

SPB 7180 by CJ; Community Correction Reentry Programs

890272 A S FAV CJ, Evers Delete L.93: 02/01 11:04 AM

CS/CS/SB 540 by CA, CM, Smith (CO-INTRODUCERS) Montford, Evers, Lynn; (Similar to H 0885) Secondhand Dealers and Secondary Metals Recyclers

944720 A S RCS CJ, Hays Delete L.140 - 141: 02/01 11:04 AM
618044 A S RCS CJ, Hays btw L.666 - 667: 02/01 11:04 AM
289006 A S RCS CJ, Hays Delete L.707: 02/01 11:04 AM

SB 732 by Bogdanoff (CO-INTRODUCERS) Joyner; (Similar to H 0561) Sentences of Inmates

186548 A S UNFAV CJ, Bennett Delete L.24 - 580: 02/01 11:04 AM
939132 A S RCS CJ, Bennett Delete L.972. 02/01 11:04 AM

SB 1200 by Bogdanoff; (Similar to H 1157) Sexual Offenders and Sexual Predators

SB 1502 by Evers; (Similar to CS/H 1175) Controlled Substances

883742 A S RCS CJ, Evers Delete L.147 - 231: 02/01 11:04 AM
803350 A S RCS CJ, Evers Delete L.479 - 486: 02/01 11:04 AM

SB 1816 by Benacquisto; (Compare to CS/H 1355) Protection of Vulnerable Persons

529782 A S WD CJ, Hays Delete L.205 - 576. 02/01 03:56 PM
397186 A S WD CJ, Hays Delete L.701 - 859. 02/01 03:56 PM
901394 D S RCS CJ, Hays Delete everything after 02/01 11:04 AM

SB 1880 by Flores; (Compare to H 7049) Human Trafficking

176398 D S RCS CJ, Margolis Delete everything after 02/01 11:04 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Dean, Vice Chair

MEETING DATE: Tuesday, January 31, 2012
TIME: 15 Minutes after recess of session—6:00 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Evers, Chair; Senator Dean, Vice Chair; Senators Bennett, Hays, Margolis, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Presentation by the Criminal Justice Standards and Training Commission on officer misconduct and disciplinary action.		Presented
Consideration of proposed committee bill:			
2	SPB 7180	Community Correction Reentry Programs; Requiring the Department of Corrections to develop an operational plan to implement a pilot community corrections reentry program in certain designated counties; requiring that all inmates who are within 36 months of their release date be considered for participation in the pilot community corrections reentry program; deleting a provision limiting the modes of transportation an inmate may use when traveling to and from his or her place of employment, education, or training, etc.	Submitted as Committee Bill
3	CS/CS/SB 540 Community Affairs / Commerce and Tourism / Smith (Similar H 885, Compare CS/H 1323, CS/S 1324)	Secondhand Dealers and Secondary Metals Recyclers; Requiring that a secondary metals recycler conform to the requirements for a secondhand dealer; revising requirements for payments made by secondary metals recyclers to sellers of regulated metals property to prohibit certain cash transactions; requiring the Department of Revenue to accept applications from a fixed business address; preempting to the state the regulation of secondary metals recyclers and purchase transactions involving regulated metals property; limiting the liability of a public or private owner of metal property for injuries occurring during the theft or attempted theft of metal property and for injuries occurring as the result of the theft or attempted theft, etc.	Fav/CS Yeas 6 Nays 0
		CM 01/09/2012 Fav/CS CA 01/23/2012 Fav/CS CJ 01/31/2012 Fav/CS BC	

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Tuesday, January 31, 2012, 15 Minutes after recess of session—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 732 Bogdanoff (Similar H 561)	Sentences of Inmates; Revising the quantity of a controlled substance which a person must knowingly sell, purchase, manufacture, deliver, or bring into this state with the intent to distribute in order to be subject to the automatic imposition of a mandatory minimum term of imprisonment; providing the method for determining the weight of a controlled substance in a mixture that is a prescription drug; revising legislative intent; repealing provisions relating to legislative findings and intent relative to knowledge of a person to the possession of a controlled substance, etc. CJ 01/25/2012 Workshop-Discussed CJ 01/31/2012 Fav/CS JU BC	Fav/CS Yeas 5 Nays 1
5	SB 1200 Bogdanoff (Similar H 1157, Compare H 731, S 1004)	Sexual Offenders and Sexual Predators; Defining the term "homelessness" and deleting the definition of the term "transient residence"; conforming provisions to the revisions in terminology made by the act; clarifying provisions concerning loitering by certain offenders; requiring specified monthly registration by homeless offenders and predators; providing that failure to comply with such registration is a violation of specified provisions, etc. CJ 01/31/2012 Favorable BC	Favorable Yeas 6 Nays 0
6	SB 1502 Evers (Similar CS/H 1175)	Controlled Substances; Adding to the list of Schedule I controlled substances certain specified materials, compounds, mixtures, or preparations that contain hallucinogenic substances or that contain any of these substances' salts, isomers, and salts of isomers, if the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, etc. CJ 01/25/2012 Not Considered CJ 01/31/2012 Fav/CS HR BC	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Tuesday, January 31, 2012, 15 Minutes after recess of session—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1816 Benacquisto (Compare CS/H 1355, H 7049, S 1880)	Protection of Vulnerable Persons; Deleting the definition of the term "other person responsible for a child's welfare"; requiring specified educational institutions and their law enforcement agencies to report known or suspected child abuse, abandonment, or neglect in certain circumstances; revising the definition of the terms "forced labor or services" and "human trafficking"; prohibiting knowingly or in reckless disregard of the facts engaging in certain acts relating to human trafficking; providing additional duties for the Criminal Justice Standards and Training Commission concerning instruction in human trafficking; requiring the Department of Children and Family Services to develop guidelines for serving children who have been the victims of human trafficking, etc. CJ 01/31/2012 Fav/CS BC	Fav/CS Yeas 6 Nays 0
8	SB 1880 Flores (Compare H 7049, S 1816)	Human Trafficking; Providing additional jurisdiction for the Office of Statewide Prosecution relating to human trafficking; increasing the criminal penalty for a person who knowingly engages in human trafficking from a felony of the second degree to a felony of the first degree; increasing the criminal penalty for human smuggling from a misdemeanor of the first degree to a felony of the third degree; providing additional authorization for the interception of wire, oral, or electronic communications, etc. CJ 01/31/2012 Fav/CS BC	Fav/CS Yeas 6 Nays 0
Other related meeting documents			

Frequently Asked Questions About

The Criminal Justice Standards and Training Commission

What is the Criminal Justice Standards and Training Commission?

The Criminal Justice Standards and Training Commission (CJSTC) is a statutorily created group whose mission is to ensure that all citizens of Florida are served by criminal justice officers who are ethical, qualified, and well-trained.

Who are the members of the CJSTC?

The CJSTC is comprised of 19 members -- 16 are appointed by the Governor and three are ex-officio members, i.e., they serve by virtue of the position they hold in State government.

Members Appointed by Governor	Ex-Officio Members
3 sheriffs	The Secretary of Corrections or a designated assistant
3 chiefs of police	The Attorney General or a designee
5 law enforcement officers whose rank is sergeant or below	The Director of the Florida Highway Patrol
2 correctional officers -- one who is an administrator of a state correctional institution, and one whose rank is sergeant or below	
1 director of a CJSTC-certified criminal justice training center	
1 head of a county correctional institution	
1 state resident who does not fall into any previous category	

Are there specific qualifications for appointment to the CJSTC?

To be considered for appointment to the CJSTC, Florida Statute requires a sheriff, chief of police, law enforcement officer, and correctional officer to have at least four years of experience as a law enforcement or correctional officer. In addition, each member appointed by the Governor is accountable to the Governor for the proper performance of the duties of his or her office. The Governor may remove from office any such member for malfeasance, misfeasance, neglect of duty, incompetence, or permanent inability to perform official duties, or for pleading guilty or nolo contendere to, or being found guilty of, a felony.

How does the Governor select the members he appoints?

Florida Statute directs the Governor to consider geography, population, and other relevant factors in order that the representation on the commission reflects the state at large rather than a particular area. Of the appointed members, and except for correctional officers of a state institution, there may be only one appointment from any employing agency.

In appointing each of the three sheriffs, the Governor must choose from a list of six nominees submitted by the Florida Sheriffs Association. In appointing each of the three police chiefs, the Governor must choose from a list of six nominees submitted by the Florida Police Chiefs Association. In appointing each of the five law enforcement officers and one correctional officer, the Governor must choose from a list of six nominees submitted by a committee comprised of representatives from the state's collective bargaining agents for certified law enforcement bargaining units. At least one of the names submitted for each of the five law enforcement officer appointments must be an officer who is not in a collective bargaining unit.

What are the Commission's responsibilities?

The primary duties and responsibilities of the CJSTC are to:

- establish uniform minimum standards for the employment and training of criminal justice officers;
- establish and maintain officer training programs, curricula requirements, and certification of training schools and training school instructors;
- certify officers who complete a Florida Basic Recruit Training Program, or who are diversely qualified through experience and training, and who meet minimum employment standards;
- review and administer appropriate administrative sanctions in instances when an officer, a training school instructor, or a training school is found in violation of Florida Statutes and Commission standards;
- promulgate rules and procedures to administer the requirements of Florida Statutes;
- develop, maintain, and administer the State Officer Certification Examination for criminal justice officers;
- maintain a central repository of records of all certified officers; and
- hold meetings, at least quarterly, to discuss issues and approve rules that relate to officer standards and training.

What is the relationship between FDLE and the CJSTC?

Florida Statute created the CJSTC within the Florida Department of Law Enforcement to “actively provide statewide leadership in the establishment, implementation, and evaluation of criminal justice standards and training for all law enforcement officers, correctional officers, and correctional probation officers.” Members of FDLE’s Criminal Justice Professionalism Program serve as staff of the CJSTC, supporting and assisting the commission in executing, administering, implementing, and evaluating its statutory powers, duties, and functions.

Although created by statute within FDLE, the CJSTC is an independent commission that receives staff support and assistance from the FDLE. The FDLE does not have the statutory authority to override decisions that are made by the Commission.

Does the CJSTC have guiding principles that govern their actions and decisions?

Florida Statute authorizes the CJSTC to adopt rules for the administration of their duties and responsibilities.

How does the CJSTC become aware of discipline cases?

Commission staff presents sustained moral character violations to the Commission for disciplinary action. The Professional Compliance Section of the Bureau of Standards may initiate an officer misconduct case when:

- a) requested by the Governor;
- b) documentation completed when an officer leaves an agency indicates “unfavorable misconduct” as the reason for leaving;
- c) an internal investigation report indicates sustained violation of Florida Statute;
- d) a signed verifiable complaint that contains specific allegations of non-compliance by an officer is received;
- e) newspaper articles indicating an arrest or violation of moral character by an officer is obtained; or
- f) staff develops information indicating that an officer has been arrested or is in violation of Commission-ordered probation.

Who investigates cases brought before the CJSTC for disciplinary action?

Florida Statute and Florida Administrative Code delegate the investigation of potential moral character violations to the officer’s employing agency. Commission staff evaluates case information to determine if grounds for disciplinary action exist, and makes penalty recommendations to the Commission based on recent past similar cases decided by the Commission.

The Commission is not bound by staff recommendation; it has the authority to deny the recommendation and adopt a penalty it chooses.

What actions are the CJSTC authorized to take?

The Commission is authorized by Florida Statute and Florida Administrative Code to administer certain penalties for specific violations. Penalties range from revocation of the officer’s certification (for felony conviction, misdemeanor conviction involving perjury or false statement, dishonorable discharge from US Armed Forces), to suspension of certification, placement on probationary status, retraining, and/or a reprimand.

How is Probable Cause determined?

A finding of probable cause is the first step in the disciplinary process. Commission staff presents sustained officer discipline cases to a three member panel of the Commission. This panel evaluates the internal affairs investigation, arrest documents, court documents, and any other pertinent documentation that enabled the officer’s employing agency to sustain the moral character violation against the officer. The panel then determines whether or not there is sufficient evidence to proceed further with an officer discipline case. The probable cause panel has the following options when determining whether or not to move forward with a disciplinary case: find probable cause, issue a Letter of Guidance, allow the respondent to enter into a probable cause intervention program, find insufficient information and require staff to present the case at a later date once information is identified, find no probable cause and close the case.

Can past disciplinary complaints be used against an officer?

Florida Administrative Code allows the Commission to consider prior disciplinary actions taken by the Commission when determining penalties for future acts of officer misconduct. Previous complaints can only

be considered if the officer's employing agency investigated and determined that the complaint rose to the level of a moral character violation as outlined in Florida Administrative Code.

What are the minimum standards for certification in Florida to become a law enforcement or a corrections officer?

