, race, sex, date of birth,
1454 height, weight, and hair and eye color; the make, model, color,
1455 vehicle identification number (VIN), and license tag number of
1456 all vehicles owned by the sexual offender and all vehicles owned
1457 by a person or persons residing at the sexual offender's
1458 residence, if known; address of any planned permanent residence
1459 or temporary residence, within the state or out of state,
1460 including a rural route address and a post office box; if no
1461 permanent or temporary address, any transient residence within



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1462 the state; address, location or description, and dates of any
1463 known future temporary residence within the state or out of
1464 state; date and county of disposition and each crime for which
1465 there was a disposition; a copy of the offender's fingerprints
1466 and a digitized photograph taken within 60 days before release;
1467 the date of release of the sexual offender; all ~~and~~ home
1468 telephone numbers ~~number~~ and ~~any~~ cellular telephone numbers;
1469 information about any professional licenses the offender has, if
1470 known; and passport information, if he or she has a passport,
1471 and, if he or she is an alien, information about documents
1472 establishing his or her immigration status ~~number~~. A person is
1473 residing at the sexual offender's residence if the person
1474 abides, lodges, or resides at that residence for 5 or more
1475 consecutive days. The department shall notify the Department of
1476 Law Enforcement if the sexual offender escapes, absconds, or
1477 dies. If the sexual offender is in the custody of a private
1478 correctional facility, the facility shall take the digitized
1479 photograph of the sexual offender within 60 days before the
1480 sexual offender's release and also place it in the sexual
1481 offender's file. If the sexual offender is in the custody of a
1482 local jail, the custodian of the local jail shall register the
1483 offender within 3 business days after intake of the offender for
1484 any reason and upon release, and shall notify the Department of
1485 Law Enforcement of the sexual offender's release and provide to
1486 the Department of Law Enforcement the information specified in
1487 this subparagraph and any information specified in subparagraph
1488 2. which the Department of Law Enforcement requests.

1489 2. The department may provide any other information
1490 considered necessary, including criminal and delinquency



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1491 records, when available.

1492 Section 10. Subsection (4) and paragraph (b) of subsection
1493 (13) of section 985.4815, Florida Statutes, are amended and a
1494 new paragraph (e) is added to subsection (1) of that section to
1495 read:

1496 985.4815 Notification to Department of Law Enforcement of
1497 information on juvenile sexual offenders.-

1498 (1) As used in this section, the term:

1499 (a) "Change in enrollment or employment status" means the
1500 commencement or termination of enrollment or employment or a
1501 change in location of enrollment or employment.

1502 (b) "Conviction" has the same meaning as provided in s.
1503 943.0435.

1504 (c) "Institution of higher education" means a career
1505 center, community college, college, state university, or
1506 independent postsecondary institution.

1507 (d) "Sexual offender" means a person who is in the care or
1508 custody or under the jurisdiction or supervision of the
1509 department or is in the custody of a private correctional
1510 facility and who:

1511 1. Has been adjudicated delinquent as provided in s.
1512 943.0435(1)(a)1.d.; or

1513 2. Establishes or maintains a residence in this state and
1514 has not been designated as a sexual predator by a court of this
1515 state but has been designated as a sexual predator, as a
1516 sexually violent predator, or by another sexual offender
1517 designation in another state or jurisdiction and was, as a
1518 result of such designation, subjected to registration or
1519 community or public notification, or both, or would be if the



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1520 person were a resident of that state or jurisdiction, without
1521 regard to whether the person otherwise meets the criteria for
1522 registration as a sexual offender.

1523 (e) "Vehicles owned" has the same meaning as provided in s.
1524 775.21.

1525 (4) A sexual offender, as described in this section, who is
1526 under the supervision of the department but who is not committed
1527 shall ~~must~~ register with the department within 3 business days
1528 after adjudication and disposition for a registrable offense and
1529 otherwise provide information as required by this subsection.

1530 (a) The sexual offender shall provide his or her name; date
1531 of birth; social security number; race; sex; height; weight;
1532 hair and eye color; tattoos or other identifying marks; the
1533 make, model, color, vehicle identification number (VIN), and
1534 license tag number of all vehicles owned by the sexual offender
1535 and all vehicles owned by a person or persons residing at the
1536 sexual offender's residence; permanent or legal residence and
1537 address of temporary residence within the state or out of state
1538 while the sexual offender is in the care or custody or under the
1539 jurisdiction or supervision of the department in this state,
1540 including any rural route address or post office box; if no
1541 permanent or temporary address, any transient residence;
1542 address, location or description, and dates of any current or
1543 known future temporary residence within the state or out of
1544 state; and the name and address of each school attended. A
1545 person is residing at the sexual offender's residence if the
1546 person abides, lodges, or resides at that residence for 5 or
1547 more consecutive days. The sexual offender shall also produce
1548 his or her passport, if he or she has a passport, and, if he or



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1549 she is an alien, shall produce or provide information about
1550 documents establishing his or her immigration status. The
1551 offender shall also provide information about any professional
1552 licenses he or she has. The department shall verify the address
1553 of each sexual offender and shall report to the Department of
1554 Law Enforcement any failure by a sexual offender to comply with
1555 registration requirements.

1556 (b) If the sexual offender is enrolled, employed,
1557 volunteering, or carrying on a vocation at an institution of
1558 higher education in this state, the sexual offender shall
1559 provide the name, address, and county of each institution,
1560 including each campus attended, and the sexual offender's
1561 enrollment, volunteer, or employment status. Each change in
1562 enrollment, volunteer, or employment status must ~~shall~~ be
1563 reported to the department within 48 hours after the change in
1564 status. The department shall promptly notify each institution of
1565 the sexual offender's presence and any change in the sexual
1566 offender's enrollment, volunteer, or employment status.

1567 (13)

1568 (b) The sheriff's office may determine the appropriate
1569 times and days for reporting by the sexual offender, which must
1570 ~~shall~~ be consistent with the reporting requirements of this
1571 subsection. Reregistration must ~~shall~~ include any changes to the
1572 following information:

1573 1. Name; social security number; age; race; sex; date of
1574 birth; height; weight; hair and eye color; fingerprints; palm
1575 prints; address of any permanent residence and address of any
1576 current temporary residence, within the state or out of state,
1577 including a rural route address and a post office box; if no



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1578 permanent or temporary address, any transient residence;
1579 address, location or description, and dates of any current or
1580 known future temporary residence within the state or out of
1581 state; passport information, if he or she has a passport, and,
1582 if he or she is an alien, information about documents
1583 establishing his or her immigration status; name and address of
1584 each school attended; date and place of any employment; the
1585 ~~vehicle~~ make, model, color, vehicle identification number (VIN),
1586 and license tag number of all vehicles owned by the sexual
1587 offender and all vehicles owned by a person or persons residing
1588 at the sexual offender's residence; fingerprints; and
1589 photograph. A person is residing at the sexual offender's
1590 residence if the person abides, lodges, or resides at that
1591 residence for 5 or more consecutive days. A post office box may
1592 ~~shall~~ not be provided in lieu of a physical residential address.
1593 The offender shall also provide information about any
1594 professional licenses he or she has.

1595 2. If the sexual offender is enrolled, employed,
1596 volunteering, or carrying on a vocation at an institution of
1597 higher education in this state, the sexual offender shall also
1598 provide to the department the name, address, and county of each
1599 institution, including each campus attended, and the sexual
1600 offender's enrollment, volunteer, or employment status.

1601 3. If the sexual offender's place of residence is a motor
1602 vehicle, trailer, mobile home, or manufactured home, as defined
1603 in chapter 320, the sexual offender shall also provide the
1604 vehicle identification number; the license tag number; the
1605 registration number; and a description, including color scheme,
1606 of the motor vehicle, trailer, mobile home, or manufactured



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1607 home. If the sexual offender's place of residence is a vessel,
1608 live-aboard vessel, or houseboat, as defined in chapter 327, the
1609 sexual offender shall also provide the hull identification
1610 number; the manufacturer's serial number; the name of the
1611 vessel, live-aboard vessel, or houseboat; the registration
1612 number; and a description, including color scheme, of the
1613 vessel, live-aboard vessel, or houseboat.

1614 4. Any sexual offender who fails to report in person as
1615 required at the sheriff's office, ~~or~~ who fails to respond to any
1616 address verification correspondence from the department within 3
1617 weeks after the date of the correspondence, or who knowingly
1618 provides false registration information by act or omission
1619 commits a felony of the third degree, punishable as provided in
1620 ss. 775.082, 775.083, and 775.084.

1621 Section 11. Paragraphs (g) and (i) of subsection (3) of
1622 section 921.0022, Florida Statutes, are amended to read:

1623 921.0022 Criminal Punishment Code; offense severity ranking
1624 chart.-

1625 (3) OFFENSE SEVERITY RANKING CHART

1626 (g) LEVEL 7

1627

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

1628

1629



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1630			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.
1631			
	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
1632			
	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
1633			
	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
1634			
	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.



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1635	456.065 (2)	3rd	Practicing a health care profession without a license.
1636	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
1637	458.327 (1)	3rd	Practicing medicine without a license.
1638	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
1639	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
1640	461.012 (1)	3rd	Practicing podiatric medicine without a license.
1641	462.17	3rd	Practicing naturopathy without a license.
1642	463.015 (1)	3rd	Practicing optometry



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1643			without a license.
	464.016 (1)	3rd	Practicing nursing without a license.
1644			
	465.015 (2)	3rd	Practicing pharmacy without a license.
1645			
	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
1646			
	467.201	3rd	Practicing midwifery without a license.
1647			
	468.366	3rd	Delivering respiratory care services without a license.
1648			
	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
1649			
	483.901 (9)	3rd	Practicing medical physics without a license.
1650			
	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.



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1651	484.053	3rd	Dispensing hearing aids without a license.
1652	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.
1653	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.
1654	560.125 (5) (a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
1655	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.



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1656	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.
1657	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
1658	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
1659	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
1660	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
1661			



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1662	782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
1663	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
1664	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1665	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
1666	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1667	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
	784.048 (7)	3rd	Aggravated stalking;



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1668			violation of court order.
	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
1669			
	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
1670			
	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
1671			
	784.081 (1)	1st	Aggravated battery on specified official or employee.
1672			
	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
1673			
	784.083 (1)	1st	Aggravated battery on code inspector.
1674			
	787.06 (3) (a)	1st	Human trafficking using coercion for labor and services.
1675			
	787.06 (3) (e)	1st	Human trafficking using



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1676			coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state.
	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
1677			
	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
1678			
	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
1679			
	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1680			
	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass



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1681			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.
1682			
	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
1683			
	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.
1684			
	796.03	2nd	Procuring any person under <u>18</u> 16 years for prostitution.
1685			
	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18



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1686			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.
1687			
	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
1688			
	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1689			
	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
1690			
	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1691			
	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1692			
	812.014 (2) (a) 1.	1st	Property stolen, valued at



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1693	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
1694	812.014 (2) (b) 3.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1695	812.014 (2) (b) 4.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
1696	812.0145 (2) (a)	1st	Property stolen, law enforcement equipment from authorized emergency vehicle.
1697	812.019 (2)	1st	Theft from person 65 years of age or older; \$50,000 or more.
			Stolen property; initiates, organizes, plans, etc., the theft of



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1698			property and traffics in stolen property.
	812.131 (2) (a)	2nd	Robbery by sudden snatching.
1699			
	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1700			
	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
1701			
	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1702			
	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
1703			
	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
1704			
	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding



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1705			property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
1706			
	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
1707			
	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.
1708			
	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
1709			
	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or



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1710			older.
	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1711			
	838.015	2nd	Bribery.
1712			
	838.016	2nd	Unlawful compensation or reward for official behavior.
1713			
	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
1714			
	838.22	2nd	Bid tampering.
1715			
	843.0855 (2)	3rd	Impersonation of a public officer or employee.
1716			
	843.0855 (3)	3rd	Unlawful simulation of legal process.
1717			
	843.0855 (4)	3rd	Intimidation of a public officer or employee.
1718			
	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to



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1719			commit an unlawful sex act.
	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1720			
	872.06	2nd	Abuse of a dead human body.
1721			
	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
1722			
	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
1723			
	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



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1724	893.13 (1) (e) 1.	1st	facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
1725	893.13 (4) (a)	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.
1726	893.135 (1) (a) 1.	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).
1727	893.135 (1) (b) 1.a.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less



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1728			than 200 grams.
	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1729			
	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1730			
	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1731			
	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1732			
	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1733			
	893.135 (1) (h) 1.a.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1734			



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1735	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4- Butanediol, 1 kilogram or more, less than 5 kilograms.
1736	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1737	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
1738	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1739	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;



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1740	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1741	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
1742	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1743	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; <u>providing false registration information.</u>
1744	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.



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1745	944.607(10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1746	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1747	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; <u>providing false registration information.</u>
1748	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1749	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1750	985.4815(13)	3rd	Sexual offender; failure



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

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(i) LEVEL 9

Florida Statute	Felony Degree	Description
316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
499.0051 (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.



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1760	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
1761	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
1762	775.0844	1st	Aggravated white collar crime.
1763	782.04 (1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
1764	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.
1765	782.051 (1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04 (3).
1766	782.07 (2)	1st	Aggravated manslaughter of an elderly person or disabled adult.



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1767	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
1768	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
1769	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
1770	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.
1771	787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized alien.
1772	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.



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1773	790.161	1st	Attempted capital destructive device offense.
1774	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
1775	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
1776	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
1777	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
1778	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
1779	794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
1780	796.035	1st	Selling or buying of minors into prostitution.



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1781	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
1782	812.13 (2) (a)	1st,PBL	Robbery with firearm or other deadly weapon.
1783	812.133 (2) (a)	1st,PBL	Carjacking; firearm or other deadly weapon.
1784	812.135 (2) (b)	1st	Home-invasion robbery with weapon.
1785	817.535 (3) (b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
1786	817.535 (4) (a) 2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
1787	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.
1788			



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1789	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.
1790	827.03 (2) (a)	1st	Aggravated child abuse.
1791	847.0145 (1)	1st	Selling, or otherwise transferring custody or control, of a minor.
1792	847.0145 (2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
1793	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.
1794	893.135	1st	Attempted capital trafficking offense.
1795	893.135 (1) (a) 3.	1st	Trafficking in cannabis, more than 10,000 lbs.
	893.135	1st	Trafficking in cocaine, more than



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1796	(1) (b) 1.c.		400 grams, less than 150 kilograms.
	893.135	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
1797	(1) (c) 1.c.		
	893.135	1st	Trafficking in phencyclidine, more than 400 grams.
1798	(1) (d) 1.c.		
	893.135	1st	Trafficking in methaqualone, more than 25 kilograms.
1799	(1) (e) 1.c.		
	893.135	1st	Trafficking in amphetamine, more than 200 grams.
1800	(1) (f) 1.c.		
	893.135	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
1801	(1) (h) 1.c.		
	893.135	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
1802	(1) (j) 1.c.		
	893.135	1st	Trafficking in Phenethylamines, 400 grams or more.
1803	(1) (k) 2.c.		
	896.101 (5) (c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.



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1804 896.104(4)(a)3. 1st Structuring transactions to evade
reporting or registration
requirements, financial
transactions totaling or exceeding
\$100,000.

1805
1806 Section 12. This act shall take effect October 1, 2014.

1807
1808 ===== T I T L E A M E N D M E N T =====

1809 And the title is amended as follows:

1810 Delete everything before the enacting clause
1811 and insert:

1812 A bill to be entitled
1813 An act relating to sex offenses; amending s. 68.07,
1814 F.S.; requiring the Florida Department of Law
1815 Enforcement to inform the clerk of the court if a
1816 person petitioning for a name change has registered as
1817 a sexual predator or sexual offender; requiring that
1818 each name change petition show whether the petitioner
1819 has ever been required to register as a sexual
1820 predator or sexual offender; requiring certain
1821 agencies to be notified of an order granting a name
1822 change to a person required to register as a sexual
1823 predator or sexual offender; requiring the Department
1824 of Law Enforcement and applicable law enforcement
1825 agencies to be notified when a person required to
1826 register as a sexual predator or sexual offender and
1827 granted a legal name change fails to meet requirements



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1828 to obtain a replacement driver's license or
1829 identification card; amending s. 775.21, F.S.;
1830 revising definitions; providing that voluntary
1831 disclosure of specified information waives a
1832 disclosure exemption for such information; adding
1833 additional offenses to the list of sexual predator
1834 qualifying offenses; requiring disclosure of
1835 additional information during the sexual predator
1836 registration process; requiring that a sexual predator
1837 who is unable to secure or update a driver license or
1838 identification card within a specified period report a
1839 change in certain information to the local sheriff's
1840 office within a specified time after such change and
1841 confirm that he or she also reported such information
1842 to the Department of Highway Safety and Motor
1843 Vehicles; revising reporting requirements if a sexual
1844 predator plans to leave the United States for more
1845 than a specified time; providing criminal penalties
1846 for knowingly providing false registration information
1847 by act or omission; conforming provisions to changes
1848 made by the act; amending s. 943.043, F.S.;
1849 prohibiting display or dissemination of certain
1850 vehicle information on the Internet public registry of
1851 sexual predators and offenders; amending s. 943.0435,
1852 F.S.; adding additional offenses to the list of sexual
1853 offender qualifying offenses; revising definitions;
1854 requiring disclosure of additional sexual offender
1855 registration information; requiring that a sexual
1856 offender who is unable to secure or update a driver



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1857 license or identification card within a specified
1858 period report a change in certain information to the
1859 local sheriff's office within a specified period of
1860 time of such change and confirm that he or she also
1861 reported such information to the Department of Highway
1862 Safety and Motor Vehicles; providing additional
1863 requirements for sexual offenders intending to reside
1864 outside of the United States; revising criteria
1865 applicable to provisions that allow removal of the
1866 requirement to register as a sexual offender;
1867 providing criminal penalties for knowingly providing
1868 false registration information by act or omission;
1869 conforming provisions to changes made by the act;
1870 amending s. 943.04354, F.S.; revising the criteria
1871 applicable to provisions that allow removal of the
1872 requirement to register as a sexual offender or sexual
1873 predator; amending s. 943.0437, F.S.; conforming
1874 terminology; amending ss. 944.606 and 944.607, F.S.;;
1875 adding additional offenses to the list of sexual
1876 offender qualifying offenses; revising definitions;
1877 requiring disclosure of additional registration
1878 information; providing criminal penalties for
1879 knowingly providing false registration information by
1880 act or omission; conforming provisions to changes made
1881 by the act; amending ss. 985.481 and 985.4815, F.S.;;
1882 requiring disclosure of additional registration
1883 information by certain sexual offenders adjudicated
1884 delinquent and certain juvenile sexual offenders;
1885 providing criminal penalties for knowingly providing



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1886 false registration information by act or omission;
1887 amending s. 921.0022, F.S.; updating provisions of the
1888 offense severity ranking chart of the Criminal
1889 Punishment Code to reflect prior changes in the law;
1890 conforming provisions of the offense severity ranking
1891 chart to changes made by the act; providing an
1892 effective date.

By Senator Evers

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1 A bill to be entitled
2 An act relating to sex offenses; amending s. 775.21,
3 F.S.; revising definitions; providing that voluntary
4 disclosure of specified information waives a
5 disclosure exemption for such information; adding
6 additional offenses to the list of sexual predator
7 qualifying offenses; requiring disclosure of
8 additional information during the sexual predator
9 registration process; requiring that a sexual predator
10 who is unable to secure or update a driver license or
11 identification card within a specified period report a
12 change in certain information to the local sheriff's
13 office within a specified time after such change and
14 confirm that he or she also reported such information
15 to the Department of Highway Safety and Motor
16 Vehicles; revising reporting requirements if a sexual
17 predator plans to leave the United States for more
18 than a specified time; providing criminal penalties
19 for knowingly providing false registration information
20 by act or omission; conforming provisions to changes
21 made by the act; amending s. 943.0435, F.S.; adding
22 additional offenses to the list of sexual offender
23 qualifying offenses; revising definitions; requiring
24 disclosure of additional sexual offender registration
25 information; requiring that a sexual offender who is
26 unable to secure or update a driver license or
27 identification card within a specified period report a
28 change in certain information to the local sheriff's
29 office within a specified period of time of such

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30 change and confirm that he or she also reported such
31 information to the Department of Highway Safety and
32 Motor Vehicles; providing additional requirements for
33 sexual offenders intending to reside outside of the
34 United States; revising criteria applicable to
35 provisions that allow removal of the requirement to
36 register as a sexual offender; tolling the
37 registration period during the offender's term of
38 incarceration, commitment to a residential program,
39 civil commitment, or detention pursuant to ch. 985,
40 F.S.; providing criminal penalties for knowingly
41 providing false registration information by act or
42 omission; conforming provisions to changes made by the
43 act; amending s. 943.04354, F.S.; revising the
44 criteria applicable to provisions that allow removal
45 of the requirement to register as a sexual offender or
46 sexual predator; amending s. 943.0437, F.S.;

47 conforming terminology; amending ss. 944.606 and
48 944.607, F.S.; adding additional offenses to the list
49 of sexual offender qualifying offenses; revising
50 definitions; requiring disclosure of additional
51 registration information; providing criminal penalties
52 for knowingly providing false registration information
53 by act or omission; conforming provisions to changes
54 made by the act; amending ss. 985.481 and 985.4815,
55 F.S.; requiring disclosure of additional registration
56 information by certain sexual offenders adjudicated
57 delinquent and certain juvenile sexual offenders;
58 providing criminal penalties for knowingly providing

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59 false registration information by act or omission;
60 amending s. 921.0022, F.S.; updating provisions of the
61 offense severity ranking chart of the Criminal
62 Punishment Code to reflect prior changes in the law;
63 conforming provisions of the offense severity ranking
64 chart to changes made by the act; providing an
65 effective date.

66

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

68

69 Section 1. Paragraph (i) of subsection (2), paragraph (a)
70 of subsection (4), subsections (6) and (8), and paragraph (a) of
71 subsection (10) of section 775.21, Florida Statutes, are amended
72 to read:

73 775.21 The Florida Sexual Predators Act.—

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

75 (i) "Internet identifier ~~Instant message name~~" means all
76 electronic mail, chat, instant messenger, social networking, or
77 similar names used for Internet communication, but the term does
78 not include a date of birth, social security number, or personal
79 identification number (PIN). Voluntary disclosure by a sexual
80 predator of his or her date of birth, social security number, or
81 PIN as an Internet identifier waives the disclosure exemption in
82 this paragraph for such personal information ~~an identifier that~~
83 ~~allows a person to communicate in real time with another person~~
84 ~~using the Internet.~~

85 (4) SEXUAL PREDATOR CRITERIA.—

86 (a) For a current offense committed on or after October 1,
87 1993, upon conviction, an offender shall be designated as a

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88 "sexual predator" under subsection (5), and subject to
89 registration under subsection (6) and community and public
90 notification under subsection (7) if:

91 1. The felony is:

92 a. A capital, life, or first-degree felony violation, or
93 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
94 is a minor and the defendant is not the victim's parent or
95 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
96 violation of a similar law of another jurisdiction; or

97 b. Any felony violation, or any attempt thereof, of s.
98 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
99 787.025(2)(c), where the victim is a minor and the defendant is
100 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
101 (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s.
102 796.03; s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025 ~~s.~~
103 ~~825.1025(2)(b);~~ s. 827.071; s. 847.0135(5); s. 847.0145; s.
104 916.1075(2); or s. 985.701(1); or a violation of a similar law
105 of another jurisdiction, and the offender has previously been
106 convicted of or found to have committed, or has pled nolo
107 contendere or guilty to, regardless of adjudication, any
108 violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s.
109 787.02, or s. 787.025(2)(c), where the victim is a minor and the
110 defendant is not the victim's parent or guardian; s.
111 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
112 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
113 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
114 847.0135(6); s. 847.0145; s. 916.1075(2); or s. 985.701(1); or a
115 violation of a similar law of another jurisdiction;

116 2. The offender has not received a pardon for any felony or

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117 similar law of another jurisdiction that is necessary for the
118 operation of this paragraph; and

119 3. A conviction of a felony or similar law of another
120 jurisdiction necessary to the operation of this paragraph has
121 not been set aside in any postconviction proceeding.

122 (6) REGISTRATION.—

123 (a) A sexual predator shall ~~must~~ register with the
124 department through the sheriff's office by providing the
125 following information to the department:

126 1. Name; social security number; age; race; sex; date of
127 birth; height; weight; tattoos or other identifying marks; hair
128 and eye color; photograph; address of legal residence and
129 address of any current temporary residence, within the state or
130 out of state, including a rural route address and a post office
131 box; if no permanent or temporary address, any transient
132 residence within the state; address, location or description,
133 and dates of any current or known future temporary residence
134 within the state or out of state; all ~~any~~ electronic mail
135 addresses ~~address~~ and all Internet identifiers ~~any instant~~
136 ~~message name~~ required to be provided pursuant to subparagraph
137 (g)4.; all home telephone numbers ~~number~~ and ~~any~~ cellular
138 telephone numbers ~~number~~; date and place of any employment; the
139 make, model, color, registration number, and license tag number
140 of all vehicles that are owned by the sexual predator and all
141 vehicles that are owned by a person who resides at the sexual
142 predator's residence and that may be operated by the sexual
143 predator; date and place of each conviction; fingerprints; palm
144 prints; and a brief description of the crime or crimes committed
145 by the offender. A post office box may ~~shall~~ not be provided in

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146 lieu of a physical residential address. The sexual predator
147 shall produce his or her passport, if he or she has a passport,
148 and, if he or she is an alien, shall produce or provide
149 information about documents establishing his or her immigration
150 status. The sexual predator shall also provide information about
151 any professional licenses he or she has.

152 a. If the sexual predator's place of residence is a motor
153 vehicle, trailer, mobile home, or manufactured home, as defined
154 in chapter 320, the sexual predator shall also provide to the
155 department written notice of the vehicle identification number;
156 the license tag number; the registration number; and a
157 description, including color scheme, of the motor vehicle,
158 trailer, mobile home, or manufactured home. If a sexual
159 predator's place of residence is a vessel, live-aboard vessel,
160 or houseboat, as defined in chapter 327, the sexual predator
161 shall also provide to the department written notice of the hull
162 identification number; the manufacturer's serial number; the
163 name of the vessel, live-aboard vessel, or houseboat; the
164 registration number; and a description, including color scheme,
165 of the vessel, live-aboard vessel, or houseboat.

166 b. If the sexual predator is enrolled, employed,
167 volunteering, or carrying on a vocation at an institution of
168 higher education in this state, the sexual predator shall also
169 provide to the department the name, address, and county of each
170 institution, including each campus attended, and the sexual
171 predator's enrollment, volunteer, or employment status. Each
172 change in enrollment, volunteer, or employment status must ~~shall~~
173 be reported in person at the sheriff's office, or the Department
174 of Corrections if the sexual predator is in the custody or

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175 control of or under the supervision of the Department of
176 Corrections, within 48 hours after any change in status. The
177 sheriff or the Department of Corrections shall promptly notify
178 each institution of the sexual predator's presence and any
179 change in the sexual predator's enrollment, volunteer, or
180 employment status.

181 2. Any other information determined necessary by the
182 department, including criminal and corrections records;
183 nonprivileged personnel and treatment records; and evidentiary
184 genetic markers when available.

185 (b) If the sexual predator is in the custody or control of,
186 or under the supervision of, the Department of Corrections, or
187 is in the custody of a private correctional facility, the sexual
188 predator shall ~~must~~ register with the Department of Corrections.
189 A sexual predator who is under the supervision of the Department
190 of Corrections but who is not incarcerated shall ~~must~~ register
191 with the Department of Corrections within 3 business days after
192 the court finds the offender to be a sexual predator. The
193 Department of Corrections shall provide to the department
194 registration information and the location of, and local
195 telephone number for, any Department of Corrections office that
196 is responsible for supervising the sexual predator. In addition,
197 the Department of Corrections shall notify the department if the
198 sexual predator escapes or absconds from custody or supervision
199 or if the sexual predator dies.

200 (c) If the sexual predator is in the custody of a local
201 jail, the custodian of the local jail shall register the sexual
202 predator within 3 business days after intake of the sexual
203 predator for any reason and upon release, and shall forward the

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204 registration information to the department. The custodian of the
205 local jail shall also take a digitized photograph of the sexual
206 predator while the sexual predator remains in custody and shall
207 provide the digitized photograph to the department. The
208 custodian shall notify the department if the sexual predator
209 escapes from custody or dies.

210 (d) If the sexual predator is under federal supervision,
211 the federal agency responsible for supervising the sexual
212 predator may forward to the department any information regarding
213 the sexual predator which is consistent with the information
214 provided by the Department of Corrections under this section,
215 and may indicate whether use of the information is restricted to
216 law enforcement purposes only or may be used by the department
217 for purposes of public notification.

218 (e)1. If the sexual predator is not in the custody or
219 control of, or under the supervision of, the Department of
220 Corrections or is not in the custody of a private correctional
221 facility, the sexual predator shall register in person:

222 a. At the sheriff's office in the county where he or she
223 establishes or maintains a residence within 48 hours after
224 establishing or maintaining a residence in this state; and

225 b. At the sheriff's office in the county where he or she
226 was designated a sexual predator by the court within 48 hours
227 after such finding is made.

228 2. Any change in the sexual predator's permanent or
229 temporary residence, name, ~~or any~~ electronic mail addresses, or
230 Internet identifiers ~~address and any instant message name~~
231 required to be provided pursuant to subparagraph (g)4., after
232 the sexual predator registers in person at the sheriff's office

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233 as provided in subparagraph 1., must ~~shall~~ be accomplished in
234 the manner provided in paragraphs (g), (i), and (j). When a
235 sexual predator registers with the sheriff's office, the sheriff
236 shall take a photograph, ~~and~~ a set of fingerprints, and palm
237 prints of the predator and forward the photographs, palm prints,
238 and fingerprints to the department, along with the information
239 that the predator is required to provide pursuant to this
240 section.

241 (f) Within 48 hours after the registration required under
242 paragraph (a) or paragraph (e), a sexual predator who is not
243 incarcerated and who resides in the community, including a
244 sexual predator under the supervision of the Department of
245 Corrections, shall register in person at a driver ~~driver's~~
246 license office of the Department of Highway Safety and Motor
247 Vehicles and shall present proof of registration. At the driver
248 ~~driver's~~ license office the sexual predator shall:

249 1. If otherwise qualified, secure a Florida driver ~~driver's~~
250 license, renew a Florida driver ~~driver's~~ license, or secure an
251 identification card. The sexual predator shall identify himself
252 or herself as a sexual predator who is required to comply with
253 this section, provide his or her place of permanent, temporary,
254 or transient residence, including a rural route address and a
255 post office box, and submit to the taking of a photograph for
256 use in issuing a driver ~~driver's~~ license, renewed license, or
257 identification card, and for use by the department in
258 maintaining current records of sexual predators. A post office
259 box may ~~shall~~ not be provided in lieu of a physical residential
260 address. If the sexual predator's place of residence is a motor
261 vehicle, trailer, mobile home, or manufactured home, as defined

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262 in chapter 320, the sexual predator shall also provide to the
 263 Department of Highway Safety and Motor Vehicles the vehicle
 264 identification number; the license tag number; the registration
 265 number; and a description, including color scheme, of the motor
 266 vehicle, trailer, mobile home, or manufactured home. If a sexual
 267 predator's place of residence is a vessel, live-aboard vessel,
 268 or houseboat, as defined in chapter 327, the sexual predator
 269 shall also provide to the Department of Highway Safety and Motor
 270 Vehicles the hull identification number; the manufacturer's
 271 serial number; the name of the vessel, live-aboard vessel, or
 272 houseboat; the registration number; and a description, including
 273 color scheme, of the vessel, live-aboard vessel, or houseboat.

274 2. Pay the costs assessed by the Department of Highway
 275 Safety and Motor Vehicles for issuing or renewing a driver
 276 ~~driver's~~ license or identification card as required by this
 277 section. The driver ~~driver's~~ license or identification card
 278 issued to the sexual predator must comply ~~be in compliance~~ with
 279 s. 322.141(3).

280 3. Provide, upon request, any additional information
 281 necessary to confirm the identity of the sexual predator,
 282 including a set of fingerprints.