- Be at least 19 years of age.
- Be a citizen of the United States, notwithstanding any law of the state to the contrary.
- Be a high school graduate or its "equivalent" as the commission has defined the term by rule.
- Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States. Any person who, after July 1, 1981, pleads guilty or nolo contendere to or is found guilty of any felony or of a misdemeanor involving perjury or a false statement is not eligible for employment or appointment as an officer, notwithstanding suspension of sentence or withholding of adjudication. Notwithstanding this subsection, any person who has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had such record sealed or expunged shall not be deemed ineligible for employment or appointment as an officer.
- Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections or the Criminal Justice Standards and Training Commission. If administrative delays are caused by the department or the Federal Bureau of Investigation and the person has complied with subsections (1)-(4) and (6)-(9), he or she may be employed or appointed for a period not to exceed 1 calendar year from the date he or she was employed or appointed or until return of the processed fingerprints documenting noncompliance with subsections (1)-(4) or subsection (7), whichever occurs first. Beginning January 15, 2007, the department shall retain and enter into the statewide automated fingerprint identification system authorized by s. 943.05 all fingerprints submitted to the department as required by this section. Thereafter, the fingerprints shall be available for all purposes and uses authorized for arrest fingerprint cards entered in the statewide automated fingerprint identification system pursuant to s. 943.051. The department shall search all arrest fingerprint cards received pursuant to s. 943.051 against the fingerprints retained in the statewide automated fingerprint identification system pursuant to this section and report to the employing agency any arrest records that are identified with the retained employee's fingerprints. By January 1, 2008, a person who must meet minimum qualifications as provided in this section and whose fingerprints are not retained by the department pursuant to this section must be refingerprinted. These fingerprints must be forwarded to the department for processing and retention.
- Have passed a physical examination by a licensed physician, physician assistant, or certified advanced registered nurse practitioner, based on specifications established by the commission. In order to be eligible for the presumption set forth in s. 112.18 while employed with an employing agency, a law enforcement officer, correctional officer, or correctional probation officer must have successfully passed the physical examination required by this subsection upon entering into service as a law enforcement officer, correctional officer, or correctional probation officer with the employing agency, which examination must have failed to reveal any evidence of tuberculosis, heart disease, or hypertension. A law enforcement officer, correctional officer, or correctional probation officer may not use a physical examination from a former employing agency for purposes of claiming the presumption set forth in s. 112.18 against the current employing agency.

- Have a good moral character as determined by a background investigation under procedures established by the commission.
- Execute and submit to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity an affidavit-of-applicant form, adopted by the commission, attesting to his or her compliance with subsections (1)-(7). The affidavit shall be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit shall include conspicuous language that the intentional false execution of the affidavit constitutes a misdemeanor of the second degree. The affidavit shall be retained by the employing agency.
- Complete a commission-approved basic recruit training program for the applicable criminal justice discipline, unless exempt under this subsection. An applicant who has: completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government; and served as a full-time sworn officer in another state or for the Federal Government for at least 1 year provided there is no more than an 8-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application is submitted for an exemption under this section, is exempt in accordance with s. 943.131(2) from completing the commission-approved basic recruit training program.
- Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline.
- Comply with the continuing training or education requirements of s. 943.135.

The Criminal Justice Standards and Training Commission and Commission staff works with the 41 CJSTC certified training centers to develop courses of instruction, including, but not necessarily limited to, education and training in the areas of criminal justice administration and all allied and supporting disciplines. The Commission also establishes the minimum curricular requirements for criminal justice training schools, and ensures that the curriculum delivered is consistent throughout the state.

How many officers are certified in Florida?

Number of Officers Certified by Year						
Year	Aux Cott	Aux LE	Correctional	CPO	Law Enforcement	Total
2002	0	134	2,245	47	3,113	5,529
2003	0	99	3,045	176	2,900	6,220
2004	3	77	3,479	199	3,097	6,855
2005	0	49	2,904	291	3,076	6,260
2006	0	83	3,234	210	3,186	6,703
2007	1	73	4,119	294	3,261	7,770
2008	0	96	3,090	63	2,428	3,677
2009	0	24	2,934	1	2,447	5,426
2010	0	57	2,567	93	2,181	4,898
2011	0	71	1,963	10	2,120	4,164
2012	0	0	26	0	116	142
Total	4	733	29,616	1,924	27,943	39,644

How many officers have passed/failed the state officer certification examination in the past 10 years (2002 – 2011)?

2002 - 2011 State Officer Certification Examinees			
	Pass	Fail	Total
Law Enforcement	35235 (82%)	7592 (18%)	42827
Corrections	30514 (80%)	7750 (20%)	38264
Correctional Probation	1354 (88%)	187 (12%)	1541

How many complaints have been received/reviewed by the CJSTC in the last 10 years? In addition, during the last 10 years how many officers have been decertified (had their certification revoked as a result of disciplinary action by the CJSTC)?

10-Year Officer Discipline Statistics								
Year	Cases Reviewed			%Cases Resulting in Revocation	Revocations		Officer Population (as of December 31)	% Officer Population with Case Reviewed
	Cases Reviewed	% Change from Previous Year	Number Revoked		% Change from Previous Year			
2002	1487	N/A	145	10%	N/A	78,982	1.88%	
2003	1574	6%	134	9%	-8%	81,381	1.93%	
2004	1783	13%	170	10%	27%	82,546	2.16%	
2005	1606	-10%	171	11%	1%	83,513	1.92%	
2006	1506	-6%	151	10%	-12%	85,342	1.76%	
2007	1520	1%	175	12%	16%	87,169	1.74%	
2008	1799	18%	182	10%	4%	87,299	2.06%	
2009	1744	-3%	226	13%	24%	87,619	1.99%	
2010	1781	2%	252	14%	12%	87,363	2.04%	
2011	1609	-10%	280	17%	11%	84,273	1.91%	
Totals	16409		1886	11%				

How are law enforcement and corrections agencies notified of an officer that loses his/her certification?

When the Commission takes disciplinary action against an officer’s certification, Commission staff prepares a final order that outlines the specific penalty that is levied by the Commission. Staff sends a copy of this final order to the officer’s employing agency, and maintains the original order on file in the Professionalism Program. Anyone requesting copies of a final order may contact Commission staff at 850.410.8600.

Commission staff maintains the Automated Training Management System (ATMS) which contains the employment history, training information, state examination information, and any Commission disciplinary action on all officers in Florida. Rule 11B-27.0022, F.A.C. requires an employing agency to conduct a thorough background investigation of each applicant. The rule also requires verification of prior criminal justice employments and the facts and reasons for any prior separations of employment. Potential employers must verify this information via ATMS or by contacting Commission staff at 850.410.8600. Anyone with questions regarding the establishment of ATMS user accounts should contact Officer Records at 850.410.8600.

How can members of the public get information on the disciplinary actions taken by the CJSTC?

The Criminal Justice Professionalism Program's Professional Compliance Section publishes the disciplinary findings by the Commission in the Commission's Quarterly Update. The public can access the Commission's Quarterly Updates at: <http://www.fdle.state.fl.us/Content/getdoc/dd4f5584-4e22-4b0f-a04a-6acbe8734661/Quarterly-Updates.aspx>. Commission staff also publishes the Professional Compliance Bulletin which provides a few examples of specific cases heard after the Commission meetings and highlights topics of interest relating to the officer discipline process. The public can access the Professional Compliance Bulletins at: <http://www.fdle.state.fl.us/Content/getdoc/59610e7c-3fd0-47c7-b97f-8ac1f99b2966/Professional-Compliance-Bulletins.aspx>.

The Criminal Justice Standards and Training Commission meeting dates are publicly noticed in the Florida Administrative Weekly and are published on FDLE's website. You can access this information at <http://www.fdle.state.fl.us/Content/getdoc/91a75023-5a74-40ef-814d-8e7e5b622d4d/CJSTC-Home-Page.aspx>, or you can contact Donna Hunt, Commission Clerk, at 850.410.8600. Commission meetings are open to the general public.

Are members of the Commission compensated for their service?

CJSTC members are not compensated for their service but are reimbursed for per diem and travel expenses based on State of Florida guidelines.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/31/12

Meeting Date

Topic Criminal Justice Standards and Training Commission

Bill Number 7.61
(if applicable)

Name Mark Zadra

Amendment Barcode _____
(if applicable)

Job Title Assistant Commissioner

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Speaking: For Against Information

Representing Florida Department of Law Enforcement

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 Criminal Justice Committee

BILL: SPB 7180

INTRODUCER: For consideration by the Criminal Justice Committee

SUBJECT: Community Correction Reentry Programs

DATE: January 21, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon		Pre-meeting
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7180 requires the Department of Corrections (department) to develop an operational plan to implement a pilot community corrections reentry program in 15 counties in northwest Florida. The bill requires that inmates who are within 36 months of their release date be considered for participation in the pilot program based upon a risk assessment process.

The bill also amends statutes in order to allow the department to expand the permissible means by which a work-release inmate can travel to and from his or her place of employment, education, or training.

This bill substantially amends section 945.091 and repeals section 945.0913 of the Florida Statutes.

II. Present Situation:

Reentry Programs for Nonviolent Offenders

Inmates who enter prison often have shortcomings in one or more areas of education, employment skills, substance abuse-free living, and mental health that contributed to their current situation. For example, almost two-thirds of Florida inmates who enter prison for any crime also have a substance abuse problem.¹ Unless addressed, these deficiencies are likely to contribute to re-offending and a return to prison.

¹ Office of Program Policy Analysis and Governmental Accountability (OPPAGA), *Corrections Rehabilitative Programs Effective, But Serve Only a Portion of the Eligible Population*, Report No. 07-14 (February 2007), p. 6.

In the past decade the executive and legislative branches of state government have acknowledged the importance of reentry services and post-release planning and transition. Various initiatives have been undertaken to improve an inmate's post-release success. However, barriers to successful reentry abound despite this commitment by policymakers to address the problem.

In May 2007, the department revised its mission statement to include assisting offenders with reentry into society in order to reduce recidivism and to lower crime rates. The department's goal was to bring down the recidivism rate from its current 32 percent to 20 percent by 2012. Although it has made some progress, it has been unable to meet that goal.

The department currently provides the following reentry programming to a segment of the inmate population:

- Substance abuse treatment programs;
- Educational and academic programs;
- Career and technical education programs; and
- Faith and character-based programs.²

Within the 15 northwest Florida counties affected by the bill, approximately 32,000 inmates are housed in 20 major correctional facilities, 12 work camps, 2 forestry camps, and 4 work release centers. The department reports that during Fiscal Year 2010-2011, 3,939 inmates were admitted to the department's custody from the affected counties and 3,955 were released to the counties. The following table indicates the admissions/releases for each county:

Admissions and Releases in FY 2010-2011 For Counties Included in Senate Proposed Bill 7180		
County	Admissions	Releases
Bay	867	724
Calhoun	43	62
Escambia	925	1009
Franklin	52	55
Gadsden	191	236
Gulf	33	28
Holmes	55	54
Jackson	186	153
Leon	774	767
Liberty	23	33
Okaloosa	316	321
Santa Rosa	263	225
Wakulla	51	77
Walton	82	105
Washington	78	106
Total	3939	3955

² Florida Department of Corrections, *Recidivism Reduction Strategic Plan Fiscal Year 2009-2014*, available at <http://www.dc.state.fl.us/orginfo/FinalRecidivismReductionPlan.pdf> (last visited November 10, 2011).

Correctional Integrated Needs Assessment System

The department assesses inmates and places them into programs using the Correctional Integrated Needs Assessment System (CINAS), which is based on the “Risk-Needs-Responsivity (RNR)” principle. The RNR principle refers to predicting which inmates have a higher probability of recidivating, and providing appropriate programming and services to higher risk inmates based on their level of need. The services would be focused on “criminogenic needs,” which are factors associated with recidivism that can be changed such as lack of education, substance abuse, criminal thinking, and lack of marketable job skills. High risk offenders have multiple risk factors, and the department provides a range of services and interventions to target the specific crime producing characteristics.

The Recidivism Index (RI) is a component of CINAS developed by the department to give a score that is used to assess an inmate’s program needs, determine the inmate’s priority for intervention and services, and guide program placement. RI scores range from 1 to 5, with those in RI 1 the least likely to recidivate.

The department reports that CINAS allows it to develop and implement programs that increase the likelihood of successful reentry. It also reports that use of the RI and CINAS “avoids focusing resources on individuals ill-equipped to handle specific behavior problems, and ensures the most appropriate treatment-setting possible is being assigned, based on an inmate’s characteristics.”

The RI is administered to an inmate when he or she is received at the initial parent institution and again after 42 months, with updates conducted every 6 months thereafter to evaluate the inmate’s progress and ensure enrollment in needed programs.³

As of January 19, 2012, the department indicates that 47,824 inmates within 3 years of release had been assessed using CINAS. The number of inmates in each RI score category are as follows:

Recidivism Index Scores for CINAS-Assessed Inmates Within 36 Months of Release		
<i>RI Score</i>	<i>Number of Inmates</i>	<i>Percentage of Assessed Inmates</i>
1	6,768	14.2%
2	7,666	16%
3	7,494	15.7%
4	15,868	33.2%
5	10,028	21%
Total	47,824	100%

³ Florida Department of Corrections, Analysis of SB 448.

Inmate Eligibility for Program Placement

The department offers programs in three core areas: academic, vocational, and substance abuse. Including all department and private facilities, there are 8,825 slots available in academic programs, 2,991 in vocational programs, and 3,228 in substance abuse programs.

Inmates with RI scores of 3 and 4 are ranked for placement in core programs if they have an identified need for a specific core program and are within 36 months of release.⁴ They are enrolled in programs based on their priority ranking number, which is itself based on a three-part weighted formula that considers the inmates: (1) program score; (2) current release date; and (3) core program-specific equalization score that is designed to move inmates more in need ahead of others.

Reentry Facilities

The department has dedicated certain facilities throughout the state to function as reentry facilities. These facilities house inmates who are within 36 months of release and who have been assigned to the facility based upon their RI score and programming needs. To the extent possible, inmates are placed in reentry facilities in the area in which they live in order to foster support from family, friends, and community volunteers. Reentry facility staff and community volunteers help inmates with housing, employment, and other needs in preparation for release.⁵ There are currently four reentry facilities, with three more scheduled to open in the near future:

- Baker Correctional Institution in Baker County (1,332 inmates)
- Sago Palm Reentry Center in Palm Beach County (384 inmates)
- Polk Correctional Institution in Polk County (1,393 inmates)
- DeMilly Correctional Institution in Polk County (342 inmates, but scheduled to be closed with functions absorbed by Polk Correctional Institution)
- Baker Reentry Facility scheduled to open in Baker County (432 inmates)
- Everglades Reentry Facility scheduled to open in Dade County (432 inmates)
- Gadsden Reentry Facility scheduled to open in Gadsden County (432 inmates)

The reentry facilities each have or will have a “portal of entry” in the community. This portal of entry is the designated release site for state, federal, and local jail inmates who are released to a particular county. The purpose of the portal of entry is to connect the released offender with needed services that have been identified during release planning and to help them with administrative requirements. Among other things, these services may include:

- Access to a clothing closet
- Food or meal vouchers
- Medical/disability assistance
- Assistance with employment
- Assistance with obtaining housing

⁴ Because of funding constraints, the department does not prioritize programming for R1, R2 or R5 inmates. This is based upon the assumption that R1 and R2 inmates have a relatively low likelihood of recidivating even without programming, and that programming is not likely to reduce the high likelihood that R5 inmates will recidivate.

⁵ In addition to other programming, the department provides the 100-Hour Transition Training Program required by s. 944.7065, F.S., for inmates who are within 12 months of their release.

- Mentoring
- Life skill training
- Felony registration
- Contact with community corrections staff if on community supervision

The portals of entry are cooperative efforts that involve the department, local law enforcement agencies, social service agencies, and community volunteers. Although they have not been operational long enough to calculate three-year recidivism rates, the department reports that a study of one-year recidivism at Baker Reentry Facility indicates some improvement over the recidivism rates before the facility was dedicated to the reentry process.

Community Work Release Centers

Work release is a transition program through which the department selects inmates to work at paid employment in the community while they serve the remainder of their sentence.⁶ The department is statutorily authorized to place an inmate in work release programs during the last 36 months of his or her sentence, but has limited that time to 14 months by rule. Inmates who are on work release have jobs in the community, but live at a non-secure correctional facility. Work release inmates are required to pay room and board and victim restitution, and to contribute to savings. The program is designed to give inmates a chance to enhance employment skills and to re-establish ties with family and the community prior to release.

The department currently has approximately 4,000 work release beds in work release facilities and transition facilities throughout the state. These are separate from the reentry facilities and from work camps, which are secure facilities under the administration of a parent correctional facility. There are four work release centers within the northwest Florida area encompassed by the bill. These are:

- Panama City Work Release Center (71 beds)
- Pensacola Work Release Center (84 beds)
- Tallahassee Work Release Center (121 beds)
- Shisa House West, a facility operated by a private provider in Tallahassee (32 beds)

Inmate Transportation at Work Release Centers

Section 945.091, F.S., specifies the means by which inmates who are in work release centers can travel to and from their jobs, educational programs, or training facilities. Such inmates can walk, bicycle, ride public transportation, or use transportation provided by a family member or employer. The statute also provides that, subject to specific appropriation, the department can transport an inmate in a state-owned vehicle if there is no other means of transportation. Section 945.0913, F.S., prohibits inmates from driving a state-owned vehicle to transport work-release inmates.

The department does not currently transport work release inmates. However, vendors who operate work release centers under contract with the department are permitted to transport inmates using vans driven by the vendor's staff.

⁶ Work release is authorized by s. 945.091, F.S.

Prior to 2003, the majority of work release inmates used department-provided transportation to travel to their places of employment. Inmate drivers were used for transporting these inmates prior to suspension of the inmate driver program in October of 2002 and subsequent enactment of Chapter 2003-141, Laws of Florida. The new law resulted in the current language in ss. 945.091, and 945.0913, F.S., that limits the methods by which work release inmates can travel.

III. Effect of Proposed Changes:

Pilot Community Corrections Reentry Program

Section 1 of the bill directs the department to develop an operational plan to implement a pilot community corrections reentry program in 15 northwest Florida counties for Fiscal Year 2013-2014. Leon County is the eastern boundary of the included area, which extends westward to Escambia County and the state line.

The pilot program must be designed to provide residential care, custody, control, and reentry services to eligible inmates. Substance abuse treatment, housing assistance, money management training, employment assistance, vocational education, and life skills training are reentry services specifically required to be provided by the program.

The bill requires the department to consider all inmates who are within 36 months of their release date for participation in the pilot program. Selection must be based on a risk assessment process that includes, but is not limited to, whether:

- The inmate has potential for rehabilitation and the need for reentry services;
- The reduction of risk of harm to the community after completion of the inmate's sentence which would result from his or her participation in the pilot program is outweighed by any risk of harm to the community which would be posed by the inmate while participating in the pilot program; and
- The inmate is from the geographic area of the pilot program, or has family or identified friends in the area, and intends to reside in the area upon release from custody.

These criteria appear to be consistent with the CINAS risk assessment tool and the Recidivism Index that the department currently uses for assessing and prioritizing reentry services.

An inmate who is selected for the pilot program must be transferred into it not later than 24 months before his or her current release date. If the inmate is already within the 24 month window when selected, he or she must be transferred into the program as soon as a position is available.

The minimum requirements for the operational plan include description and documentation of:

- Resources needed for the pilot project, including, but not limited to, specific buildings, grounds, and property that must be obtained or redesignated for residential community corrections facilities and reentry services.

- Placement of facilities and services in specific areas to maximize the opportunity for participating inmates to benefit from being located near where they plan to live after completion of their sentences.
- Additional staff or changes to staff qualifications necessary to operate the pilot program.
- Contracts the pilot project intends to use for private providers who desire to provide a portion of the reentry services and programming to eligible inmates.
- Security staffing, programming, and budgeting plans.
- The process and method for selecting an inmate to participate in the pilot project, including any initial screening process, the criteria used in the risk assessment, and any prioritization of placement.
- Any changes in law that are necessary to implement the pilot project.

The department is required to submit a status report and proposed budget request to the Governor, President of the Senate, and Speaker of the House of Representatives by December 1, 2012. The report must document the number of inmates that are intended be served in Fiscal Year 2013-2014 and the funding needed to implement the plan.

Sections 2 and 3 of the bill amend s. 945.091, F.S., and repeal s. 945.0913, F.S., respectively, to remove statutory restrictions on the means by which work release center inmates travel to their jobs, school, or training. As a result, the department will have the flexibility to determine appropriate means of transportation. This is expected to result in increased opportunities for employment because many potential employers are not on public transportation routes or within walking or biking distance of work release centers.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill provides for the department to develop a plan that could ultimately have a fiscal impact, but does not authorize implementation of the plan.

VI. Technical Deficiencies:

On line 93, the reference to a “joint” status report should be removed.

The portion of s. 945.091, F.S., that is set forth on lines 122-125 should be stricken because the bill’s striking of the preceding sentence in the statute makes it unnecessary.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.



890272

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/01/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 93

and insert:

status report and proposed budget request by December 1,

Delete lines 122 - 125

and insert:

~~Contingent upon specific appropriations, the department may transport an inmate in a state-owned vehicle if the inmate is unable to obtain other means of travel to his or her place of employment, education, or training.~~



890272

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

14 And the title is amended as follows:

15 Delete line 21

16 and insert:

17 place of employment, education, or training; deleting
18 a provision requiring a specific appropriation for the
19 Department of Corrections to transport an inmate in a
20 state-owned vehicle; repealing

FOR CONSIDERATION By the Committee on Criminal Justice

591-01979-12

20127180__

1 A bill to be entitled
 2 An act relating to community correction reentry
 3 programs; requiring the Department of Corrections to
 4 develop an operational plan to implement a pilot
 5 community corrections reentry program in certain
 6 designated counties; requiring that the operational
 7 plan describe the necessary facilities, staff, budget,
 8 and methods for selecting inmates to participate in
 9 the reentry program; providing examples of reentry
 10 services; requiring that all inmates who are within 36
 11 months of their release date be considered for
 12 participation in the pilot community corrections
 13 reentry program; providing criteria to assess the risk
 14 of placing an inmate in the reentry program; requiring
 15 that an inmate who is selected for participation in
 16 the reentry program be transferred into the pilot
 17 program no later than 24 months before his or her
 18 release date; amending s. 945.091, F.S.; deleting a
 19 provision limiting the modes of transportation an
 20 inmate may use when traveling to and from his or her
 21 place of employment, education, or training; repealing
 22 s. 945.0913, F.S., relating to a prohibition on the
 23 driving of inmates participating in a work-release
 24 program in state-owned vehicles; providing an
 25 effective date.

26
 27 Be It Enacted by the Legislature of the State of Florida:

28
 29 Section 1. Pilot community corrections; reentry program.-

Page 1 of 6

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

591-01979-12

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30 (1) (a) The Department of Corrections shall develop an
 31 operational plan to implement a pilot community corrections
 32 reentry program in Bay, Calhoun, Escambia, Franklin, Gadsden,
 33 Gulf, Holmes, Jackson, Leon, Liberty, Okaloosa, Santa Rosa,
 34 Wakulla, Walton, and Washington Counties within the Northern
 35 Florida Region for the 2013-2014 fiscal year.
 36 (b) At a minimum, the operational plan for the pilot
 37 program must describe and document:
 38 1. The resources needed for the pilot project, including,
 39 but not limited to, specific buildings, grounds, and property
 40 that must be obtained or redesignated for residential community
 41 corrections facilities and reentry services.
 42 2. The placement of facilities and services in specific
 43 areas to maximize the opportunity for participating inmates to
 44 benefit from being located near where they plan to live after
 45 completion of their sentences.
 46 3. The additional staff or changes to staff qualifications
 47 necessary to operate the pilot program.
 48 4. The contracts the pilot project intends to use for
 49 private providers who desire to provide a portion of the reentry
 50 services and programming to eligible inmates.
 51 5. The security staffing plan.
 52 6. The programming plan.
 53 7. The proposed budget.
 54 8. The process and method for selecting an inmate to
 55 participate in the pilot project, including any initial
 56 screening process, the criteria used in the risk assessment, and
 57 any prioritization of placement.
 58 9. The changes in law that are necessary to implement the

Page 2 of 6

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59 pilot project.

60 (2) (a) The pilot program shall be designed to provide
61 residential care, custody, control, and reentry services to
62 eligible inmates.

63 (b) For the purpose of the pilot program, the reentry
64 services include, but are not limited to, substance abuse
65 treatment, housing assistance, money management training,
66 employment assistance, vocational education, and life skills
67 training.

68 (3) All inmates who are within 36 months of their release
69 date shall be considered for participation in the pilot program.
70 The selection shall be based upon a risk assessment process that
71 includes, but is not limited to, whether:

72 (a) The inmate has potential for rehabilitation and the
73 need for reentry services.

74 (b) The reduction of risk of harm to the community after
75 completion of the inmate's sentence which would result from his
76 or her participation in the pilot program is outweighed by any
77 risk of harm to the community which would be posed by the inmate
78 while participating in the pilot program.

79 (c) The inmate is from the geographic area of the pilot
80 program, or has family or identified friends in the area, and
81 intends to reside in the area upon release from custody.

82 (4) An inmate who is selected for participation must be
83 transferred into the pilot program not later than 24 months
84 before his or her current release date. An inmate who is already
85 within 24 months of his or her current release date when
86 selected must be placed into the pilot program as soon as a
87 position is available.

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88 (5) The pilot program may include an existing community
89 work release program established pursuant to s. 945.091, Florida
90 Statutes, as a service provider, but the existing program must
91 provide enhanced reentry services to participating inmates.

92 Section 2. The Department of Corrections shall submit a
93 joint status report and proposed budget request by December 1,
94 2012, to the Executive Office of the Governor, the President of
95 the Senate, and the Speaker of the House of Representatives. The
96 report must document the projected number of inmates to be
97 served in the 2013-2014 fiscal year and the funding needed to
98 implement the operational plan.

99 Section 3. Paragraph (b) of subsection (1) of section
100 945.091, Florida Statutes, is amended to read:

101 945.091 Extension of the limits of confinement; restitution
102 by employed inmates.-

103 (1) The department may adopt rules permitting the extension
104 of the limits of the place of confinement of an inmate as to
105 whom there is reasonable cause to believe that the inmate will
106 honor his or her trust by authorizing the inmate, under
107 prescribed conditions and following investigation and approval
108 by the secretary, or the secretary's designee, who shall
109 maintain a written record of such action, to leave the confines
110 of that place unaccompanied by a custodial agent for a
111 prescribed period of time to:

112 (b) Work at paid employment, participate in an education or
113 a training program, or voluntarily serve a public or nonprofit
114 agency or faith-based service group in the community, while
115 continuing as an inmate of the institution or facility in which
116 the inmate is confined, except during the hours of his or her

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117 employment, education, training, or service and traveling
118 thereto and therefrom. ~~An inmate may travel to and from his or~~
119 ~~her place of employment, education, or training only by means of~~
120 ~~walking, bicycling, or using public transportation or~~
121 ~~transportation that is provided by a family member or employer.~~
122 Contingent upon specific appropriations, the department may
123 transport an inmate in a state-owned vehicle if the inmate is
124 unable to obtain other means of travel to his or her place of
125 employment, education, or training.

126 1. An inmate may participate in paid employment only during
127 the last 36 months of his or her confinement, unless sooner
128 requested by the Parole Commission or the Control Release
129 Authority.