283 (g)1. Each time a sexual predator's driver ~~driver's~~ license
 284 or identification card is subject to renewal, and, without
 285 regard to the status of the predator's driver ~~driver's~~ license
 286 or identification card, within 48 hours after any change of the
 287 predator's residence or change in the predator's name by reason
 288 of marriage or other legal process, the predator shall report in
 289 person to a driver ~~driver's~~ license office and is ~~shall be~~
 290 subject to the requirements specified in paragraph (f). The

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291 Department of Highway Safety and Motor Vehicles shall forward to
292 the department and to the Department of Corrections all
293 photographs and information provided by sexual predators.
294 Notwithstanding the restrictions set forth in s. 322.142, the
295 Department of Highway Safety and Motor Vehicles may ~~is~~
296 ~~authorized to~~ release a reproduction of a color-photograph or
297 digital-image license to the Department of Law Enforcement for
298 purposes of public notification of sexual predators as provided
299 in this section. A sexual predator who is unable to secure or
300 update a driver license or identification card with the
301 Department of Highway Safety and Motor Vehicles as provided in
302 paragraph (f) and this paragraph shall also report any change of
303 the predator's residence or change in the predator's name by
304 reason of marriage or other legal process within 48 hours after
305 the change to the sheriff's office in the county where the
306 predator resides or is located and provide confirmation that he
307 or she reported such information to the Department of Highway
308 Safety and Motor Vehicles.

309 2. A sexual predator who vacates a permanent, temporary, or
310 transient residence and fails to establish or maintain another
311 permanent, temporary, or transient residence shall, within 48
312 hours after vacating the permanent, temporary, or transient
313 residence, report in person to the sheriff's office of the
314 county in which he or she is located. The sexual predator shall
315 specify the date upon which he or she intends to or did vacate
316 such residence. The sexual predator shall ~~must~~ provide or update
317 all of the registration information required under paragraph
318 (a). The sexual predator shall ~~must~~ provide an address for the
319 residence or other place that he or she is or will be located

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320 during the time in which he or she fails to establish or
321 maintain a permanent or temporary residence.

322 3. A sexual predator who remains at a permanent, temporary,
323 or transient residence after reporting his or her intent to
324 vacate such residence shall, within 48 hours after the date upon
325 which the predator indicated he or she would or did vacate such
326 residence, report in person to the sheriff's office to which he
327 or she reported pursuant to subparagraph 2. for the purpose of
328 reporting his or her address at such residence. When the sheriff
329 receives the report, the sheriff shall promptly convey the
330 information to the department. An offender who makes a report as
331 required under subparagraph 2. but fails to make a report as
332 required under this subparagraph commits a felony of the second
333 degree, punishable as provided in s. 775.082, s. 775.083, or s.
334 775.084.

335 4. A sexual predator shall ~~must~~ register all ~~any~~ electronic
336 mail addresses and Internet identifiers ~~address or instant~~
337 ~~message name~~ with the department before ~~prior to~~ using such
338 electronic mail addresses and Internet identifiers ~~address or~~
339 ~~instant message name on or after October 1, 2007~~. The department
340 shall establish an online system through which sexual predators
341 may securely access and update all electronic mail address and
342 Internet identifier ~~instant message name~~ information.

343 (h) The department shall ~~must~~ notify the sheriff and the
344 state attorney of the county and, if applicable, the police
345 chief of the municipality, where the sexual predator maintains a
346 residence.

347 (i) A sexual predator who intends to establish a permanent,
348 temporary, or transient residence in another state or

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349 jurisdiction other than the State of Florida shall report in
350 person to the sheriff of the county of current residence within
351 48 hours before the date he or she intends to leave this state
352 to establish residence in another state or jurisdiction or
353 within 21 days before his or her planned departure date if the
354 intended residence of 5 days or more is outside of the United
355 States. The sexual predator shall ~~must~~ provide to the sheriff
356 the address, municipality, county, ~~and~~ state, and country of
357 intended residence. The sheriff shall promptly provide to the
358 department the information received from the sexual predator.
359 The department shall notify the statewide law enforcement
360 agency, or a comparable agency, in the intended state, ~~or~~
361 jurisdiction, or country of residence of the sexual predator's
362 intended residence. The failure of a sexual predator to provide
363 his or her intended place of residence is punishable as provided
364 in subsection (10).

365 (j) A sexual predator who indicates his or her intent to
366 establish a permanent, temporary, or transient residence in
367 another state, a ~~or~~ jurisdiction other than the State of
368 Florida, or another country and later decides to remain in this
369 state shall, within 48 hours after the date upon which the
370 sexual predator indicated he or she would leave this state,
371 report in person to the sheriff to which the sexual predator
372 reported the intended change of residence, and report his or her
373 intent to remain in this state. If the sheriff is notified by
374 the sexual predator that he or she intends to remain in this
375 state, the sheriff shall promptly report this information to the
376 department. A sexual predator who reports his or her intent to
377 establish a permanent, temporary, or transient residence in

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378 another state, ~~a~~ or jurisdiction other than the State of
379 Florida, or another country, but who remains in this state
380 without reporting to the sheriff in the manner required by this
381 paragraph, commits a felony of the second degree, punishable as
382 provided in s. 775.082, s. 775.083, or s. 775.084.

383 (k)1. The department is responsible for the online
384 maintenance of current information regarding each registered
385 sexual predator. The department shall ~~must~~ maintain hotline
386 access for state, local, and federal law enforcement agencies to
387 obtain instantaneous locator file and offender characteristics
388 information on all released registered sexual predators for
389 purposes of monitoring, tracking, and prosecution. The
390 photograph and fingerprints do not have to be stored in a
391 computerized format.

392 2. The department's sexual predator registration list,
393 containing the information described in subparagraph (a)1., is a
394 public record. The department may ~~is authorized to~~ disseminate
395 this public information by any means deemed appropriate,
396 including operating a toll-free telephone number for this
397 purpose. When the department provides information regarding a
398 registered sexual predator to the public, department personnel
399 shall ~~must~~ advise the person making the inquiry that positive
400 identification of a person believed to be a sexual predator
401 cannot be established unless a fingerprint comparison is made,
402 and that it is illegal to use public information regarding a
403 registered sexual predator to facilitate the commission of a
404 crime.

405 3. The department shall adopt guidelines as necessary
406 regarding the registration of sexual predators and the

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407 dissemination of information regarding sexual predators as
408 required by this section.

409 (1) A sexual predator shall ~~must~~ maintain registration with
410 the department for the duration of his or her life, unless the
411 sexual predator has received a full pardon or has had a
412 conviction set aside in a postconviction proceeding for any
413 offense that met the criteria for the sexual predator
414 designation.

415 (8) VERIFICATION.—The department and the Department of
416 Corrections shall implement a system for verifying the addresses
417 of sexual predators. The system must be consistent with the
418 provisions of the federal Adam Walsh Child Protection and Safety
419 Act of 2006 and any other federal standards applicable to such
420 verification or required to be met as a condition for the
421 receipt of federal funds by the state. The Department of
422 Corrections shall verify the addresses of sexual predators who
423 are not incarcerated but who reside in the community under the
424 supervision of the Department of Corrections and shall report to
425 the department any failure by a sexual predator to comply with
426 registration requirements. County and local law enforcement
427 agencies, in conjunction with the department, shall verify the
428 addresses of sexual predators who are not under the care,
429 custody, control, or supervision of the Department of
430 Corrections. Local law enforcement agencies shall report to the
431 department any failure by a sexual predator to comply with
432 registration requirements.

433 (a) A sexual predator shall ~~must~~ report in person each year
434 during the month of the sexual predator's birthday and during
435 every third month thereafter to the sheriff's office in the

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436 county in which he or she resides or is otherwise located to
437 reregister. The sheriff's office may determine the appropriate
438 times and days for reporting by the sexual predator, which must
439 ~~shall~~ be consistent with the reporting requirements of this
440 paragraph. Reregistration must ~~shall~~ include any changes to the
441 following information:

442 1. Name; social security number; age; race; sex; date of
443 birth; height; weight; tattoos or other identifying marks; hair
444 and eye color; address of any permanent residence and address of
445 any current temporary residence, within the state or out of
446 state, including a rural route address and a post office box; if
447 no permanent or temporary address, any transient residence
448 within the state; address, location or description, and dates of
449 any current or known future temporary residence within the state
450 or out of state; all any electronic mail addresses or Internet
451 identifiers ~~address and any instant message name~~ required to be
452 provided pursuant to subparagraph (6) (g) 4.; all home telephone
453 numbers or number ~~and any~~ cellular telephone numbers ~~number~~;
454 date and place of any employment; the ~~vehicle~~ make, model,
455 color, registration number, and license tag number of all
456 vehicles that are owned by the sexual predator and all vehicles
457 that are owned by a person who resides at the sexual predator's
458 residence and that may be operated by the sexual predator;
459 fingerprints; palm prints; and photograph. A post office box may
460 ~~shall~~ not be provided in lieu of a physical residential address.
461 The sexual predator shall also produce his or her passport, if
462 he or she has a passport, and, if he or she is an alien, shall
463 produce or provide information about documents establishing his
464 or her immigration status. The sexual predator shall also

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465 provide information about any professional licenses he or she
466 has.

467 2. If the sexual predator is enrolled, employed,
468 volunteering, or carrying on a vocation at an institution of
469 higher education in this state, the sexual predator shall also
470 provide to the department the name, address, and county of each
471 institution, including each campus attended, and the sexual
472 predator's enrollment, volunteer, or employment status.

473 3. If the sexual predator's place of residence is a motor
474 vehicle, trailer, mobile home, or manufactured home, as defined
475 in chapter 320, the sexual predator shall also provide the
476 vehicle identification number; the license tag number; the
477 registration number; and a description, including color scheme,
478 of the motor vehicle, trailer, mobile home, or manufactured
479 home. If the sexual predator's place of residence is a vessel,
480 live-aboard vessel, or houseboat, as defined in chapter 327, the
481 sexual predator shall also provide the hull identification
482 number; the manufacturer's serial number; the name of the
483 vessel, live-aboard vessel, or houseboat; the registration
484 number; and a description, including color scheme, of the
485 vessel, live-aboard vessel, or houseboat.

486 (b) The sheriff's office shall, within 2 working days,
487 electronically submit and update all information provided by the
488 sexual predator to the department in a manner prescribed by the
489 department.

490 (10) PENALTIES.—

491 (a) Except as otherwise specifically provided, a sexual
492 predator who fails to register; who fails, after registration,
493 to maintain, acquire, or renew a driver ~~driver's~~ license or

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494 identification card; who fails to provide required location
495 information, electronic mail address information before use,
496 Internet identifier ~~instant message name~~ information before use,
497 all home telephone numbers ~~number~~ and ~~any~~ cellular telephone
498 numbers ~~number~~, or change-of-name information; who fails to make
499 a required report in connection with vacating a permanent
500 residence; who fails to reregister as required; who fails to
501 respond to any address verification correspondence from the
502 department within 3 weeks of the date of the correspondence; who
503 knowingly provides false registration information by act or
504 omission; or who otherwise fails, by act or omission, to comply
505 with the requirements of this section, commits a felony of the
506 third degree, punishable as provided in s. 775.082, s. 775.083,
507 or s. 775.084.

508 Section 2. Paragraphs (a) and (g) of subsection (1),
509 subsection (2), paragraphs (a) and (d) of subsection (4),
510 subsections (7), (8), and (11), and paragraph (c) of subsection
511 (14) of section 943.0435, Florida Statutes, are amended to read:

512 943.0435 Sexual offenders required to register with the
513 department; penalty.—

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

515 (a)1. "Sexual offender" means a person who meets the
516 criteria in sub-subparagraph a., sub-subparagraph b., sub-
517 subparagraph c., or sub-subparagraph d., as follows:

518 a.(I) Has been convicted of committing, or attempting,
519 soliciting, or conspiring to commit, any of the criminal
520 offenses proscribed in the following statutes in this state or
521 similar offenses in another jurisdiction: s. 393.135(2); s.
522 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where

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523 the victim is a minor and the defendant is not the victim's
524 parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s.
525 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
526 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s.
527 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.
528 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any
529 similar offense committed in this state which has been
530 redesignated from a former statute number to one of those listed
531 in this sub-sub-subparagraph; and

532 (II) Has been released on or after October 1, 1997, from
533 the sanction imposed for any conviction of an offense described
534 in sub-sub-subparagraph (I). For purposes of sub-sub-
535 subparagraph (I), a sanction imposed in this state or in any
536 other jurisdiction includes, but is not limited to, a fine,
537 probation, community control, parole, conditional release,
538 control release, or incarceration in a state prison, federal
539 prison, private correctional facility, or local detention
540 facility;

541 b. Establishes or maintains a residence in this state and
542 who has not been designated as a sexual predator by a court of
543 this state but who has been designated as a sexual predator, as
544 a sexually violent predator, or by another sexual offender
545 designation in another state or jurisdiction and was, as a
546 result of such designation, subjected to registration or
547 community or public notification, or both, or would be if the
548 person were a resident of that state or jurisdiction, without
549 regard to whether the person otherwise meets the criteria for
550 registration as a sexual offender;

551 c. Establishes or maintains a residence in this state who

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552 is in the custody or control of, or under the supervision of,
553 any other state or jurisdiction as a result of a conviction for
554 committing, or attempting, soliciting, or conspiring to commit,
555 any of the criminal offenses proscribed in the following
556 statutes or similar offense in another jurisdiction: s.
557 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
558 787.025(2)(c), where the victim is a minor and the defendant is
559 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
560 (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s.
561 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
562 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
563 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.
564 985.701(1); or any similar offense committed in this state which
565 has been redesignated from a former statute number to one of
566 those listed in this sub-subparagraph; or

567 d. On or after July 1, 2007, has been adjudicated
568 delinquent for committing, or attempting, soliciting, or
569 conspiring to commit, any of the criminal offenses proscribed in
570 the following statutes in this state or similar offenses in
571 another jurisdiction when the juvenile was 14 years of age or
572 older at the time of the offense:

573 (I) Section 794.011, excluding s. 794.011(10);

574 (II) Section 800.04(4)(b) where the victim is under 12
575 years of age or where the court finds sexual activity by the use
576 of force or coercion;

577 (III) Section 800.04(5)(c)1. where the court finds
578 molestation involving unclothed genitals; or

579 (IV) Section 800.04(5)(d) where the court finds the use of
580 force or coercion and unclothed genitals.

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581 2. For all qualifying offenses listed in sub-subparagraph
582 (1)(a)1.d., the court shall make a written finding of the age of
583 the offender at the time of the offense.

584
585 For each violation of a qualifying offense listed in this
586 subsection, except for a violation of s. 794.011, the court
587 shall make a written finding of the age of the victim at the
588 time of the offense. For a violation of s. 800.04(4), the court
589 shall also ~~additionally~~ make a written finding indicating
590 whether that the offense involved ~~did or did not involve~~ sexual
591 activity and indicating whether that the offense involved ~~did or~~
592 ~~did not involve~~ force or coercion. For a violation of s.
593 800.04(5), the court shall also ~~additionally~~ make a written
594 finding that the offense did or did not involve unclothed
595 genitals or genital area and that the offense did or did not
596 involve the use of force or coercion.

597 (g) "Internet identifier ~~Instant message name~~" has the same
598 meaning as provided in s. 775.21 ~~means an identifier that allows~~
599 ~~a person to communicate in real time with another person using~~
600 ~~the Internet.~~

601 (2) A sexual offender shall:

602 (a) Report in person at the sheriff's office:

603 1. In the county in which the offender establishes or
604 maintains a permanent, temporary, or transient residence within
605 48 hours after:

606 a. Establishing permanent, temporary, or transient
607 residence in this state; or

608 b. Being released from the custody, control, or supervision
609 of the Department of Corrections or from the custody of a

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610 private correctional facility; or

611 2. In the county where he or she was convicted within 48
612 hours after being convicted for a qualifying offense for
613 registration under this section if the offender is not in the
614 custody or control of, or under the supervision of, the
615 Department of Corrections, or is not in the custody of a private
616 correctional facility.

617
618 Any change in the information required to be provided pursuant
619 to paragraph (b), including, but not limited to, any change in
620 the sexual offender's permanent, temporary, or transient
621 residence, name, ~~any~~ electronic mail addresses, or Internet
622 identifiers ~~address and any instant message name~~ required to be
623 provided pursuant to paragraph (4) (d), after the sexual offender
624 reports in person at the sheriff's office, must ~~shall~~ be
625 accomplished in the manner provided in subsections (4), (7), and
626 (8).

627 (b) Provide his or her name; date of birth; social security
628 number; race; sex; height; weight; hair and eye color; tattoos
629 or other identifying marks; fingerprints; palm prints;
630 photograph; occupation and place of employment; address of
631 permanent or legal residence or address of any current temporary
632 residence, within the state or out of state, including a rural
633 route address and a post office box; if no permanent or
634 temporary address, any transient residence within the state,
635 address, location or description, and dates of any current or
636 known future temporary residence within the state or out of
637 state; the make, model, color, registration number, and license
638 tag number of all vehicles that are owned by the sexual offender

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639 and all vehicles that are owned by a person who resides at the
640 sexual offender's residence and that may be operated by the
641 sexual offender; all home telephone numbers ~~number~~ and any
642 cellular telephone numbers ~~number~~; all ~~any~~ electronic mail
643 addresses ~~address~~ and all Internet identifiers ~~any instant~~
644 message name required to be provided pursuant to paragraph
645 (4) (d); date and place of each conviction; and a brief
646 description of the crime or crimes committed by the offender. A
647 post office box may ~~shall~~ not be provided in lieu of a physical
648 residential address. The sexual offender shall also produce his
649 or her passport, if he or she has a passport, and, if he or she
650 is an alien, shall produce or provide information about
651 documents establishing his or her immigration status. The sexual
652 offender shall also provide information about any professional
653 licenses he or she has.

654 1. If the sexual offender's place of residence is a motor
655 vehicle, trailer, mobile home, or manufactured home, as defined
656 in chapter 320, the sexual offender shall also provide to the
657 department through the sheriff's office written notice of the
658 vehicle identification number; the license tag number; the
659 registration number; and a description, including color scheme,
660 of the motor vehicle, trailer, mobile home, or manufactured
661 home. If the sexual offender's place of residence is a vessel,
662 live-aboard vessel, or houseboat, as defined in chapter 327, the
663 sexual offender shall also provide to the department written
664 notice of the hull identification number; the manufacturer's
665 serial number; the name of the vessel, live-aboard vessel, or
666 houseboat; the registration number; and a description, including
667 color scheme, of the vessel, live-aboard vessel, or houseboat.

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668 2. If the sexual offender is enrolled, employed,
669 volunteering, or carrying on a vocation at an institution of
670 higher education in this state, the sexual offender shall also
671 provide to the department through the sheriff's office the name,
672 address, and county of each institution, including each campus
673 attended, and the sexual offender's enrollment, volunteer, or
674 employment status. Each change in enrollment, volunteer, or
675 employment status must ~~shall~~ be reported in person at the
676 sheriff's office, within 48 hours after any change in status.
677 The sheriff shall promptly notify each institution of the sexual
678 offender's presence and any change in the sexual offender's
679 enrollment, volunteer, or employment status.

680 (c) Provide any other information determined necessary by
681 the department, including criminal and corrections records;
682 nonprivileged personnel and treatment records; and evidentiary
683 genetic markers, when available.

684
685 When a sexual offender reports at the sheriff's office, the
686 sheriff shall take a photograph, ~~and~~ a set of fingerprints, and
687 palm prints of the offender and forward the photographs, palm
688 prints, and fingerprints to the department, along with the
689 information provided by the sexual offender. The sheriff shall
690 promptly provide to the department the information received from
691 the sexual offender.

692 (4) (a) Each time a sexual offender's driver ~~driver's~~
693 license or identification card is subject to renewal, and,
694 without regard to the status of the offender's driver ~~driver's~~
695 license or identification card, within 48 hours after any change
696 in the offender's permanent, temporary, or transient residence

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697 or change in the offender's name by reason of marriage or other
698 legal process, the offender shall report in person to a driver
699 ~~driver's~~ license office, and is ~~shall be~~ subject to the
700 requirements specified in subsection (3). The Department of
701 Highway Safety and Motor Vehicles shall forward to the
702 department all photographs and information provided by sexual
703 offenders. Notwithstanding the restrictions set forth in s.
704 322.142, the Department of Highway Safety and Motor Vehicles may
705 ~~is authorized to~~ release a reproduction of a color-photograph or
706 digital-image license to the Department of Law Enforcement for
707 purposes of public notification of sexual offenders as provided
708 in this section and ss. 943.043 and 944.606. A sexual offender
709 who is unable to secure or update a driver license or
710 identification card with the Department of Highway Safety and
711 Motor Vehicles as provided in subsection (3) and this subsection
712 shall also report any change in the sexual offender's permanent,
713 temporary, or transient residence or change in the offender's
714 name by reason of marriage or other legal process within 48
715 hours after the change to the sheriff's office in the county
716 where the offender resides or is located and provide
717 confirmation that he or she reported such information to the
718 Department of Highway Safety and Motor Vehicles.

719 (d) A sexual offender shall ~~must~~ register all ~~any~~
720 electronic mail addresses and Internet identifiers ~~address or~~
721 ~~instant message name~~ with the department before using such
722 electronic mail addresses and Internet identifiers ~~address or~~
723 ~~instant message name~~. The department shall establish an online
724 system through which sexual offenders may securely access and
725 update all electronic mail address and Internet identifier

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726 ~~instant message name~~ information.

727 (7) A sexual offender who intends to establish a permanent,
728 temporary, or transient residence in another state or
729 jurisdiction other than the State of Florida shall report in
730 person to the sheriff of the county of current residence within
731 48 hours before the date he or she intends to leave this state
732 to establish residence in another state or jurisdiction or
733 within 21 days before his or her planned departure date if the
734 intended residence of 5 days or more is outside of the United
735 States. The notification must include the address, municipality,
736 county, ~~and state,~~ and country of intended residence. The
737 sheriff shall promptly provide to the department the information
738 received from the sexual offender. The department shall notify
739 the statewide law enforcement agency, or a comparable agency, in
740 the intended state, ~~or~~ jurisdiction, or country of residence of
741 the sexual offender's intended residence. The failure of a
742 sexual offender to provide his or her intended place of
743 residence is punishable as provided in subsection (9).

744 (8) A sexual offender who indicates his or her intent to
745 establish a permanent, temporary, or transient residence in
746 another state, a ~~or~~ jurisdiction other than the State of
747 Florida, or another country and later decides to remain in this
748 state shall, within 48 hours after the date upon which the
749 sexual offender indicated he or she would leave this state,
750 report in person to the sheriff to which the sexual offender
751 reported the intended change of permanent, temporary, or
752 transient residence, and report his or her intent to remain in
753 this state. The sheriff shall promptly report this information
754 to the department. A sexual offender who reports his or her

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755 intent to establish a permanent, temporary, or transient
756 residence in another state, a ~~or~~ jurisdiction other than the
757 State of Florida, or another country but who remains in this
758 state without reporting to the sheriff in the manner required by
759 this subsection commits a felony of the second degree,
760 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

761 (11) Except as provided in this subsection and s.
762 943.04354, a sexual offender shall ~~must~~ maintain registration
763 with the department for the duration of his or her life, unless
764 the sexual offender has received a full pardon or has had a
765 conviction set aside in a postconviction proceeding for any
766 offense that meets the criteria for classifying the person as a
767 sexual offender for purposes of registration. ~~However, a sexual~~
768 ~~offender:~~

769 (a)1. A sexual offender may petition the criminal division
770 of the circuit court of the circuit in which the sexual offender
771 resides for the purpose of removing the requirement for
772 registration as a sexual offender if ~~Who has been lawfully~~
773 ~~released from confinement, supervision, or sanction, whichever~~
774 ~~is later, for at least 25 years and has not been arrested for~~
775 ~~any felony or misdemeanor offense since release, provided that~~
776 ~~the sexual offender's requirement to register was not based upon~~
777 ~~an adult conviction:~~

778 a. Twenty-five years have elapsed since the beginning of
779 the registration period for the sexual offender's most recent
780 conviction that required the offender to register;

781 b. The sexual offender has not been convicted or
782 adjudicated delinquent of a felony offense or of an offense
783 punishable by more than 1 year of imprisonment during the 25

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784 years preceding the petition to the court;

785 c. The sexual offender has successfully completed all
786 sanctions imposed for all offenses that required the offender to
787 register;

788 d. The sexual offender's requirement to register was not
789 based upon an adult conviction for:

790 (I) A violation of s. 787.01; s. 794.011, excluding s.
791 794.011(10); s. 800.04(4)(b) if the court finds the offense
792 involved a victim younger than 12 years of age or a sexual
793 activity by the use of force or coercion; s. 800.04(5)(b); or s.
794 800.04(5)(c)2. if the court finds the offense involved unclothed
795 genitals or genital area;

796 (II) An attempt or conspiracy to commit any offense listed
797 in this sub-subparagraph; or

798 (III) A violation of similar law of another jurisdiction;
799 and

800 e. For sexual offenders whose requirement to register is
801 based upon a conviction in another state, the sexual offender is
802 not required to register as a sexual offender pursuant to the
803 laws of the state in which the conviction occurred. Such an
804 offender must provide the court written confirmation that he or
805 she is not required to register in the state in which the
806 conviction occurred.

807 ~~a. For a violation of s. 787.01 or s. 787.02;~~

808 ~~b. For a violation of s. 794.011, excluding s. 794.011(10);~~

809 ~~c. For a violation of s. 800.04(4)(b) where the court finds~~
810 ~~the offense involved a victim under 12 years of age or sexual~~
811 ~~activity by the use of force or coercion;~~

812 ~~d. For a violation of s. 800.04(5)(b);~~

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813 ~~e. For a violation of s. 800.04(5)c.2. where the court~~
814 ~~finds the offense involved unclothed genitals or genital area;~~

815 ~~f. For any attempt or conspiracy to commit any such~~
816 ~~offense; or~~

817 ~~g. For a violation of similar law of another jurisdiction,~~

818
819 ~~may petition the criminal division of the circuit court of the~~
820 ~~circuit in which the sexual offender resides for the purpose of~~
821 ~~removing the requirement for registration as a sexual offender.~~

822 2. A sexual offender whose requirement to register was
823 based upon an adult conviction for a violation of s. 787.02 or
824 s. 827.071(5), for an attempt or conspiracy to commit any
825 offense listed in this subparagraph, or for a violation of
826 similar law of another jurisdiction may petition the criminal
827 division of the circuit court of the circuit in which the sexual
828 offender resides for the purpose of removing the requirement for
829 registration as a sexual offender if:

830 a. Fifteen years have elapsed since the beginning of the
831 registration period for the sexual offender's most recent
832 conviction that required the offender to register;

833 b. The sexual offender has not been convicted or
834 adjudicated delinquent of a felony offense or of an offense
835 punishable by more than 1 year of imprisonment during the 10
836 years preceding the petition to the court;

837 c. The sexual offender has successfully completed all
838 sanctions imposed for all offenses that required the offender to
839 register; and

840 d. For sexual offenders whose requirement to register is
841 based upon a conviction in another state, the sexual offender is

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842 not required to register as a sexual offender pursuant to the
843 laws of the state in which the conviction occurred. Such an
844 offender must provide the court written confirmation that he or
845 she is not required to register in the state in which the
846 conviction occurred.

847 3. A sexual offender required to register under sub-
848 subparagraph (1)(a)1.d. may petition the criminal division of
849 the circuit court of the circuit in which the sexual offender
850 resides for the purpose of removing the requirement for
851 registration as a sexual offender if:

852 a. Twenty-five years have elapsed since the beginning of
853 the registration period for the sexual offender's most recent
854 conviction that required the offender to register;

855 b. The sexual offender has not been convicted or
856 adjudicated delinquent of any felony offense or of an offense
857 punishable by more than 1 year of imprisonment during the 25
858 years preceding the petition to the court; and

859 c. The sexual offender has successfully completed all
860 sanctions imposed for all offenses that required the offender to
861 register.

862 4.2. The court may grant or deny relief if the offender
863 demonstrates to the court that ~~he or she has not been arrested~~
864 ~~for any crime since release;~~ the requested relief complies with
865 this paragraph, the provisions of the federal Adam Walsh Child
866 Protection and Safety Act of 2006, and any other federal
867 standards applicable to the removal of registration requirements
868 for a sexual offender or required to be met as a condition for
869 the receipt of federal funds by the state; and the court is
870 otherwise satisfied that the offender is not a current or

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871 potential threat to public safety. The state attorney in the
872 circuit in which the petition is filed and the department must
873 be given notice of the petition at least 3 weeks before the
874 hearing on the matter. The state attorney may present evidence
875 in opposition to the requested relief or may otherwise
876 demonstrate the reasons why the petition should be denied. If
877 the court grants the petition, the court shall instruct the
878 petitioner to provide the department with a certified copy of
879 the order granting relief. If the court denies the petition, the
880 court may set a future date at which the sexual offender may
881 again petition the court for relief, subject to the standards
882 for relief provided in this subsection.

883 ~~5.3.~~ The department shall remove an offender from
884 classification as a sexual offender for purposes of registration
885 if the offender provides to the department a certified copy of
886 the court's written findings or order that indicates that the
887 offender is no longer required to comply with the requirements
888 for registration as a sexual offender.

889 6. For purposes of this paragraph:

890 a. The registration period of a sexual offender sentenced
891 to a term of incarceration or committed to a residential program
892 begins upon the offender's release from incarceration or
893 commitment for the most recent conviction that required the
894 offender to register.

895 b. A sexual offender's registration period is tolled during
896 any period in which the offender is incarcerated, civilly
897 committed, detained pursuant to chapter 985, or committed to a
898 residential program.

899 (b) A sexual offender as defined in sub-subparagraph

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900 (1) (a) 1.b. must maintain registration with the department for
901 the duration of his or her life until the person provides the
902 department with an order issued by the court that designated the
903 person as a sexual predator, as a sexually violent predator, or
904 by another sexual offender designation in the state or
905 jurisdiction in which the order was issued which states that
906 such designation has been removed or demonstrates to the
907 department that such designation, if not imposed by a court, has
908 been removed by operation of law or court order in the state or
909 jurisdiction in which the designation was made, and provided
910 such person no longer meets the criteria for registration as a
911 sexual offender under the laws of this state.

912 (14)

913 (c) The sheriff's office may determine the appropriate
914 times and days for reporting by the sexual offender, which must
915 ~~shall~~ be consistent with the reporting requirements of this
916 subsection. Reregistration must ~~shall~~ include any changes to the
917 following information:

918 1. Name; social security number; age; race; sex; date of
919 birth; height; weight; hair and eye color; address of any
920 permanent residence and address of any current temporary
921 residence, within the state or out of state, including a rural
922 route address and a post office box; if no permanent or
923 temporary address, any transient residence within the state;
924 address, location or description, and dates of any current or
925 known future temporary residence within the state or out of
926 state; all any electronic mail addresses or Internet identifiers
927 ~~address and any instant message name~~ required to be provided
928 pursuant to paragraph (4) (d); all home telephone numbers and

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929 ~~number and any~~ cellular telephone numbers ~~number~~; date and place
930 of any employment; ~~the~~ vehicle make, model, color, registration
931 number, and license tag number of all vehicles that are owned by
932 the sexual offender and all vehicles that are owned by a person
933 who resides at the sexual offender's residence and that may be
934 operated by the sexual offender; fingerprints; palm prints; and
935 photograph. A post office box may ~~shall~~ not be provided in lieu
936 of a physical residential address. The sexual offender shall
937 also produce his or her passport, if he or she has a passport,
938 and, if he or she is an alien, shall produce or provide
939 information about documents establishing his or her immigration
940 status. The sexual offender shall also provide information about
941 any professional licenses he or she has.

942 2. If the sexual offender is enrolled, volunteering,
943 employed, or carrying on a vocation at an institution of higher
944 education in this state, the sexual offender shall also provide
945 to the department the name, address, and county of each
946 institution, including each campus attended, and the sexual
947 offender's enrollment, volunteer, or employment status.

948 3. If the sexual offender's place of residence is a motor
949 vehicle, trailer, mobile home, or manufactured home, as defined
950 in chapter 320, the sexual offender shall also provide the
951 vehicle identification number; the license tag number; the
952 registration number; and a description, including color scheme,
953 of the motor vehicle, trailer, mobile home, or manufactured
954 home. If the sexual offender's place of residence is a vessel,
955 live-aboard vessel, or houseboat, as defined in chapter 327, the
956 sexual offender shall also provide the hull identification
957 number; the manufacturer's serial number; the name of the

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958 vessel, live-aboard vessel, or houseboat; the registration
959 number; and a description, including color scheme, of the
960 vessel, live-aboard vessel or houseboat.