130 2. While working at paid employment and residing in the
131 facility, an inmate may apply for placement at a contracted
132 substance abuse transition housing program. The transition
133 assistance specialist shall inform the inmate of program
134 availability and assess the inmate's need and suitability for
135 transition housing assistance. If an inmate is approved for
136 placement, the specialist shall assist the inmate. If an inmate
137 requests and is approved for placement in a contracted faith-
138 based substance abuse transition housing program, the specialist
139 must consult with the chaplain prior to such placement. The
140 department shall ensure that an inmate's faith orientation, or
141 lack thereof, will not be considered in determining admission to
142 a faith-based program and that the program does not attempt to
143 convert an inmate toward a particular faith or religious
144 preference.

145 Section 4. Section 945.0913, Florida Statutes, is repealed.

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146 Section 5. This act shall take effect July 1, 2012.

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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)

1-31-12

Meeting Date

Topic Re entry

Bill Number 7180
(if applicable)

Name Frank Menendez

Amendment Barcode _____
(if applicable)

Job Title _____

Address _____

Phone _____

Street

Tall FL
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Sheriffs Assoc

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)

1/31/12
Meeting Date

Topic Re-Entry

Bill Number SB 7180
(if applicable)

Name Steve Tomlin

Amendment Barcode _____
(if applicable)

Job Title Vice President

Address 35 Fairfield Pl

Phone 201-452-8686

West Caldwell, NJ 07006
Street City State Zip

E-mail Stomlin@cec
intl.com

Speaking: For Against Information

Representing Community Education Centers

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.

II. Present Situation

Secondhand Dealers and Secondary Metals Recyclers

Chapter 538, F.S., addresses in part I the regulation of secondhand dealers¹ and in part II purchase transactions² by secondary metals recyclers³ that involve “regulated metals property.”⁴ With respect to the latter group, the economic recession has seen the value of metals rise significantly, prompting an increase in metal theft crimes statewide. Law enforcement agencies have testified before county commission boards as to the negative consequences that increased criminal activity relating to the theft of secondary metals and secondary metal products has had on their respective jurisdictions.⁵

Additionally, the unlawful removing of metal from private property and government structures has caused economic loss for both the private and public sectors.⁶ In an issue paper published by the National Conference of State Legislatures it was noted that “stealing copper and other metals from utilities can cause electric outages and [that] expensive repairs impact ratepayers.” “The Department of Energy estimates that a theft of just \$100 in copper wire can cost the utility more than \$5,000 to repair.”⁷ In Miami Dade County alone, “since 2009, the County’s Public Works Department has spent thousands of dollars to repair or replace vandalized light poles.”⁸ Furthermore, with the influx of the number of foreclosures, metal theft has become common in unoccupied properties, which has impeded the ability of property owners, banks, and mortgage holders to sell both residential and commercial properties.⁹

In 2008, the Legislature revised part II of ch. 538, F.S., considerably. The new statutory provisions included increasing the record keeping requirements for purchase transactions by requiring additional seller information to be obtained; providing for enhanced penalties for third or subsequent violations of the statute and for providing false verification of ownership or false or altered identification to a secondary metals recycler; prohibiting secondary metals recyclers from entering into cash transactions for over the amount of \$1,000; as well as requiring that all secondary metals recyclers register with the Department of Revenue prior to engaging in business.^{10, 11} In 2009, part II of ch. 538, F.S., was once again amended when s. 538.21, F.S.,

¹ The definition for “secondhand dealer” is defined in s. 538.03(1)(a), F.S.

² Section 538.18(6), F.S. (“Any transaction in which a secondary metals recycler gives consideration for regulated metals property.”).

³ The definition for “secondary metals recyclers” is defined in s. 538.18(8)(a), F.S.

⁴ Section 538.18(7) F.S. (“Any item composed primarily of any nonferrous metals, but shall not include aluminum beverage containers, used beverage containers, or similar beverage containers . . .”).

⁵ See Orange County, Fla. Ordinance 2010-16, pmb1 (Dec. 7, 2010); See also Miami-Dade County, Fla. Ordinance 11-17, pmb1 (April 4, 2011).

⁶ Jacquelyn Pless, *Copper Theft Can Cause Major Outages and Impact Ratepayers: A Hot Issue in 2011* (October 2011), NCSL.org, available at <http://www.ncsl.org/default.aspx?tabid=23720> (last visited December 16, 2011).

⁷ *Id.* (citing U.S. Department of Energy, Office of Electricity Delivery and Energy Reliability, *An Assessment of Copper Wire Thefts from Electric Utilities*, DOE.org, available at <http://www.oe.netl.doe.gov/docs/copper042707.pdf>. (April 2007).

⁸ Miami-Dade County, Fla. Ordinance 11-17, pmb1 (April 4, 2011).

⁹ *Id.*

¹⁰ Chapter 2008-69, L.O.F.

¹¹ In 2008, the number of secondary metals recyclers registered with the Florida Department of Revenue was 278. As of August 2011, that number increased to 769. See, Fla. Dept. of Revenue, *Secondary Dealers and Secondary Metals Recyclers*

added a clause whereby all municipal and county ordinances relating to the issuance of hold notices by law enforcement were preempted.¹²

In light of these changes, county boards of commission have elected to enact more stringent ordinances.¹³ Common trends among these ordinances include the following: the creation of a new classification of selected items that are more strictly regulated entitled “restricted regulated metals property”; prohibition of cash payment for any purchase transaction involving a “restricted regulated metals property”; imposition of heightened ownership verification requirements from sellers of “restricted regulated metals property”; as well as a requirement that records be maintained for a period of not less than 5 years.¹⁴

Theft of Copper or Other Nonferrous Metals

Section 812.145, F.S., provides that a person who knowingly and intentionally takes copper or other nonferrous metals from a utility or communications services provider commits a felony of the first degree, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S. The statute does not address liability related to such theft.

III. Effect of Proposed Changes:

Section 1 amends s. 538.03, F.S., by requiring that a secondary metals recycler acting as a secondhand dealer must also conform to the requirements for a secondhand dealer pursuant to part I of ch. 538, F.S. Any person purchasing, consigning, or trading secondhand goods at a flea market must also now conform to the requirements found in this chapter.

In addition, “appropriate law enforcement official” is defined as follows: “the sheriff of the county in which a secondhand dealer is located or, if the secondhand dealer is located within a municipality, both the police chief of the municipality and the sheriff; however, the sheriff or police chief may designate as the appropriate law enforcement official for that county or municipality, as applicable, any law enforcement officer working within that respective county or municipality. This paragraph does not limit the authority or duties of the sheriff.”

Section 2 amends s. 538.04, F.S., by revising existing language to conform to modern standards, as well as to the definition of “appropriate law enforcement official” as defined in section 1.

Section 3 amends s. 538.18, F.S., to define the terms “appropriate law enforcement official,” “personal identification card,” “restricted regulated metals,” and “utility.”

“Appropriate law enforcement official” is defined as follows: “the sheriff of the county in which a secondary metals recycler is located or, if the secondary metals recycler is located within a

by County (August 2011), available at http://dor.myflorida.com/dor/taxes/pdf/secondhand_dealers_recyclers.pdf (last visited January 3, 2012).

¹² Chapter 2009-162, L.O.F. (creating s. 538.21(4), F.S., effective October 1, 2009).

¹³ According to the Senate Committee on Commerce and Tourism’s best knowledge, 10 counties have enacted ordinances regulating secondary metals recyclers. They are as follows: Broward, Hillsborough, Lake, Miami-Dade, Orange, Osceola, Sarasota Seminole, Volusia and Washington. On December 13, 2011, Duval County filed Ordinance 2011-766, which would add a new section regulating secondary metals recyclers if approved by the Board of County Commissioners.

¹⁴ Miami-Dade County, Fla. Ordinance 11-17 (April 4, 2011); Orange County, Fla. Ordinance 2010-16 (Dec. 7, 2010).

municipality, the police chief of the municipality in which the secondary metals recycler is located; however, the sheriff or police chief may designate as the appropriate law enforcement official for the county or municipality, as applicable, any law enforcement officer working within that respective county or municipality. This subsection does not limit the authority or duties of the sheriff.”

The definition of “personal identification card” is more specifically defined as “a valid Florida driver license, a Florida identification card issued by the Department of Highway Safety and Motor Vehicles, an equivalent form of identification issued by another state, a passport, or an employment authorization issued by the United States Bureau of Citizenship and Immigration Services that contains an individual’s photograph and current address.”

The bill also defines “restricted regulated metals property.” Specifically, section 7 of the bill amends s. 538.26, F.S., to set forth a list of items that are classified as “restricted regulated metals property.”¹⁵

The term “utility” is defined to mean “a public utility or electric utility as defined in s. 366.02 or a person, firm, corporation, association, or political subdivision, whether private, municipal, county, or cooperative, which is engaged in the sale, generation, provision, or delivery of gas, electricity, heat, water, oil, sewer service, or telephone, telegraph, radio, or telecommunications services.”

Finally, the definition of “regulated metals property” is to include stainless steel beer kegs “and items made of ferrous metal obtained from any restricted regulated metals property.”

Section 4 amends s. 319.30, F.S., to correct a cross-reference to the definition of secondary metals recycler.

Section 5 amends s. 538.19, F.S., by requiring that secondary metals recyclers maintain both a paper and electronic record of all purchase transactions. The format for the electronic record must be approved by the Department of Law Enforcement.

¹⁵ Restricted regulated metals property includes the following items: manhole cover; electric light pole or other utility structure and its fixtures, wires, and hardware that are readily identifiable as connected to the utility structure; guard rail; street sign, traffic sign, or traffic sign and its fixtures and hardware; communication, transmission, distribution, and service wire from a utility, including copper or aluminum bus bars, connectors, grounding plates, or grounding wire; funeral marker or funeral vase; historical marker, railroad equipment, including, but not limited to, a tie plate, signal house, control box, switch plate, E-clip, or rail tie junction; any metal item that is observably marked upon reasonable inspection with any form of the name, initials, or logo of a governmental entity, utility company, cemetery, or railroad; copper aluminum or aluminum-copper condensing or evaporator coil, including its tubing or rods, from an air conditioning or heating unit, excluding coils from window air conditioning or heating units and motor vehicle air conditioning or heating units; aluminum or stainless steel container or bottle designed to hold propane for fueling forklifts; stainless steel beer keg; catalytic converter or any nonferrous part of a catalytic converter unless purchased as part of a motor vehicle; metallic wire that has been burned in whole or in part to remove insulation; a brass or bronze commercial valve or fitting, referred to as a “fire department connection and control valve” or an “FDC valve,” which is commonly used on structures for access to water for the purpose of extinguishing fires; brass or bronze commercial portable water backflow preventer valve that is commonly used to prevent backflow of potable water from commercial structures into municipal domestic water service system; shopping cart; brass water meter; storm grate; and brass sprinkler head used in commercial agriculture.

The record for all purchase transactions shall be electronically transmitted to the appropriate law enforcement official no later than 10 a.m. of the business day following the date of the purchase transaction. A person who submits an electronic file to law enforcement is not required to deliver the manuscript documents unless there is an ongoing criminal investigation. In such a case, the secondary metals recycler must make the manuscript documents available within 24 hours from the request. The time period that a secondary metals recycler is required to maintain information concerning purchase transactions is three years.

Additionally, a provision is also added whereby a secondary metals recycler will not be found liable for a seller's failure to comply with the titling requirements for conversion of a motor vehicle to scrap metal if the secondary metals recycler obtains and maintains a signed statement from the seller stating that the seller has surrendered the vehicle's certificate of title to the Department of Highway or otherwise complied with the titling requirements provided by law.

Section 6 amends s. 538.235, F.S., by requiring a secondary metals recycler to mail a check for payment to the seller or the seller's employer within three days following a purchase transaction. A check may not be mailed to a post office box. Only in a limited number of cases will the seller be allowed to issue a check to the seller at the time of the purchase transaction.¹⁶

Furthermore, cash transactions for the purchase of "regulated metals property" in excess of \$1,000 and for the purchase of any "restricted regulated metals property" are prohibited. Accordingly, the acceptable forms of payments are as follows: a check issued and payable to the seller or by electronic payment to the seller's bank account or to the bank account of the seller's employer.

Section 7 amends s. 538.25, F.S., to state that the Department of Revenue shall only accept secondary metals recycler registration applications from a fixed address. A hotel or motel room, a vehicle, or a post office box are explicitly designated as unacceptable addresses.

Section 8 amends s. 538.26, F.S., by prohibiting the sale of regulated metals property on weekdays before 7 a.m. or after 6 p.m., on Saturdays before 7 a.m. or after 1 p.m., or on Sundays at any place other than the fixed place of business.

This section also prohibits a secondary metals recycler from purchasing regulated metals from a seller who is not using his or her real name; a person younger than 18; or someone under the influence of drugs or alcohol.

¹⁶ The issuance of a check at the time of the purchase transaction is permitted when the seller is one of the following: an organization, corporation, or association registered with the state as a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organization or association, or is a nonprofit corporation or association; a law enforcement officer acting in an official capacity; a trustee in bankruptcy or an executor, administrator, or receiver who has presented proof of such status to the secondary metals recycler; a public official acting under judicial process or authority who has presented proof of such status to the secondary metals recycler; a sheriff acting under the authority of a court's writ of execution, or by virtue of any process issued by a court, if proof thereof has been presented to the secondary metals recycler; or a manufacturing, industrial, or other commercial vendor that generates regulated materials in the ordinary course of business.

Additionally, this section lists the items considered to be “restricted regulated metals property,” which are subject to heightened ownership verification requirements. Specifically, a secondary metals recycler is prohibited from purchasing any “restricted regulated metals property” unless the seller is the owner. If the seller is the owner of the property, reasonable proof of ownership is satisfied by presenting a secondary metals recycler with a receipt or bill of sale showing that the seller is the owner. When the seller is an employee, agent, or contractor of the property’s owner who is authorized to sell the property, reasonable proof is satisfied with a signed letter on the owner’s letterhead, dated no later than 90 days before the sale, authorizing the seller to sell the property.

Lastly, the removal of language concerning the failure to pay sales tax owed to the Department of Revenue or have a sales tax registration number streamlines statutory language given that existing provisions under ch. 212, F.S., require secondary metals recyclers to register as dealers and remit such taxes.

Section 9 creates s. 538.28, F.S., and provides that the regulation of purchase transactions involving “regulated metals property” is preempted to the state with the exception of those ordinances enacted prior to March 1, 2012. However, such ordinances or regulations may only be subsequently amended to meet or exceed the requirements found in part II of ch. 538, F.S. Additionally, a local ordinance may not require verification of compliance with federal law, 40 C.F.R. part 82, relating to refrigerant removal in items sold to a secondary metals recycler.

Section 10 amends s. 538.23, F.S., to correct a cross-reference.

Section 11 amends s. 812.145, F.S., by expanding the definition of utility in subsection (1) to mean “a public utility or electric utility as defined in s. 366.02, or a person, firm, cooperative, corporation, association, or political subdivision, whether private, municipal, county, or cooperative, which is engaged in the sale, generation, provision, or delivery of heat, water, oil, sewer service, telephone or telegraph service, radio, telecommunications, communications, gas, or electricity services.”

A person who knowingly and intentionally “assists with the taking of copper or other nonferrous metals from a utility or communications service provider,” which results in damage to its facilities, commits a violation of subsection (2), which is a felony of the 1st degree.¹⁷

In addition, the newly created subsection (3) provides that a person who is found in a civil action to have illegally taken copper or other nonferrous metals from a utility or communications services provider based upon a conviction for a violation of subsection (2), is liable to the utility or communications services provider for damages in an amount equal to three times the actual damages sustained by the utility or communications services provider due to any personal injury, wrongful death, or property damage caused by the illegal taking of the nonferrous metals, or an amount equal to three times any claim made against the utility or communications services provider for any personal injury, wrongful death, or property damage caused by the malfunction

¹⁷ A felony of the 1st degree is punishable by up to 30 years of imprisonment and a fine of up to \$10,000. See ss. 775.082(3)(b) and 775.083(1)(b), F.S.

of the facilities of the utility or communications services provider resulting from the violation, whichever is greater.

Section 12 creates an undesignated section of law and provides that a secondary metals recycler is not liable to a person who is injured during theft or attempted theft of metal from their property. Furthermore, a secondary metals recycler is not liable for injuries caused by a dangerous condition created as a result of the theft or attempted theft of the owner's property if the owner did not know, or have reason to know, of the dangerous condition.

Section 13 provides that this act shall take effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Preemption

Section 538.28, F.S., created by this bill provides that the regulation of purchase transactions involving "regulated metals property" is preempted to the state. Preemption takes a topic or a field in which local government might otherwise establish appropriate local laws and reserves that topic for regulation exclusively by the Legislature.¹⁸ As such, express preemption of a field by the Legislature must be accomplished by clear language stating that intent.¹⁹ As created by this bill, s. 538.28, F.S., would likely accomplish that effect.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁸ *Phantom of Brevard, Inc. v. Brevard*, 3 So. 3d 309, 314 (Fla. 2008).

¹⁹ *Alliance for Fair Elections, Inc. v. Browning*, 28 So. 3d 880 (Fla. 1996).

B. Private Sector Impact:

Persons purchasing, consigning, or trading secondhand goods at a flea market will now be subject to the statutory provisions required of secondhand dealers as well as any costs to comply with these provisions.

The bill requires that an electronic record of all the previous day's purchase transactions made by a secondary metals recycler be submitted to the appropriate law enforcement official. As such, secondary metals recyclers may be required to devote financial resources towards obtaining proper electronic devices and additional staffing to comply with the record-keeping requirements.

C. Government Sector Impact:

Law enforcement officials will now be required to implement the statutory provisions related to secondhand dealers for persons purchasing, consigning, or trading secondhand goods at a flea market. Agencies enforcing these provisions will incur additional costs.

The bill requires that an electronic record of all the previous day's purchase transactions made by a secondary metals recycler be submitted to the appropriate law enforcement official. As such, law enforcement agencies may be required to devote financial resources towards obtaining proper electronic devices and additional staffing to comply with the record-keeping requirements.

The Criminal Justice Impact Conference met on January 30, 2012 and found that similar bills, CS/SB 1324 and CS/HB 1323 will have an insignificant impact upon prison beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

An exception to preemption is provided for in section 8 of the bill which creates s. 538.28(2), F.S., stating:

[T]his part does not preempt an ordinance or regulation originally enacted by a county or municipality before March 1, 2012. Such an ordinance or regulation may subsequently be amended to meet or exceed the requirements of this part.

As currently written, the effect of this language would be to immune pre-March 1, 2012, ordinances from preemption. Accordingly, it should be noted that this language will result in the existence of pre-March 1, 2012, ordinances that fall below the requirements found in part II of ch. 538, F.S., as amended by this bill.²⁰

²⁰ According to Senate Committee on Commerce and Tourism's the best knowledge, three counties have ordinances that would fall below the requirements of part II of ch. 538, F.S., as amended by this bill. They are as follows: Osceola, Washington, and Volusia.

VIII. Additional Information:

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

CS/CS/CS by Criminal Justice on January 31, 2012:

- Reinstates the current law exemption for any auction business.
- Provides that a local ordinance may not require verification of compliance with federal law relating to refrigerant removal pursuant to 40 C.F.R. part 82.
- Clarifies that the newly created civil treble damages provision applies to a person who has been convicted for illegally taking or assisting in taking copper or other nonferrous metals from a utility or communications services provider.

CS/CS by Community Affairs on January 23, 2012:

- Specifies that the Department of Revenue shall only accept secondary metals recyclers registration applications from a fixed address.
- Prohibits a secondary metals recycler from purchasing regulated metals from a seller: not using his or her real name, a person younger than 18, or someone under the influence of drugs or alcohol.
- Provides that a secondary metals recycler shall make an original transaction form available within 24 hours of a request by law enforcement.
- Expands the definition of “utility” as it relates to the theft of copper and other nonferrous materials.
- Provides that a person who steals copper or other nonferrous materials from a utility or communications services provider is liable for damages equal to three times actual damages or claims sustained by or made against the utility or communications services provider.
- Makes conforming cross references.

CS by Commerce and Tourism on January 9, 2012:

- Regulates both secondary metals recyclers and secondhand dealers.
- Inserts an information-sharing provision that requires all secondary metals recyclers to submit data relating to the previous day’s purchase transactions of regulated metals to law enforcement officials in a format to be determined by the Department of Law Enforcement.
- Requires that records concerning purchase transactions must be maintained for 3 years. In the original bill, the period was reduced from 5 to 2 years.
- Prohibits a secondary metals recycler from issuing a payment at the time of the purchase transaction, but rather requires that payment be performed either by check through mail or electronically. A mailing address to a post office box is not accepted.
- Prohibits the selling of regulated metals property on weekdays before 7 a.m. or after 6 p.m., on Saturdays before 7 a.m. or after 1 p.m., or on Sundays. Moreover, purchases can only take place at a fixed location.

- Inserts the following items into the definition of a restricted regulated metals property: brass water meter, storm grate, and brass sprinkler head used in commercial agriculture.
- Allows for ordinances passed prior to May 1, 2012, to be exempted from preemption, but requires that subsequent amendments to such ordinances meet or exceed the requirements of part II of ch. 538, F.S.
- Provides that a person who knowingly and intentionally “assists with the taking of copper or other nonferrous metals from a utility or communications service provider,” which results in damage to its facilities, commits a felony of the 1st degree.
- Provides that a secondary metals recycler is not liable to a person who is injured during theft or attempted theft of metal property. Furthermore, a secondary metals recycler is not liable for injuries caused by a dangerous condition created as a result of the theft or attempted theft of the owner’s property if the owner did not know, or have reason to know, of the dangerous condition.
- Removes the creation of a statutory inference.

B. Amendments:

None.



944720

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with directory and title amendments)

Delete lines 140 - 141

and insert:

(m) ~~(n)~~ A business that contracts with other persons or

=====
D I R E C T O R Y C L A U S E A M E N D M E N T
=====

And the directory clause is amended as follows:

Delete lines 81 - 85

and insert:

Section 1. Subsection (1) of section 538.03, Florida Statutes, is reordered and amended, present paragraphs (1)



944720

13 through (q) of subsection (2) of that section are redesignated
14 as paragraphs (k) through (p), respectively, and present
15 paragraphs (k) and (n) of that subsection are amended, to read:
16

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

18 And the title is amended as follows:

19 Delete lines 8 - 9

20 and insert:

21 which relate to flea market transactions; conforming
22 terminology; amending s.



618044

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 666 and 667
insert:

(3) A county or municipal ordinance may not require verification of compliance with 40 C.F.R. part 82.

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

And the title is amended as follows:

Delete line 56
and insert:



618044

13
14
15
16

preemption; prohibiting requirements for verification
of compliance with certain federal regulations;
reenacting and amending s. 538.23(1) (a),



289006

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2012	.	
	.	
	.	
	.	

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

Senate Amendment

Delete line 707
and insert:
or communications services provider based upon a conviction for
a violation of subsection

By the Committees on Community Affairs; and Commerce and Tourism; and Senators Smith, Montford, Evers, and Lynn

578-02169A-12

2012540c2

1 A bill to be entitled
 2 An act relating to secondhand dealers and secondary
 3 metals recyclers; amending s. 538.03, F.S.; requiring
 4 that a secondary metals recycler conform to the
 5 requirements for a secondhand dealer; defining the
 6 term "appropriate law enforcement official"; deleting
 7 exemptions from regulation as a secondhand dealer
 8 which relate to flea market transactions and auction
 9 businesses; conforming terminology; amending s.
 10 538.04, F.S., relating to recordkeeping requirements;
 11 conforming terminology and clarifying provisions;
 12 amending s. 538.18, F.S.; revising and providing
 13 definitions; amending s. 319.30, F.S.; conforming a
 14 cross-reference; amending s. 538.19, F.S.; revising
 15 requirements for the types of information that
 16 secondary metals recyclers must obtain and maintain
 17 regarding purchase transactions, including
 18 requirements for the maintenance and transmission of
 19 electronic records of such transactions; revising the
 20 period required for secondary metals recyclers to
 21 maintain certain information regarding purchase
 22 transactions involving regulated metals property;
 23 limiting the liability of secondary metals recyclers
 24 for the conversion of motor vehicles to scrap metal
 25 under certain circumstances; amending s. 538.235,
 26 F.S.; revising requirements for payments made by
 27 secondary metals recyclers to sellers of regulated
 28 metals property to prohibit certain cash transactions;
 29 providing penalties; providing methods of payment for

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30 restricted regulated metals property; requiring that
 31 purchases of certain property be made by check or by
 32 electronic payment; providing procedures; amending s.
 33 538.25, F.S.; requiring the Department of Revenue to
 34 accept applications from a fixed business address;
 35 prohibiting the department from accepting an
 36 application that provides an address from a hotel or
 37 motel room, a vehicle, or a post office box; amending
 38 s. 538.26, F.S.; prohibiting secondary metals
 39 recyclers from purchasing regulated metals property,
 40 restricted regulated metals property, or ferrous
 41 metals during specified times or from certain
 42 locations; prohibiting the purchase of regulated metal
 43 property from a seller who uses a name other than his
 44 or her own name or the registered name of the
 45 business, is younger than 18 years of age, or is under
 46 the influence of drugs or alcohol, if such a condition
 47 is visible or apparent; prohibiting the purchase of
 48 specified restricted regulated metals property without
 49 obtaining certain proof of the seller's ownership and
 50 authorization to sell the property; providing
 51 penalties; creating s. 538.28, F.S.; preempting to the
 52 state the regulation of secondary metals recyclers and
 53 purchase transactions involving regulated metals
 54 property; exempting county and municipal ordinances
 55 and regulations enacted before March 1, 2012, from
 56 preemption; reenacting and amending s. 538.23(1)(a),
 57 F.S., relating to violations and penalties, to
 58 incorporate the amendments made by this act to ss.

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59 538.19 and 538.235, F.S., in references thereto;
 60 correcting a cross-reference; amending s. 812.145,
 61 F.S.; redefining the term "utility"; providing that a
 62 person who assists in the taking of certain metals
 63 commits a felony of the first degree; providing that a
 64 person who illegally takes copper or other nonferrous
 65 metals from a utility or communications services
 66 provider is liable to the utility or communications
 67 provider for damages equal to three times the amount
 68 of any claim against the utility or communication
 69 services provider resulting from the illegal taking of
 70 copper or other nonferrous metals; limiting the
 71 liability of a public or private owner of metal
 72 property for injuries occurring during the theft or
 73 attempted theft of metal property and for injuries
 74 occurring as the result of the theft or attempted
 75 theft; providing that no additional duty of care is
 76 imposed on the owner of metal property; providing an
 77 effective date.