961 4. Any sexual offender who fails to report in person as
962 required at the sheriff's office, ~~or~~ who fails to respond to any
963 address verification correspondence from the department within 3
964 weeks of the date of the correspondence, ~~or~~ who fails to report
965 all electronic mail addresses and all Internet identifiers prior
966 to use ~~or instant message names, or who knowingly provides false~~
967 registration information by act or omission commits a felony of
968 the third degree, punishable as provided in s. 775.082, s.
969 775.083, or s. 775.084.

970 Section 3. Section 943.04354, Florida Statutes, is amended
971 to read:

972 943.04354 Removal of the requirement to register as a
973 sexual offender or sexual predator in special circumstances.—

974 (1) For purposes of this section, a person shall be
975 considered for removal of the requirement to register as a
976 sexual offender or sexual predator only if the person:

977 (a) Was ~~or will be~~ convicted, regardless of adjudication,
978 or adjudicated delinquent of a violation of s. 794.011, s.
979 800.04, s. 827.071, or s. 847.0135(5) or of a similar offense in
980 another jurisdiction ~~or the person committed a violation of s.~~
981 ~~794.011, s. 800.04, s. 827.071, or s. 847.0135(5) for which~~
982 ~~adjudication of guilt was or will be withheld,~~ and if the person
983 does not have any other conviction, regardless of adjudication,
984 or adjudication of delinquency, ~~or withheld of adjudication of~~
985 ~~guilt~~ for a violation of s. 794.011, s. 800.04, s. 827.071, or
986 s. 847.0135(5) or for a similar offense in another jurisdiction;

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987 (b)1. Was convicted, regardless of adjudication, or
988 adjudicated delinquent of an offense listed in paragraph (a) and
989 is required to register as a sexual offender or sexual predator
990 solely on the basis of this conviction or adjudication; or
991 violation; and

992 2. Was convicted, regardless of adjudication, or
993 adjudicated delinquent of an offense in another jurisdiction
994 which is similar to an offense listed in paragraph (a) and no
995 longer meets the criteria for registration as a sexual offender
996 or sexual predator under the laws of the jurisdiction in which
997 the similar offense occurred; and

998 (c) Is not more than 4 years older than the victim of this
999 violation who was 13 ~~14~~ years of age or older but younger ~~not~~
1000 ~~more~~ than 18 ~~17~~ years of age at the time the person committed
1001 this violation.

1002 (2) If a person meets the criteria in subsection (1) ~~and~~
1003 ~~the violation of s. 794.011, s. 800.04, s. 827.071, or s.~~
1004 ~~847.0135(5) was committed on or after July 1, 2007, the person~~
1005 may move the criminal court of the circuit in which the offense
1006 occurred or the sentencing court or, for persons convicted or
1007 adjudicated delinquent of a qualifying offense in another
1008 jurisdiction, the criminal court of the circuit in which the
1009 person resides that will sentence or dispose of this violation
1010 to remove the requirement that the person register as a sexual
1011 offender or sexual predator. The person must allege in the
1012 motion that he or she meets the criteria in subsection (1) and
1013 that removal of the registration requirement will not conflict
1014 with federal law. A person convicted or adjudicated delinquent
1015 of an offense in another jurisdiction which is similar to an

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1016 offense listed in paragraph (1)(a) must provide the court
 1017 written confirmation that he or she is not required to register
 1018 in the jurisdiction in which the conviction or adjudication
 1019 occurred. The state attorney and the department must be given
 1020 notice of the motion at least 21 days before the date of
 1021 sentencing, ~~or~~ disposition of the this violation, or hearing on
 1022 the motion and may present evidence in opposition to the
 1023 requested relief or may otherwise demonstrate why the motion
 1024 should be denied. At sentencing, ~~or~~ disposition of the this
 1025 violation, or hearing on the motion, the court shall rule on the
 1026 ~~this~~ motion, and, if the court determines the person meets the
 1027 criteria in subsection (1) and the removal of the registration
 1028 requirement will not conflict with federal law, it may grant the
 1029 motion and order the removal of the registration requirement.
 1030 The court shall instruct the person to provide the department a
 1031 certified copy of the order granting relief. If the court denies
 1032 the motion, the person is not authorized under this section to
 1033 file another motion ~~petition~~ for removal of the registration
 1034 requirement.

- 1035 ~~(3)(a) This subsection applies to a person who:~~
- 1036 ~~1. Is not a person described in subsection (2) because the~~
 1037 ~~violation of s. 794.011, s. 800.04, or s. 827.071 was not~~
 1038 ~~committed on or after July 1, 2007;~~
 - 1039 ~~2. Is subject to registration as a sexual offender or~~
 1040 ~~sexual predator for a violation of s. 794.011, s. 800.04, or s.~~
 1041 ~~827.071; and~~
 - 1042 ~~3. Meets the criteria in subsection (1).~~
- 1043 ~~(b) A person may petition the court in which the sentence~~
 1044 ~~or disposition for the violation of s. 794.011, s. 800.04, or s.~~

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1045 ~~827.071 occurred for removal of the requirement to register as a~~
1046 ~~sexual offender or sexual predator. The person must allege in~~
1047 ~~the petition that he or she meets the criteria in subsection (1)~~
1048 ~~and removal of the registration requirement will not conflict~~
1049 ~~with federal law. The state attorney must be given notice of the~~
1050 ~~petition at least 21 days before the hearing on the petition and~~
1051 ~~may present evidence in opposition to the requested relief or~~
1052 ~~may otherwise demonstrate why the petition should be denied. The~~
1053 ~~court shall rule on the petition and, if the court determines~~
1054 ~~the person meets the criteria in subsection (1) and removal of~~
1055 ~~the registration requirement will not conflict with federal law,~~
1056 ~~it may grant the petition and order the removal of the~~
1057 ~~registration requirement. If the court denies the petition, the~~
1058 ~~person is not authorized under this section to file any further~~
1059 ~~petition for removal of the registration requirement.~~

1060 (3)~~(4)~~ If a person provides to the Department of Law
1061 Enforcement a certified copy of the court's order removing the
1062 requirement that the person register as a sexual offender or
1063 sexual predator for the violation of s. 794.011, s. 800.04, s.
1064 827.071, or s. 847.0135(5), or a similar offense in another
1065 jurisdiction, the registration requirement will not apply to the
1066 person and the department shall remove all information about the
1067 person from the public registry of sexual offenders and sexual
1068 predators maintained by the department. However, the removal of
1069 this information from the public registry does not mean that the
1070 public is denied access to information about the person's
1071 criminal history or record that is otherwise available as a
1072 public record.

1073 Section 4. Subsections (2) and (3) of section 943.0437,

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1074 Florida Statutes, are amended to read:

1075 943.0437 Commercial social networking websites.—

1076 (2) The department may provide information relating to
1077 electronic mail addresses and Internet identifiers ~~instant~~
1078 ~~message names~~ maintained as part of the sexual offender registry
1079 to commercial social networking websites or third parties
1080 designated by commercial social networking websites. The
1081 commercial social networking website may use this information
1082 for the purpose of comparing registered users and screening
1083 potential users of the commercial social networking website
1084 against the list of electronic mail addresses and Internet
1085 identifiers ~~instant message names~~ provided by the department.

1086 (3) This section does not ~~shall not be construed to~~ impose
1087 any civil liability on a commercial social networking website
1088 for:

1089 (a) Any action voluntarily taken in good faith to remove or
1090 disable any profile of a registered user associated with an
1091 electronic mail address or Internet identifier ~~instant message~~
1092 ~~name~~ contained in the sexual offender registry.

1093 (b) Any action taken to restrict access by such registered
1094 user to the commercial social networking website.

1095 Section 5. Paragraphs (b) and (d) of subsection (1) and
1096 paragraph (a) of subsection (3) of section 944.606, Florida
1097 Statutes, are amended to read:

1098 944.606 Sexual offenders; notification upon release.—

1099 (1) As used in this section:

1100 (b) "Sexual offender" means a person who has been convicted
1101 of committing, or attempting, soliciting, or conspiring to
1102 commit, any of the criminal offenses proscribed in the following

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1103 statutes in this state or similar offenses in another
1104 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
1105 787.02, or s. 787.025(2)(c), where the victim is a minor and the
1106 defendant is not the victim's parent or guardian; s.
1107 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
1108 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
1109 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
1110 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
1111 s. 916.1075(2); or s. 985.701(1); or any similar offense
1112 committed in this state which has been redesignated from a
1113 former statute number to one of those listed in this subsection,
1114 when the department has received verified information regarding
1115 such conviction; an offender's computerized criminal history
1116 record is not, in and of itself, verified information.

1117 (d) "Internet identifier" has the same meaning as provided
1118 in s. 775.21 ~~"Instant message name" means an identifier that~~
1119 ~~allows a person to communicate in real time with another person~~
1120 ~~using the Internet.~~

1121 (3)(a) The department shall ~~must~~ provide information
1122 regarding any sexual offender who is being released after
1123 serving a period of incarceration for any offense, as follows:

1124 1. The department shall ~~must~~ provide: the sexual offender's
1125 name, any change in the offender's name by reason of marriage or
1126 other legal process, and any alias, if known; the correctional
1127 facility from which the sexual offender is released; the sexual
1128 offender's social security number, race, sex, date of birth,
1129 height, weight, and hair and eye color; address of any planned
1130 permanent residence or temporary residence, within the state or
1131 out of state, including a rural route address and a post office

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1132 box; if no permanent or temporary address, any transient
1133 residence within the state; address, location or description,
1134 and dates of any known future temporary residence within the
1135 state or out of state; date and county of sentence and each
1136 crime for which the offender was sentenced; a copy of the
1137 offender's fingerprints, palm prints, and a digitized photograph
1138 taken within 60 days before release; the date of release of the
1139 sexual offender; all any electronic mail addresses ~~address~~ and
1140 all Internet identifiers ~~any instant message name~~ required to be
1141 provided pursuant to s. 943.0435(4)(d); all ~~and~~ home telephone
1142 numbers ~~number~~ and ~~any~~ cellular telephone numbers; information
1143 about any professional licenses the offender has, if known; and
1144 passport information, if he or she has a passport, and, if he or
1145 she is an alien, information about documents establishing his or
1146 her immigration status ~~number~~. The department shall notify the
1147 Department of Law Enforcement if the sexual offender escapes,
1148 absconds, or dies. If the sexual offender is in the custody of a
1149 private correctional facility, the facility shall take the
1150 digitized photograph of the sexual offender within 60 days
1151 before the sexual offender's release and provide this photograph
1152 to the Department of Corrections and also place it in the sexual
1153 offender's file. If the sexual offender is in the custody of a
1154 local jail, the custodian of the local jail shall register the
1155 offender within 3 business days after intake of the offender for
1156 any reason and upon release, and shall notify the Department of
1157 Law Enforcement of the sexual offender's release and provide to
1158 the Department of Law Enforcement the information specified in
1159 this paragraph and any information specified in subparagraph 2.
1160 that the Department of Law Enforcement requests.

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1161 2. The department may provide any other information deemed
1162 necessary, including criminal and corrections records,
1163 nonprivileged personnel and treatment records, when available.

1164 Section 6. Paragraphs (a) and (f) of subsection (1),
1165 subsection (4), and paragraph (c) of subsection (13) of section
1166 944.607, Florida Statutes, are amended to read:

1167 944.607 Notification to Department of Law Enforcement of
1168 information on sexual offenders.—

1169 (1) As used in this section, the term:

1170 (a) "Sexual offender" means a person who is in the custody
1171 or control of, or under the supervision of, the department or is
1172 in the custody of a private correctional facility:

1173 1. On or after October 1, 1997, as a result of a conviction
1174 for committing, or attempting, soliciting, or conspiring to
1175 commit, any of the criminal offenses proscribed in the following
1176 statutes in this state or similar offenses in another
1177 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
1178 787.02, or s. 787.025(2)(c), where the victim is a minor and the
1179 defendant is not the victim's parent or guardian; s.
1180 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
1181 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
1182 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
1183 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
1184 s. 916.1075(2); or s. 985.701(1); or any similar offense
1185 committed in this state which has been redesignated from a
1186 former statute number to one of those listed in this paragraph;
1187 or

1188 2. Who establishes or maintains a residence in this state
1189 and who has not been designated as a sexual predator by a court

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1190 of this state but who has been designated as a sexual predator,
1191 as a sexually violent predator, or by another sexual offender
1192 designation in another state or jurisdiction and was, as a
1193 result of such designation, subjected to registration or
1194 community or public notification, or both, or would be if the
1195 person were a resident of that state or jurisdiction, without
1196 regard as to whether the person otherwise meets the criteria for
1197 registration as a sexual offender.

1198 (f) "Internet identifier" has the same meaning as provided
1199 in s. 775.21 "Instant message name" means an identifier that
1200 allows a person to communicate in real time with another person
1201 using the Internet.

1202 (4) A sexual offender, as described in this section, who is
1203 under the supervision of the Department of Corrections but is
1204 not incarcerated shall ~~must~~ register with the Department of
1205 Corrections within 3 business days after sentencing for a
1206 registrable offense and otherwise provide information as
1207 required by this subsection.

1208 (a) The sexual offender shall provide his or her name; date
1209 of birth; social security number; race; sex; height; weight;
1210 hair and eye color; tattoos or other identifying marks; all ~~any~~
1211 electronic mail addresses ~~address~~ and Internet identifiers ~~any~~
1212 ~~instant message name~~ required to be provided pursuant to s.
1213 943.0435(4)(d); all home telephone numbers and cellular
1214 telephone numbers; the make, model, color, registration number,
1215 and license tag number of all vehicles that are owned by the
1216 sexual offender and all vehicles that are owned by a person who
1217 resides at the sexual offender's residence and that may be
1218 operated by the sexual offender; permanent or legal residence

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1219 and address of temporary residence within the state or out of
1220 state while the sexual offender is under supervision in this
1221 state, including any rural route address or post office box; if
1222 no permanent or temporary address, any transient residence
1223 within the state; and address, location or description, and
1224 dates of any current or known future temporary residence within
1225 the state or out of state. The sexual offender shall also
1226 produce his or her passport, if he or she has a passport, and,
1227 if he or she is an alien, shall produce or provide information
1228 about documents establishing his or her immigration status. The
1229 sexual offender shall also provide information about any
1230 professional licenses he or she has. The Department of
1231 Corrections shall verify the address of each sexual offender in
1232 the manner described in ss. 775.21 and 943.0435. The department
1233 shall report to the Department of Law Enforcement any failure by
1234 a sexual predator or sexual offender to comply with registration
1235 requirements.

1236 (b) If the sexual offender is enrolled, employed,
1237 volunteering, or carrying on a vocation at an institution of
1238 higher education in this state, the sexual offender shall
1239 provide the name, address, and county of each institution,
1240 including each campus attended, and the sexual offender's
1241 enrollment, volunteer, or employment status. Each change in
1242 enrollment, volunteer, or employment status must ~~shall~~ be
1243 reported to the department within 48 hours after the change in
1244 status. The Department of Corrections shall promptly notify each
1245 institution of the sexual offender's presence and any change in
1246 the sexual offender's enrollment, volunteer, or employment
1247 status.

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1248 (13)

1249 (c) The sheriff's office may determine the appropriate
1250 times and days for reporting by the sexual offender, which must
1251 ~~shall~~ be consistent with the reporting requirements of this
1252 subsection. Reregistration must ~~shall~~ include any changes to the
1253 following information:

1254 1. Name; social security number; age; race; sex; date of
1255 birth; height; weight; hair and eye color; address of any
1256 permanent residence and address of any current temporary
1257 residence, within the state or out of state, including a rural
1258 route address and a post office box; if no permanent or
1259 temporary address, any transient residence; address, location or
1260 description, and dates of any current or known future temporary
1261 residence within the state or out of state; all any electronic
1262 mail addresses and Internet identifiers ~~address and any instant~~
1263 ~~message name~~ required to be provided pursuant to s.
1264 943.0435(4)(d); all home telephone numbers and cellular
1265 telephone numbers; date and place of any employment; the vehicle
1266 make, model, color, registration number, and license tag number
1267 of all vehicles that are owned by the sexual offender and all
1268 vehicles that are owned by a person who resides at the sexual
1269 offender's residence and that may be operated by the sexual
1270 offender; fingerprints; palm prints; and photograph. A post
1271 office box may ~~shall~~ not be provided in lieu of a physical
1272 residential address. The sexual offender shall also produce his
1273 or her passport, if he or she has a passport, and, if he or she
1274 is an alien, shall produce or provide information about
1275 documents establishing his or her immigration status. The sexual
1276 offender shall also provide information about any professional

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1277 licenses he or she has.

1278 2. If the sexual offender is enrolled, employed,
1279 volunteering, or carrying on a vocation at an institution of
1280 higher education in this state, the sexual offender shall also
1281 provide to the department the name, address, and county of each
1282 institution, including each campus attended, and the sexual
1283 offender's enrollment, volunteer, or employment status.

1284 3. If the sexual offender's place of residence is a motor
1285 vehicle, trailer, mobile home, or manufactured home, as defined
1286 in chapter 320, the sexual offender shall also provide the
1287 vehicle identification number; the license tag number; the
1288 registration number; and a description, including color scheme,
1289 of the motor vehicle, trailer, mobile home, or manufactured
1290 home. If the sexual offender's place of residence is a vessel,
1291 live-aboard vessel, or houseboat, as defined in chapter 327, the
1292 sexual offender shall also provide the hull identification
1293 number; the manufacturer's serial number; the name of the
1294 vessel, live-aboard vessel, or houseboat; the registration
1295 number; and a description, including color scheme, of the
1296 vessel, live-aboard vessel or houseboat.

1297 4. Any sexual offender who fails to report in person as
1298 required at the sheriff's office, ~~or~~ who fails to respond to any
1299 address verification correspondence from the department within 3
1300 weeks of the date of the correspondence, ~~or~~ who fails to report
1301 all electronic mail addresses or Internet identifiers prior to
1302 use ~~or instant message names~~, or who knowingly provides false
1303 registration information by act or omission commits a felony of
1304 the third degree, punishable as provided in s. 775.082, s.
1305 775.083, or s. 775.084.

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1306 Section 7. Paragraph (a) of subsection (3) of section
1307 985.481, Florida Statutes, is amended to read:

1308 985.481 Sexual offenders adjudicated delinquent;
1309 notification upon release.-

1310 (3) (a) The department shall ~~must~~ provide information
1311 regarding any sexual offender who is being released after
1312 serving a period of residential commitment under the department
1313 for any offense, as follows:

1314 1. The department shall ~~must~~ provide the sexual offender's
1315 name, any change in the offender's name by reason of marriage or
1316 other legal process, and any alias, if known; the correctional
1317 facility from which the sexual offender is released; the sexual
1318 offender's social security number, race, sex, date of birth,
1319 height, weight, and hair and eye color; the make, model, color,
1320 registration number, and license tag number of all vehicles
1321 owned by the sexual offender and all vehicles that are owned by
1322 a person who resides at the sexual offender's residence and that
1323 may be operated by the sexual offender, if known; address of any
1324 planned permanent residence or temporary residence, within the
1325 state or out of state, including a rural route address and a
1326 post office box; if no permanent or temporary address, any
1327 transient residence within the state; address, location or
1328 description, and dates of any known future temporary residence
1329 within the state or out of state; date and county of disposition
1330 and each crime for which there was a disposition; a copy of the
1331 offender's fingerprints and a digitized photograph taken within
1332 60 days before release; the date of release of the sexual
1333 offender; all ~~and~~ home telephone numbers ~~number~~ and ~~any~~ cellular
1334 telephone numbers; information about any professional licenses

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1335 the offender has, if known; and passport information, if he or
1336 she has a passport, and, if he or she is an alien, information
1337 about documents establishing his or her immigration status
1338 ~~number~~. The department shall notify the Department of Law
1339 Enforcement if the sexual offender escapes, absconds, or dies.
1340 If the sexual offender is in the custody of a private
1341 correctional facility, the facility shall take the digitized
1342 photograph of the sexual offender within 60 days before the
1343 sexual offender's release and also place it in the sexual
1344 offender's file. If the sexual offender is in the custody of a
1345 local jail, the custodian of the local jail shall register the
1346 offender within 3 business days after intake of the offender for
1347 any reason and upon release, and shall notify the Department of
1348 Law Enforcement of the sexual offender's release and provide to
1349 the Department of Law Enforcement the information specified in
1350 this subparagraph and any information specified in subparagraph
1351 2. which the Department of Law Enforcement requests.

1352 2. The department may provide any other information
1353 considered necessary, including criminal and delinquency
1354 records, when available.

1355 Section 8. Subsection (4) and paragraph (b) of subsection
1356 (13) of section 985.4815, Florida Statutes, are amended to read:

1357 985.4815 Notification to Department of Law Enforcement of
1358 information on juvenile sexual offenders.—

1359 (4) A sexual offender, as described in this section, who is
1360 under the supervision of the department but who is not committed
1361 shall ~~must~~ register with the department within 3 business days
1362 after adjudication and disposition for a registrable offense and
1363 otherwise provide information as required by this subsection.

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1364 (a) The sexual offender shall provide his or her name; date
1365 of birth; social security number; race; sex; height; weight;
1366 hair and eye color; tattoos or other identifying marks; the
1367 make, model, color, registration number, and license tag number
1368 of all vehicles that are owned by the sexual offender and all
1369 vehicles that are owned by a person who resides at the sexual
1370 offender's resides and that may be used by the sexual offender;
1371 permanent or legal residence and address of temporary residence
1372 within the state or out of state while the sexual offender is in
1373 the care or custody or under the jurisdiction or supervision of
1374 the department in this state, including any rural route address
1375 or post office box; if no permanent or temporary address, any
1376 transient residence; address, location or description, and dates
1377 of any current or known future temporary residence within the
1378 state or out of state; and the name and address of each school
1379 attended. The sexual offender shall also produce his or her
1380 passport, if he or she has a passport, and, if he or she is an
1381 alien, shall produce or provide information about documents
1382 establishing his or her immigration status. The offender shall
1383 also provide information about any professional licenses he or
1384 she has. The department shall verify the address of each sexual
1385 offender and shall report to the Department of Law Enforcement
1386 any failure by a sexual offender to comply with registration
1387 requirements.

1388 (b) If the sexual offender is enrolled, employed,
1389 volunteering, or carrying on a vocation at an institution of
1390 higher education in this state, the sexual offender shall
1391 provide the name, address, and county of each institution,
1392 including each campus attended, and the sexual offender's

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1393 enrollment, volunteer, or employment status. Each change in
1394 enrollment, volunteer, or employment status must ~~shall~~ be
1395 reported to the department within 48 hours after the change in
1396 status. The department shall promptly notify each institution of
1397 the sexual offender's presence and any change in the sexual
1398 offender's enrollment, volunteer, or employment status.

1399 (13)

1400 (b) The sheriff's office may determine the appropriate
1401 times and days for reporting by the sexual offender, which must
1402 ~~shall~~ be consistent with the reporting requirements of this
1403 subsection. Reregistration must ~~shall~~ include any changes to the
1404 following information:

1405 1. Name; social security number; age; race; sex; date of
1406 birth; height; weight; hair and eye color; fingerprints; palm
1407 prints; address of any permanent residence and address of any
1408 current temporary residence, within the state or out of state,
1409 including a rural route address and a post office box; if no
1410 permanent or temporary address, any transient residence;
1411 address, location or description, and dates of any current or
1412 known future temporary residence within the state or out of
1413 state; passport information, if he or she has a passport, and,
1414 if he or she is an alien, information about documents
1415 establishing his or her immigration status; name and address of
1416 each school attended; date and place of any employment; the
1417 ~~vehicle~~ make, model, color, registration number, and license tag
1418 number of all vehicles that are owned by the sexual offender and
1419 all vehicles that are owned by a person who resides at the
1420 sexual offender's residence and that may be used by the sexual
1421 offender; fingerprints; and photograph. A post office box may

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1422 ~~shall~~ not be provided in lieu of a physical residential address.
1423 The offender shall also provide information about any
1424 professional licenses he or she has.

1425 2. If the sexual offender is enrolled, employed,
1426 volunteering, or carrying on a vocation at an institution of
1427 higher education in this state, the sexual offender shall also
1428 provide to the department the name, address, and county of each
1429 institution, including each campus attended, and the sexual
1430 offender's enrollment, volunteer, or employment status.

1431 3. If the sexual offender's place of residence is a motor
1432 vehicle, trailer, mobile home, or manufactured home, as defined
1433 in chapter 320, the sexual offender shall also provide the
1434 vehicle identification number; the license tag number; the
1435 registration number; and a description, including color scheme,
1436 of the motor vehicle, trailer, mobile home, or manufactured
1437 home. If the sexual offender's place of residence is a vessel,
1438 live-aboard vessel, or houseboat, as defined in chapter 327, the
1439 sexual offender shall also provide the hull identification
1440 number; the manufacturer's serial number; the name of the
1441 vessel, live-aboard vessel, or houseboat; the registration
1442 number; and a description, including color scheme, of the
1443 vessel, live-aboard vessel, or houseboat.

1444 4. Any sexual offender who fails to report in person as
1445 required at the sheriff's office, ~~or~~ who fails to respond to any
1446 address verification correspondence from the department within 3
1447 weeks after the date of the correspondence, or who knowingly
1448 provides false registration information by act or omission
1449 commits a felony of the third degree, punishable as provided in
1450 ss. 775.082, 775.083, and 775.084.

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1451 Section 9. Paragraphs (g) and (i) of subsection (3) of
 1452 section 921.0022, Florida Statutes, are amended to read:
 1453 921.0022 Criminal Punishment Code; offense severity ranking
 1454 chart.—

1455 (3) OFFENSE SEVERITY RANKING CHART

1456 (g) LEVEL 7

1457

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 vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in

1458

1459

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1461

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1462			serious bodily injury.
	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
1463			
	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
1464			
	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
1465			
	456.065 (2)	3rd	Practicing a health care profession without a license.
1466			
	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
1467			
	458.327 (1)	3rd	Practicing medicine without a license.
1468			
	459.013 (1)	3rd	Practicing osteopathic

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1469

medicine without a
license.

460.411 (1)

3rd

Practicing chiropractic
medicine without a
license.

1470

461.012 (1)

3rd

Practicing podiatric
medicine without a
license.

1471

462.17

3rd

Practicing naturopathy
without a license.

1472

463.015 (1)

3rd

Practicing optometry
without a license.

1473

464.016 (1)

3rd

Practicing nursing without
a license.

1474

465.015 (2)

3rd

Practicing pharmacy
without a license.

1475

466.026 (1)

3rd

Practicing dentistry or
dental hygiene without a
license.

1476

467.201

3rd

Practicing midwifery
without a license.

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1477

468.366 3rd Delivering respiratory care services without a license.

1478

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

1479

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

1480

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

1481

484.053 3rd Dispensing hearing aids without a license.

1482

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.

1483

560.123 (8) (b) 1. 3rd Failure to report currency or payment instruments

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1484

560.125 (5) (a)

3rd

exceeding \$300 but less than \$20,000 by a money services business.

Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

1485

655.50 (10) (b) 1.

3rd

Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

1486

775.21 (10) (a)

3rd

Sexual predator; failure to register; failure to renew driver ~~driver's~~ license or identification card; other registration violations.

1487

775.21 (10) (b)

3rd

Sexual predator working where children regularly congregate.

1488

775.21 (10) (g)

3rd

Failure to report or providing false

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1489

782.051 (3)

2nd

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

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

1490

782.07 (1)

2nd

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

1491

782.071

2nd

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

1492

782.072

2nd

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

1493

784.045 (1) (a) 1.

2nd

Aggravated battery; intentionally causing

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			great bodily harm or disfigurement.
1494	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
1495	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1496	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
1497	784.048 (7)	3rd	Aggravated stalking; violation of court order.
1498	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
1499	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
1500	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
1501	784.081 (1)	1st	Aggravated battery on

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1502

specified official or
employee.

784.082 (1)

1st

Aggravated battery by
detained person on visitor
or other detainee.

1503

784.083 (1)

1st

Aggravated battery on code
inspector.

1504

787.06 (3) (a)

1st

Human trafficking using
coercion for labor and
services.

1505

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.

1506

790.07 (4)

1st

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

1507

790.16 (1)

1st

Discharge of a machine gun
under specified

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1508

circumstances.

790.165 (2)

2nd

Manufacture, sell,
possess, or deliver hoax
bomb.

1509

790.165 (3)

2nd

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

1510

790.166 (3)

2nd

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

1511

790.166 (4)

2nd

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

1512

790.23

1st, PBL

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

1513

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1514	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.
1515	796.03	2nd	Procuring any person under <u>18</u> 16 years for prostitution.
1516	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
1517	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.
1518	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
	810.02 (3) (a)	2nd	Burglary of occupied

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1519			dwelling; unarmed; no assault or battery.
	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
1520			
	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1521			
	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1522			
	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.
1523			
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1524			
	812.014 (2) (b) 3.	2nd	Property stolen, emergency

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1525
1526
1527
1528
1529
1530
1531

812.014 (2) (b) 4.

2nd

medical equipment; 2nd
degree grand theft.

Property stolen, law
enforcement equipment from
authorized emergency
vehicle.

812.0145 (2) (a)

1st

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

812.019 (2)

1st

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

812.131 (2) (a)

2nd

Robbery by sudden
snatching.

812.133 (2) (b)

1st

Carjacking; no firearm,
deadly weapon, or other
weapon.

817.034 (4) (a) 1.

1st

Communications fraud,
value greater than
\$50,000.

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1532

817.234 (8) (a)

2nd

Solicitation of motor vehicle accident victims with intent to defraud.

1533

817.234 (9)

2nd

Organizing, planning, or participating in an intentional motor vehicle collision.

1534

817.234 (11) (c)

1st

Insurance fraud; property value \$100,000 or more.

1535

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.

1536

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.

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1537

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.

1538

827.03 (2) (b)

2nd

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

1539

827.04 (3)

3rd

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

1540

837.05 (2)

3rd

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

1541

838.015

2nd

Bribery.

1542

838.016

2nd

Unlawful compensation or reward for official behavior.

1543

838.021 (3) (a)

2nd

Unlawful harm to a public

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1544			servant.
1545	838.22	2nd	Bid tampering.
1546	843.0855 (2)	3rd	Impersonation of a public officer or employee.
1547	843.0855 (3)	3rd	Unlawful simulation of legal process.
1548	843.0855 (4)	3rd	Intimidation of a public officer or employee.
1549	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1550	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1551	872.06	2nd	Abuse of a dead human body.
	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.

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1555			religious services or a specified business site.
	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).
1556			
	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
1557			
	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1558			
	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1559			
	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1560			
	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5

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			kilograms.
1561	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1562	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1563	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1564	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
1565	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1566	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.

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1567

896.101 (5) (a) 3rd Money laundering, financial transactions exceeding \$300 but less than \$20,000.

1568

896.104 (4) (a) 1. 3rd Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.

1569

943.0435 (4) (c) 2nd Sexual offender vacating permanent residence; failure to comply with reporting requirements.

1570

943.0435 (8) 2nd Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

1571

943.0435 (9) (a) 3rd Sexual offender; failure to comply with reporting requirements.

1572

943.0435 (13) 3rd Failure to report or

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1573	943.0435 (14)	3rd	<p>providing false information about a sexual offender; harbor or conceal a sexual offender.</p>
1574	944.607 (9)	3rd	<p>Sexual offender; failure to report and reregister; failure to respond to address verification; <u>providing false registration information.</u></p>
1575	944.607 (10) (a)	3rd	<p>Sexual offender; failure to comply with reporting requirements.</p>
1576	944.607 (12)	3rd	<p>Sexual offender; failure to submit to the taking of a digitized photograph.</p>
1577	944.607 (13)	3rd	<p>Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.</p>
			<p>Sexual offender; failure to report and reregister; failure to respond to</p>

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1578

address verification;
providing false
registration information.

985.4815 (10)

3rd

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

1579

985.4815 (12)

3rd

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

1580

985.4815 (13)

3rd

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

1581

(i) LEVEL 9

1582

1583

Florida
 Statute

Felony
 Degree

Description

1584

316.193
 (3) (c) 3.b.

1st

DUI manslaughter; failing to render aid or give information.

1585

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1586	327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
1587	409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
1588	499.0051 (9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
1589	560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
1590	560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
1591	655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
1592	775.0844	1st	Aggravated white collar crime.
1593	782.04 (1)	1st	Attempt, conspire, or solicit to commit premeditated murder.

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1594	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.
1595	782.051 (1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04 (3).
1596	782.07 (2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
1597	787.01 (1) (a) 1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
1598	787.01 (1) (a) 2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
1599	787.01 (1) (a) 4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
	787.02 (3) (a)	1st, <u>PBL</u>	False imprisonment; child under age 13; perpetrator also commits

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			aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
1600	787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized alien.
1601	787.06(3)(g)	1st,PBL	Human trafficking for commercial sexual activity of a child under the age of 18.
1602	787.06(4)	1st	Selling or buying of minors into human trafficking.
1603	790.161	1st	Attempted capital destructive device offense.
1604	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
1605	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
1606	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12

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			years.
1607	794.011 (4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
1608	794.011 (8) (b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
1609	794.08 (2)	1st	Female genital mutilation; victim younger than 18 years of age.
1610	796.035	1st	Selling or buying of minors into prostitution.
1611	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
1612	812.13 (2) (a)	1st, PBL	Robbery with firearm or other deadly weapon.
1613	812.133 (2) (a)	1st, PBL	Carjacking; firearm or other deadly weapon.
1614	812.135 (2) (b)	1st	Home-invasion robbery with weapon.
1615	817.535 (3) (b)	1st	Filing false lien or other

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1616	817.535 (4) (a) 2.	1st	<p>unauthorized document; second or subsequent offense; property owner is a public officer or employee.</p>
1617	817.535 (5) (b)	1st	<p>Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.</p>
1618	817.568 (7)	2nd, PBL	<p>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.</p>
1619	827.03 (2) (a)	1st	<p>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.</p>
1620	847.0145 (1)	1st	<p>Aggravated child abuse.</p>
1621	847.0145 (2)	1st	<p>Selling, or otherwise transferring custody or control, of a minor.</p>
			<p>Purchasing, or otherwise obtaining custody or control, of a minor.</p>

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1622

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.

1623

893.135 1st Attempted capital trafficking offense.

1624

893.135 (1) (a) 3. 1st Trafficking in cannabis, more than 10,000 lbs.

1625

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

1626

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

1627

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

1628

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

1629

893.135 1st Trafficking in amphetamine, more

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1630

(1) (f) 1.c. than 200 grams.

893.135

1st

Trafficking in gamma-

(1) (h) 1.c.

hydroxybutyric acid (GHB), 10 kilograms or more.

1631

893.135

1st

Trafficking in 1,4-Butanediol, 10

(1) (j) 1.c.

kilograms or more.

1632

893.135

1st

Trafficking in Phenethylamines,

(1) (k) 2.c.

400 grams or more.

1633

896.101 (5) (c)

1st

Money laundering, financial instruments totaling or exceeding \$100,000.

1634

896.104 (4) (a) 3.

1st

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

1635

1636

Section 10. This act shall take effect October 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-4-14

Meeting Date

Topic _____

Bill Number SB 528
(if applicable)

Name Lindsey Perkins

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address _____
Street

Phone (850)671-4401

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Florida Sheriffs 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)

2.4.14
Meeting Date

Topic SEX OFFENSES

Bill Number 528
(if applicable)

Name RANA BROWN

Amendment Barcode _____
(if applicable)

Job Title consultant

Address 18851 NE 29 Ave

Phone 305 935 1866

Aventura, FL 33180
Street City State Zip

E-mail RANA@RLBOOKPA.com

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.

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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)

214/2014

Meeting Date

Topic _____

Bill Number 528

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

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.

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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)

2/4/14

Meeting Date

Topic Sex Offenders / Predators Bill Number 528
(if applicable)

Name Guil Collotta Amendment Barcode _____
(if applicable)

Job Title President Florida Action Committee

Address 7054 Palazzos Realm Phone 561 305 4959
Street

BB Fl. 33437
City State Zip

E-mail guil@floridaactioncommittee.org

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.

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)

2/4/14

Meeting Date

Topic SEXUAL OFFENDERS Bill Number 528
Name Dr. SUZANNE KLINE (if applicable)
Job Title EXPERT CONSULTANT / FORMER ADMINISTRATOR Amendment Barcode _____ (if applicable)
FLORIDA'S SEXUALLY VIOLENT PREDATOR PROGRAM
Address 1282 TIMBERLAKE RD Phone 850-321-4075
Tallahassee, FL 32312 E-mail DR_KLINE@OUTLOOK.COM
Street City State Zip

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.

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)

2-4-11

Meeting Date

Topic Sexual Abuse/Pediatric Registration

Bill Number SB 528 (if applicable)

Name Mary Coffey

Amendment Barcode (if applicable)

Job Title Planning Policy Administrator

Address 2331 Phillips Rd

Phone 850 410-8572

Street

City

State

Zip

Tallahassee FL 32308

E-mail marycoffey@fde.state.fl

Speaking: For Against Information

Representing FDE

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.

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 Judiciary

BILL: SB 524

INTRODUCER: Senator Sobel

SUBJECT: Sexually Violent Predators

DATE: February 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hendon</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

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.

Current law requires a multidisciplinary team to determine if a sex offender meets the definition of a sexually violent predator. The bill requires the Department of Children and Families (DCF) to train team members.

This bill establishes criteria that the DCF must use in creating an evaluation process to measure the effectiveness of multidisciplinary team members in accurately recommending civil commitment of offenders. The evaluation process must be based in part on recidivism rates of assessed offenders.

The DCF has current authority to contract with independent contractors to serve as members of a multidisciplinary team. This bill limits contracts between the DCF and independent contractors to one-year terms, subject to renewal. As the DCF will annually evaluate the contractors based on performance, the department can 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 the recommendation is supported by two multidisciplinary team members. Existing law is silent on the number of members required to designate a sex offender as a

sexually violent predator. As a result, this change may increase the number of offenders recommended to the state attorney for civil commitment.

The Florida Department of Law Enforcement maintains a website to notify and inform the public of sex offenders and sexually violent predators listed by their address of residence. This bill requires public and private colleges and universities to provide notice of the website to students and employees during their orientations.

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 FY 2010-11 to 154 convictions in FY 2012-13) represented a 1,100 percent increase which may, in part, be due to additional sting operations conducted by law enforcement officials.

Sex offenses account for fewer than 6 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 age (s. 794.011(2)(a), F.S.) to a third degree felony punishable up to 5 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 (s. 800.04(5)(d), F.S.).

The average prison sentence of 12.7 years for sex offenders is longer than in the past. The Department of Corrections indicates a 3-year recidivism rate for sex offenders at 34 percent. The new offense, however, may not be a new 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.

¹ Section 800.04(4)(a), F.S.

² Section 800.04(5)(b), F.S.

- Victims of sexual offenses, at an average age of 13.4 years old, tend to be much younger than victims of other crimes. The Legislature's Office of Economic and Demographic Research (EDR) reports that 83 percent of victims in these cases 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. 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.³

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 website maintained by FDLE.⁴ The website 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 were located in Florida and required to register as a sexual predator or sexual offender. Of that, the court 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.⁵

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

³ 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).

⁴ The website is located online at: <http://offender.fdle.state.fl.us/offender/homepage.do;jsessionid=ufDGM1GsKxoKox-uPJD6mQ>.

⁵ Section 775.21(4), F.S.

- 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.⁶

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 and instant message names and crime information.⁷
- Sexual predators and some sexual offenders must report to the local sheriff's office quarterly; other sexual offenders report bi-annually.⁸
- Sexual predators and offenders must update their driver's license or identification card within 48 hours after any change of residence or name change.⁹
- 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.¹⁰
- Sexual predators are prohibited from working or volunteering at any place where children regularly congregate.¹¹

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 2012-13, 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 FY 2011-12 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

⁶ Section 943.0435(1), F.S.

⁷ Sections 775.21(6) and 943.0435(2), F.S.

⁸ Sections 775.21(8)(a) and 943.0435(14)(a), F.S.

⁹ Sections 775.21(6)(g)1. and 943.0435(4)(a), F.S.

¹⁰ Sections 775.21(6)(l) and 943.0435(11), F.S.

¹¹ Section 775.21(3)(b)5., F.S.

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.¹² 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.¹³
- The Act is non-punitive in nature, requires treatment during commitment, and bases commitment on mental deficiency rather than criminal intent.¹⁴
- A court must review commitment annually and determine whether a detainee continues to be mentally infirm.¹⁵
- The Act provides due process based on numerous procedural and evidentiary protections.¹⁶
- Because the commitment is civil in nature, not criminal, the Act does not violate constitutional protections against double jeopardy.¹⁷
- Because the Act is not a criminal law, the Act does not violate the ex post facto clause of the U.S. Constitution.¹⁸

In *Kansas v. Crane*, the U.S. Supreme Court refined the *Hendricks* requirement that the offender possess a lack of behavioral control.¹⁹ *Crane* requires a stronger showing of a lack of control, namely, that the offender's inability to control behavior constitutes a serious public danger.²⁰

¹² *Kansas v. Hendricks*, 521 U.S. 346 (1997).

¹³ *Id.* at 357-358.

¹⁴ *Id.* at 363 and 367.

¹⁵ *Id.* at 364.

¹⁶ *Id.*

¹⁷ *Id.* at 369.

¹⁸ *Id.* at 371.

¹⁹ 534 U.S. 407 (2002).

²⁰ *Id.* at 413.

The Florida Supreme Court upheld Florida's civil commitment program in 2002.²¹ 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"²²

History of the Sexually Violent Predator Program and the Civil Confinement of Predators

The 1998 Florida Legislature established the Sexually Violent Predator Program (SVPP).²³ 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).

Early on, the number of detainees significantly outnumbered the number of committed sexually violent predators. Additionally, 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.²⁴

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 6 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.

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

²¹ *Westerheide v. State*, 831 So. 2d 93 (Fla. 2002).

²² *Id.* at 100.

²³ Chapter 98-64, L.O.F. The 1998 Legislature created the "Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act."

²⁴ Marti Harkness, Senate Committee on Criminal Justice Appropriations, *Overview of Sexually Violent Predator Program*, PowerPoint Presentation (September 24, 2013) (on file with the Senate Committee on Judiciary).

delinquent, or found not guilty by reason of insanity of a qualifying sexually violent offense.²⁵ 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.²⁶

Multidisciplinary Team Review (MDT):

By law, MDT members must be licensed psychologists or psychiatrists. Administrative rules further require MDT members to have at least 1 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.²⁷

- 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.²⁸
- 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.²⁹
- 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.³⁰

Step 3 – Commitment Trial:

- The state attorney receives the MDT recommendation and decides whether to file a commitment petition in circuit court.³¹
- If a petition is filed, the court determines whether there is probable cause for commitment.³²
- 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.³³

²⁵ Section 394.912(9), F.S.

²⁶ Section 394.913(1), F.S.

²⁷ Rule 65E-25.002, F.A.C.

²⁸ Section 394.913(2) and (3), F.S.

²⁹ Section 394.913(3)(c) and (e), F.S.

³⁰ Section 394.913(3)(e), F.S.

³¹ Sections 394.9135(3) and 394.914, F.S.

³² Section 394.915, F.S.

³³ Section 394.916(1) and (2), F.S.

- 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.³⁴
- 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.³⁵

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.³⁶
- 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.³⁷

Number and Flow of SVPP Cases as of August 31, 2013³⁸

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.

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 6 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:

³⁴ Section 394.916(3), F.S.

³⁵ Section 394.917(1), F.S.

³⁶ Section 394.917(1) and (2), F.S.

³⁷ Section 394.917(2), F.S.

³⁸ 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).

- 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 dead 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, the Department of Children and Families (DCF) must train members of a multidisciplinary team (MDT) who assess individuals for commitment as a sexually violent predator. Currently, DCF has no statutory requirements to train MDT members. The bill also limits contracted members of a MDT to 1-year contracts, subject to renewal.

The DCF is required to annually evaluate contracted members of a MDT based upon their:

- Knowledge and understanding of clinical information in assessing risk for sexual deviance and recidivism;
- Ability to identify clinical data from a review of criminal records, including law enforcement recommendations and input from victim advocates;
- Ability to use assessment tools in analyzing clinical information; and
- Accuracy in assessing offenders for civil commitment which will be based on the recidivism rates of released offenders.

Requiring evaluations sets in place a performance-based review of the effectiveness of the independent contractors of the multidisciplinary team. This review may result in more capable MDTs and more accurate recommendations for civil commitment. The implication of the bill is that MDT members who don't perform well will not be offered contract renewals.

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 to a state for civil commitment if at least two members of a MDT find that the offender is a sexually violent predator. To the extent that assessments are currently made through consensus, under the bill more cases may be referred to the state attorney for civil commitment proceedings.

In addition to strengthening MDTs, the bill requires private and public colleges, universities, and schools to notify students and employees of the sexual offender and sexual predator website maintained by the Department of Law Enforcement. Students who access the website will 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 will likely increase the number of persons referred to the Sexually Violent Predator Program (SVPP) and associated costs. To the extent that only two members of

the multidisciplinary team must find that a person meets the definition of a sexually violent predator, more cases will be referred to the state attorney for civil commitment proceedings. The number of new cases as a result of the bill cannot be determined. Current costs for persons evaluated and adjudicated for civil commitment are not known.

Department of Children and Families (DCF)

The DCF will incur increased costs for the evaluations of additional persons required to be assessed under the bill and detention and housing of additional SVPs. To date, the DCF has spent \$30.9 million on the SVPP to evaluate and house SVPs.

Costs associated with evaluations involve staff time, contracted evaluators, travel expenses, and office space. Currently, the DCF evaluates approximately 3,500 individuals per year, at a cost per evaluation of \$910.³⁹

The DCF contracts with a private vendor to operate the Florida Civil Commitment Center. Cost per day for both detainees and committed persons is \$99.86 or \$36,449 each year. The center has a capacity of 720 and as of November 30, 2013, population was 647, leaving 73 vacant beds. If the effect of the bill increases capacity beyond 720 persons, the DCF may need to procure additional beds at another facility.

Additional costs of \$104,000 are estimated by DCF for training of MDT members, developing an evaluation process, and implementing the evaluation process as shown:

- Employment of a trainer, at an hourly rate of \$250 for ten hours, for a total of \$2,500;
- Development of an evaluation tool, at 80 hours with an hourly rate of \$250 for a total of \$20,000;
- Implementation of an evaluation process, at an hourly rate of \$200 for 20 evaluators, for a total of \$80,000.⁴⁰

Judicial costs

The judicial system may incur costs due to more commitment filings by state attorneys. Increased judicial costs will result from additional judge and staff time for the state courts system and staff time and case-related costs for state attorneys and public defenders. However, the Office of the State Courts Administrator expects an insignificant fiscal impact on judicial workload.⁴¹

Assistant state attorneys and their legal assistants must prepare cases and participate in civil commitment proceedings. The Florida Prosecuting Attorneys Association estimates the cost per attorney time in these cases at \$1,486.

³⁹ Correspondence from the Department of Children and Families, (Dec. 6, 2013) (on file with the Senate Committee on Children and Families).

⁴⁰ Department of Children and Families, *2014 Legislative Bill Analysis* (July 1, 2014) (on file with the Senate Committee on Judiciary).

⁴¹ Office of the State Courts Administrators, *2014 Judicial Impact Statement* (Jan. 31, 2014) (on file with the Senate Committee on Judiciary).

Most persons determined to be sexually violent predators qualify for representation by a public defender. The Florida Public Defender Association provided cost information from the 2nd judicial circuit. That circuit’s cost per case was \$8,566. These costs are significantly higher than those of the state attorney. The information from one circuit may not be representative of all public defender offices.

In addition to attorney time, state attorney and public defender offices incur case-related costs for expert witnesses, depositions, and transcripts. Such costs are paid by the Justice Administrative Commission. For FY 2011-2012, the state paid \$2,739,875 in case-related costs for 575 sexually violent predator cases.⁴² While the cases can continue more than 1 year, the annual cost per case is estimated to be \$4,765. Table 1 shows costs for each new evaluation and civil commitment.

Table 1. Unit Costs for Sexually Violent Predator Program

Department of Children and Families (DCF) evaluation	\$910
DCF annual cost for detainees and commitments	\$36,449
State Courts System cost per case	\$2,032
State Attorney – staff and expenses cost per case	\$1,486
Public Defender – staff and expenses cost per case	\$8,566
Justice Administrative Commission – case-related costs	\$4,765

Prison Bed Impact

Pursuant to s. 216.136, F.S., the Criminal Justice Estimating Conference (CJEC) is charged with:

- Developing official information on the criminal justice system, including forecasts of prison admissions and population and of supervised felony offender admissions and population, as the conference determines is needed for the state planning and budgeting system.
- Developing official information on the number of eligible discharges and the projected number of civil commitments for determining space needs pursuant to the civil proceedings provided under part V of chapter 394.
- Developing official information on the number of sexual offenders and sexual predators required by law to be placed on community control, probation, or conditional release who are subject to electronic monitoring.

The CJEC met on January 30, 2014 and found that SB 524 will have no impact on the prison bed population.

The Board of Governors of the State University System of Florida (BOG) anticipates potentially meeting the required notice by referencing the FDLE website and toll-free number in the

⁴² Correspondence from the Justice Administrative Commission, (January 24, 2014) (on file with the Senate Committee on Judiciary).

orientation material and handbooks provided to new students and employees.⁴³ Therefore, the BOG does not expect a fiscal impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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.)

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.

⁴³ Board of Governors, State University System of Florida, *2014 Legislative Bill Analysis* (January 13, 2014) (on file with the Senate Committee on Judiciary).

By Senator Sobel

33-00697C-14

2014524__

1 A bill to be entitled
2 An act relating to sexually violent predators;
3 providing a short title; amending s. 394.913, F.S.;
4 requiring the Department of Children and Families to
5 provide training to the members of the
6 multidisciplinary team; limiting the term of contract
7 of multidisciplinary team members who contract with
8 the department to 1 year; providing that such
9 contracts may be renewed; requiring the department to
10 evaluate contracted members of the multidisciplinary
11 team; providing requirements for such evaluations;
12 requiring the multidisciplinary team to proceed
13 without a personal interview under certain
14 circumstances; providing that a person meets the
15 definition of a sexually violent predator if a
16 specified number of multidisciplinary team members
17 make such a finding; creating s. 1005.10, F.S.;
18 requiring nonpublic colleges, universities, and
19 schools to inform students and employees of the
20 Florida Department of Law Enforcement sexual predator
21 and sexual offender registry website and toll-free
22 number; creating s. 1006.695, F.S.; requiring public
23 colleges, universities, and schools to inform students
24 and employees of the Florida Department of Law
25 Enforcement sexual predator and sexual offender
26 registry website and toll-free number; providing an
27 effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

33-00697C-14

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30
31 Section 1. This act may be cited as the "Protecting Our
32 Children from Sexual Predators Act."

33 Section 2. Subsection (3) of section 394.913, Florida
34 Statutes, is amended to read:

35 394.913 Notice to state attorney and multidisciplinary team
36 of release of sexually violent predator; establishing
37 multidisciplinary teams; information to be provided to
38 multidisciplinary teams.—

39 (3) (a) The secretary or his or her designee shall establish
40 a multidisciplinary team or teams.

41 (b) Each team shall include, but need is not be limited to,
42 two licensed psychiatrists or psychologists or one licensed
43 psychiatrist and one licensed psychologist. The department shall
44 provide training to the members of the multidisciplinary team.
45 Members of the team who are hired on contract are limited to 1-
46 year contracts. Such contracts may be renewed. The department
47 shall evaluate annually the performance of each member of the
48 multidisciplinary team. Such evaluations must include, but need
49 not be limited to, the member's:

50 1. Scope of knowledge and understanding of clinical
51 research regarding risk factors for sexual deviance and
52 recidivism;

53 2. Ability to identify relevant clinical data from review
54 of criminal records and other information, including
55 recommendations of law enforcement and insights from victim
56 advocates;

57 3. Ability to apply clinical information in a structured
58 assessment of both static risk factors and dynamic predictors of

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59 sexual recidivism; and

60 4. Recommendations compared retrospectively to the
61 subsequent records of the offenders who were assessed.

62 (c) The multidisciplinary team shall assess and evaluate
63 each person referred to the team. The assessment and evaluation
64 must ~~shall~~ include a review of the person's institutional
65 history and treatment record, if any, the person's criminal
66 background, and any other factor that is relevant to the
67 determination of whether the ~~such~~ person is a sexually violent
68 predator.

69 (d) ~~(e)~~ Before recommending that a person meets the
70 definition of a sexually violent predator, the person must be
71 offered a personal interview. If the person agrees to
72 participate in a personal interview, at least one member of the
73 team who is a licensed psychiatrist or psychologist must conduct
74 a personal interview of the person. If the person refuses to
75 fully participate in a personal interview, the multidisciplinary
76 team shall ~~may~~ proceed with its recommendation without the a
77 ~~personal~~ interview of ~~the~~ person.

78 (e) ~~(d)~~ The Attorney General's Office shall serve as legal
79 counsel to the multidisciplinary team.

80 (f) ~~(e)~~ 1. Within 180 days after receiving notice, there
81 shall be a written assessment as to whether the person meets the
82 definition of a sexually violent predator and a written
83 recommendation, which shall be provided to the state attorney.
84 The person meets the definition of a sexually violent predator
85 if two or more members of the multidisciplinary team find the
86 person meets the definition. The written recommendation shall be
87 provided by the Department of Children and Families ~~Family~~

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2014524__

88 ~~Services~~ and shall include the written report of the
89 multidisciplinary team.

90 2. Notwithstanding subparagraph 1., in the case of a person
91 for whom the written assessment and recommendation has not been
92 completed at least 365 days before his or her release from total
93 confinement, the department shall prioritize the assessment of
94 that person based upon the person's release date.

95 Section 3. Section 1005.10, Florida Statutes, is created to
96 read:

97 1005.10 Sexual predator and sexual offender notification;
98 nonpublic colleges, universities, and schools.—Each nonpublic
99 college, university, and school shall inform students and
100 employees at the school's orientation session of the existence
101 of the Department of Law Enforcement sexual predator and sexual
102 offender registry website and the toll-free telephone number
103 that gives access to sexual predator and sexual offender public
104 information pursuant to s. 943.043.

105 Section 4. Section 1006.695, Florida Statutes, is created
106 to read:

107 1006.695 Sexual predator and sexual offender notification;
108 public colleges, universities, and schools.—Each public college,
109 university, and school shall inform students and employees at
110 the school's orientation session of the existence of the
111 Department of Law Enforcement sexual predator and sexual
112 offender registry website and the toll-free telephone number
113 that gives access to sexual predator and sexual offender public
114 information pursuant to s. 943.043.

115 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)

2-4-14

Meeting Date

Topic _____

Bill Number SB 524
(if applicable)

Name Lindsey Perkins

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address _____
Street

Phone (850) 671-4401

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Florida Sheriffs 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)

2.4.14

Meeting Date

Topic Sexually Violent Predators

Bill Number 524
(if applicable)

Name Rana Brown

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address 18851 NE 29 Ave

Phone 305 935 1866

Street
Aventura FL 33180
City *State* *Zip*

E-mail Rana@rllbookpa.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.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/04/14
Meeting Date

Topic Sex Offenders / Predators Bill Number 524
Name Gail Collettz Amendment Barcode _____
(if applicable)

Job Title President Florida Acta Committee
(if applicable)

Address 7054 Palazzo Reale Phone 561-305-4959
Street
Buynator Bch E-mail gail@floridaaction
City State Zip committee.org

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.

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 Judiciary

BILL: CS/SB 248

INTRODUCER: Health Policy Committee and Children, Families, and Elder Affairs Committee

SUBJECT: Assisted Living Facilities

DATE: February 3, 2014 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Daniell	Hendon		CF SPB 7000 as introduced
1.	Looke	Stovall	HP	Fav/CS
2.	Munroe	Cibula	JU	Favorable

I. Summary:

CS/SB 248 strengthens the enforcement of current regulations for Assisted Living Facilities (ALF or facility) by revising fines imposed for licensure violations, clarifying existing enforcement tools, and requiring an additional inspection for facilities having significant violations. Specifically, the bill:

- Specifies who is responsible for assuring that mental health residents in an ALF receive necessary services.
- Clarifies the duties of the state Long-Term Care Ombudsman Program.
- Amends language related to ALF specialty licenses by:
 - Creating a provisional Extended Congregate Care (ECC) license for new ALFs and specifying when the Agency for Health Care Administration (AHCA or agency) may deny or revoke a facility’s ECC license.
 - Reducing the number of monitoring visits the AHCA must conduct for ALFs having Limited Nursing Services (LNS) licenses and ECC licenses.
 - Specifying when the AHCA may waive a monitoring visit in facilities having an ECC or LNS license.
 - Requiring that facilities having one or more state supported mental health residents obtain a limited mental health (LMH) license. Current law requires an LMH license only for facilities having three or more mental health residents.
- Allows the AHCA to revoke the license of a facility having a controlling interest that has or had a 25 percent or greater financial or ownership interest in a second facility that closed due to financial inability to operate or that was the subject of other specified administrative sanctions. Current law allows the AHCA to deny such a facility’s license during the renewal process.
- Clarifies the criteria under which the AHCA must revoke or deny a facility’s license.

- Specifies circumstances under which the AHCA must impose an immediate moratorium¹ on a facility.
- Amends fine amounts by:
 - Setting fines for all classes of violations² to a fixed amount at the midpoint of the current range and multiplying these new fine amounts by 1.5 for facilities licensed for 100 or more beds.
 - Allowing the AHCA to impose a fine for a class I violation even if it is corrected before the AHCA inspects a facility.
 - Doubling fines for repeated serious violations.
 - Requiring that fines be imposed for repeat minor violations³ regardless of correction.
 - Doubling the fines for minor violations if a facility is cited for the same minor violation during the previous two licensure inspections.
 - Specifying a fine amount of \$500 for ALFs that are not in compliance with background screening requirements.⁴
 - Requiring the AHCA to impose a \$2,500 fine against a facility that does not show good cause for terminating the residency of an individual.
- Amends the definition of “assistance with self-administration of medication” to add several actions to the list of services in which unlicensed staff can assist residents.
- Adds certain responsible parties and agency personnel to the list of people who must report abuse or neglect to the Department of Children and Families’ (DCF or department) central abuse hotline.
- Requires an additional inspection of a facility cited for specified serious violations. The inspection will be paid for by the facility and occur within 6 months of the citation.
- Clarifies that in a continuing care facility or retirement community, ALF staffing requirements apply only to residents of units designated for independent living as an ALF.
- Requires new facility staff, who have not previously completed core training, to attend a 2-hour pre-service orientation before interacting with residents.
- Requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study of inter-surveyor reliability⁵ in order to determine the consistency with which the AHCA applies regulations to facilities, and requires OPPAGA to report its findings and recommendations by November 1, 2014.
- Requires the AHCA to implement an ALF rating system by March 1, 2015.
- Requires the AHCA to add certain content to its website by November 1, 2014, to help consumers select an ALF.

¹ “Moratorium” means a prohibition on the acceptance of new clients. Section 408.803(10), F.S.

² The classes of violations can be found in s. 408.813, F.S.

³ Class III and class IV violations.

⁴ Background screening requirements are found in s. 408.809, F.S.

⁵ “Inter-surveyor reliability” means generally evaluating whether two or more surveys asking the same questions yields the same answers. Discussion with OPPAGA staff with Committee on Judiciary staff (January 24, 2014). In the context of evaluation, “reliability” means “the extent to which an experiment, test, or measuring procedure yields the same results on repeated trials” at: <http://www.merriam-webster.com/dictionary/reliability> (last visited on January 24, 2014).

II. Present Situation:

An ALF is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.⁶ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.⁷ Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.⁸

An ALF is required to provide care and services appropriate to the needs of the residents accepted for admission to the facility.⁹ The owner or facility administrator determines whether an individual is appropriate for admission to the facility based on a number of criteria.¹⁰ If, as determined by the facility administrator or health care provider, a resident no longer meets the criteria for continued residency or the facility is unable to meet the resident's needs, the resident must be discharged in accordance with the Resident Bill of Rights.¹¹

As of January 1, 2014, there were 3,037 licensed ALFs in Florida having a total of 86,473 beds.¹² An ALF must have a standard license issued by the AHCA, pursuant to part I of ch. 429, F.S., and part II of ch. 408, F.S. In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include limited nursing services,¹³ limited mental health services,¹⁴ and extended congregate care services.¹⁵ There are 1,009 facilities with LNS specialty licenses, 275 with ECC licenses, and 1,030 with LMH specialty licenses.¹⁶

Limited Nursing Services Specialty License

An LNS specialty license enables an ALF to provide, directly or through contract, a select number of nursing services in addition to the personal services that are authorized under the standard license. The nursing services are limited to acts specified in administrative rules, may only be provided as authorized by a health care provider's order, and must be conducted and supervised in accordance with ch. 464, F.S., relating to nursing, and the prevailing standard of practice in the nursing community.

⁶ Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

⁷ Section 429.02(16), F.S.

⁸ Section 429.02(1), F.S.

⁹ For specific minimum standards see Rule 58A-5.0182, F.A.C.

¹⁰ Section 429.26, F.S., and Rule 58A-5.0181, F.A.C.

¹¹ Section 429.28, F.S.

¹² Fla. Agency for Health Care Admin., *Assisted Living Facility Directory* (January 1, 2014), http://ahca.myflorida.com/MCHO/Health_Facility_Regulation/Assisted_Living/docs/alf/Directory_ALF.pdf (last visited January 29, 2014).

¹³ Section 429.07(3)(c), F.S.

¹⁴ Section 429.075, F.S.

¹⁵ Section 429.07(3)(b), F.S.

¹⁶ See Fla. Agency for Health Care Admin., *Assisted Living Facility*, http://ahca.myflorida.com/MCHO/Health_Facility_Regulation/Assisted_Living/alf.shtml (follow the hyperlinks for the ALF directories found under the "Notices/Updates" heading) (last visited January 15, 2013).

Extended Congregate Care Specialty License

The primary purpose of ECC services is to allow residents to remain in a familiar setting as they become more impaired with physical or mental limitations. An ECC specialty license enables a facility to provide, directly or through contract, services performed by licensed nurses and supportive services¹⁷ to persons who otherwise would be disqualified from continued residence in an ALF.¹⁸ A facility licensed to provide ECC services may also admit an individual who exceeds the admission criteria for a facility having a standard license, if the individual is determined appropriate for admission to the ECC facility. A licensed facility must adopt its own requirements within guidelines for continued residency set forth by rule. However, a facility with an ECC license still may not serve residents who require 24-hour nursing supervision.¹⁹

Limited Mental Health Specialty License

An ALF that serves three or more mental health residents must obtain an LMH specialty license.²⁰ A mental health resident is an individual who receives social security disability income (SSDI) due to a mental disorder or supplemental security income (SSI) due to a mental disorder, and receives optional state supplementation (OSS).²¹ The department must ensure that a mental health resident is assessed and determined able to live in an ALF with an LMH license.²²

The administrator of a LMH facility must consult with a mental health resident and the resident's case manager to develop and help execute a community living support plan for the resident detailing the specific needs and services the resident requires.²³ The LMH licensee must also execute a cooperative agreement with the mental health care services provider. The cooperative agreement specifies, among other things, directions for the ALF accessing emergency and after-hours care for the mental health resident.

¹⁷ Supportive services include social service needs, counseling, emotional support, networking, assistance with securing social and leisure services, shopping service, escort service, companionship, family support, information and referral, assistance in developing and implementing self-directed activities, and volunteer services. Rule 58A-5.030(8)(a), F.A.C.

¹⁸ An ECC program may provide additional services, such as the following: total help with bathing, dressing, grooming, and toileting; nursing assessments conducted more frequently than monthly; measuring and recording basic vital functions and weight; dietary management; assisting with self-administered medications or administering medications and treatments pursuant to a health care provider's order; supervising residents with dementia and cognitive impairments; health education, counseling, and implementing health-promoting programs; rehabilitative services; and escort services related to health-related appointments. Section 429.07(3)(b), F.S., and Rule 58A-5.030, F.A.C.