78
 79 Be It Enacted by the Legislature of the State of Florida:

80
 81 Section 1. Subsection (1) of section 538.03, Florida
 82 Statutes, is reordered and amended, paragraphs (m) through (q)
 83 of subsection (2) of that section are redesignated as paragraphs
 84 (k) through (o), respectively, and present paragraphs (k), (l),
 85 and (n) of that subsection are amended, to read:

86 538.03 Definitions; applicability.—

87 (1) As used in this part, the term:

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88 (g) ~~(a)~~ "Secondhand dealer" means any person, corporation,
 89 or other business organization or entity that ~~which~~ is not a
 90 secondary metals recycler subject to part II and that ~~which~~ is
 91 engaged in the business of purchasing, consigning, or trading
 92 secondhand goods. A secondary metals recycler may not act as a
 93 secondhand dealer without also conforming to the requirements
 94 for a secondhand dealer pursuant to this part.

95 (f) ~~(b)~~ "Precious metals dealer" means a secondhand dealer
 96 who normally or regularly engages in the business of buying used
 97 precious metals for resale. The term does not include those
 98 persons involved in the bulk sale of precious metals from one
 99 secondhand or precious metals dealer to another.

100 (i) ~~(e)~~ "Secondhand store" means the place or premises at
 101 which a secondhand dealer is registered to conduct business as a
 102 secondhand dealer or conducts business.

103 (c) ~~(d)~~ "Consignment shop" means a shop engaging in the
 104 business of accepting for sale, on consignment, secondhand goods
 105 that ~~which~~, having once been used or transferred from the
 106 manufacturer to the dealer, are then received into the
 107 possession of a third party.

108 (a) ~~(e)~~ "Acquire" means to obtain by purchase, consignment,
 109 or trade.

110 (h) ~~(f)~~ "Secondhand goods" means personal property
 111 previously owned or used, which is not regulated metals property
 112 regulated under part II and which is purchased, consigned, or
 113 traded as used property. Such secondhand goods do not include
 114 office furniture, pianos, books, clothing, organs, coins, motor
 115 vehicles, costume jewelry, cardio and strength training or
 116 conditioning equipment designed primarily for indoor use, and

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117 secondhand sports equipment that is not permanently labeled with
 118 a serial number. For purposes of this paragraph, "secondhand
 119 sports equipment" does not include golf clubs.

120 ~~(j)(g)~~ "Transaction" means any purchase, consignment, or
 121 trade of secondhand goods by a secondhand dealer.

122 ~~(e)(h)~~ "Precious metals" means any item containing any
 123 gold, silver, or platinum, or any combination thereof, excluding
 124 any chemical or any automotive, photographic, electrical,
 125 medical, or dental materials or electronic parts.

126 ~~(d)(i)~~ "Department" means the Department of Revenue.

127 (b) "Appropriate law enforcement official" means the
 128 sheriff of the county in which a secondhand dealer is located
 129 or, if the secondhand dealer is located within a municipality,
 130 both the police chief of the municipality and the sheriff;
 131 however, the sheriff or police chief may designate as the
 132 appropriate law enforcement official for that county or
 133 municipality, as applicable, any law enforcement officer working
 134 within that respective county or municipality. This paragraph
 135 does not limit the authority or duties of the sheriff.

136 (2) This chapter does not apply to:

137 ~~(k) Any person purchasing, consigning, or trading~~
 138 ~~secondhand goods at a flea market regardless of whether at a~~
 139 ~~temporary or permanent business location at the flea market.~~

140 ~~(l) Any auction business as defined in s. 468.382(1).~~

141 (l)(n) A business that contracts with other persons or
 142 entities to offer its secondhand goods for sale, purchase,
 143 consignment, or trade via an Internet website, and that
 144 maintains a shop, store, or other business premises for this
 145 purpose, if all of the following apply:

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146 1. The secondhand goods must be available on the website
 147 for viewing by the public at no charge;

148 2. The records of the sale, purchase, consignment, or trade
 149 must be maintained for at least 2 years;

150 3. The records of the sale, purchase, consignment, or
 151 trade, and the description of the secondhand goods as listed on
 152 the website, must contain the serial number of each item, if
 153 any;

154 4. The secondhand goods listed on the website must be
 155 searchable based upon the state or zip code;

156 5. The business must provide the appropriate law
 157 enforcement official ~~agency~~ with the name or names under which
 158 it conducts business on the website;

159 6. The business must allow the appropriate law enforcement
 160 official ~~agency~~ to inspect its business premises at any time
 161 during normal business hours;

162 7. Any payment by the business resulting from such a sale,
 163 purchase, consignment, or trade must be made to the person or
 164 entity with whom the business contracted to offer the goods and
 165 must be made by check or via a money services business licensed
 166 under part II of chapter 560; and

167 8.a. At least 48 hours after the estimated time of
 168 contracting to offer the secondhand goods, the business must
 169 verify that any item having a serial number is not stolen
 170 property by entering the serial number of the item into the
 171 Department of Law Enforcement's stolen article database located
 172 at the Florida Crime Information Center's public access system
 173 website. The business shall record the date and time of such
 174 verification on the contract covering the goods. If such

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175 verification reveals that an item is stolen property, the
 176 business shall immediately remove the item from any website on
 177 which it is being offered and notify the appropriate law
 178 enforcement official agency; or

179 b. The business must provide the appropriate law
 180 enforcement official agency with an electronic copy of the name,
 181 address, phone number, driver ~~driver's~~ license number, and
 182 issuing state of the person with whom the business contracted to
 183 offer the goods, as well as an accurate description of the
 184 goods, including make, model, serial number, and any other
 185 unique identifying marks, numbers, names, or letters that may be
 186 on an item, in a format agreed upon by the business and the
 187 appropriate law enforcement official agency. This information
 188 must be provided to the appropriate law enforcement official
 189 agency within 24 hours after entering into the contract unless
 190 other arrangements are made between the business and the law
 191 enforcement official agency.

192 Section 2. Subsections (1), (6), and (7) of section 538.04,
 193 Florida Statutes, are amended to read:

194 538.04 Recordkeeping requirements; penalties.—

195 (1) A secondhand dealer ~~dealers~~ shall complete a secondhand
 196 dealers transaction form at the time of the actual transaction.
 197 A secondhand dealer shall maintain a copy of a completed
 198 transaction form on the registered premises for at least 1 year
 199 after the date of the transaction. However, the secondhand
 200 dealer shall maintain a copy of the transaction form for not
 201 less than 3 years. Unless other arrangements are have been
 202 agreed upon by the secondhand dealer and the appropriate law
 203 enforcement official agency, the secondhand dealer shall, within

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204 24 hours after acquiring ~~the acquisition of~~ any secondhand
 205 goods, deliver to such official ~~the police department of the~~
 206 ~~municipality where the goods were acquired or, if the goods were~~
 207 ~~acquired outside of a municipality, to the sheriff's department~~
 208 ~~of the county where the goods were acquired,~~ a record of the
 209 transaction on a form approved by the Department of Law
 210 Enforcement. Such record shall contain:

211 (a) The time, date, and place of the transaction.

212 (b) A complete and accurate description of the goods
 213 acquired, including the following information, if applicable:

214 1. Brand name.

215 2. Model number.

216 3. Manufacturer's serial number.

217 4. Size.

218 5. Color, as apparent to the untrained eye.

219 6. Precious metal type, weight, and content if known.

220 7. Gemstone description, including the number of stones, if
 221 applicable.

222 8. In the case of firearms, the type of action, caliber or
 223 gauge, number of barrels, barrel length, and finish.

224 9. Any other unique identifying marks, numbers, or letters.

225 (c) A description of the person from whom the goods were
 226 acquired, including:

227 1. Full name, current residential address, workplace, and
 228 home and work phone numbers.

229 2. Height, weight, date of birth, race, gender, hair color,
 230 eye color, and any other identifying marks.

231 3. The right thumbprint, free of smudges and smears, of the
 232 person from whom the goods were acquired.

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233 (d) Any other information required by the form approved by
234 the Department of Law Enforcement.

235 (6) If the appropriate law enforcement official agency
236 supplies a secondhand dealer with appropriate software and the
237 secondhand dealer has computer capability, the secondhand dealer
238 ~~must transactions shall be~~ electronically transmit secondhand
239 dealer transactions required by this section to such official
240 ~~transferred~~. If a secondhand dealer does not have computer
241 capability, the appropriate law enforcement official agency may
242 provide the secondhand dealer with a computer and all equipment
243 necessary to equipment for the purpose of electronically
244 transmit transferring secondhand dealer transactions. The
245 appropriate law enforcement official agency shall retain
246 ownership of the computer, unless otherwise agreed upon, ~~and~~
247 the secondhand dealer shall maintain the computer in good
248 working order, except for ordinary wear and tear excepted. ~~A If~~
249 ~~the~~ secondhand dealer who transmits transfers secondhand dealer
250 transactions electronically, ~~the secondhand dealer~~ is not
251 required to also deliver ~~to the appropriate law enforcement~~
252 ~~agency~~ the original or paper copies of the secondhand
253 transaction forms to the appropriate law enforcement official.
254 However, such official may, for purposes the purpose of a
255 criminal investigation, ~~the appropriate law enforcement agency~~
256 ~~may request that~~ the secondhand dealer to deliver the produce an
257 original ~~of a~~ transaction form that was has been electronically
258 transmitted transferred. The secondhand dealer shall deliver the
259 ~~this~~ form to the appropriate law enforcement official agency
260 within 24 hours after receipt of the request.

261 (7) If the original transaction form is lost or destroyed

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262 by the appropriate law enforcement official agency, a copy may
263 be used by the secondhand dealer as evidence in court. When an
264 electronic image of a customer's identification is accepted for
265 a transaction, the secondhand dealer must maintain the
266 electronic image in order to meet the recordkeeping requirements
267 applicable to the original transaction form. If a criminal
268 investigation occurs, the secondhand dealer shall, upon request,
269 provide a clear and legible copy of the image to the appropriate
270 law enforcement official agency.

271 Section 3. Section 538.18, Florida Statutes, is reordered
272 and amended to read:

273 538.18 Definitions.—As used in this part, the term:

274 (1) "Appropriate law enforcement official" means the
275 sheriff of the county in which a secondary metals recycler is
276 located or, if the secondary metals recycler is located within a
277 municipality, the police chief of the municipality in which the
278 secondary metals recycler is located; however, the sheriff or
279 police chief may designate as the appropriate law enforcement
280 official for the county or municipality, as applicable, any law
281 enforcement officer working within that respective county or
282 municipality. This subsection does not limit the authority or
283 duties of the sheriff.

284 (3)(1) "Ferrous metals" means any metals containing
285 significant quantities of iron or steel.

286 (4)(2) "Fixed location" means any site occupied by a
287 secondary metals recycler as owner of the site or as lessee of
288 the site under a lease or other rental agreement providing for
289 occupation of the site by the secondary metals recycler for a
290 total duration of not less than 364 days.

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291 ~~(5)(3)~~ "Money" means a medium of exchange authorized or
 292 adopted by a domestic or foreign government as part of its
 293 currency.

294 ~~(6)(4)~~ "Nonferrous metals" means metals not containing
 295 significant quantities of iron or steel, including, without
 296 limitation, copper, brass, aluminum, bronze, lead, zinc, nickel,
 297 and alloys thereof, excluding precious metals subject to
 298 regulation under part I.

299 ~~(7)(5)~~ "Personal identification card" means a valid Florida
 300 driver license, a Florida identification card issued by the
 301 Department of Highway Safety and Motor Vehicles, an equivalent
 302 form of identification issued by another state, a passport, or
 303 an employment authorization issued by the United States Bureau
 304 of Citizenship and Immigration Services that contains an
 305 individual's photograph and current address ~~any government-~~
 306 ~~issued photographic identification card.~~

307 ~~(8)(6)~~ "Purchase transaction" means a transaction in which
 308 a secondary metals recycler gives consideration for regulated
 309 metals property.

310 ~~(9)(7)~~ "Regulated metals property" means any item composed
 311 primarily of any nonferrous metals. ~~The term does, but shall~~ not
 312 include aluminum beverage containers, used beverage containers,
 313 or similar beverage containers; ~~however, -~~ the term includes
 314 ~~shall include~~ stainless steel beer kegs and items made of
 315 ferrous metal obtained from any restricted regulated metals
 316 property.

317 ~~(11)(8)~~ "Secondary metals recycler" means any person who:

318 (a) Is engaged, from a fixed location or otherwise, in the
 319 business of purchase transactions, gathering or obtaining

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320 ferrous or nonferrous metals that have served their original
 321 economic purpose, ~~or is in the business of~~ performing the
 322 manufacturing process by which ferrous metals or nonferrous
 323 metals are converted into raw material products consisting of
 324 prepared grades and having an existing or potential economic
 325 value; or

326 (b) Has facilities for performing the manufacturing process
 327 by which ferrous metals or nonferrous metals are converted into
 328 raw material products consisting of prepared grades and having
 329 an existing or potential economic value, other than by the
 330 exclusive use of hand tools, by methods including, without
 331 limitation, processing, sorting, cutting, classifying, cleaning,
 332 baling, wrapping, shredding, shearing, or changing the physical
 333 form or chemical content thereof.

334
 335 A secondary metals recycler may not act as a secondhand dealer
 336 without also conforming to the requirements of a secondhand
 337 dealer pursuant to this part.

338 ~~(2)(9)~~ "Department" means the Department of Revenue.

339 ~~(10)~~ "Restricted regulated metals property" means any
 340 regulated metals property listed in s. 538.26(5) (b) the sale of
 341 which is restricted as provided in s. 538.26(5) (a).