¹⁹ Section 429.07(3)(b), F.S.

²⁰ Section 429.075, F.S.

²¹ Section 429.02(15), F.S. Optional State Supplementation is a cash assistance program. Its purpose is to supplement a person's income to help pay for costs in an assisted living facility, mental health residential treatment facility, or adult family care home, but it is not a Medicaid program. Dep't of Elder Affairs, *Florida Affordable Assisted Living: Optional State Supplementation (OSS)*, <http://elderaffairs.state.fl.us/faal/operator/statesupp.html> (last visited January 22, 2014).

²² Section 394.4574(2)(a), F.S., requires a mental health resident to be assessed by a psychiatrist, clinical psychologist, clinical social worker, psychiatric nurse, or an individual who is supervised by one of these professionals to determine whether it is appropriate for the person to reside in an ALF.

²³ Rule 58A-5.029(2)(c)3., F.A.C.

Department of Elder Affairs Rules

In addition to ch. 429, F.S., ALFs are also subject to regulation under Rule 58A-5 of the Florida Administrative Code (F.A.C.). These rules are adopted by the Department of Elder Affairs (DOEA) in consultation with the AHCA, the DCF, and the Department of Health (DOH).²⁴ In June 2012, the DOEA initiated a process of negotiated rulemaking to revise many of its rules regarding ALFs. After multiple meetings, a committee that consisted of agency staff, consumer advocates, and industry representatives voted on numerous changes to Rule 58A-5, F.A.C. On November 28, 2012, the DOEA issued a proposed rule and held several public hearings on the proposed rule.²⁵ In June 2013, the DOEA withdrew the proposed rule in order to get a revised Statement of Estimated Regulatory Costs, and it plans to move forward with the rule, including seeking ratification from the Legislature on the portions of the rule that require it.²⁶

ALF Staff Training

Administrators and Managers

Administrators and other ALF staff must meet minimum training and education requirements established in rule by the DOEA.²⁷ This training and education is intended to assist facilities in appropriately responding to the needs of residents, maintaining resident care and facility standards, and meeting licensure requirements.²⁸

The current ALF core training requirements established by the DOEA consist of a minimum of 26 hours of training and passing a competency test. Administrators and managers must successfully complete the core training requirements within 3 months after becoming a facility administrator or manager. The minimum passing score for the competency test is 75 percent.²⁹

Administrators and managers must participate in 12 hours of continuing education in topics related to assisted living every 2 years.³⁰ A newly hired administrator or manager, who has successfully completed the ALF core training and continuing education requirements, is not required to retake the core training. An administrator or manager, who has successfully completed the core training but has not maintained the continuing education requirements, must retake the ALF core training and retake the competency test.³¹

²⁴ Section 429.41(1), F.S.

²⁵ See Dep't of Elder Affairs, *Assisted Living Facility (ALF) Negotiated Rulemaking*, http://elderaffairs.state.fl.us/doea/alf_rulemaking.php (last visited November 18, 2013).

²⁶ Conversation with Adam Lovejoy, Legislative Affairs Director, Department of Elder Affairs with Committee on Judiciary staff (January 27, 2014).

²⁷ Rule 58A-5.0191, F.A.C. Many of the training requirements in rule may be subject to change due to the DOEA negotiated rulemaking process.

²⁸ Section 429.52(1), F.S.

²⁹ Administrators who have attended core training prior to July 1, 1997, and managers who attended the core training program prior to April 20, 1998, are not required to take the competency test. Administrators licensed as nursing home administrators in accordance with part II of chapter 468, F.S., are exempt from this requirement.

³⁰ 58A-5.0191(1)(c), F.A.C.

³¹ Rule 58A-5.0191, F.A.C.

Staff with Direct Care Responsibilities

Facility administrators or managers are required to provide or arrange for 6 hours of in-service training for facility staff who provide direct care to residents which covers various topics as mandated in rule.³² Staff training requirements must generally be met within 30 days after staff begin employment at the facility; however, staff must have at least 1 hour of infection control training before providing direct care to residents. Nurses, certified nursing assistants, and home health aides who are on staff with an ALF are exempt from many of the training requirements. In addition to the standard 6 hours of in-service training, staff must complete 1 hour of elopement training and 1 hour of training on do not resuscitate orders. The staff may be required to complete training on special topics such as self-administration of medication and Alzheimer's disease, if applicable.

ECC Specific Training

The administrator and ECC supervisor, if different from the administrator, must complete 4 hours of initial training in extended congregate care either prior to the facility receiving its ECC license or within 3 months after beginning employment in the facility as an administrator or ECC supervisor. The administrator and ECC supervisor must also complete a minimum of 4 hours of continuing education every 2 years in topics relating to the physical, psychological, or social needs of frail elderly and disabled persons, or persons having Alzheimer's disease or related disorders.³³

All direct care staff providing care to residents in an ECC program must complete at least 2 hours of in-service training, provided by the facility administrator or ECC supervisor, within 6 months after beginning employment in the facility. The training must address ECC concepts and requirements, including statutory and rule requirements and the delivery of personal care and supportive services in an ECC facility.³⁴

LMH Specific Training

Administrators, managers, and staff who have direct contact with mental health residents in a licensed LMH facility must receive a minimum of 6 hours of specialized training in working with individuals having mental health diagnoses and a minimum of 3 hours of continuing education dealing with mental health diagnoses or mental health treatment every 2 years.³⁵

Inspections and Surveys

The agency is required to conduct a survey, investigation, or monitoring visit of an ALF:

- Prior to the issuance of a license.
- Prior to biennial renewal of a license.
- When there is a change of ownership.
- To monitor facilities licensed to provide LNS or ECC services.

³² *Id*

³³ Rule 58A-5.0191(7)(a) and (b), F.A.C.

³⁴ Rule 58A-5.0191(7)(c), F.A.C.

³⁵ Section 429.075(1), F.S. and Rule 58A-5.0191(8), F.A.C.

- To monitor facilities cited in the previous year for a class I or class II, or four or more uncorrected class III, violations.³⁶
- Upon receipt of an oral or written complaint of practices that threaten the health, safety, or welfare of residents.
- If the AHCA has reason to believe a facility is violating a provision of part III of ch. 429, F.S., relating to adult day care centers, or an administrative rule.
- To determine if cited deficiencies have been corrected.
- To determine if a facility is operating without a license.³⁷

Abbreviated Surveys

An applicant for licensure renewal is eligible for an abbreviated biennial survey by the AHCA if the applicant does not have any:

- Class I, class II, or uncorrected class III violations.
- Confirmed complaints from the long-term care ombudsman council which were reported to the AHCA by the council.
- Confirmed licensing complaints within the two licensing periods immediately preceding the current renewal date.³⁸

An abbreviated survey allows for a quicker and less intrusive survey by narrowing the range of items the agency must inspect.³⁹ The agency must expand an abbreviated survey or conduct a full survey if violations that threaten or potentially threaten the health, safety, or security of residents are identified during an abbreviated survey.⁴⁰

Monitoring Visits

Facilities with LNS or ECC licenses are subject to monitoring visits by the AHCA in which the agency inspects the facility for compliance with the requirements of the specialty license. An LNS licensee is subject to monitoring inspections at least twice a year. At least one registered nurse must be included in the inspection team to monitor residents receiving services and to determine if the facility is complying with applicable regulatory requirements.⁴¹ An ECC licensee is subject to quarterly monitoring inspections. At least one registered nurse must be included in the inspection team. The agency may waive one of the required yearly monitoring visits for an ECC facility that has been licensed for at least 24 months, if the registered nurse who participated in the monitoring inspections determines that the ECC services are being provided appropriately and there are no serious violations or substantiated complaints about the quality of service or care.⁴²

³⁶ See “Violations and Penalties” subheading below for a description of the violations.

³⁷ See s. 429.34, F.S., and Rule 58A-5.033(1)(a), F.A.C.

³⁸ Rule 58A-5.033(2)(a), F.A.C.

³⁹ Rule 58A-5.033(2)(b), F.A.C.

⁴⁰ Rule 58A-5.033(2)(c), F.A.C.

⁴¹ Section 429.07(3)(c)2., F.S.

⁴² Section 429.07(3)(b)2., F.S.

Violations and Penalties

Part II of ch. 408, F.S., provides general licensure standards for all facilities regulated by the AHCA. Under s. 408.813, F.S., ALFs may be subject to administrative fines imposed by the AHCA for certain types of violations. Violations are categorized into four classes according to the nature of the violation and the gravity of its probable effect on residents:

- **Class I violations** are those conditions that the AHCA determines present an imminent danger to residents or a substantial probability of death or serious physical or emotional harm.
 - Examples include resident death due to medical neglect, risk of resident death due to inability to exit in an emergency, and the suicide of a mental health resident in an ALF licensed for limited mental health.
 - The agency must fine a facility between \$5,000 and \$10,000 for each class I violation.
 - During fiscal years 2011-2013, the AHCA entered 115 final orders for class I violations with an average fine amount of \$6,585 for facilities having fewer than 100 beds and \$7,454 for facilities having 100 or more beds.⁴³
- **Class II violations** are those conditions that the AHCA determines directly threaten the physical or emotional health, safety, or security of the clients.
 - Examples include no qualified staff in the facility, the failure to call 911 in a timely manner for resident in a semi-comatose state, and rodents in a food storage area.
 - The agency must fine a facility between \$1,000 and \$5,000 for each violation.
 - During fiscal years 2011-2013, the AHCA entered 749 final orders for class II violations with an average fine amount of \$1,542 for facilities having fewer than 100 beds and \$1,843 for facilities having 100 or more beds.
- **Class III violations** are those conditions that the AHCA determines indirectly or potentially threaten the physical or emotional health, safety, or security of clients.
 - Examples include missing or incomplete resident assessments, erroneous documentation of medication administration, and failure to correct unsatisfactory DOH Food Service inspection findings in a timely manner.
 - The agency must fine a facility between \$500 and \$1,000 for each violation, but no fine may be imposed if the facility corrects the violation.
 - During fiscal years 2011-2013, the AHCA entered 507 final orders for uncorrected class III violations with an average fine amount of \$766 for facilities having fewer than 100 beds and \$614 for facilities having 100 or more beds.
- **Class IV violations** are those conditions that do not have the potential of negatively affecting clients.
 - Examples include failure to file an adverse incident report, incorrect phone numbers posted for advocacy resources, and failure to post current menus.
 - The agency may fine a facility (between \$100 and \$200 for each violation) only if the problem is not corrected.

⁴³ Florida Agency for Health Care Administration, *2014 Agency Legislative Bill Analysis for SB 248* (November 26, 2013) (On file with the Senate Committee on Judiciary).

- During fiscal years 2011-2013, the AHCA entered 18 final orders for uncorrected class IV violations with an average fine amount of \$165 for facilities having fewer than 100 beds and \$100 for facilities having 100 or more beds.^{44,45,46}

In addition to financial penalties, the AHCA can take other actions against a facility. The agency may deny, revoke, and suspend any license for any of the actions listed in s. 429.14(1)(a)-(k), F.S. The agency is required to deny or revoke the license of an ALF that has two or more class I violations that are similar to violations identified during a survey, inspection, monitoring visit, or complaint investigation occurring within the previous 2 years.⁴⁷ The agency may also impose an immediate moratorium or emergency suspension on any provider if it determines that any condition that presents a threat to the health, safety, or welfare of a client.⁴⁸ The agency is required to publicly post notification of a license suspension, revocation, or denial of a license renewal, at the facility.⁴⁹ Finally, ch. 825, F.S., Florida's Criminal Code, provides criminal penalties for the abuse, neglect, and exploitation of elderly persons⁵⁰ and disabled adults.⁵¹

Central Abuse Hotline

The department is required under s. 415.103, F.S., to establish and maintain a central abuse hotline to receive reports, in writing or through a single statewide toll-free telephone number, of known or suspected abuse, neglect, or exploitation of a vulnerable adult⁵² at any hour of the day or night, any day of the week.⁵³ Persons listed in s. 415.1034, F.S., who know, or have reasonable cause to suspect, that a vulnerable adult has been or is being abused, neglected, or exploited are required to immediately report such knowledge or suspicion to the central abuse hotline.⁵⁴

⁴⁴ When fixing the amount of the fine, AHCA must consider the following factors: the gravity of the violation and the extent to which any laws or rules were violated, actions taken to correct the violations, any previous violations, the financial benefit of committing or continuing the violation, and the licensed capacity of the facility. Section 429.19(3), F.S.

⁴⁵ Section 429.19(2), F.S.

⁴⁶ Florida Agency for Health Care Administration, *2014 Agency Legislative Bill Analysis for SB 248* (November 26, 2013) (On file with the Senate Committee on Judiciary).

⁴⁷ Section 429.14(4), F.S.

⁴⁸ Section 408.814, F.S.

⁴⁹ Section 429.14(7), F.S.

⁵⁰ "Elderly person" means a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction, to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired. Section 825.101(5), F.S. It does not constitute a defense to a prosecution for any violation of this chapter that the accused did not know the age of the victim. Section 825.104, F.S.

⁵¹ "Disabled adult" means a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living. Section 825.101(4), F.S.

⁵² "Vulnerable adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. Section 415.102(27), F.S.

⁵³ The central abuse hotline is operated by the DCF to accept reports for investigation when there is a reasonable cause to suspect that a vulnerable adult has been or is being abused, neglected, or exploited; determine whether the allegations require an immediate, 24-hour, or next-working-day response priority; when appropriate, refer calls that do not allege the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might better resolve the reporter's concerns; immediately identify and locate prior reports of abuse, neglect, or exploitation through the central abuse hotline. Section 415.103(1), F.S.

⁵⁴ Section 415.1034, F.S.

Florida's Long-Term Care Ombudsman Program

The Federal Older Americans Act (OAA) requires each state to create a Long-Term Care Ombudsman Program to be eligible to receive funding associated with programs under the OAA.⁵⁵ In Florida, the program is a statewide, volunteer-based system of district councils that protect, defend, and advocate on behalf of long-term care facility residents, including residents of nursing homes, ALFs, and adult family-care homes. The ombudsman program is administratively housed in the DOEA and is headed by the State Long-Term Care Ombudsman, who is appointed by the DOEA Secretary.⁵⁶ The ombudsman program is required to establish a statewide toll-free telephone number for receiving complaints concerning matters adversely affecting the health, safety, welfare, or rights of residents of ALFs, nursing homes, and adult family care homes. Every resident or representative of a resident must receive, upon admission to a long-term care facility, information regarding the program and the statewide toll-free telephone number for receiving complaints.⁵⁷ The names or identities of the complainants or residents involved in a complaint, including any problem identified by an ombudsman council as a result of an investigation, are confidential and exempt from Florida's public records laws, unless the complainant or resident, or the legal representative of the complainant or resident, consents to the disclosure, or the disclosure is required by court order.⁵⁸ In addition to investigating and resolving complaints, ombudsmen conduct unannounced visits to assess the quality of care in facilities, referred to as administrative assessments.

Consumer Information

Section 400.191, F.S., requires the AHCA to provide information to the public about all licensed nursing homes in the state. The information must be provided in a consumer-friendly electronic format to assist consumers and their families in comparing and evaluating nursing homes. Under s. 400.191(2), F.S., the agency must provide an Internet site that includes information such as a list by name and address of all nursing homes in the state, the total number of beds in each facility, and survey and deficiency information. Additional information that the agency may provide on the site includes the licensure status history of each facility, the rating history of each facility, and the regulatory history of each facility.

There is no similar requirement in law to provide certain consumer information to the public on the licensed ALFs in the state.

The Miami Herald Articles and the Governor's Assisted Living Workgroup

Beginning on April 30, 2011, the Miami Herald published a four-part series, titled "Neglected to Death," which detailed abuses occurring in ALFs and the state regulatory responses to such cases. The paper spent a year examining thousands of state inspections, police reports, court cases, autopsy files, e-mails, and death certificates and conducting dozens of interviews with operators and residents throughout Florida. The series detailed examples of abuses, neglect, and

⁵⁵ 42 U.S.C. 3058, et. seq.. See also s. 400.0061(1), F.S.

⁵⁶ Section 400.0063, F.S.

⁵⁷ Section 400.0078(2), F.S.

⁵⁸ Section 400.0077(1)(b), F.S.

even death that took place in facilities.⁵⁹ The series also criticized the state's regulatory and law enforcement agencies' responses to the problems. The paper concluded that the state's agencies, and in particular the AHCA, failed to enforce existing laws designed to protect Florida's citizens who reside in ALFs.⁶⁰

Soon after the Miami Herald series, Governor Rick Scott vetoed HB 4045,⁶¹ which reduced requirements relating to ALFs. The Governor then directed the AHCA to form a task force for the purpose of examining current assisted living regulations and oversight.⁶² The task force referred to as the Assisted Living Workgroup, held meetings and produced two reports, one in August of 2011 and one in October of 2012. In addition to public testimony and presentations, the Assisted Living Workgroup focused on assisted living regulation, consumer information and choice, and long term care services and access.⁶³ The workgroup made numerous recommendations in its two reports.⁶⁴

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 394.4574, F.S., to clarify that Medicaid managed care plans are responsible for enrolled state supported mental health residents and that managing entities under contract with the DCF are responsible for mental health residents who are not enrolled with a Medicaid managed care plan. This section requires a mental health resident's community living support plan to be updated when there is a significant change to the resident's behavioral health status. The resident's case manager must keep a 2-year record of any face-to-face interaction with the resident. Finally, this section charges the entity responsible for a mental health resident to ensure that there is adequate and consistent monitoring of the community living support plan and to report any concerns about a regulated provider failing to provide services or otherwise acting in a manner with the potential to cause harm to the resident.

⁵⁹ Rob Barry, Michael Sallah and Carol Marbin Miller, *Neglected to Death, Parts 1-3*, THE MIAMI HERALD, April 30, 2011 available at <http://www.miamiherald.com/2011/04/30/2194842/once-pride-of-florida-now-scenes.html> and <http://www.miamiherald.com/2011/05/03/2199747/key-medical-logs-doctored-missing.html> (see left side of article to access weblinks to the three-part series) (Last visited on January 27, 2014).

⁶⁰ *Id.*

⁶¹ House Bill 4045 (2011) repealed a requirement for the annual dissemination of a list of ALFs that had been sanctioned or fined, a requirement for an ALF to report monthly any liability claims filed against it, a requirement to disseminate the results of the inspection of each ALF, provisions concerning rule promulgation for ALFs by the DOEA, provisions concerning the collection of information regarding the cost of care in ALFs, and the authority for local governments or organizations to contribute to the cost of care of local facility residents.

⁶² Membership details of the task force are available at Fla. Agency for Health Care Admin., *Assisted Living Workgroup Members*, <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/wgmembers.shtml> (last visited January 27, 2014).

⁶³ See Fla. Agency for Health Care Admin., *Assisted Living Workgroup, Phase I*, <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/archived/ALWG2011.shtml> (last visited January 27, 2014); Fla. Agency for Health Care Admin., *Assisted Living Workgroup, Phase II*, <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/index.shtml> (last visited January 27, 2014).

⁶⁴ See Fla. Agency for Health Care Admin., *Florida Assisted Living Workgroup, Phase II Recommendations* (January 27, 2014), <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/docs/ALF-FinalReportandRecommendationsPhaseII.pdf> (last visited January 27, 2014); Fla. Agency for Health Care Admin., *Florida Assisted Living Workshop, Final Report and Recommendations*, <http://ahca.myflorida.com/SCHS/CommitteesCouncils/ALWG/archived/docs/2011/ALWorkgroupFinalReport.pdf> (last visited January 27, 2014).

Section 2 of the bill amends s. 400.0074, F.S., to require the Long-Term Care Ombudsman Program's administrative assessments of facilities be comprehensive in nature. This section also requires ombudsmen to conduct an exit consultation with the facility administrator to discuss issues and concerns from the visit.

Section 3 of the bill amends s. 400.0078, F.S., to require an ALF to include a statement that retaliatory action cannot be taken against a resident for presenting grievances when that ALF provides the required information to new residents upon admission to the facility about the purpose of the Long-Term Care Ombudsman Program.

Section 4 of the bill amends s. 429.07, F.S., to make changes to improve the regulation of facilities with ECC and LNS specialty licenses. These changes include:

- Requiring that an ALF be licensed for 2 or more years before being issued a full ECC license.
- Clarifying under what circumstances the AHCA may deny or revoke a facility's ECC license.
- Creating a provisional ECC license for ALFs that have been licensed for less than 2 years.
 - The provisional license lasts for a period of 6 months.
 - The facility must inform the AHCA when it has admitted one or more residents requiring ECC services, after which the AHCA must inspect the facility for compliance with the requirements of the ECC license.
 - If the licensee demonstrates compliance with the requirements of an ECC license, the AHCA must grant the facility a full ECC license.
 - If the licensee fails to demonstrate compliance with the requirements of an ECC license or fails to admit an ECC resident within 3 months, the provisional ECC license expires.
- Reducing monitoring visits for facilities with ECC licenses from quarterly to twice a year, and for facilities with LNS licenses from twice a year to once a year.
- Clarifying under what circumstances the AHCA may waive one of the required monitoring visits for facilities with ECC licenses and also allowing the AHCA to waive the required monitoring visit for facilities with an LNS license under the same conditions.

Section 5 of the bill amends s. 429.075, F.S., to require facilities having one or more state supported mental health residents to obtain a LMH license. Current law requires an ALF to obtain an LMH license only if it has have three or more state supported mental health residents.

Section 6 of the bill amends s. 429.14, F.S., to clarify the use of administrative penalties, to:

- Allow the AHCA to revoke, rather than only deny,⁶⁵ a facility's or a controlling interest's license if that facility or controlling interest has, or had, a 25 percent or greater financial or ownership interest in a second facility that closed due to financial inability to operate or was the subject of other specified administrative sanctions.
- Add additional criteria under which the AHCA must deny or revoke a facility's license.

⁶⁵ Denial of a license occurs when the Agency refuses to renew the facilities license at the end of the 2-year period the license was issued for.

- Require that the AHCA impose an immediate moratorium on a facility that fails to provide the AHCA with access to the facility, prohibits a regulatory inspection, denies access to records, or prohibits the confidential interview of facility staff or residents.

This section of the bill also clarifies that if a facility is required to relocate its residents due to agency action, the facility does not have to give residents 45 days' notice as required under s. 429.28(1)(k), F.S.

Section 7 of the bill amends s. 429.178, F.S., to make technical changes and to conform to changes to other parts of the bill.

Section 8 of the bill amends s. 429.19, F.S., relating to the impositions of fines. Specifically, the bill:

- Sets the dollar amount of fines for facilities having fewer than 100 beds at \$7,500 for class I violations, \$3,000 for class II violations, \$750 for class III violations, and \$150 for class IV violations. This is the midpoint of the current ranges for fines in current law.
- Sets the dollar amount of fines for facilities having 100 or more beds at \$11,250 for class I violations, \$4,500 for class II violations, \$1,125 for class III violations, and \$225 for class IV violations. These fines are 1.5 times the amount of the fines for facilities having fewer than 100 beds.
- Requires the AHCA to impose a fine on a facility for a class I violation, even if the facility corrects the violation before the AHCA conducts an investigation. Facilities can still challenge such fines through an administrative hearing pursuant to ch. 120, F.S.
- Doubles the fines for facilities with repeat class I and class II violations.
- Imposes a fine on facilities with repeat class III and class IV violations, regardless of correction. Current law prohibits the AHCA from assessing fines for corrected class III and class IV violations. Current law will still apply for the first class III or class IV violation.
- Doubles the fines for class III or class IV violations if a facility is cited for one or more such violations, stemming from the same regulation, upon the third licensure inspection if it was previously cited for the same violations over the course of the last two licensure inspections.
- Substitutes a fine of \$500 for failure to comply with background screening requirements. This fine will take the place of any fine assessed based on the class of violation.

Section 9 of the bill amends s. 429.256, F.S., to allow unlicensed staff to assist with several additional services that fall under the category of assistance with self-administration of medication. Specifically, unlicensed staff will be allowed to assist with:

- Taking a prefilled insulin syringe to a resident.
- The resident's use of a nebulizer, including removing the cap of a nebulizer, opening the unit dose of nebulizer solution, and pouring the prescribed premeasured dose into the dispensing cup.
- The resident's use of a glucometer to perform blood-glucose level checks.
- Putting on and taking off antiembolism stockings.
- Applying and removing an oxygen cannula, but not titrating the oxygen levels.

- The resident's use of a continuous positive airway pressure device, but not titrating the device.
- Measuring vital signs.
- The resident's use of colostomy bags.

Section 10 of the bill amends s. 429.28, F.S., to require the posted notice of a resident's rights, obligations, and prohibitions, to specify that complaints made to the ombudsman program, as well as the names and identities of the complainant and any residents involved, are confidential. This section also creates a fine of \$2,500, which is imposed if a facility cannot show good cause in state court for terminating the residency of an individual who has exercised an enumerated right.

Section 11 amends s. 429.34, F.S., to require certain state officials, such as Medicaid Fraud investigators and state or local fire marshals, to report any knowledge or reasonable suspicion that a vulnerable adult has been or is being abused, neglected, or exploited to the DCF central abuse hotline. The bill provides that a facility having one or more class I violations, two or more class II violations arising from separate surveys within a 60-day period, or two or more unrelated class II violations cited during one survey be subject to an additional inspection within 6 months. The licensee must pay a fee to the AHCA to cover the cost of the additional inspection.

Section 12 of the bill amends s. 429.41, F.S., to provide that if a continuing care facility or a retirement community licenses part of a building for ALF services the staffing requirements established in rule apply only to the residents receiving assisted living services.

Section 13 of the bill amends s. 429.52, F.S., to require that facilities provide a 2-hour pre-service orientation for all new facility employees who have not previously completed core training. The pre-service orientation must cover topics that help the employee provide responsible care and respond to the needs of the residents. The employee and the facility's administrator must sign a statement that the new ALF staff member has completed the pre-service orientation. The signed statement must be kept in that staff member's file. The bill clarifies that the pre-service orientation can be provided by the ALF instead of requiring that it be provided by a trainer registered with the DOEA.

The bill also increases the training requirements for staff who assist residents with medication from 4 to 6 hours.

Section 14 of the bill creates a new, unnumbered section of the Florida Statutes which requires the OPPAGA to conduct a study of inter-surveyor reliability to determine if different surveyors consistently apply licensure standards. The OPPAGA must report its findings and make recommendations to the Governor, the President of the Senate, and the Speaker of the House by November 1, 2014.

Section 15 of the bill creates a new, unnumbered section of the Florida Statutes which finds that consumers need additional information in order to select an ALF. To facilitate this, the bill requires the AHCA to implement a rating system for ALFs by March 1, 2015. This section also requires the AHCA to create a consumer guide website with information on ALFs by November 1, 2014. At a minimum, the website must include:

- Information on each licensed ALF such as the number and type of licensed beds, the types of licenses held by the facility, and the expiration date of the facility's license.
- A list of the facility's violations including a summary of the violation, any sanctions imposed, and the date of any corrective action taken by the facility.
- Links to inspection reports.
- A monitored comment page to help inform consumers of the quality and care of services in ALFs. The comment page must allow members of the public to post comments on their experiences with, or observations of, an ALF. A controlling interest in an ALF or an employee or owner of an ALF may not post comments on the page; however, a controlling interest, employee, or owner may respond to comments on the page, and the AHCA shall ensure that the responses are identified as being from a representative of the facility.

Section 16 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:

CS/SB 248 requires the AHCA to conduct a new survey of an ALF within 6 months after finding a class I violation or two or more class II violations. Facilities that require the additional survey will be charged a fee to cover the cost of the additional survey. According to the AHCA, current fees and fines from ALFs do not cover the cost of regulating such facilities statewide.

B. Private Sector Impact:

The bill revises the fine amounts for each of the four classes of violations. Specifically, the bill sets the dollar amount of fines for facilities having fewer than 100 beds at \$7,500 for class I violations, \$3,000 for class II violations, \$750 for class III violations, and \$150 for class IV violations. Current law provides for a range of fine amounts, for example a facility cited for a class I violation can be fined between \$5,000 and \$10,000. Fines are multiplied by 1.5 for facilities having 100 or more beds to help resolve an inequity in penalties whereby small facilities can pay the same fine amount as much larger facilities.

Fixing the fine amounts at the mid-point of each range will provide for more predictable outcomes for facilities that are cited for violations.

Additionally, the bill provides for the following changes to the fine amounts:

- A \$2,500 fine if a facility removes a resident without cause, as determined by a state court.
- A doubling of fines for class I or II violations if the facility was previously cited for one or more class I or II violations during the last licensure inspection.
- An imposition of a fine for class I violations regardless of whether they were corrected prior to being cited by the Agency.

The AHCA estimates that the new fine structure will initially cost facilities cited for violations a total of approximately \$1.3 million per year. However, these increased costs could be reduced by increased compliance with ALF regulations and a corresponding reduction in the number of cited violations.⁶⁶

All fines are subject to challenge through an administrative hearing under ch. 120, F.S.

Facilities having significant uncorrected violations will be more likely to see their licenses suspended or revoked under the bill. Closing facilities having significant problems will improve the public's assessment of ALFs and may improve the financial success of those facilities that meet licensure standards.

Facilities having any state supported mental health residents will need to meet limited mental health licensure requirements. Facilities that currently have fewer than three state supported mental health residents and do not meet these requirements may see increased costs to comply.

Facilities with specialty licenses that meet licensure standards will have fewer monitoring visits from the AHCA. This will positively impact the facilities as they will have less interruption of staff time due to such visits.

The bill requires facilities to provide all new employees who have not already gone through the ALF core training program with a 2-hour pre-service training session before they work with residents. Additionally, the bill increases the training requirements for staff who assist residents with medication from 4 to 6 hours. The cost of both of these training requirements is not expected to be significant.

C. Government Sector Impact:

The AHCA estimates that the bill will generate approximately \$1.1 million of additional net revenues for the agency per year which could be available to cover any additional costs generated by the bill. According to the agency, there will be approximately

⁶⁶ Florida Agency for Health Care Administration, 2014 Agency Legislative Bill Analysis for SB 248, (November 26, 2013) (On file with the Senate Committee on Judiciary).

\$100,000 of start-up costs to implement the ALF website and rating system and approximately \$250,000 of yearly recurring costs due to new FTE and contract positions.⁶⁷ These costs will likely be offset, and additional revenue will likely be generated, through the increased fines. The agency estimates, based on the number of violations cited over the past 2 years, that the new fine structure in the bill will generate approximately \$1.3 million additional revenue per year. However, this amount could decrease if the new fine amounts result in increased compliance and fewer cited violations.⁶⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 394.4574, 400.0074, 400.0078, 429.07, 429.075, 429.14, 429.178, 429.19, 429.256, 429.28, 429.34, 429.41, and 429.52.

The bill creates two new undesignated sections of Florida law.

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 Health Policy on January 8, 2014:

The CS amends SB 248 to:

- Delete language related to flexible bed licenses while retaining language clarifying that a continuing care facility or retirement community which licenses a part of a building for ALF services must only comply with ALF staffing requirements for those residents who are receiving ALF services;
- Require an ALF administrator to sign a statement, rather than attest under penalty of perjury, that a new employee has completed a pre-service orientation;
- Change the date by which the AHCA must implement a rating system for ALFs from November 1, 2014 to March 1, 2015;
- Change the date by which the AHCA must create a website with ALF content from January 1, 2015 to November 1, 2014;
- Require the AHCA to post the date that an ALF corrects a cited violation, rather than a summary of the corrective action taken;

⁶⁷ AHCA will require one new Health Services and Facilities Consultant FTE position to create and monitor the comment page created in section 17 and two new senior attorney FTE positions to process these additional legal cases resulting from an increased number of administrative fines. *Id.* pg. 18.

⁶⁸ *Id.*

- Rename “Medicaid prepaid behavioral health plans” to “Medicaid managed care plans;” and
- Clarify:
 - That a provisional ECC license expires if the ALF fails to admit an ECC resident within 3 months after receiving the provisional license;
 - That ombudsman council complaints resulting in licensure citations need not be confirmed before they require the AHCA to perform the full number of licensure inspections for ECC and LNS licenses.
 - Language requiring the AHCA to impose fines for class I violations that are corrected before a licensure inspection.
 - That assisting a resident with applying and removing an oxygen cannula or a CPAP device does not include titrating the cannula or device.

B. Amendments:

None.



535422

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/04/2014	.	
	.	
	.	
	.	

The Committee on Judiciary (Bradley) recommended the following:

- 1 **Senate Amendment**
- 2
- 3 Delete lines 1033 - 1049.

By the Committees on Health Policy; and Children, Families, and Elder Affairs

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1 A bill to be entitled
2 An act relating to assisted living facilities;
3 amending s. 394.4574, F.S.; providing that Medicaid
4 managed care plans are responsible for enrolled mental
5 health residents; providing that managing entities
6 under contract with the Department of Children and
7 Families are responsible for mental health residents
8 who are not enrolled with a Medicaid managed care
9 plan; deleting a provision to conform to changes made
10 by the act; requiring that the community living
11 support plan be completed and provided to the
12 administrator of a facility upon the mental health
13 resident's admission; requiring the community living
14 support plan to be updated when there is a significant
15 change to the mental health resident's behavioral
16 health; requiring the case manager assigned to a
17 mental health resident of an assisted living facility
18 that holds a limited mental health license to keep a
19 record of the date and time of face-to-face
20 interactions with the resident and to make the record
21 available to the responsible entity for inspection;
22 requiring that the record be maintained for a
23 specified time; requiring the responsible entity to
24 ensure that there is adequate and consistent
25 monitoring and enforcement of community living support
26 plans and cooperative agreements and that concerns are
27 reported to the appropriate regulatory oversight
28 organization under certain circumstances; amending s.
29 400.0074, F.S.; requiring that an administrative

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30 assessment conducted by a local council be
31 comprehensive in nature and focus on factors affecting
32 the rights, health, safety, and welfare of residents
33 in the facilities; requiring a local council to
34 conduct an exit consultation with the facility
35 administrator or administrator designee to discuss
36 issues and concerns in areas affecting the rights,
37 health, safety, and welfare of residents and make
38 recommendations for improvement; amending s. 400.0078,
39 F.S.; requiring that a resident or a representative of
40 a resident of a long-term care facility be informed
41 that retaliatory action cannot be taken against a
42 resident for presenting grievances or for exercising
43 any other resident right; amending s. 429.07, F.S.;
44 revising the requirement that an extended congregate
45 care license be issued to certain facilities that have
46 been licensed as assisted living facilities under
47 certain circumstances and authorizing the issuance of
48 such license if a specified condition is met;
49 providing the purpose of an extended congregate care
50 license; providing that the initial extended
51 congregate care license of an assisted living facility
52 is provisional under certain circumstances; requiring
53 a licensee to notify the Agency for Health Care
54 Administration if it accepts a resident who qualifies
55 for extended congregate care services; requiring the
56 agency to inspect the facility for compliance with the
57 requirements of an extended congregate care license;
58 requiring the issuance of an extended congregate care

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59 license under certain circumstances; requiring the
60 licensee to immediately suspend extended congregate
61 care services under certain circumstances; requiring a
62 registered nurse representing the agency to visit the
63 facility at least twice a year, rather than quarterly,
64 to monitor residents who are receiving extended
65 congregate care services; authorizing the agency to
66 waive one of the required yearly monitoring visits
67 under certain circumstances; authorizing the agency to
68 deny or revoke a facility's extended congregate care
69 license; requiring a registered nurse representing the
70 agency to visit the facility at least annually, rather
71 than twice a year, to monitor residents who are
72 receiving limited nursing services; providing that
73 such monitoring visits may be conducted in conjunction
74 with other inspections by the agency; authorizing the
75 agency to waive the required yearly monitoring visit
76 for a facility that is licensed to provide limited
77 nursing services under certain circumstances; amending
78 s. 429.075, F.S.; requiring that an assisted living
79 facility that serves one or more mental health
80 residents, rather than three or more residents, obtain
81 a limited mental health license; amending s. 429.14,
82 F.S.; revising the circumstances under which the
83 agency may deny, revoke, or suspend the license of an
84 assisted living facility and impose an administrative
85 fine; requiring the agency to deny or revoke the
86 license of an assisted living facility under certain
87 circumstances; requiring the agency to impose an

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88 immediate moratorium on the license of an assisted
89 living facility under certain circumstances; deleting
90 a provision requiring the agency to provide a list of
91 facilities with denied, suspended, or revoked licenses
92 to the Department of Business and Professional
93 Regulation; exempting a facility from the 45-day
94 notice requirement if it is required to relocate some
95 or all of its residents; amending s. 429.178, F.S.;
96 conforming cross-references; amending s. 429.19, F.S.;
97 revising the amounts and uses of administrative fines;
98 requiring the agency to levy a fine for violations
99 that are corrected before an inspection if
100 noncompliance occurred within a specified period of
101 time; deleting factors that the agency is required to
102 consider in determining penalties and fines; amending
103 s. 429.256, F.S.; revising the term "assistance with
104 self-administration of medication" as it relates to
105 the Assisted Living Facilities Act; amending s.
106 429.28, F.S.; providing notice requirements to inform
107 facility residents that the identity of the resident
108 and complainant in any complaint made to the State
109 Long-Term Care Ombudsman Program or a local long-term
110 care ombudsman council is confidential and that
111 retaliatory action may not be taken against a resident
112 for presenting grievances or for exercising any other
113 resident right; requiring that a facility that
114 terminates an individual's residency after the filing
115 of a complaint be fined if good cause is not shown for
116 the termination; amending s. 429.34, F.S.; requiring

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117 certain persons to report elder abuse in assisted
118 living facilities; requiring the agency to regularly
119 inspect every licensed assisted living facility;
120 requiring the agency to conduct more frequent
121 inspections under certain circumstances; requiring the
122 licensee to pay a fee for the cost of additional
123 inspections; requiring the agency to annually adjust
124 the fee; amending s. 429.41, F.S.; providing that
125 certain staffing requirements apply only to residents
126 in continuing care facilities who are receiving
127 relevant services; amending s. 429.52, F.S.; requiring
128 each newly hired employee of an assisted living
129 facility to attend a preservice orientation provided
130 by the assisted living facility; requiring the
131 employee and administrator to sign a statement that
132 the employee completed the required preservice
133 orientation and keep the signed statement in the
134 employee's personnel record; requiring 2 additional
135 hours of training for assistance with medication;
136 conforming a cross-reference; requiring the Office of
137 Program Policy Analysis and Government Accountability
138 to study the reliability of facility surveys and
139 submit to the Governor and the Legislature its
140 findings and recommendations; requiring the agency to
141 implement a rating system of assisted living
142 facilities by a specified date, adopt rules, and
143 create content for the agency's website that makes
144 available to consumers information regarding assisted
145 living facilities; providing criteria for the content;

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146 providing an effective date.

147
148 Be It Enacted by the Legislature of the State of Florida:

149
150 Section 1. Section 394.4574, Florida Statutes, is amended
151 to read:

152 394.4574 ~~Department~~ Responsibilities for coordination of
153 services for a mental health resident who resides in an assisted
154 living facility that holds a limited mental health license.-

155 (1) As used in this section, the term "mental health
156 resident" ~~"mental health resident," for purposes of this~~
157 ~~section,~~ means an individual who receives social security
158 disability income due to a mental disorder as determined by the
159 Social Security Administration or receives supplemental security
160 income due to a mental disorder as determined by the Social
161 Security Administration and receives optional state
162 supplementation.

163 (2) Medicaid managed care plans are responsible for
164 Medicaid-enrolled mental health residents, and managing entities
165 under contract with the department are responsible for mental
166 health residents who are not enrolled in a Medicaid health plan.
167 A Medicaid managed care plan or a managing entity, as
168 appropriate, shall ~~The department must~~ ensure that:

169 (a) A mental health resident has been assessed by a
170 psychiatrist, clinical psychologist, clinical social worker, or
171 psychiatric nurse, or an individual who is supervised by one of
172 these professionals, and determined to be appropriate to reside
173 in an assisted living facility. The documentation must be
174 provided to the administrator of the facility within 30 days

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175 after the mental health resident has been admitted to the
176 facility. An evaluation completed upon discharge from a state
177 mental hospital meets the requirements of this subsection
178 related to appropriateness for placement as a mental health
179 resident if it was completed within 90 days before ~~prior to~~
180 admission to the facility.

181 (b) A cooperative agreement, as required in s. 429.075, is
182 developed by ~~between~~ the mental health care services provider
183 that serves a mental health resident and the administrator of
184 the assisted living facility with a limited mental health
185 license in which the mental health resident is living. ~~Any~~
186 ~~entity that provides Medicaid prepaid health plan services shall~~
187 ~~ensure the appropriate coordination of health care services with~~
188 ~~an assisted living facility in cases where a Medicaid recipient~~
189 ~~is both a member of the entity's prepaid health plan and a~~
190 ~~resident of the assisted living facility. If the entity is at~~
191 ~~risk for Medicaid targeted case management and behavioral health~~
192 ~~services, the entity shall inform the assisted living facility~~
193 ~~of the procedures to follow should an emergent condition arise.~~

194 (c) The community living support plan, as defined in s.
195 429.02, has been prepared by a mental health resident and his or
196 her ~~a~~ mental health case manager ~~of that resident~~ in
197 consultation with the administrator of the facility or the
198 administrator's designee. The plan must be completed and
199 provided to the administrator of the assisted living facility
200 with a limited mental health license in which the mental health
201 resident lives upon the resident's admission. The support plan
202 and the agreement may be in one document.

203 (d) The assisted living facility with a limited mental

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204 health license is provided with documentation that the
205 individual meets the definition of a mental health resident.

206 (e) The mental health services provider assigns a case
207 manager to each mental health resident for whom the entity is
208 responsible ~~who lives in an assisted living facility with a~~
209 ~~limited mental health license~~. The case manager shall coordinate
210 ~~is responsible for coordinating~~ the development ~~of~~ and
211 implementation of the community living support plan defined in
212 s. 429.02. The plan must be updated at least annually, or when
213 there is a significant change in the resident's behavioral
214 health status, such as an inpatient admission or a change in
215 medication, level of service, or residence. Each case manager
216 shall keep a record of the date and time of any face-to-face
217 interaction with the resident and make the record available to
218 the responsible entity for inspection. The record must be
219 retained for at least 2 years after the date of the most recent
220 interaction.

221 (f) Adequate and consistent monitoring and enforcement of
222 community living support plans and cooperative agreements are
223 conducted by the resident's case manager.

224 (g) Concerns are reported to the appropriate regulatory
225 oversight organization if a regulated provider fails to deliver
226 appropriate services or otherwise acts in a manner that has the
227 potential to result in harm to the resident.

228 (3) The Secretary of Children and Families ~~Family Services~~,
229 in consultation with the Agency for Health Care Administration,
230 shall ~~annually~~ require each district administrator to develop,
231 with community input, a detailed annual plan that demonstrates
232 ~~detailed plans that demonstrate~~ how the district will ensure the

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233 provision of state-funded mental health and substance abuse
234 treatment services to residents of assisted living facilities
235 that hold a limited mental health license. This plan ~~These plans~~
236 must be consistent with the substance abuse and mental health
237 district plan developed pursuant to s. 394.75 and must address
238 case management services; access to consumer-operated drop-in
239 centers; access to services during evenings, weekends, and
240 holidays; supervision of the clinical needs of the residents;
241 and access to emergency psychiatric care.

242 Section 2. Subsection (1) of section 400.0074, Florida
243 Statutes, is amended, and paragraph (h) is added to subsection
244 (2) of that section, to read:

245 400.0074 Local ombudsman council onsite administrative
246 assessments.—

247 (1) In addition to any specific investigation conducted
248 pursuant to a complaint, the local council shall conduct, at
249 least annually, an onsite administrative assessment of each
250 nursing home, assisted living facility, and adult family-care
251 home within its jurisdiction. This administrative assessment
252 must be comprehensive in nature and must ~~shall~~ focus on factors
253 affecting residents' ~~the~~ rights, health, safety, and welfare ~~of~~
254 ~~the residents~~. Each local council is encouraged to conduct a
255 similar onsite administrative assessment of each additional
256 long-term care facility within its jurisdiction.

257 (2) An onsite administrative assessment conducted by a
258 local council shall be subject to the following conditions:

259 (h) The local council shall conduct an exit consultation
260 with the facility administrator or administrator designee to
261 discuss issues and concerns in areas affecting residents'

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262 rights, health, safety, and welfare and, if needed, make
263 recommendations for improvement.

264 Section 3. Subsection (2) of section 400.0078, Florida
265 Statutes, is amended to read:

266 400.0078 Citizen access to State Long-Term Care Ombudsman
267 Program services.—

268 (2) ~~Every resident or representative of a resident shall~~
269 ~~receive,~~ Upon admission to a long-term care facility, each
270 resident or representative of a resident must receive
271 information regarding the purpose of the State Long-Term Care
272 Ombudsman Program, the statewide toll-free telephone number for
273 receiving complaints, information that retaliatory action cannot
274 be taken against a resident for presenting grievances or for
275 exercising any other resident right, and other relevant
276 information regarding how to contact the program. Each resident
277 or his or her representative ~~Residents or their representatives~~
278 must be furnished additional copies of this information upon
279 request.

280 Section 4. Paragraphs (b) and (c) of subsection (3) of
281 section 429.07, Florida Statutes, are amended to read:

282 429.07 License required; fee.—

283 (3) In addition to the requirements of s. 408.806, each
284 license granted by the agency must state the type of care for
285 which the license is granted. Licenses shall be issued for one
286 or more of the following categories of care: standard, extended
287 congregate care, limited nursing services, or limited mental
288 health.

289 (b) An extended congregate care license shall be issued to
290 each facility that has been licensed as an assisted living

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291 facility for 2 or more years and that provides services
292 ~~facilities providing~~, directly or through contract, ~~services~~
293 beyond those authorized in paragraph (a), including services
294 performed by persons licensed under part I of chapter 464 and
295 supportive services, as defined by rule, to persons who would
296 otherwise be disqualified from continued residence in a facility
297 licensed under this part. An extended congregate care license
298 may be issued to a facility that has a provisional extended
299 congregate care license and meets the requirements for licensure
300 under subparagraph 2. The primary purpose of extended congregate
301 care services is to allow residents the option of remaining in a
302 familiar setting from which they would otherwise be disqualified
303 for continued residency as they become more impaired. A facility
304 licensed to provide extended congregate care services may also
305 admit an individual who exceeds the admission criteria for a
306 facility with a standard license, if he or she is determined
307 appropriate for admission to the extended congregate care
308 facility.

309 1. In order for extended congregate care services to be
310 provided, the agency must first determine that all requirements
311 established in law and rule are met and must specifically
312 designate, on the facility's license, that such services may be
313 provided and whether the designation applies to all or part of
314 the facility. This ~~Such~~ designation may be made at the time of
315 initial licensure or licensure renewal ~~relicensure~~, or upon
316 request in writing by a licensee under this part and part II of
317 chapter 408. The notification of approval or the denial of the
318 request shall be made in accordance with part II of chapter 408.
319 Each existing facility that qualifies ~~facilities qualifying~~ to

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320 provide extended congregate care services must have maintained a
321 standard license and may not have been subject to administrative
322 sanctions during the previous 2 years, or since initial
323 licensure if the facility has been licensed for less than 2
324 years, for any of the following reasons:

325 a. A class I or class II violation;

326 b. Three or more repeat or recurring class III violations
327 of identical or similar resident care standards from which a
328 pattern of noncompliance is found by the agency;

329 c. Three or more class III violations that were not
330 corrected in accordance with the corrective action plan approved
331 by the agency;

332 d. Violation of resident care standards which results in
333 requiring the facility to employ the services of a consultant
334 pharmacist or consultant dietitian;

335 e. Denial, suspension, or revocation of a license for
336 another facility licensed under this part in which the applicant
337 for an extended congregate care license has at least 25 percent
338 ownership interest; or

339 f. Imposition of a moratorium pursuant to this part or part
340 II of chapter 408 or initiation of injunctive proceedings.

341

342 The agency may deny or revoke a facility's extended congregate
343 care license for not meeting the criteria for an extended
344 congregate care license as provided in this subparagraph.

345 2. If an assisted living facility has been licensed
346 for less than 2 years, the initial extended congregate care
347 license must be provisional and may not exceed 6 months. Within
348 the first 3 months after the provisional license is issued, the

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349 licensee shall notify the agency, in writing, when it has
350 admitted at least one extended congregate care resident, after
351 which an unannounced inspection shall be made to determine
352 compliance with requirements of an extended congregate care
353 license. Failure to admit an extended congregate care resident
354 within the first 3 months shall render the extended congregate
355 care license void. A licensee that has a provisional extended
356 congregate care license which demonstrates compliance with all
357 of the requirements of an extended congregate care license
358 during the inspection shall be issued an extended congregate
359 care license. In addition to sanctions authorized under this
360 part, if violations are found during the inspection and the
361 licensee fails to demonstrate compliance with all assisted
362 living requirements during a followup inspection, the licensee
363 shall immediately suspend extended congregate care services, and
364 the provisional extended congregate care license expires. The
365 agency may extend the provisional license for not more than 1
366 month in order to complete a followup visit.

367 3.2. A facility that is licensed to provide extended
368 congregate care services shall maintain a written progress
369 report on each person who receives services which describes the
370 type, amount, duration, scope, and outcome of services that are
371 rendered and the general status of the resident's health. A
372 registered nurse, or appropriate designee, representing the
373 agency shall visit the facility at least twice a year ~~quarterly~~
374 to monitor residents who are receiving extended congregate care
375 services and to determine if the facility is in compliance with
376 this part, part II of chapter 408, and relevant rules. One of
377 the visits may be in conjunction with the regular survey. The

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378 monitoring visits may be provided through contractual
379 arrangements with appropriate community agencies. A registered
380 nurse shall serve as part of the team that inspects the
381 facility. The agency may waive one of the required yearly
382 monitoring visits for a facility that has:

383 a. Held an extended congregate care license for at least 24
384 months; been licensed for at least 24 months to provide extended
385 congregate care services, if, during the inspection, the
386 registered nurse determines that extended congregate care
387 services are being provided appropriately, and if the facility
388 has

389 b. No class I or class II violations and no uncorrected
390 class III violations; and-

391 c. No ombudsman council complaints that resulted in a
392 citation for licensure ~~The agency must first consult with the~~
393 ~~long-term care ombudsman council for the area in which the~~
394 ~~facility is located to determine if any complaints have been~~
395 ~~made and substantiated about the quality of services or care.~~
396 ~~The agency may not waive one of the required yearly monitoring~~
397 ~~visits if complaints have been made and substantiated.~~

398 4.3- A facility that is licensed to provide extended
399 congregate care services must:

400 a. Demonstrate the capability to meet unanticipated
401 resident service needs.

402 b. Offer a physical environment that promotes a homelike
403 setting, provides for resident privacy, promotes resident
404 independence, and allows sufficient congregate space as defined
405 by rule.

406 c. Have sufficient staff available, taking into account the

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407 physical plant and firesafety features of the building, to
408 assist with the evacuation of residents in an emergency.

409 d. Adopt and follow policies and procedures that maximize
410 resident independence, dignity, choice, and decisionmaking to
411 permit residents to age in place, so that moves due to changes
412 in functional status are minimized or avoided.

413 e. Allow residents or, if applicable, a resident's
414 representative, designee, surrogate, guardian, or attorney in
415 fact to make a variety of personal choices, participate in
416 developing service plans, and share responsibility in
417 decisionmaking.

418 f. Implement the concept of managed risk.

419 g. Provide, directly or through contract, the services of a
420 person licensed under part I of chapter 464.

421 h. In addition to the training mandated in s. 429.52,
422 provide specialized training as defined by rule for facility
423 staff.

424 5.4. A facility that is licensed to provide extended
425 congregate care services is exempt from the criteria for
426 continued residency set forth in rules adopted under s. 429.41.
427 A licensed facility must adopt its own requirements within
428 guidelines for continued residency set forth by rule. However,
429 the facility may not serve residents who require 24-hour nursing
430 supervision. A licensed facility that provides extended
431 congregate care services must also provide each resident with a
432 written copy of facility policies governing admission and
433 retention.

434 ~~5. The primary purpose of extended congregate care services~~
435 ~~is to allow residents, as they become more impaired, the option~~

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436 ~~of remaining in a familiar setting from which they would~~
437 ~~otherwise be disqualified for continued residency. A facility~~
438 ~~licensed to provide extended congregate care services may also~~
439 ~~admit an individual who exceeds the admission criteria for a~~
440 ~~facility with a standard license, if the individual is~~
441 ~~determined appropriate for admission to the extended congregate~~
442 ~~care facility.~~

443 6. Before the admission of an individual to a facility
444 licensed to provide extended congregate care services, the
445 individual must undergo a medical examination as provided in s.
446 429.26(4) and the facility must develop a preliminary service
447 plan for the individual.

448 7. ~~If~~ When a facility can no longer provide or arrange for
449 services in accordance with the resident's service plan and
450 needs and the facility's policy, the facility must ~~shall~~ make
451 arrangements for relocating the person in accordance with s.
452 429.28(1)(k).

453 ~~8. Failure to provide extended congregate care services may~~
454 ~~result in denial of extended congregate care license renewal.~~

455 (c) A limited nursing services license shall be issued to a
456 facility that provides services beyond those authorized in
457 paragraph (a) and as specified in this paragraph.

458 1. In order for limited nursing services to be provided in
459 a facility licensed under this part, the agency must first
460 determine that all requirements established in law and rule are
461 met and must specifically designate, on the facility's license,
462 that such services may be provided. This ~~Such~~ designation may be
463 made at the time of initial licensure or licensure renewal
464 ~~relicensure~~, or upon request in writing by a licensee under this

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465 part and part II of chapter 408. Notification of approval or
466 denial of such request shall be made in accordance with part II
467 of chapter 408. An existing facility that qualifies ~~facilities~~
468 ~~qualifying~~ to provide limited nursing services must ~~shall~~ have
469 maintained a standard license and may not have been subject to
470 administrative sanctions that affect the health, safety, and
471 welfare of residents for the previous 2 years or since initial
472 licensure if the facility has been licensed for less than 2
473 years.

474 2. A facility ~~Facilities~~ that is ~~are~~ licensed to provide
475 limited nursing services shall maintain a written progress
476 report on each person who receives such nursing services. The
477 ~~which~~ report must describe ~~describes~~ the type, amount, duration,
478 scope, and outcome of services that are rendered and the general
479 status of the resident's health. A registered nurse representing
480 the agency shall visit the facility ~~such facilities~~ at least
481 annually ~~twice a year~~ to monitor residents who are receiving
482 limited nursing services and to determine if the facility is in
483 compliance with applicable provisions of this part, part II of
484 chapter 408, and related rules. The monitoring visits may be
485 provided through contractual arrangements with appropriate
486 community agencies. A registered nurse shall also serve as part
487 of the team that inspects such facility. Visits may be in
488 conjunction with other agency inspections. The agency may waive
489 the required yearly monitoring visit for a facility that has:

490 a. Had a limited nursing services license for at least 24
491 months;

492 b. No class I or class II violations and no uncorrected
493 class III violations; and

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494 c. No ombudsman council complaints that resulted in a
495 citation for licensure.

496 3. A person who receives limited nursing services under
497 this part must meet the admission criteria established by the
498 agency for assisted living facilities. When a resident no longer
499 meets the admission criteria for a facility licensed under this
500 part, arrangements for relocating the person shall be made in
501 accordance with s. 429.28(1)(k), unless the facility is licensed
502 to provide extended congregate care services.

503 Section 5. Section 429.075, Florida Statutes, is amended to
504 read:

505 429.075 Limited mental health license.—An assisted living
506 facility that serves one ~~three~~ or more mental health residents
507 must obtain a limited mental health license.

508 (1) To obtain a limited mental health license, a facility
509 must hold a standard license as an assisted living facility,
510 must not have any current uncorrected ~~deficiencies or~~
511 violations, and must ensure that, within 6 months after
512 receiving a limited mental health license, the facility
513 administrator and the staff of the facility who are in direct
514 contact with mental health residents must complete training of
515 no less than 6 hours related to their duties. This ~~Such~~
516 designation may be made at the time of initial licensure or
517 licensure renewal ~~relicensure~~ or upon request in writing by a
518 licensee under this part and part II of chapter 408.
519 Notification of approval or denial of such request shall be made
520 in accordance with this part, part II of chapter 408, and
521 applicable rules. This training must ~~will~~ be provided by or
522 approved by the Department of Children and Families ~~Family~~

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523 ~~Services.~~

524 (2) A facility that is ~~Facilities~~ licensed to provide
525 services to mental health residents must ~~shall~~ provide
526 appropriate supervision and staffing to provide for the health,
527 safety, and welfare of such residents.

528 (3) A facility that has a limited mental health license
529 must:

530 (a) Have a copy of each mental health resident's community
531 living support plan and the cooperative agreement with the
532 mental health care services provider. The support plan and the
533 agreement may be combined.

534 (b) Have documentation ~~that is~~ provided by the Department
535 of Children and Families ~~Family Services~~ that each mental health
536 resident has been assessed and determined to be able to live in
537 the community in an assisted living facility that has ~~with~~ a
538 limited mental health license.

539 (c) Make the community living support plan available for
540 inspection by the resident, the resident's legal guardian or
541 ~~the resident's~~ health care surrogate, and other individuals who
542 have a lawful basis for reviewing this document.

543 (d) Assist the mental health resident in carrying out the
544 activities identified in the individual's community living
545 support plan.

546 (4) A facility that has ~~with~~ a limited mental health
547 license may enter into a cooperative agreement with a private
548 mental health provider. For purposes of the limited mental
549 health license, the private mental health provider may act as
550 the case manager.

551 Section 6. Section 429.14, Florida Statutes, is amended to

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552 read:

553 429.14 Administrative penalties.—

554 (1) In addition to the requirements of part II of chapter
555 408, the agency may deny, revoke, and suspend any license issued
556 under this part and impose an administrative fine in the manner
557 provided in chapter 120 against a licensee for a violation of
558 any provision of this part, part II of chapter 408, or
559 applicable rules, or for any of the following actions by a
560 licensee, ~~for the actions of~~ any person subject to level 2
561 background screening under s. 408.809, or ~~for the actions of~~ any
562 facility staff ~~employee~~:

563 (a) An intentional or negligent act seriously affecting the
564 health, safety, or welfare of a resident of the facility.

565 (b) A ~~The~~ determination by the agency that the owner lacks
566 the financial ability to provide continuing adequate care to
567 residents.

568 (c) Misappropriation or conversion of the property of a
569 resident of the facility.

570 (d) Failure to follow the criteria and procedures provided
571 under part I of chapter 394 relating to the transportation,
572 voluntary admission, and involuntary examination of a facility
573 resident.

574 (e) A citation for ~~of~~ any of the following violations
575 ~~deficiencies~~ as specified in s. 429.19:

- 576 1. One or more cited class I violations ~~deficiencies~~.
- 577 2. Three or more cited class II violations ~~deficiencies~~.
- 578 3. Five or more cited class III violations ~~deficiencies~~
- 579 that have been cited on a single survey and have not been
- 580 corrected within the times specified.

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581 (f) Failure to comply with the background screening
582 standards of this part, s. 408.809(1), or chapter 435.

583 (g) Violation of a moratorium.

584 (h) Failure of the license applicant, the licensee during
585 licensure renewal ~~relicensure~~, or a licensee that holds a
586 provisional license to meet the minimum license requirements of
587 this part, or related rules, at the time of license application
588 or renewal.

589 (i) An intentional or negligent life-threatening act in
590 violation of the uniform firesafety standards for assisted
591 living facilities or other firesafety standards which ~~that~~
592 threatens the health, safety, or welfare of a resident of a
593 facility, as communicated to the agency by the local authority
594 having jurisdiction or the State Fire Marshal.

595 (j) Knowingly operating any unlicensed facility or
596 providing without a license any service that must be licensed
597 under this chapter or chapter 400.

598 (k) Any act constituting a ground upon which application
599 for a license may be denied.

600 (2) Upon notification by the local authority having
601 jurisdiction or by the State Fire Marshal, the agency may deny
602 or revoke the license of an assisted living facility that fails
603 to correct cited fire code violations that affect or threaten
604 the health, safety, or welfare of a resident of a facility.

605 (3) The agency may deny or revoke a license of an ~~to any~~
606 applicant or controlling interest as defined in part II of
607 chapter 408 which has or had a 25 percent ~~25-percent~~ or greater
608 financial or ownership interest in any other facility that is
609 licensed under this part, or in any entity licensed by this

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610 state or another state to provide health or residential care, if
611 that ~~which~~ facility or entity during the 5 years before ~~prior to~~
612 the application for a license closed due to financial inability
613 to operate; had a receiver appointed or a license denied,
614 suspended, or revoked; was subject to a moratorium; or had an
615 injunctive proceeding initiated against it.

616 (4) The agency shall deny or revoke the license of an
617 assisted living facility if:

618 (a) There are two moratoria, issued pursuant to this part
619 or part II of chapter 408, within a 2-year period which are
620 imposed by final order;

621 (b) The facility is cited for two or more class I
622 violations arising from unrelated circumstances during the same
623 survey or investigation; or

624 (c) The facility is cited for two or more class I
625 violations arising from separate surveys or investigations
626 within a 2-year period ~~that has two or more class I violations~~
627 ~~that are similar or identical to violations identified by the~~
628 ~~agency during a survey, inspection, monitoring visit, or~~
629 ~~complaint investigation occurring within the previous 2 years.~~

630 (5) An action taken by the agency to suspend, deny, or
631 revoke a facility's license under this part or part II of
632 chapter 408, in which the agency claims that the facility owner
633 or an employee of the facility has threatened the health,
634 safety, or welfare of a resident of the facility, must be heard
635 by the Division of Administrative Hearings of the Department of
636 Management Services within 120 days after receipt of the
637 facility's request for a hearing, unless that time limitation is
638 waived by both parties. The administrative law judge shall ~~must~~

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639 render a decision within 30 days after receipt of a proposed
640 recommended order.

641 (6) As provided under s. 408.814, the agency shall impose
642 an immediate moratorium on an assisted living facility that
643 fails to provide the agency access to the facility or prohibits
644 the agency from conducting a regulatory inspection. The licensee
645 may not restrict agency staff in accessing and copying records
646 or in conducting confidential interviews with facility staff or
647 any individual who receives services from the facility provide
648 ~~to the Division of Hotels and Restaurants of the Department of~~
649 ~~Business and Professional Regulation, on a monthly basis, a list~~
650 ~~of those assisted living facilities that have had their licenses~~
651 ~~denied, suspended, or revoked or that are involved in an~~
652 ~~appellate proceeding pursuant to s. 120.60 related to the~~
653 ~~denial, suspension, or revocation of a license.~~

654 (7) Agency notification of a license suspension or
655 revocation, or denial of a license renewal, shall be posted and
656 visible to the public at the facility.

657 (8) If a facility is required to relocate some or all of
658 its residents due to agency action, that facility is exempt from
659 the 45 days' notice requirement imposed under s. 429.28(1)(k).
660 This subsection does not exempt the facility from any deadlines
661 for corrective action set by the agency.

662 Section 7. Paragraphs (a) and (b) of subsection (2) of
663 section 429.178, Florida Statutes, are amended to read:

664 429.178 Special care for persons with Alzheimer's disease
665 or other related disorders.—

666 (2) (a) An individual who is employed by a facility that
667 provides special care for residents who have ~~with~~ Alzheimer's

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668 disease or other related disorders, and who has regular contact
 669 with such residents, must complete up to 4 hours of initial
 670 dementia-specific training developed or approved by the
 671 department. The training must ~~shall~~ be completed within 3 months
 672 after beginning employment and satisfy ~~shall satisfy~~ the core
 673 training requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

674 (b) A direct caregiver who is employed by a facility that
 675 provides special care for residents who have ~~with~~ Alzheimer's
 676 disease or other related disorders, ~~and who~~ provides direct care
 677 to such residents, ~~must~~ complete the required initial training
 678 and 4 additional hours of training developed or approved by the
 679 department. The training must ~~shall~~ be completed within 9 months
 680 after beginning employment and satisfy ~~shall satisfy~~ the core
 681 training requirements of s. 429.52(3)(g) ~~s. 429.52(2)(g)~~.