342 ~~(12)~~ "Utility" means a public utility or electric utility
 343 as defined in s. 366.02 or a person, firm, cooperative,
 344 association, or political subdivision, whether private,
 345 municipal, county, or cooperative, which is engaged in the sale,
 346 generation, provision, or delivery of heat, water, oil, sewer
 347 service, or telephone, telegraph, radio, telecommunications, or
 348 communications service.

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349 Section 4. Paragraph (u) of subsection (1) of section
 350 319.30, Florida Statutes, is amended to read:

351 319.30 Definitions; dismantling, destruction, change of
 352 identity of motor vehicle or mobile home; salvage.—

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

354 (u) "Secondary metals recycler" means secondary metals
 355 recycler as defined in s. 538.18 ~~538.18(8)~~.

356 Section 5. Section 538.19, Florida Statutes, is amended to
 357 read:

358 538.19 Records required; limitation of liability.—

359 (1) A secondary metals recycler shall maintain a legible
 360 paper record of all purchase transactions to which such
 361 secondary metals recycler is a party. A secondary metals
 362 recycler shall also maintain a legible electronic record, in the
 363 English language, of all such purchase transactions. The
 364 appropriate law enforcement official may provide data
 365 specifications regarding the electronic record format, but such
 366 format must be approved by the Department of Law Enforcement. An
 367 electronic record of a purchase transaction shall be
 368 electronically transmitted to the appropriate law enforcement
 369 official no later than 10 a.m. of the business day following the
 370 date of the purchase transaction. A secondary metals recycler
 371 who transmits such records electronically is not required to
 372 also deliver the original or paper copies of the transaction
 373 forms to the appropriate law enforcement official. However, such
 374 official may, for purposes of a criminal investigation, request
 375 the secondary metals recycler to deliver the original
 376 transaction form that was electronically transmitted. The
 377 secondary metals recycler shall make available the form to the

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378 appropriate law enforcement official within 24 hours after
 379 receipt of the request.

380 (2) The following information must be maintained on the a
 381 form approved by the Department of Law Enforcement for each
 382 purchase transaction:

383 (a) The name and address of the secondary metals recycler.

384 (b) The name, initials, or other identification of the
 385 individual entering the information on the ticket.

386 (c) The date and time of the transaction.

387 (d) The weight, quantity, or volume, and a description of
 388 the type of regulated metals property purchased in a purchase
 389 transaction.

390 (e) The amount of consideration given in a purchase
 391 transaction for the regulated metals property.

392 (f) A signed statement from the person delivering the
 393 regulated metals property stating that she or he is the rightful
 394 owner of, or is entitled to sell, the regulated metals property
 395 being sold. If the purchase involves a stainless steel beer keg,
 396 the seller must provide written documentation from the
 397 manufacturer that the seller is the owner of the stainless steel
 398 beer keg or is an employee or agent of the manufacturer.

399 (g) The distinctive number from the personal identification
 400 card of the person delivering the regulated metals property to
 401 the secondary metals recycler.

402 (h) A description of the person from whom the regulated
 403 metals property was ~~goods were~~ acquired, including:

404 1. Full name, current residential address, workplace, and
 405 home and work phone numbers.

406 2. Height, weight, date of birth, race, gender, hair color,

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407 eye color, and any other identifying marks.

408 3. The right thumbprint, free of smudges and smears.

409 4. Vehicle description to include the make, model, and tag
410 number of the vehicle and trailer of the person selling the
411 regulated metals property.

412 5. Any other information required by the form approved by
413 the Department of Law Enforcement.

414 (i) A photograph, videotape, or digital image of the
415 regulated metals being sold.

416 (j) A photograph, videotape, or similar likeness of the
417 person receiving consideration in which such person's facial
418 features are clearly visible.

419 (3) ~~Any secondary metals recycler that maintains an~~
420 ~~electronic database containing the information required in~~
421 ~~paragraph (2) (h), along with an oath of ownership with a~~
422 ~~signature of the seller of the secondary metals being purchased~~
423 ~~by the secondary metals recycler and a right thumbprint that has~~
424 ~~no smudges and smears on the oath of ownership for each purchase~~
425 ~~transaction, shall be exempt from the records requirement of~~
426 ~~paragraph (2) (h).~~ A secondary metals recycler complies with the
427 requirements of this section if it maintains an electronic
428 database containing the information required by subsection (2)
429 ~~paragraph (2) (h)~~ as long as the electronic information required
430 by subsection (2) ~~paragraph (2) (h)~~, along with an electronic
431 oath of ownership with an electronic signature of the seller of
432 the secondary metals being purchased by the secondary metals
433 recyclers and an electronic image of the seller's right
434 thumbprint that has no smudges and smears, can be downloaded
435 onto a paper form in the image of the form approved by the

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436 Department of Law Enforcement as provided in subsection (2).

437 (4) A secondary metals recycler shall maintain or cause to
438 be maintained the information required by this section for not
439 less than 3 ~~5~~ years from the date of the purchase transaction.

440 (5) ~~If a purchase transaction involves the transfer of~~
441 ~~regulated metals property from~~ A secondary metals recycler
442 registered with the department who purchases a motor vehicle
443 from a licensed salvage motor vehicle dealer as defined in s.
444 320.27 or to another secondary metals recycler registered with
445 the department and uses a mechanical crusher to convert the
446 vehicle to scrap metal must obtain a signed statement from the
447 seller stating that the seller has surrendered the vehicle's
448 certificate of title to the Department of Highway Safety and
449 Motor Vehicles as provided in s. 319.30 or has otherwise
450 complied with the titling requirements provided by law for
451 conversion of the vehicle to scrap metal. A the secondary
452 metals recycler is not liable for the seller's failure to comply
453 with the titling requirements provided by law for conversion of
454 a motor vehicle to scrap metal if the secondary metals recycler
455 obtains and maintains the seller's signed statement ~~receiving~~
456 ~~the regulated metals property shall record the name and address~~
457 ~~of the secondary metals recycler from which it received the~~
458 ~~regulated metals property in lieu of the requirements of~~
459 ~~paragraph (2) (h).~~

460 Section 6. Section 538.235, Florida Statutes, is amended to
461 read:

462 538.235 Method of payment.—

463 (1) A secondary metals recycler may ~~shall~~ not enter into
464 any cash transaction;

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- 465 (a) In excess of \$1,000 in payment for the purchase of
 466 regulated metals property; or
 467 (b) In any amount for the purchase of restricted regulated
 468 metals property.
- 469 (2) Payment in excess of \$1,000 for the purchase of
 470 regulated metals property shall be made by check issued to the
 471 seller of the metal and payable to the seller.
- 472 (3) Payment for the purchase of restricted regulated metals
 473 property shall be made by check issued to the seller of the
 474 metal and payable to the seller or by electronic payment to the
 475 seller's bank account or the seller's employer's bank account.
- 476 (a) Each check shall be mailed by the secondary metals
 477 recycler directly to the street address of the seller which is
 478 on file with the secondary metals recycler, unless otherwise
 479 provided in this part. A check may not be mailed to a post
 480 office box. Electronic payments shall be transmitted to an
 481 account for which the seller is listed as an account holder or
 482 an employee or agent of the seller.
- 483 (b) Each check or electronic payment shall be mailed or
 484 transmitted by the secondary metals recycler to the seller
 485 within 3 days after the purchase transaction, unless otherwise
 486 provided in this section.
- 487 (c) The secondary metals recycler may provide a check at
 488 the time of the purchase transaction rather than mailing the
 489 check as required in paragraph (a), if the seller is:
- 490 1. An organization, corporation, or association registered
 491 with the state as a charitable, philanthropic, religious,
 492 fraternal, civic, patriotic, social, or school-sponsored
 493 organization or association, or is a nonprofit corporation or

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- 494 association;
 495 2. A law enforcement officer acting in an official
 496 capacity;
 497 3. A trustee in bankruptcy or an executor, administrator,
 498 or receiver who has presented proof of such status to the
 499 secondary metals recycler;
 500 4. A public official acting under judicial process or
 501 authority who has presented proof of such status to the
 502 secondary metals recycler;
 503 5. A sheriff acting under the authority of a court's writ
 504 of execution, or by virtue of any process issued by a court, if
 505 proof thereof has been presented to the secondary metals
 506 recycler; or
 507 6. A manufacturing, industrial, or other commercial vendor
 508 that generates regulated materials in the ordinary course of
 509 business.
- 510 Section 7. Subsection (1) of section 538.25, Florida
 511 Statutes, is amended to read:
 512 538.25 Registration.-
 513 (1) ~~A~~ No person may not shall engage in business as a
 514 secondary metals recycler at any location without registering
 515 with the department. The department shall accept applications
 516 only from a fixed business address. The department may not
 517 accept an application that provides an address of a hotel or
 518 motel room, a vehicle, or a post office box.
- 519 (a) A fee equal to the federal and state costs for
 520 processing required fingerprints must be submitted to the
 521 department with each application for registration. One
 522 application is required for each secondary metals recycler. If a

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523 secondary metals recycler is the owner of more than one
 524 secondary metals recycling location, the application must list
 525 each location, and the department shall issue a duplicate
 526 registration for each location. For purposes of subsections (3),
 527 (4), and (5), these duplicate registrations shall be deemed
 528 individual registrations. A secondary metals recycler shall pay
 529 a fee of \$6 per location at the time of registration and an
 530 annual renewal fee of \$6 per location on October 1 of each year.
 531 All fees collected, less costs of administration, shall be
 532 transferred into the Operating Trust Fund.

533 (b) The department shall forward the full set of
 534 fingerprints to the Department of Law Enforcement for state and
 535 federal processing, provided the federal service is available,
 536 to be processed for any criminal justice information as defined
 537 in s. 943.045. The cost of processing such fingerprints shall be
 538 payable to the Department of Law Enforcement by the department.
 539 The department may issue a temporary registration to each
 540 location pending completion of the background check by state and
 541 federal law enforcement agencies, but shall revoke such
 542 temporary registration if the completed background check reveals
 543 a prohibited criminal background. The Department of Law
 544 Enforcement shall report its findings to the Department of
 545 Revenue within 30 days after the date fingerprint cards are
 546 submitted for criminal justice information.

547 (c) An applicant for a secondary metals recycler
 548 registration must be a natural person who has reached the age of
 549 18 years or a corporation organized or qualified to do business
 550 in the state.

551 1. If the applicant is a natural person, the registration

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552 must include a complete set of her or his fingerprints,
 553 certified by an authorized law enforcement officer, and a recent
 554 fullface photographic identification card of herself or himself.

555 2. If the applicant is a partnership, all the partners must
 556 make application for registration.

557 3. If the applicant is a corporation, the registration must
 558 include the name and address of such corporation's registered
 559 agent for service of process in the state and a certified copy
 560 of statement from the Secretary of State that the corporation is
 561 duly organized in the state or, if the corporation is organized
 562 in a state other than Florida, a certified copy of the statement
 563 that the corporation is duly qualified to do business in this
 564 state.

565 Section 8. Section 538.26, Florida Statutes, is amended to
 566 read:

567 538.26 Certain acts and practices prohibited.—It is
 568 unlawful for a secondary metals recycler to do or allow any of
 569 the following acts:

570 (1) Purchase regulated metals property, restricted
 571 regulated metals property, or ferrous metals on weekdays before
 572 7 a.m. or after 6 p.m., on Saturdays before 7 a.m. or after 1
 573 p.m., or on Sundays. between the hours of 9 p.m. and 6 a.m.

574 ~~(2) Fail to pay any sales tax owed to the department or~~
 575 ~~fail to have a sales tax registration number.~~

576 ~~(3) Purchase regulated metals property at a location other~~
 577 ~~than the place of business set forth on the registration.~~

578 (2)(4) Purchase regulated metals property, restricted
 579 regulated metals property, or ferrous metals from any seller who
 580 presents such property for sale at the registered location of

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581 the secondary metals recycler when such property was not
582 transported in a motor vehicle.

583 ~~(3)(5) Purchase regulated metals property, restricted~~
584 ~~regulated metals property, or ferrous metals in return for money~~
585 ~~from a trailer, a vehicle, or any location other than a fixed~~
586 ~~location or from any person who is required to prove ownership~~
587 ~~pursuant to subsection (4). However, regulated metals may be~~
588 ~~purchased from a nonfixed location, or from such person, with~~
589 ~~any negotiable or nonnegotiable instrument, including a check or~~
590 ~~draft or any other type of instrument purchased with money and~~
591 ~~sold for the purpose of making payments or transfers to others.~~

592 (4) Purchase regulated metals property from a seller who:

593 (a) Uses a name other than his or her own name or the
594 registered name of the seller's business;

595 (b) Is younger than 18 years of age; or

596 (c) Is under the influence of drugs or alcohol, if such
597 condition is visible or apparent.

598 (5) (a) Purchase any restricted regulated metals property
599 listed in paragraph (b), unless the secondary metals recycler
600 obtains reasonable proof that the seller:

601 1. Owns such property. Reasonable proof of ownership may
602 include, but is not limited to, a receipt or bill of sale; or

603 2. Is an employee, agent, or contractor of the property's
604 owner who is authorized to sell the property on behalf of the
605 owner. Reasonable proof of authorization to sell the property
606 includes, but is not limited to, a signed letter on the owner's
607 letterhead, dated no later than 90 days before the sale,
608 authorizing the seller to sell the property.

609 (b) The purchase of any of the following regulated metals

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610 property is subject to the restrictions provided in paragraph

611 (a):

612 1. A manhole cover.

613 2. An electric light pole or other utility structure and
614 its fixtures, wires, and hardware that are readily identifiable
615 as connected to the utility structure.

616 3. A guard rail.

617 4. A street sign, traffic sign, or traffic signal and its
618 fixtures and hardware.