682 Section 8. Section 429.19, Florida Statutes, is amended to
 683 read:

684 429.19 Violations; imposition of administrative fines;
 685 grounds.—

686 (1) In addition to the requirements of part II of chapter
 687 408, the agency shall impose an administrative fine in the
 688 manner provided in chapter 120 for the violation of any
 689 provision of this part, part II of chapter 408, and applicable
 690 rules by an assisted living facility, for the actions of any
 691 person subject to level 2 background screening under s. 408.809,
 692 for the actions of any facility employee, or for an intentional
 693 or negligent act seriously affecting the health, safety, or
 694 welfare of a resident of the facility.

695 (2) Each violation of this part and adopted rules must
 696 ~~shall~~ be classified according to the nature of the violation and

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697 the gravity of its probable effect on facility residents.

698 (a) The agency shall indicate the classification on the
699 written notice of the violation as follows:

700 1.(a) Class "I" violations are defined in s. 408.813. The
701 agency shall impose an administrative fine of \$7,500 for each a
702 cited class I violation in a facility that is licensed for fewer
703 than 100 beds at the time of the violation in an amount not less
704 than \$5,000 and not exceeding \$10,000 for each violation. The
705 agency shall impose an administrative fine of \$11,250 for each
706 cited class I violation in a facility that is licensed for 100
707 or more beds at the time of the violation. If the agency has
708 knowledge of a class I violation which occurred within 12 months
709 before an inspection, a fine must be levied for that violation
710 whether or not the noncompliance was corrected before the
711 inspection.

712 2.(b) Class "II" violations are defined in s. 408.813. The
713 agency shall impose an administrative fine of \$3,000 for each a
714 cited class II violation in a facility that is licensed for
715 fewer than 100 beds at the time of the violation in an amount
716 not less than \$1,000 and not exceeding \$5,000 for each
717 violation. The agency shall impose an administrative fine of
718 \$4,500 for each cited class II violation in a facility that is
719 licensed for 100 or more beds at the time of the violation.

720 3.(c) Class "III" violations are defined in s. 408.813. The
721 agency shall impose an administrative fine of \$750 for each a
722 cited class III violation in a facility that is licensed for
723 fewer than 100 beds at the time of the violation in an amount
724 not less than \$500 and not exceeding \$1,000 for each violation.
725 The agency shall impose an administrative fine of \$1,125 for

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726 each cited class III violation in a facility that is licensed
727 for 100 or more beds at the time of the violation.

728 4. ~~(d)~~ Class "IV" violations are defined in s. 408.813. The
729 agency shall impose an administrative fine of \$150 for each a
730 cited class IV violation in a facility that is licensed for
731 fewer than 100 beds at the time of the violation ~~in an amount~~
732 not less than \$100 and not exceeding \$200 for each violation.
733 The agency shall impose an administrative fine of \$225 for each
734 cited class IV violation in a facility that is licensed for 100
735 or more beds at the time of the violation.

736 (b) Any fine imposed for a class I violation or a class II
737 violation must be doubled if a facility was previously cited for
738 one or more class I or class II violations during the agency's
739 last licensure inspection or any inspection or complaint
740 investigation since the last licensure inspection.

741 (c) Notwithstanding s. 408.813(2)(c) and (d) and s.
742 408.832, a fine must be imposed for each class III or class IV
743 violation, regardless of correction, if a facility was
744 previously cited for one or more class III or class IV
745 violations during the agency's last licensure inspection or any
746 inspection or complaint investigation since the last licensure
747 inspection for the same regulatory violation. A fine imposed for
748 class III or class IV violations must be doubled if a facility
749 was previously cited for one or more class III or class IV
750 violations during the agency's last two licensure inspections
751 for the same regulatory violation.

752 (d) Regardless of the class of violation cited, instead of
753 the fine amounts listed in subparagraphs (a)1.-4., the agency
754 shall impose an administrative fine of \$500 if a facility is

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755 found not to be in compliance with the background screening
756 requirements as provided in s. 408.809.

757 ~~(3) For purposes of this section, in determining if a~~
758 ~~penalty is to be imposed and in fixing the amount of the fine,~~
759 ~~the agency shall consider the following factors:~~

760 ~~(a) The gravity of the violation, including the probability~~
761 ~~that death or serious physical or emotional harm to a resident~~
762 ~~will result or has resulted, the severity of the action or~~
763 ~~potential harm, and the extent to which the provisions of the~~
764 ~~applicable laws or rules were violated.~~

765 ~~(b) Actions taken by the owner or administrator to correct~~
766 ~~violations.~~

767 ~~(c) Any previous violations.~~

768 ~~(d) The financial benefit to the facility of committing or~~
769 ~~continuing the violation.~~

770 ~~(e) The licensed capacity of the facility.~~

771 (3)~~(4)~~ Each day of continuing violation after the date
772 established by the agency ~~fixed~~ for correction ~~termination~~ of
773 the violation, ~~as ordered by the agency,~~ constitutes an
774 additional, separate, and distinct violation.

775 (4)~~(5)~~ An ~~Any~~ action taken to correct a violation shall be
776 documented in writing by the owner or administrator of the
777 facility and verified through followup visits by agency
778 personnel. The agency may impose a fine and, in the case of an
779 owner-operated facility, revoke or deny a facility's license
780 when a facility administrator fraudulently misrepresents action
781 taken to correct a violation.

782 (5)~~(6)~~ A ~~Any~~ facility whose owner fails to apply for a
783 change-of-ownership license in accordance with part II of

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784 chapter 408 and operates the facility under the new ownership is
785 subject to a fine of \$5,000.

786 (6)~~(7)~~ In addition to any administrative fines imposed, the
787 agency may assess a survey fee, equal to the lesser of one half
788 of the facility's biennial license and bed fee or \$500, to cover
789 the cost of conducting initial complaint investigations that
790 result in the finding of a violation that was the subject of the
791 complaint or monitoring visits conducted under s. 429.28(3)(c)
792 to verify the correction of the violations.

793 (7)~~(8)~~ During an inspection, the agency shall make a
794 reasonable attempt to discuss each violation with the owner or
795 administrator of the facility, before ~~prior to~~ written
796 notification.

797 (8)~~(9)~~ The agency shall develop and disseminate an annual
798 list of all facilities sanctioned or fined for violations of
799 state standards, the number and class of violations involved,
800 the penalties imposed, and the current status of cases. The list
801 shall be disseminated, at no charge, to the Department of
802 Elderly Affairs, the Department of Health, the Department of
803 Children and Families ~~Family Services~~, the Agency for Persons
804 with Disabilities, the area agencies on aging, the Florida
805 Statewide Advocacy Council, and the state and local ombudsman
806 councils. The Department of Children and Families ~~Family~~
807 ~~Services~~ shall disseminate the list to service providers under
808 contract to the department who are responsible for referring
809 persons to a facility for residency. The agency may charge a fee
810 commensurate with the cost of printing and postage to other
811 interested parties requesting a copy of this list. This
812 information may be provided electronically or through the

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813 agency's website ~~Internet site~~.

814 Section 9. Subsection (3) and paragraph (c) of subsection
815 (4) of section 429.256, Florida Statutes, are amended to read:

816 429.256 Assistance with self-administration of medication.—

817 (3) Assistance with self-administration of medication
818 includes:

819 (a) Taking the medication, in its previously dispensed,
820 properly labeled container, including an insulin syringe that is
821 prefilled with the proper dosage by a pharmacist and an insulin
822 pen that is prefilled by the manufacturer, from where it is
823 stored, and bringing it to the resident.

824 (b) In the presence of the resident, reading the label,
825 opening the container, removing a prescribed amount of
826 medication from the container, and closing the container.

827 (c) Placing an oral dosage in the resident's hand or
828 placing the dosage in another container and helping the resident
829 by lifting the container to his or her mouth.

830 (d) Applying topical medications.

831 (e) Returning the medication container to proper storage.

832 (f) Keeping a record of when a resident receives assistance
833 with self-administration under this section.

834 (g) Assisting with the use of a nebulizer, including
835 removing the cap of a nebulizer, opening the unit dose of
836 nebulizer solution, and pouring the prescribed premeasured dose
837 of medication into the dispensing cup of the nebulizer.

838 (h) Using a glucometer to perform blood-glucose level
839 checks.

840 (i) Assisting with putting on and taking off antiembolism
841 stockings.

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842 (j) Assisting with applying and removing an oxygen cannula,
 843 but not with titrating the prescribed oxygen settings.

844 (k) Assisting with the use of a continuous positive airway
 845 pressure (CPAP) device, but not with titrating the prescribed
 846 setting of the device.

847 (l) Assisting with measuring vital signs.

848 (m) Assisting with colostomy bags.

849 (4) Assistance with self-administration does not include:

850 ~~(c) Administration of medications through intermittent~~
 851 ~~positive pressure breathing machines or a nebulizer.~~

852 Section 10. Subsections (2), (5), and (6) of section
 853 429.28, Florida Statutes, are amended to read:

854 429.28 Resident bill of rights.—

855 (2) The administrator of a facility shall ensure that a
 856 written notice of the rights, obligations, and prohibitions set
 857 forth in this part is posted in a prominent place in each
 858 facility and read or explained to residents who cannot read. The
 859 ~~This~~ notice must ~~shall~~ include the name, address, and telephone
 860 numbers of the local ombudsman council, the ~~and~~ central abuse
 861 hotline, and, if when applicable, Disability Rights Florida ~~the~~
 862 ~~Advocacy Center for Persons with Disabilities, Inc., and the~~
 863 ~~Florida local advocacy council~~, where complaints may be lodged.
 864 The notice must state that a complaint made to the Office of
 865 State Long-Term Care Ombudsman or a local long-term care
 866 ombudsman council, the names and identities of the residents
 867 involved in the complaint, and the identity of complainants are
 868 kept confidential pursuant to s. 400.0077 and that retaliatory
 869 action cannot be taken against a resident for presenting
 870 grievances or for exercising any other resident right. The

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871 facility must ensure a resident's access to a telephone to call
 872 the local ombudsman council, central abuse hotline, and
 873 Disability Rights Florida Advocacy Center for Persons with
 874 Disabilities, Inc., and the Florida local advocacy council.

875 (5) A ~~No~~ facility or employee of a facility may not serve
 876 notice upon a resident to leave the premises or take any other
 877 retaliatory action against any person who:

878 (a) Exercises any right set forth in this section.

879 (b) Appears as a witness in any hearing, inside or outside
 880 the facility.

881 (c) Files a civil action alleging a violation of the
 882 provisions of this part or notifies a state attorney or the
 883 Attorney General of a possible violation of such provisions.

884 (6) A ~~Any~~ facility that ~~which~~ terminates the residency of
 885 an individual who participated in activities specified in
 886 subsection (5) must ~~shall~~ show good cause in a court of
 887 competent jurisdiction. If good cause is not shown, the agency
 888 shall impose a fine of \$2,500 in addition to any other penalty
 889 assessed against the facility.

890 Section 11. Section 429.34, Florida Statutes, is amended to
 891 read:

892 429.34 Right of entry and inspection.—

893 (1) In addition to the requirements of s. 408.811, any duly
 894 designated officer or employee of the department, the Department
 895 of Children and Families ~~Family Services~~, the Medicaid Fraud
 896 Control Unit of the Office of the Attorney General, the state or
 897 local fire marshal, or a member of the state or local long-term
 898 care ombudsman council has ~~shall have~~ the right to enter
 899 unannounced upon and into the premises of any facility licensed

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900 pursuant to this part in order to determine the state of
901 compliance with ~~the provisions of~~ this part, part II of chapter
902 408, and applicable rules. Data collected by the state or local
903 long-term care ombudsman councils or the state or local advocacy
904 councils may be used by the agency in investigations involving
905 violations of regulatory standards. A person specified in this
906 section who knows or has reasonable cause to suspect that a
907 vulnerable adult has been or is being abused, neglected, or
908 exploited shall immediately report such knowledge or suspicion
909 to the central abuse hotline pursuant to chapter 415.

910 (2) The agency shall inspect each licensed assisted living
911 facility at least once every 24 months to determine compliance
912 with this chapter and related rules. If an assisted living
913 facility is cited for one or more class I violations or two or
914 more class II violations arising from separate surveys within a
915 60-day period or due to unrelated circumstances during the same
916 survey, the agency must conduct an additional licensure
917 inspection within 6 months. In addition to any fines imposed on
918 the facility under s. 429.19, the licensee shall pay a fee for
919 the cost of the additional inspection equivalent to the standard
920 assisted living facility license and per-bed fees, without
921 exception for beds designated for recipients of optional state
922 supplementation. The agency shall adjust the fee in accordance
923 with s. 408.805.

924 Section 12. Subsection (2) of section 429.41, Florida
925 Statutes, is amended to read:

926 429.41 Rules establishing standards.—

927 (2) In adopting any rules pursuant to this part, the
928 department, in conjunction with the agency, shall make distinct

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929 standards for facilities based upon facility size; the types of
930 care provided; the physical and mental capabilities and needs of
931 residents; the type, frequency, and amount of services and care
932 offered; and the staffing characteristics of the facility. Rules
933 developed pursuant to this section may ~~shall~~ not restrict the
934 use of shared staffing and shared programming in facilities that
935 are part of retirement communities that provide multiple levels
936 of care and otherwise meet the requirements of law and rule. If
937 a continuing care facility licensed under chapter 651 or a
938 retirement community offering multiple levels of care obtains a
939 license pursuant to this chapter for a building or part of a
940 building designated for independent living, staffing
941 requirements established in rule apply only to residents who
942 receive personal services, limited nursing services, or extended
943 congregate care services under this part. Such facilities shall
944 retain a log listing the names and unit number for residents
945 receiving these services. The log must be available to surveyors
946 upon request. Except for uniform firesafety standards, the
947 department shall adopt by rule separate and distinct standards
948 for facilities with 16 or fewer beds and for facilities with 17
949 or more beds. The standards for facilities with 16 or fewer beds
950 must ~~shall~~ be appropriate for a noninstitutional residential
951 environment; 7 however, provided that the structure may not be ~~is~~
952 ~~no~~ more than two stories in height and all persons who cannot
953 exit the facility unassisted in an emergency must reside on the
954 first floor. The department, in conjunction with the agency, may
955 make other distinctions among types of facilities as necessary
956 to enforce the provisions of this part. Where appropriate, the
957 agency shall offer alternate solutions for complying with

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958 established standards, based on distinctions made by the
959 department and the agency relative to the physical
960 characteristics of facilities and the types of care offered
961 therein.

962 Section 13. Present subsections (1) through (11) of section
963 429.52, Florida Statutes, are redesignated as subsections (2)
964 through (12), respectively, a new subsection (1) is added to
965 that section, and present subsections (5) and (9) of that
966 section are amended, to read:

967 429.52 Staff training and educational programs; core
968 educational requirement.—

969 (1) Effective October 1, 2014, each new assisted living
970 facility employee who has not previously completed core training
971 must attend a preservice orientation provided by the facility
972 before interacting with residents. The preservice orientation
973 must be at least 2 hours in duration and cover topics that help
974 the employee provide responsible care and respond to the needs
975 of facility residents. Upon completion, the employee and the
976 administrator of the facility must sign a statement that the
977 employee completed the required preservice orientation. The
978 facility must keep the signed statement in the employee's
979 personnel record.

980 (6)~~(5)~~ Staff involved with the management of medications
981 and assisting with the self-administration of medications under
982 s. 429.256 must complete a minimum of 6 ~~4~~ additional hours of
983 training provided by a registered nurse, licensed pharmacist, or
984 department staff. The department shall establish by rule the
985 minimum requirements of this additional training.

986 (10)~~(9)~~ The training required by this section other than

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2014248c1

987 the preservice orientation must ~~shall~~ be conducted by persons
988 registered with the department as having the requisite
989 experience and credentials to conduct the training. A person
990 seeking to register as a trainer must provide the department
991 with proof of completion of the minimum core training education
992 requirements, successful passage of the competency test
993 established under this section, and proof of compliance with the
994 continuing education requirement in subsection (5) ~~(4)~~.

995 Section 14. The Legislature finds that consistent
996 regulation of assisted living facilities benefits residents and
997 operators of such facilities. To determine whether surveys are
998 consistent between surveys and surveyors, the Office of Program
999 Policy Analysis and Government Accountability (OPPAGA) shall
1000 conduct a study of intersurveyor reliability for assisted living
1001 facilities. By November 1, 2014, OPPAGA shall report its
1002 findings to the Governor, the President of the Senate, and the
1003 Speaker of the House of Representatives and make any
1004 recommendations for improving intersurveyor reliability.

1005 Section 15. The Legislature finds that consumers need
1006 additional information on the quality of care and service in
1007 assisted living facilities in order to select the best facility
1008 for themselves or their loved ones. Therefore, the Agency for
1009 Health Care Administration shall:

1010 (1) Implement a rating system for assisted living
1011 facilities by March 1, 2015. The agency shall adopt rules to
1012 administer this subsection.

1013 (2) By November 1, 2014, create content that is easily
1014 accessible through the front page of the agency's website. At a
1015 minimum, the content must include:

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- 1016 (a) Information on each licensed assisted living facility,
1017 including, but not limited to:
- 1018 1. The name and address of the facility.
 - 1019 2. The number and type of licensed beds in the facility.
 - 1020 3. The types of licenses held by the facility.
 - 1021 4. The facility's license expiration date and status.
 - 1022 5. Other relevant information that the agency currently
1023 collects.
- 1024 (b) A list of the facility's violations, including, for
1025 each violation:
- 1026 1. A summary of the violation which is presented in a
1027 manner understandable by the general public;
 - 1028 2. Any sanctions imposed by final order; and
 - 1029 3. The date the corrective action was confirmed by the
1030 agency.
- 1031 (c) Links to inspection reports that the agency has on
1032 file.
- 1033 (d) A monitored comment page, maintained by the agency,
1034 which allows members of the public to anonymously comment on
1035 assisted living facilities that are licensed to operate in this
1036 state. This comment page must, at a minimum, allow members of
1037 the public to post comments on their experiences with, or
1038 observations of, an assisted living facility and to review other
1039 people's comments. Comments posted to the agency's comment page
1040 may not contain profanity and are intended to provide meaningful
1041 feedback about the assisted living facility. The agency shall
1042 review comments for profane content before the comments are
1043 posted to the page. A controlling interest, as defined in s.
1044 408.803, Florida Statutes, in an assisted living facility, or an

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2014248c1

1045 employee or owner of an assisted living facility, is prohibited
1046 from posting comments on the page, except that a controlling
1047 interest, employee, or owner may respond to comments on the
1048 page, and the agency shall ensure that the responses are
1049 identified as being from a representative of the facility.

1050 Section 16. 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)

2/4/14

Meeting Date

Topic Assisted Living Facilities

Bill Number CS/SB 248
(if applicable)

Name Tracyho Boyd

Amendment Barcode 535422
(if applicable)

Job Title Pres/CEO

Address 1812 Riggins Road
Street

Phone 850-671-3700

Tallah, FL 32308
City State Zip

E-mail TBoyd@LeadingAge
Florida.org

Speaking: For Against Information

Representing LeadingAge 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/4/14

Meeting Date

Topic ALF

Bill Number CS/SB 248
(if applicable)

Name JANEKALE BOYD

Amendment Barcode _____
(if applicable)

Job Title Pres/CEO

Address 1812 Reggins Rd.
Street

Phone 850 671-3700

Tallah., FL 32308
City State Zip

E-mail JBoyd@LeadingAgeFlorida.org

Speaking: For Against Information

Representing LeadingAge 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/4/14
Meeting Date

Topic ALFs

Bill Number CS/SB 248
(if applicable)

Name JACK MURRAY

Amendment Barcode _____
(if applicable)

Job Title _____

Address 200 W. COLLEGE ST #304
Street

Phone 250-577-5187

TLH FL 32301
City State Zip

E-mail jmurray@aarp.org

Speaking: For Against Information

Representing AARP

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.

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 Judiciary

BILL: CS/SB 94

INTRODUCER: Judiciary Committee and Senator Margolis

SUBJECT: Jury Composition

DATE: February 4, 2014

REVISED: 2/7/2014

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u></u>	<u></u>	<u>CJ</u>	<u></u>
3.	<u></u>	<u></u>	<u>CA</u>	<u></u>
4.	<u></u>	<u></u>	<u>RC</u>	<u></u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 94 increases from six to twelve persons the number of jurors required in life-felony cases. Currently, only capital cases require twelve-member juries. Juries for other cases will continue to be six-person juries.

II. Present Situation:

Jury Pools

Jurors are selected from driver's license rolls maintained by the Department of Highway Safety and Motor Vehicles (DHSMV).¹ To serve as a juror, a person must be 18 years old or older, a United States citizen, and a Florida resident. People without driver's licenses are also eligible for juror service if they have an identification card from the DHSMV or execute an affidavit for service.²

The Number of Jurors Required in Felony Cases

Section 913.10, F.S., requires six-person juries to preside in most criminal cases, and 12-person juries in capital cases.

¹ Section 40.01, F.S.

² Section 40.011(3) and (4), F.S.

Many states require 12-member juries in all felony cases.³ Arizona requires a 12-member jury if the prosecution seeks a sentence of 30 years or longer.⁴ Indiana requires 12-member juries for certain felonies or enhanced penalty charges.⁵ Louisiana requires 12-member juries where punishment involves confinement at hard labor.⁶ New Jersey requires 12-member juries in all criminal cases.⁷

Life Felonies

Life felonies are generally treated as reclassifications of other offenses from first degree felonies to life felonies or as enhanced penalties for crimes with aggravating circumstances.⁸ Life felonies are punishable by life imprisonment⁹ and \$15,000 in fines.¹⁰

Jury Selection

During jury selection in criminal cases, the state and the defense are each able to remove potential jurors from serving as jury members for a particular case. To remove a juror, counsel must notify the court that he or she is challenging the service of an individual juror.

Section 913.03, F.S., establishes grounds for challenges for cause of individual jurors, which are:

- The juror does not meet qualifications required by law;
- The juror is not of sound mind or suffers from a physical condition that renders him or her incapable of performing duties required of a juror;
- The juror has a state of mind or conscientious beliefs that preclude him or her of reaching a finding of guilt or innocence unless the court establishes that the person can render an impartial verdict based on the evidence;

³ These include Alabama, Alaska, Arkansas, California, Colorado, Delaware, the District of Columbia, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming. Bureau of Justice Statistics, U.S. Dept. of Justice, *State Court Organization 2004* (p. 233-236).

⁴ *Id.* at 236, FN 1.

⁵ *Id.* at 236, FN 13.

⁶ *Id.* at 236, FN 19.

⁷ *Id.* at 237, FN 27.

⁸ Offenses reclassified from a first degree felony to a life felony include: an offense in which the use of a weapon or firearm is an essential element and during the commission of the felony the person carries, displays, uses, threatens to use, or attempts to use the weapon or firearm or commits an aggravated battery (s. 775.087(1)(a), F.S.); a person who without consent takes a firearm from a law enforcement officer lawfully engaged in his or her duties and commits any other crime involving the firearm (s. 775.0875(2)(a)1., F.S.); and a person who commits a gang-related offense punishable by a first degree felony (s. 874.04(2)(c), F.S.). Additionally, a person who kidnaps a child under the age of 13 and commits aggravated child abuse, sexual battery, lewd or lascivious conduct, prostitution, or child exploitation on the child commits a life felony (s. 787.01(3)(a), F.S.); and a person who commits human trafficking for commercial sexual activity of a child under the age of 15 commits a life felony (s. 787.06(3)(h), F.S.).

⁹ Section 775.082(3)(a)3., F.S.

¹⁰ Section 775.083(1)(a), F.S.

- The juror has certain ties to the case, such as serving on the grand jury that returned an indictment; serving on a former jury trying that defendant in the same case or another person for the same offense charged; or serving as a juror in a civil action related to the criminal charge;
- The juror is an adverse party in a civil action;
- The juror is related by blood or marriage within the third degree to parties in the case;
- The juror served as a state or defense witness at the preliminary hearing or before the grand jury or is going to be a witness for either party at trial; or
- The juror is a surety on the defendant's bail bond.

Either party may request an unlimited number of the removal of jurors based on challenges for cause. Peremptory challenges, or challenges for other than cause, however, are limited to:

- Ten challenges, if the offense is punishable by death or life imprisonment.
- Six challenges, if the offense is punishable by more than 12 months imprisonment but not death or life.
- Three challenges for all other offenses.¹¹

The Equal Protection Clause of the United State Constitution prohibits peremptory challenges of a juror for the sole purpose of excluding a person from service based on the race of the juror. The court has long considered this practice of exclusion an impermissible denial of a citizen's honor and privilege of serving on a jury.¹² Either party may challenge a peremptory strike on the basis of the race of the juror. Through a process known as a *Batson* challenge, once counsel challenges opposing counsel's strike of a juror, opposing counsel must offer a race-neutral reason for the strike.¹³

The specific process for a *Batson* challenge first places the burden on the opponent of the peremptory challenge to make a prima facie showing of race discrimination. The burden of production then shifts to the proponent of the strike to offer a race-neutral explanation, after which the trial court must determine which side has met their burden.¹⁴

Although the *Batson* case involved a black defendant challenging the striking of four black persons which resulted in an all-white jury, subsequent courts have extended the *Batson* Court's holding to removal of potential jurors based on other ethnicities.¹⁵ To establish a prima facie showing, the racial discrimination alleged must be of a cognizable class, in which the group is "objectively discernible from the rest of the community."¹⁶

¹¹ Section 913.08(1), F.S.

¹² *Challenge to Prospective Jurors*, 47 AM. JUR. 2D Jury Section 213; In *Batson v. Kentucky*, 476 U.S. 79 (1986), the Court, in citing an 1880 Supreme Court case, opined "More than a century ago, the court decided that the State denies a black defendant equal protection from which members of his race have been purposefully excluded." *Id.* at 85.

¹³ *Batson v. Kentucky*, 476 U.S. 79 (1986).

¹⁴ *Id.* at 93-94.

¹⁵ *State v. Alen*, 616 So. 2d 452, 454 (Fla. 1993).

¹⁶ *Id.* at 454. In this case, the Court ruled that the state impermissibly struck a Hispanic juror as the state failed to show an absence of pretext when challenged. *Id.* at 456.

III. Effect of Proposed Changes:

This bill increases from six to twelve persons the number of jurors required in life-felony cases. Currently, only capital cases require twelve-member juries. Juries for other cases will continue to be six-person juries. Increasing the number of jurors from six to twelve members in a life felony case may increase the number of hung juries, or juries returning less than a unanimous verdict in life-felony cases.¹⁷ This bill does not change court rules requiring a unanimous verdict in criminal trials.

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:

The Association of Court Clerks and Comptrollers (Clerks) indicates a fiscal impact related to the increase in jury size for life felony cases. According to the Association, this bill will add \$0.7 million in annual recurring costs to the clerks of court. Thus, the bill will increase the clerks' annual recurring costs to \$11.8 million from \$11.1 million. The clerks based their assumption on 12-member juries costing double what six-person juries cost. The Supreme Court, in studying the issue of standards for jury panel sizes, recommends a large number of potential jurors to be summoned for a 12-person juries (40 jurors), in contrast to a county court trial (14 jurors). Based on the Supreme Court's

¹⁷ Unanimous verdicts are required in all criminal cases. The Florida Rules of Criminal Procedure provide: "No verdict may be rendered unless all of the trial jurors concur in it." Fla. R. Crim. P. 3.440.

recommendation that more jurors be summoned for 12-person juries than six-person juries, the Clerks consider their estimate to be conservative.¹⁸

Funding court facilities is a responsibility of counties under Section 14 (c), Art. V, of the State Constitution. To the extent that existing facilities are insufficient to meet the requirements imposed by this bill, counties will have additional facility expenses.

The Office of State Courts Administrator indicates that the bill will result in an unquantifiable fiscal impact on judicial workload, due to the unavailability of data needed to accurately establish an impact.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 913.10 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Judiciary on February 4, 2014:

The committee substitute removes language from the bill which required the composition of a jury to reflect the demographics of the county in which a case is heard.

B. Amendments:

None.

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

¹⁸ Clerks of the Court, *Fiscal Impact Statement for SB 94*.

¹⁹ Office of the State Courts Administrator, *2014 Judicial Impact Statement* (January 31, 2014) (on file with the Senate Committee on Judiciary).



694886

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/04/2014	.	
	.	
	.	
	.	

The Committee on Judiciary (Soto) recommended the following:

Senate Amendment (with title amendment)

Delete lines 13 - 18
and insert:
913.10 Number of jurors.—Twelve persons shall constitute a jury to try all capital and life felony cases, and six persons shall constitute a jury to try all other criminal cases.

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

And the title is amended as follows:



694886

11 Delete lines 4 - 7
12 and insert:
13 felony cases; providing an effective date.

By Senator Margolis

35-00090C-14

201494__

1 A bill to be entitled
2 An act relating to jury composition; amending s.
3 913.10, F.S.; requiring a 12-member jury for life
4 felony cases; requiring that the composition of all
5 juries empaneled in this state reflect the
6 demographics of the county in which the case is to be
7 tried; providing an effective date.
8

9 Be It Enacted by the Legislature of the State of Florida:
10

11 Section 1. Section 913.10, Florida Statutes, is amended to
12 read:

13 913.10 Number of jurors; composition of a jury.-

14 (1) Twelve persons shall constitute a jury to try all
15 capital and life felony cases, and six persons shall constitute
16 a jury to try all other criminal cases.

17 (2) The composition of a jury shall reflect the
18 demographics of the county in which the case is to be tried.

19 Section 2. 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 Jury Member

Bill Number 924
(if applicable)

Name Buddy Jacobs

Amendment Barcode _____
(if applicable)

Job Title General Counsel Fla Prosecuting Attys Assoc

Address _____

Phone _____

Street

E-mail _____

City

State

Zip

Speaking: For Against Information

Representing State Attorneys

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 14 2014

Meeting Date

Topic _____

Bill Number 94
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

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)

February 4, 2014

Meeting Date

Topic Jury Composition

Bill Number 94
(if applicable)

Name Carlos Martinez

Amendment Barcode _____
(if applicable)

Job Title Public Defender, 11th Judicial

Address 1320 NW 14th Street

Phone 305-545-1900

Street

Miami

Florida

33125

E-mail czm@pdmiami.com

City

State

Zip

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
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 Judiciary

BILL: SB 384

INTRODUCER: Senator Bradley

SUBJECT: Juvenile Sentencing

DATE: February 3, 2014

REVISED: 02/04/14

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Favorable
2.	Davis	Cibula	JU	Favorable
3.			ACJ	
4.			AP	

I. Summary:

SB 384 conforms Florida law to recent United States Supreme Court opinions involving the sentencing of juvenile offenders. It provides that any offender who is convicted of murder that was committed before he or she was 18 years old may be sentenced to life imprisonment only after a mandatory hearing at which the judge considers certain factors relative to the offender's age and attendant circumstances. For capital offenses, the judge must impose a minimum sentence of at least 35 years if life imprisonment is not appropriate.

The bill also provides for a judicial hearing to review any sentence of more than 25 years, including a life sentence that is imposed for a non-homicide offense committed when the offender was less than 18 years old. The offender may request the sentence review after serving 25 years of the sentence. If the reviewing court determines that the offender has been rehabilitated and is fit to reenter society, the offender must be released with a modified sentence that requires serving a minimum term of 5 years of probation. Otherwise, the court must enter a written order stating the reasons for not modifying the sentence.

II. Present Situation:

In recent years, the U.S. Supreme Court issued several opinions addressing the application of the Eighth Amendment's prohibition against cruel and unusual punishment as it relates to the punishment of juvenile offenders.¹ The first of these was *Roper v. Simmons*, 543 U.S. 551

¹ The term "juvenile offender" refers to an offender who was less than 18 years of age at the time the offense was committed for which he or she was sentenced. Most crimes committed by juveniles are dealt with through delinquency proceedings as set forth in ch. 985, F.S. However, the law provides a mechanism for juveniles to be tried and handled as adults. A juvenile who commits a crime while 13 years old or younger may only be tried as an adult if a grand jury indictment is returned. A juvenile who is older than 13 years may be tried as an adult for certain felony offenses if a grand jury indictment is returned, if juvenile court jurisdiction is waived and the case is transferred for prosecution as an adult pursuant to s. 985.556, F.S., or if

(2005), in which the Court held that juvenile offenders may not be subject to the death penalty for any offense. More recently, the Court expanded the juvenile sentencing doctrine in *Graham v. Florida*, 560 U.S. 48 (2010) and *Miller v. Alabama*, 132 S.Ct. 2455 (2012).

Graham v. Florida

In *Graham*, the U.S. Supreme Court held that a juvenile offender may not be sentenced to life in prison without the possibility of parole for a non-homicide offense. More specifically, the Court found that if a non-homicide juvenile offender is sentenced to life in prison, the state must “provide him or her with some realistic opportunity to obtain release before the end of that term.”² Because Florida abolished parole³ and the Court deems the possibility of executive clemency to be remote,⁴ a juvenile offender in Florida cannot presently be given a life sentence for a non-homicide offense.

Graham applies retroactively to previously sentenced offenders because it established a fundamental constitutional right.⁵ Therefore, a juvenile offender who is serving a life sentence for a non-homicide offense that was committed after parole eligibility was eliminated is entitled to be resentenced to a term less than life.

The U.S. Supreme Court did not give any guidance as to the maximum permissible sentence for a non-homicide juvenile offender other than to exclude the possibility of life without parole. This has led to different results among the District Courts in reviewing sentences for a lengthy term of years. The Florida First District Court of Appeal recognizes that a lengthy term of years is a *de facto* life sentence if it exceeds the juvenile offender’s life expectancy.⁶ On the other hand, the Florida Fourth and Fifth District Courts of Appeal have strictly construed *Graham* to apply only to life sentences and not to affect sentences for a lengthy term of years.⁷

On September 17, 2013, the Florida Supreme Court heard oral argument in *Gridine v. State*, 89 So. 3d 909 (Fla. 1st DCA 2011) and *Henry v. State*, 82 So. 3d 1084 (Fla. 5th DCA 2012). In *Gridine*, the First District Court of Appeal found that a 70 year sentence was not the equivalent of life. In *Henry*, the Fifth District Court of Appeal upheld a sentence of 90 years because *Graham* does not prohibit a lengthy term of years.

the state attorney direct files an information in adult court pursuant to s. 985.557, F.S. Regardless of age, s. 985.58, F.S., requires a grand jury indictment to try a juvenile as an adult for an offense that is punishable by death or life imprisonment.

² *Graham* at 82.

³ Parole was abolished in 1983 for all non-capital felonies committed on or after October 1, 1983, and was completely abolished in 1995 for any offense committed on or after October 1, 1995.

⁴ *Graham* at 70.

⁵ See, e.g., *St. Val v. State*, 107 So. 3d 553 (Fla. 4th DCA 2013); *Manuel v. State*, 48 So. 3d 94 (Fla. 2d DCA 2010).

⁶ *Adams v. State*, 2012 WL 3193932 (Fla. 1st DCA 2012). The First District Court of Appeal has struck down sentences of 60 years (*Adams*) and 80 years (*Floyd v. State*, 87 So. 3d 45 (Fla. 1st DCA 2012)), while approving sentences of 50 years (*Thomas v. State*, 78 So. 3d 644 (Fla. 1st DCA 2011)) and 70 years (*Gridine v. State*, 89 So. 3d 909 (Fla. 1st DCA 2011)).

⁷ See *Guzman v. State*, 110 So. 3d 480 (Fla. 4th DCA 2013); *Henry v. State*, 82 So. 3d 1084 (Fla. 5th DCA 2012). It also appears that the Second District Court of Appeal may agree with this line of reasoning - see *Young v. State*, 110 So. 3d 931 (Fla. 2d DCA 2013).

Miller v. Alabama

In *Miller*, the U.S. Supreme Court held that juvenile offenders who commit homicide may not be sentenced to life in prison without the possibility of parole as the result of a mandatory sentencing scheme. The Court did not find that the Eighth Amendment prohibits sentencing a juvenile murderer to life without parole, but rather that individualized factors related to the offender's age must be considered before a life without parole sentence may be imposed. The Court also indicated that it expects that few juvenile offenders will be found to merit life without parole sentences.

The majority opinion in *Miller* noted that mandatory life-without-parole sentences “preclude a sentencer from taking account of an offender's age and the wealth of characteristics and circumstances attendant to it.”⁸ Although the Court did not require consideration of specific factors, it highlighted the following concerns:

Mandatory life without parole for a juvenile precludes consideration of his chronological age and its hallmark features—among them, immaturity, impetuosity, and failure to appreciate risks and consequences. It prevents taking into account the family and home environment that surrounds him—and from which he cannot usually extricate himself—no matter how brutal or dysfunctional. It neglects the circumstances of the homicide offense, including the extent of his participation in the conduct and the way familial and peer pressures may have affected him. Indeed, it ignores that he might have been charged and convicted of a lesser offense if not for incompetencies associated with youth—for example, his inability to deal with police officers or prosecutors (including on a plea agreement) or his incapacity to assist his own attorneys. See, e.g., *Graham*, 560 U.S., at —, 130 S.Ct., at 2032 (“[T]he features that distinguish juveniles from adults also put them at a significant disadvantage in criminal proceedings”); *J.D.B. v. North Carolina*, 564 U.S. —, —, 131 S.Ct. 2394, 2400–2401, 180 L.Ed.2d 310 (2011) (discussing children's responses to interrogation). And finally, this mandatory punishment disregards the possibility of rehabilitation even when the circumstances most suggest it.⁹

Section 775.082, F.S., provides that the only permissible punishments for a capital offense are the death penalty or life imprisonment. As the result of the U.S. Supreme Court's holdings in *Roper*, which invalidated the death penalty for juvenile offenders, and *Miller*, the statutory punishment for a juvenile who commits capital murder is not clear. In *Horsley v. State*, 121 So. 3d 1130 (Fla. 5th DCA 2013), the Fifth District Court of Appeal applied the principle of statutory revival in concluding that the only possible sentence for a juvenile convicted of capital murder is life with the possibility of parole after 25 years.¹⁰ The Florida Supreme Court accepted

⁸ *Miller* at 2467.

⁹ *Miller* at 2468.

¹⁰ Life with the possibility of parole after 25 years is the penalty for capital murder under the 1993 version of s. 775.082(1), F.S., the most recent capital murder penalty statute that is constitutional under *Miller* when applied to a juvenile offender.

jurisdiction of *Horsley* to address the question of whether *Miller* operates to revive this earlier sentence previously contained in the 1993 statute.¹¹

Other state and federal courts have issued differing opinions as to whether *Miller* applies retroactively. The First and Third District Courts of Appeal view *Miller* as a procedural change in the law that does not apply retroactively to sentences that were final before the opinion was issued.¹² The Second District Court of Appeal, in contrast, recently issued a decision which held that *Miller* is retroactive.¹³ The other District Courts of Appeal and the Florida Supreme Court have not addressed the retroactivity issue.¹⁴ However, the Florida Supreme Court has scheduled oral argument on March 6, 2014, to address the question of whether *Miller* should be given retroactive effect.¹⁵

Graham and Miller Inmates

The Department of Corrections reports that it has custody of 222 juvenile offenders who received a mandatory life sentence for capital murder (*Miller* inmates); 43 inmates who received life sentences for non-homicide offenses (*Graham* inmates);¹⁶ and 39 inmates who received life sentences for committing second degree murder, but who could have been sentenced to a lesser term.¹⁷

Life Expectancy

The Center for Disease Control's United States Life Tables for 2008 (the most recent published) reflect the following remaining life expectancies for 17-18 year olds in the United States:¹⁸

¹¹ *Id.*

¹² See *Gonzalez v. State*, 101 So. 3d 886 (Fla. 1st DCA 2012); *Geter v. State*, 115 So. 3d 385 (Fla. 3d DCA 2013).

¹³ See *Toye v. State*, 2014 WL 228639 (Fla. 2d DCA 2014).

¹⁴ The United States Court of Appeals for the Eleventh Circuit, whose geographical jurisdiction includes cases arising in Florida, has also held that *Miller* does not apply retroactively to cases that are not on direct appeal (*In re Morgan*, 713 F.3d 1365 (11th Cir. 2013)).

¹⁵ The Court will be considering the appeal of *Falcon v. State*, 111 So. 3d 973 (Fla. 1st DCA 2013).

¹⁶ This includes inmates who were sentenced for attempted murder. In *Manuel v. State*, 48 So. 3d 94 (Fla. 2d DCA 2010), the Second District Court of Appeals held that attempted murder is a nonhomicide offense because the act did not result in the death of a human being.

¹⁷ The information is derived from an attachment to an e-mail dated March 22, 2013 from Department of Corrections (DOC) staff to Senate Criminal Justice Committee staff, which is on file with the Senate Committee on Judiciary. A follow-up e-mail dated January 3, 2014, from DOC staff to the Senate Criminal Justice Committee staff (on file with Senate Committee on Judiciary) indicates there have been no significant changes in this information.

¹⁸ The information is from Tables 5, 6, 8, 9, 11 and 12 in the *United States Life Tables, 2008*, National Vital Statistics Reports, Volume 61, Number 3 (September 24, 2012), available at www.cdc.gov/nchs/data/nvsr/nvsr61/nvsr61_03.pdf (last visited on January 30, 2014).

Remaining Life Expectancy: 17-18 Year Old Persons in the United States	
Hispanic Females	67.0 years
White Females	64.5 years
Hispanic Males	62.1 years
Black Females	61.3 years
White Males	59.8 years
Black Males	54.9 years

Parole

A January 2008 Blueprint Commission and Department of Juvenile Justice report, “*Getting Smart about Juvenile Justice in Florida*,” included a recommendation that juveniles who received more than a 10-year adult prison sentence should be eligible for parole consideration. Florida Tax Watch also recommended parole consideration for inmates who were under 18 when they committed their offense, have served more than 10 years, were not convicted of capital murder, have no prior record, and demonstrated exemplary behavior while in prison.¹⁹

III. Effect of Proposed Changes:

The bill amends s. 775.082, F.S., to conform Florida law concerning the sentencing of juvenile offenders to the requirements of the Eighth Amendment set forth by the United States Supreme Court in *Graham v. Florida*, 130 S.Ct. 2011 (2010) and *Miller v. Alabama*, 132 S.Ct. 2455 (2012). It does so by: (1) making procedural changes at the sentencing phase for juvenile offenders who are convicted of a murder for which they can be imprisoned for life; and (2) creating a procedure to review the sentence of juvenile offenders after they are incarcerated for 25 years if they are serving a sentence for committing a non-homicide offense.

***Graham* Defendants**

The bill does not change the procedure for original sentencing of juvenile offenders for non-homicide offenses. However, it gives juvenile offenders who are sentenced to more than 25 years, including those sentenced to life, the opportunity to have a resentencing hearing after 25 years of incarceration. The bill requires the Department of Corrections to notify the offender of the right to have a resentencing hearing 18 months before the beginning of his or her 25th year of incarceration. If the offender requests the resentencing hearing, the sentencing court must hold a hearing during which it considers:

- Whether the offender demonstrates maturity and rehabilitation.
- Whether the offender is at the same level of risk to society as at the time of the initial sentencing.
- The opinion of the victim or the victim’s next of kin, including previous statements made during the trial or initial sentencing phase if the victim or the next of kin chooses not to participate in the resentencing hearing.

¹⁹ Florida Tax Watch, *Report and Recommendations of the Florida Tax Watch Government Cost Savings Task Force to Save More than \$3 Billion*, 47 (March 2010).

- Whether the offender was a relatively minor participant in the criminal offense or acted under extreme duress or the domination of another person.
- Whether the offender has shown sincere and sustained remorse for the criminal offense.
- Whether the offender's age, maturity, and psychological development at the time of the offense affected his or her behavior.
- Whether the offender has successfully obtained a general educational development certificate or completed another educational, technical, work, vocational, or self-rehabilitation program, if available.
- Whether the offender was a victim of sexual, physical, or emotional abuse before committing the offense.
- The results of any mental health assessment, risk assessment, or evaluation of the offender as to rehabilitation.

If the court finds that the offender has been rehabilitated and reasonably believes that the offender is fit to reenter society, it must impose a probationary term of at least 5 years. Otherwise, it must enter a written order stating the reasons for not modifying the sentence.

The bill does not expressly state whether its provision relating to a 25-year resentencing hearing for non-homicide offenders is intended to apply retroactively. Therefore, it is presumed to apply prospectively.²⁰ It is unclear, however, whether it is intended to apply only to those offenders whose offenses are committed after the effective date of the bill or to all offenders who have not served 25 years of imprisonment prior to the effective date.

***Miller* defendants and other juvenile offenders who commit homicide**

The bill provides for a mandatory sentencing hearing to determine whether a juvenile offender who is convicted of a capital felony (or an offense that is reclassified as a capital felony) will be sentenced to life imprisonment. The bill requires the court to sentence the juvenile offender to life imprisonment if it concludes that life imprisonment is appropriate. In making its determination, the court must consider the following factors that reflect the areas of concern expressed by the United States Supreme Court in *Miller*:

- The nature and circumstances of the offense committed by the defendant.
- The effect of the crime on the victim's family and on the community.
- The defendant's age, maturity, intellectual capacity, and mental and emotional health at the time of the offense.
- The defendant's background, including his or her family, home, and community environment.
- The effect, if any, of immaturity, impetuosity, or failure to appreciate risks and consequences on the defendant's participation in the offense.
- The extent of the defendant's participation in the offense.
- The effect, if any, of familial pressure or peer pressure on the defendant's actions.
- The nature and extent of the defendant's prior criminal history.

²⁰ See *Metropolitan Dade County v. Chase Federal Housing Corp.*, 737 So. 2d 494, 499 (Fla. 1999); *Bates v. State*, 750 So. 2d 6, 10 (Fla. 1999).

- The effect, if any, of characteristics attributable to the defendant's youth on the defendant's judgment.
- The possibility of rehabilitating the defendant.

If the sentencing court concludes that life imprisonment is not appropriate, it must sentence the offender to imprisonment for a term of at least 35 years.

The sentencing court must also consider the above factors in sentencing a juvenile offender who has been convicted of murder under s. 782.04, F.S., which is classified as a life felony or a first-degree felony punishable by a term of years not exceeding life imprisonment. Such an offender may be sentenced only to life imprisonment or to imprisonment for a term of years equal to life imprisonment,²¹ if the court considers the factors and concludes that a life sentence is appropriate.²² If the court concludes that a life sentence is inappropriate, it is not required to sentence the offender to a minimum of 35 years as it is in capital cases.

The bill does not state whether this provision relating to juvenile murderers is intended to apply retroactively. Therefore, it is presumed to apply prospectively.²³ The implications of this with regard to those convicted of murders for which a life sentence is mandatory are discussed in paragraph D of the "Constitutional Issues" section of this analysis.

Correction of Cross-references

Sections 3, 4, 5, and 6 of the bill conform cross-references to s. 775.082(3), F.S., that are found in ss. 316.3026(2), 373.430(3), 403.161(3), and 648.571(3), F.S., respectively. The corrections are non-substantive and are required by the redesignating of paragraphs in s. 775.082(3), F.S., due to the insertion of a new paragraph (b).

Effective Date

This bill takes effect July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

²¹ The bill creates the phrase "term of years equal to life imprisonment," leaving the courts to decide whether a particular term of years is the equivalent of a life sentence.

²² Although *Miller* technically does not apply to non-mandatory life sentences, requiring consideration of the sentencing factors avoids the possibility of an equal protection claim by a juvenile offender who receives a life sentence after less consideration than is required for a juvenile offender who commits a more serious offense.

²³ See footnote 20.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Retroactivity of Provisions Relating to *Miller* (Section 1 of the bill)

The bill does not specify whether its provisions are intended to apply retroactively or prospectively. A change in a statute is presumed to operate prospectively unless there is a clear showing that it is to be applied retroactively and its retroactive application is constitutionally permissible. *Metropolitan Dade County v. Chase Federal Housing Corp.*, 737 So. 2d 494, 499 (Fla. 1999); *Bates v. State*, 750 So. 2d 6, 10 (Fla. 1999).

Article X, section 9 of the Florida Constitution (the “Savings Clause”) provides: “Repeal or amendment of a criminal statute shall not affect prosecution or punishment for any crime previously committed.” This means that the criminal statutes in effect at the time an offense was committed apply to any prosecution or punishment for that offense. *See State v. Smiley*, 966 So. 2d 330 (Fla. 2007). The Savings Clause prevents retroactive application of a statute that affects prosecution or punishment for a crime, but does not prohibit retroactive application of a statute that is procedural or remedial in nature.

It is well-established that the Savings Clause prohibits application of a statutory reduction in the maximum sentence for a crime to be applied to an offense that was committed before the change. *See, e.g., Castle v. State*, 330 So. 2d 10 (Fla. 1976) (reduction of maximum sentence for arson from 10 years to 5 years could not be applied to benefit defendant who committed offense before statutory change). However, it is likely that the provisions of the Savings Clause in the Florida Constitution would be trumped by a constitutional imperative of the United States Constitution if there is no way to satisfy both clauses.

Florida opinions by the First and Third District Courts of Appeal currently indicate that *Miller* does not apply retroactively to juvenile offenders who were sentenced to a mandatory life sentence for murder if their appeals were final before the *Miller* opinion was issued.²⁴ Applying this case law, the Savings Clause, and the principle that a law is considered to operate prospectively unless it specifically states that it is to be applied retroactively, it appears the following statements can be made:

- The bill does not apply retroactively because it does not expressly state that it is intended to apply retroactively. Additionally, retroactive application of this provision would violate the Savings Clause because it creates a new penalty that affects the punishment for previously committed offenses.
- The bill should not affect the situation of juvenile offenders who were sentenced to a mandatory life sentence for murder and whose appeals were final before *Miller* based on the previously discussed Florida district court cases. (However, the Florida

²⁴ See footnote 12.

Supreme Court will have an opportunity to definitively address this issue when hearing oral argument on March 6, 2014.)²⁵

- The bill applies prospectively to juvenile offenders who commit capital murder after the effective date. For this group, the bill resolves the problem created by the lack of statutory guidance resulting from the unconstitutionality of the statute as applied to them.
- Because the bill does not apply retroactively, it does not resolve the sentencing problem with regard to juveniles convicted of a murder for which a life sentence is mandatory in the following situations: (1) the offense was or will be committed before the bill's effective date; and (2) the offender's appeals were not final before *Miller*. However, the Florida Supreme Court could find that *Miller* should be given retroactive effect and/or that the Legislature intended for the bill to apply retroactively to this group because Section 1 appears to be intended to resolve the current lack of a constitutionally-acceptable sentence alternative to mandatory life imprisonment. In such case, or if the bill were amended to expressly apply retroactively to this group, it appears that the constitutional requirement to comply with *Miller* would override the Savings Clause violation.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference met on January 30, 2014, and determined that this bill has no impact on prison beds. The bill may have an impact on the court system to the extent that sentencing and resentencing hearings for offenders affected by the bill will require more time and resources. However, according to the Office of the State Courts Administrator, any fiscal impact cannot be accurately determined due to the unavailability of data needed to establish the increase in judicial and court staff workload.²⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁵ See footnote 15.

²⁶ Office of the State Courts Administrator, *2014 Judicial Impact Statement* (December 30 2013) (on file with the Senate Committee on Judiciary).

VIII. Statutes Affected:

This bill substantially amends section 775.082 of the Florida Statutes. This bill creates an unnumbered section of the Florida Statutes. This bill amends the following sections of the Florida Statutes to conform to cross-references: 316.3026, 373.430, 403.161, and 648.571.

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

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

None.

B. Amendments:

None.

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

By Senator Bradley

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1 A bill to be entitled
2 An act relating to juvenile sentencing; amending s.
3 775.082, F.S.; providing criminal sentences applicable
4 to a person who was under the age of 18 years at the
5 time the offense was committed; requiring a judge to
6 consider certain factors before determining if life
7 imprisonment is an appropriate sentence for a homicide
8 defendant; providing for review of sentences of
9 certain offenders who were under the age of 18 at the
10 time of the offense; providing requirements and
11 procedures for such reviews; amending ss. 316.3026,
12 373.430, 403.161, and 648.571, F.S.; conforming cross-
13 references; providing an effective date.

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

16
17 Section 1. Subsections (1) and (3) of section 775.082,
18 Florida Statutes, are amended to read:

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

22 (1) (a) Except as provided in paragraph (b), a person who
23 has been convicted of a capital felony shall be punished by
24 death if the proceeding held to determine sentence according to
25 the procedure set forth in s. 921.141 results in findings by the
26 court that such person shall be punished by death, otherwise
27 such person shall be punished by life imprisonment and shall be
28 ineligible for parole.

29 (b) For offenses committed before the offender attained 18

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30 years of age, a person who is convicted of a capital felony or
31 an offense that was reclassified as a capital felony shall be
32 punished by life imprisonment and is ineligible for parole if
33 the judge at a mandatory sentencing hearing concludes that life
34 imprisonment is an appropriate sentence. In determining whether
35 life imprisonment is an appropriate sentence, the judge shall
36 consider factors relevant to the offense and to the defendant's
37 youth and attendant circumstances, including, but not limited
38 to:

39 1. The nature and circumstances of the offense committed by
40 the defendant.

41 2. The effect of the crime on the victim's family and on
42 the community.

43 3. The defendant's age, maturity, intellectual capacity,
44 and mental and emotional health at the time of the offense.

45 4. The defendant's background, including his or her family,
46 home, and community environment.

47 5. The effect, if any, of immaturity, impetuosity, or
48 failure to appreciate risks and consequences on the defendant's
49 participation in the offense.

50 6. The extent of the defendant's participation in the
51 offense.

52 7. The effect, if any, of familial pressure or peer
53 pressure on the defendant's actions.

54 8. The nature and extent of the defendant's prior criminal
55 history.

56 9. The effect, if any, of characteristics attributable to
57 the defendant's youth on the defendant's judgment.

58 10. The possibility of rehabilitating the defendant.

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If the judge concludes that life imprisonment is not an appropriate sentence, the defendant shall be punished by imprisonment for a term of not less than 35 years.

(3) A person who has been convicted of any other designated felony may be punished as follows:

(a)1. For a life felony committed before ~~prior to~~ October 1, 1983, by a term of imprisonment for life or for a term of years not less than 30.

2. For a life felony committed on or after October 1, 1983, by a term of imprisonment for life or by a term of imprisonment not exceeding 40 years.

3. Except as provided in subparagraph 4., for a life felony committed on or after July 1, 1995, by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment.

4.a. Except as provided in sub-subparagraph b., for a life felony committed on or after September 1, 2005, which is a violation of s. 800.04(5)(b), by:

(I) A term of imprisonment for life; or

(II) A split sentence that is a term of not less than 25 years' imprisonment and not exceeding life imprisonment, followed by probation or community control for the remainder of the person's natural life, as provided in s. 948.012(4).

b. For a life felony committed on or after July 1, 2008, which is a person's second or subsequent violation of s. 800.04(5)(b), by a term of imprisonment for life.

(b) Notwithstanding paragraph (a), for offenses committed before the offender attained 18 years of age, a person convicted

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88 under s. 782.04 of an offense that was reclassified as a life
89 felony is eligible to be punished by life imprisonment or by
90 imprisonment for a term of years equal to life imprisonment if
91 the judge at a mandatory sentencing hearing considers factors
92 relevant to the offense and to the defendant's youth and
93 attendant circumstances, including, but not limited to, the
94 factors listed in paragraph (1)(b), and concludes that
95 imprisonment for life or a term of years equal to life
96 imprisonment is an appropriate sentence.

97 (c)-(b) For a felony of the first degree, by a term of
98 imprisonment not exceeding 30 years or, when specifically
99 provided by statute, by imprisonment for a term of years not
100 exceeding life imprisonment. However, for offenses committed
101 before the offender attained 18 years of age, a person convicted
102 under s. 782.04 of a first-degree felony punishable by a term of
103 years not exceeding life imprisonment or an offense that was
104 reclassified as a first-degree felony punishable by a term of
105 years not exceeding life imprisonment is eligible for a term of
106 years equal to life imprisonment only if the judge at a
107 mandatory sentencing hearing considers factors relevant to the
108 offense and to the defendant's youth and attendant
109 circumstances, including, but not limited to, the factors
110 specified in paragraph (1)(b), and concludes that a term of
111 years equal to life imprisonment is an appropriate sentence.

112 (d)-(e) For a felony of the second degree, by a term of
113 imprisonment not exceeding 15 years.

114 (e)-(d) For a felony of the third degree, by a term of
115 imprisonment not exceeding 5 years.

116 Section 2. (1) For offenses committed before the offender

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117 attained 18 years of age, a person who is sentenced to life
118 imprisonment, imprisonment for life, or imprisonment for a term
119 of more than 25 years for any offense that is not included in s.
120 782.04, Florida Statutes, is entitled to a review of his or her
121 sentence after 25 years. The sentencing court shall retain
122 original jurisdiction for the duration of the sentence for this
123 purpose.

124 (2) The Department of Corrections shall notify a juvenile
125 offender who is committed to the department of his or her
126 eligibility to participate in a resentencing hearing 18 months
127 before the beginning of his or her 25th year of incarceration.
128 The juvenile offender may apply to the court of original
129 jurisdiction requesting that a resentencing hearing be held.

130 (3) An offender is entitled to be represented by counsel,
131 and the court shall appoint a public defender to represent the
132 offender if the offender cannot afford an attorney.

133 (4) The court shall hold a resentencing hearing to
134 determine whether the offender's sentence should be modified.
135 The resentencing court shall consider all of the following:

136 (a) Whether the offender demonstrates maturity and
137 rehabilitation.

138 (b) Whether the offender remains at the same level of risk
139 to society as he or she did at the time of the initial
140 sentencing.

141 (c) The opinion of the victim or the victim's next of kin.
142 The absence of the victim or the victim's next of kin from the
143 resentencing hearing may not be a factor in the court's
144 determination under this section. If the victim or the victim's
145 next of kin chooses not to participate in the hearing, the court

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146 may consider previous statements made by the victim or the
147 victim's next of kin during the trial or initial sentencing
148 phase.

149 (d) Whether the offender was a relatively minor participant
150 in the criminal offense or acted under extreme duress or the
151 domination of another person.

152 (e) Whether the offender has shown sincere and sustained
153 remorse for the criminal offense.

154 (f) Whether the offender's age, maturity, and psychological
155 development at the time of the offense affected his or her
156 behavior.

157 (g) Whether the offender has successfully obtained a
158 general educational development certificate or completed another
159 educational, technical, work, vocational, or self-rehabilitation
160 program, if such a program is available.

161 (h) Whether the offender was a victim of sexual, physical,
162 or emotional abuse before he or she committed the offense.

163 (i) The results of any mental health assessment, risk
164 assessment, or evaluation of the offender as to rehabilitation.

165 (5) If the court determines at the resentencing hearing
166 that the offender has been rehabilitated and is reasonably
167 believed to be fit to reenter society based on these factors, a
168 term of probation of at least 5 years shall be imposed. If the
169 court determines that the offender has not demonstrated
170 rehabilitation and is not fit to reenter society based on these
171 factors, the court shall issue an order in writing stating the
172 reasons why the sentence is not being modified.

173 Section 3. Subsection (2) of section 316.3026, Florida
174 Statutes, is amended to read:

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175 316.3026 Unlawful operation of motor carriers.—
176 (2) Any motor carrier enjoined or prohibited from operating
177 by an out-of-service order by this state, any other state, or
178 the Federal Motor Carrier Safety Administration may not operate
179 on the roadways of this state until the motor carrier has been
180 authorized to resume operations by the originating enforcement
181 jurisdiction. Commercial motor vehicles owned or operated by any
182 motor carrier prohibited from operation found on the roadways of
183 this state shall be placed out of service by law enforcement
184 officers of the Department of Highway Safety and Motor Vehicles,
185 and the motor carrier assessed a \$10,000 civil penalty pursuant
186 to 49 C.F.R. s. 383.53, in addition to any other penalties
187 imposed on the driver or other responsible person. Any person
188 who knowingly drives, operates, or causes to be operated any
189 commercial motor vehicle in violation of an out-of-service order
190 issued by the department in accordance with this section commits
191 a felony of the third degree, punishable as provided in s.
192 775.082(3)(e) ~~775.082(3)(d)~~. Any costs associated with the
193 impoundment or storage of such vehicles are the responsibility
194 of the motor carrier. Vehicle out-of-service orders may be
195 rescinded when the department receives proof of authorization
196 for the motor carrier to resume operation.

197 Section 4. Subsection (3) of section 373.430, Florida
198 Statutes, is amended to read:

199 373.430 Prohibitions, violation, penalty, intent.—

200 (3) Any person who willfully commits a violation specified
201 in paragraph (1)(a) is guilty of a felony of the third degree,
202 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and
203 775.083(1)(g), by a fine of not more than \$50,000 or by

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204 imprisonment for 5 years, or by both, for each offense. Each day
205 during any portion of which such violation occurs constitutes a
206 separate offense.

207 Section 5. Subsection (3) of section 403.161, Florida
208 Statutes, is amended to read:

209 403.161 Prohibitions, violation, penalty, intent.—

210 (3) Any person who willfully commits a violation specified
211 in paragraph (1)(a) is guilty of a felony of the third degree
212 punishable as provided in ss. 775.082(3)(e) ~~775.082(3)(d)~~ and
213 775.083(1)(g) by a fine of not more than \$50,000 or by
214 imprisonment for 5 years, or by both, for each offense. Each day
215 during any portion of which such violation occurs constitutes a
216 separate offense.

217 Section 6. Paragraph (c) of subsection (3) of section
218 648.571, Florida Statutes, is amended to read:

219 648.571 Failure to return collateral; penalty.—

220 (3)

221 (c) Allowable expenses incurred in apprehending a defendant
222 because of a bond forfeiture or judgment under s. 903.29 may be
223 deducted if such expenses are accounted for. The failure to
224 return collateral under these terms is punishable as follows:

225 1. If the collateral is of a value less than \$100, as
226 provided in s. 775.082(4)(a).

227 2. If the collateral is of a value of \$100 or more, as
228 provided in s. 775.082(3)(e) ~~775.082(3)(d)~~.

229 3. If the collateral is of a value of \$1,500 or more, as
230 provided in s. 775.082(3)(d) ~~775.082(3)(e)~~.

231 4. If the collateral is of a value of \$10,000 or more, as
232 provided in s. 775.082(3)(c) ~~775.082(3)(b)~~.

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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)

2/4/14
Meeting Date

Topic Juvenile Sentencing

Bill Number 384
(if applicable)

Name Brad King

Amendment Barcode _____
(if applicable)

Job Title STATE ATTORNEY, 5th Circuit

Address 110 NW 1st AVE, SUITE 5000
Street

Phone 352-621-5914

OCALA FL 34475
City State Zip

E-mail _____

Speaking: For Against Information

Representing President, FPAA

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2 / 4 / 2014

Meeting Date

Topic _____

Bill Number 384
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

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)

Meeting Date _____

Topic Juvenile Sentencing

Bill Number SB 384
(if applicable)

Name Ellis Curry

Amendment Barcode _____
(if applicable)

Job Title _____

Address _____

Phone _____

Street Jacksonville FL
City *State* *Zip*

E-mail _____

Speaking: For Against Information

Representing Self

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Juvenile Sentencing

Bill Number SB 384
(if applicable)

Name Glenn Mitchell

Amendment Barcode _____
(if applicable)

Job Title Director - Compassionate Families

Address _____

Phone _____

Street

Jacksonville,

FL

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Self

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)

2/4/14

Meeting Date

Topic Juvenile Sentencing

Bill Number ^{JB} 384
(if applicable)

Name David Utter

Amendment Barcode _____
(if applicable)

Job Title Director - Policy - FL SPLC

Address PO Box 370037

Phone 386-347-2056

Street

Miami
City

FL 33137
State Zip

E-mail david.utter@splcenter.org

Speaking: For Against Information

Representing Southern Poverty Law Center

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)

Meeting Date _____

Topic juvenile life with parole

Bill Number 384
(if applicable)

Name Paolo Annino

Amendment Barcode _____
(if applicable)

Job Title Professor, FSU College of Law

Address 2031 Owenby Dr

Phone _____

Street

Tall

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

February 4, 2014

Meeting Date

Topic Juvenile Sentencing

Bill Number 384
(if applicable)

Name Honorable Nancy Daniels

Amendment Barcode _____
(if applicable)

Job Title Public Defender, 2nd Judicial Circuit

Address 301 South Monroe Street

Phone 850-606-1010

Street

Tallahassee

Florida

32301

E-mail nancy.daniels@flpd2.com

City

State

Zip

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.

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S-001 (10/20/11)