619 5. Communication, transmission, distribution, and service
620 wire from a utility, including copper or aluminum bus bars,
621 connectors, grounding plates, or grounding wire.

622 6. A funeral marker or funeral vase.

623 7. A historical marker.

624 8. Railroad equipment, including, but not limited to, a tie
625 plate, signal house, control box, switch plate, E clip, or rail
626 tie junction.

627 9. Any metal item that is observably marked upon reasonable
628 inspection with any form of the name, initials, or logo of a
629 governmental entity, utility company, cemetery, or railroad.

630 10. A copper, aluminum, or aluminum-copper condensing or
631 evaporator coil, including its tubing or rods, from an air-
632 conditioning or heating unit, excluding coils from window air-
633 conditioning or heating units and motor vehicle air-conditioning
634 or heating units.

635 11. An aluminum or stainless steel container or bottle
636 designed to hold propane for fueling forklifts.

637 12. A stainless steel beer keg.

638 13. A catalytic converter or any nonferrous part of a

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639 catalytic converter unless purchased as part of a motor vehicle.

640 14. Metallic wire that has been burned in whole or in part
641 to remove insulation.

642 15. A brass or bronze commercial valve or fitting, referred
643 to as a "fire department connection and control valve" or an
644 "FDC valve," that is commonly used on structures for access to
645 water for the purpose of extinguishing fires.

646 16. A brass or bronze commercial potable water backflow
647 preventer valve that is commonly used to prevent backflow of
648 potable water from commercial structures into municipal domestic
649 water service systems.

650 17. A shopping cart.

651 18. A brass water meter.

652 19. A storm grate.

653 20. A brass sprinkler head used in commercial agriculture.

654 Section 9. Section 538.28, Florida Statutes, is created to
655 read:

656 538.28 Local government regulation; preemption.-

657 (1) The regulation of purchase transactions involving
658 regulated metals property is preempted to the state. Except as
659 provided in subsection (2), an ordinance or regulation adopted
660 by a county or municipality relating to the purchase or sale of
661 regulated metals property or the registration or licensure of
662 secondary metals recyclers is void.

663 (2) This part does not preempt an ordinance or regulation
664 originally enacted by a county or municipality before March 1,
665 2012. Such an ordinance or regulation may subsequently be
666 amended to meet or exceed the requirements of this part.

667 Section 10. For the purpose of incorporating the amendments

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668 made by this act to sections 538.19 and 538.235, Florida
669 Statutes, in references thereto, paragraph (a) of subsection (1)
670 of section 538.23, Florida Statutes, is reenacted and amended to
671 read:

672 538.23 Violations and penalties.-

673 (1) (a) Except as provided in paragraph (b), a secondary
674 metals recycler who knowingly and intentionally:

675 1. Violates s. 538.20 or s. 538.21;

676 2. Engages in a pattern of failing to keep records required
677 by s. 538.19;

678 3. Violates s. 538.26(2) ~~538.26(4)~~; or

679 4. Violates s. 538.235,

680

681 commits a misdemeanor of the first degree, punishable as
682 provided in s. 775.082.

683 Section 11. Paragraph (d) of subsection (1) and subsection
684 (2) of section 812.145, Florida Statutes, are amended, and
685 subsection (3) is added to that section, to read:

686 812.145 Theft of copper or other nonferrous metals.-

687 (1) As used in this section, the terms:

688 (d) "Utility" means a public utility or electric utility as
689 defined in s. 366.02, or a ~~includes any~~ person, firm,
690 cooperative, corporation, association, or political subdivision,
691 whether private, municipal, county, or cooperative, which is
692 engaged in the sale, generation, provision, or delivery of heat,
693 water, oil, sewer service, telephone or telegraph service,
694 radio, telecommunications, communications, gas, or electricity
695 services.

696 (2) A person who knowingly and intentionally takes or

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697 assists with the taking of copper or other nonferrous metals
 698 from a utility or communications services provider, thereby
 699 causing damage to the facilities of a utility or communications
 700 services provider, interrupting or interfering with utility
 701 service or communications services, or interfering with the
 702 ability of a utility or communications services provider to
 703 provide service, commits a felony of the first degree,
 704 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

705 (3) A person who is found in a civil action to have
 706 illegally taken copper or other nonferrous metals from a utility
 707 or communications services provider in violation of subsection
 708 (2) is liable to the utility or communications services provider
 709 for damages in an amount equal to three times the actual damages
 710 sustained by the utility or communications services provider due
 711 to any personal injury, wrongful death, or property damage
 712 caused by the illegal taking of the nonferrous metals or an
 713 amount equal to three times any claim made against the utility
 714 or communications services provider for any personal injury,
 715 wrongful death, or property damage caused by the malfunction of
 716 the facilities of the utility or communications services
 717 provider resulting from the violation of subsection (2),
 718 whichever is greater.

719 Section 12. (1) A public or private owner of metal property
 720 is not civilly liable to a person who is injured during the
 721 theft or attempted theft of metal property.

722 (2) A public or private owner of metal property is not
 723 civilly liable to a person for injuries caused by a dangerous
 724 condition created as a result of the theft or attempted theft of
 725 the owner's metal property when the owner did not know, and

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726 could not have reasonably known, of the dangerous condition.
 727 (3) This section does not create or impose a duty of care
 728 upon an owner of metal property which would not otherwise exist
 729 under common law.

730 Section 13. This act shall take effect July 1, 2012.

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The Florida Senate

Committee Agenda Request

To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 24, 2012

I respectfully request that **Senate Bill #540**, relating to Secondhand Dealers and Secondary Metals Recyclers, be placed on the:

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

A handwritten signature in black ink, appearing to read "Chris Smith", written over a horizontal line.

Senator Christopher L. "Chris" Smith
Florida Senate, District 29

THE FLORIDA SENATE

APPEARANCE RECORD

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

not a filed
amend

1/31/2012

Meeting Date

Topic striking of Auctioneer Exemption (Line 64) of Secondhand Dealer Statute Bill Number SB540 Secondhand Dealers Statute

Name Malcolm Mason Amendment Barcode 197568 (if applicable)

Job Title Auctioneer + Auction Business Owner (if applicable)

Address 6101 Redfield Cir Phone 850 294 7121

Street

Tallahassee FL 32317

City

State

Zip

E-mail Malcolm@manorauctions.com

Speaking: For Against Information

Representing I wish for the Exemption to remain as we are already state regulated.

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)

1/31/11

Meeting Date

*not
filed
amend*

Topic SECOND HAND DLR / AUCTIONEER Bill Number SB 540
(if applicable)

Name PAUL BARATTINI Amendment Barcode 197568
(if applicable)

Job Title SECONDARY MFLS / AUCTIONEER

Address 1500 APALACHEE PKWY #2450 Phone 850 567 4653
Street

TALLAHASSEE FL 32301 E-mail PAUL@GRACE
City State Zip ESTATEBUYERS.COM

Speaking: For Against Information

Representing AUCTIONEERS SECOND HAND DEALERS

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)

11/31/2012

Meeting Date

Topic Metal Recycling # 618044 Amendment

Bill Number CS/CS/540
(if applicable)

Name Cari Roth

Amendment Barcode 618044
(if applicable)

Job Title _____

Address 101 N. Monroe St Suite 900

Phone 850/222-8611

Street

Tallahassee FL 32301

City

State

Zip

E-mail croth@brolaw.com

Speaking: For Against Information

Representing Sarasota County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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1/31/12

Meeting Date

Topic Secondary Metals

Bill Number CS/CS/SB 540 (if applicable)

Name Scott Boyd

Amendment Barcode (if applicable)

Job Title Commissioner, Orange County

Address 201 S. Rosalind Ave.

Phone

Street Orlando FL 32801

E-mail

Speaking: [X] For [] Against [] Information

Waive in support

Representing

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] 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)

Jan 31, 2012
Meeting Date

Topic Secondhand Dealers and Metal Recyclers

Bill Number 540
(if applicable)

Name Keyna Cory

Amendment Barcode _____
(if applicable)

Job Title Senior Lobbyist

Address 110 E. College Ave.
Street
Tallahassee FL 32301
City State Zip

Phone 850 681 1065

E-mail keynacory@pacconsultants.com

Speaking: For Against Information

Representing AIF

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)

31 JAN 2012
Meeting Date

Topic COPPER THEFT

Bill Number 540
(if applicable)

Name MIKE BJORKLUND

Amendment Barcode _____
(if applicable)

Job Title DIR. OF LEGISLATIVE AFFAIRS

Address 2914 APALACHEE PKWY

Phone 877-6166

TALL FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing FLORIDA ELECTRIC COOPERATIVES ASSOC.

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)

1/31/12
Meeting Date

Topic Copper Theft

Bill Number 540
(if applicable)

Name John Holley

Amendment Barcode _____
(if applicable)

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Florida Power & Light

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)

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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)

1/31/12
Meeting Date

Topic Copper & Metro Trays

Bill Number 540
(if applicable)

Name Richard Watson

Amendment Barcode _____
(if applicable)

Job Title Legislative Counsel

Address P.O. Box 10038
Street

Phone 850 222-0000

Tallahassee FL 32302
City State Zip

E-mail rick@watsonandassociates.com

Speaking: For Against Information

Representing Associated Builders & Contractors

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)

1/31/12
Meeting Date

Topic Second Hand Dealers & Second Hand Metals Recyclers Bill Number SB 540
(if applicable)

Name Jim Gabbard Amendment Barcode _____
(if applicable)

Job Title _____

Address 924 N. Gadsen Phone 850-219-3631
Street
TALLAHASSEE FL E-mail _____
City State Zip

Speaking: For Against Information

Representing The Florida Police Chiefs Assn

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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1/31/12

Meeting Date

Topic Secondhand Dealers & Secondary Metals Recyclers

Bill Number 540
(if applicable)

Name Melanie DiMuzio

Amendment Barcode _____
(if applicable)

Job Title Grassroots Coordinator

Address 106 E. College Ave, Suite 800

Phone 850-510-9435

Tallahassee, FL 32301
City State Zip

E-mail Melanie.dimuzio@pgnmail.com

Speaking: For Against Information

Representing Progress Energy 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.

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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)

1-31-12
Meeting Date

Topic Secondary Metals

Bill Number 540
(if applicable)

Name Frank Menersue to

Amendment Barcode _____
(if applicable)

Job Title 2901 Sk Bradford

Address _____
Street

Phone 576-5858

Tall FL
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Sheriffs Assoc

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

1-31-12

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

Meeting Date

Topic _____

Bill Number 540
(if applicable)

Name JESS MCCARTY

Amendment Barcode _____
(if applicable)

Job Title ASS'T COUNTY CLERK

Address 111 NW 1ST ST 2810

Phone 305-979-7110

Street MIAMI State FL Zip 33128

E-mail JMCCARTY@MIAMI-DADE.GOV

Speaking: For Against Information

Representing MIAMI-DADE COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

1/31/12
Meeting Date

Topic Secondary Metals Recycling

Bill Number SB 540
(if applicable)

Name CARISSA Pennington

Amendment Barcode _____
(if applicable)

Job Title Detective

Address 2008 E. 8th Avenue
Street

Phone 813 363-0375

Tampa FL 33601
City State Zip

E-mail LBowden@hcsa.tampa.fl.us

Speaking: For Against Information

Representing Hillsborough County Sheriff's Office

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)

1-31-12

Meeting Date

Topic Metal Theft

Bill Number 540
(if applicable)

Name Donna Simmons

Amendment Barcode _____
(if applicable)

Job Title Dir, State Gov't Relations

Address 106 E College Ave, Suite 630
Street

Phone 850 681 6785

TLH FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing Wave in Support TEO Energy

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 METAL RAFT

Bill Number 540
(if applicable)

Name CARL PUNYKO

Amendment Barcode _____
(if applicable)

Job Title MGR GULF POWER

Address _____

Phone _____

Street PENSACOLA, FL. 32520
City PENSACOLA *State* FL. *Zip* 32520

E-mail _____

Speaking: For Against Information

Representing WAIVE IN SUPPORT

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)

11/31/12

Meeting Date

Topic SB 540 - SECONDARY METALS RECYC.

Bill Number SB 540 (if applicable)

Name JIM MAGILL

Amendment Barcode (if applicable)

Job Title LOBBYIST - FOWLER WHITE

Address 101 N MONROE, SUITE 1090

Phone (941) 681-

Street

TALLAHASSEE, FL 3230

City

Zip

Speaking: [X] For [] Against [] Information

WAIVE IN SUPPORT

Representing TRADEMARK METALS RECYCLING LLC

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

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

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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 Criminal Justice Committee

BILL: CS/SB 732

INTRODUCER: Criminal Justice Committee and Senators Bogdanoff and Joyner

SUBJECT: Sentences of Inmates

DATE: January 31, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.	_____	_____	JU	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill makes a number of changes to ch. 893, F.S., relating to controlled substances. Specifically, the bill:

- Requires that prosecutors prove “intent to distribute” for various trafficking offenses when the trafficking charge is based on knowing possession of a relevant controlled substance in a trafficking quantity.
- Increases minimum weight thresholds and weight ranges for various trafficking offenses involving cocaine, phenacylidine, amphetamine/methamphetamine, gamma-hydroxybutyric acid (GHB), gamma-butyrolactone (GBL), 1,4-Butanediol, and various phenethylamines.
- Specifies that if a mixture is a prescription drug and the weight of the controlled substance in the mixture can be identified using the national drug code, the weight of the controlled substance is the weight identified in the national drug code (NDC).
- Provides that a judge hearing a motion from the state attorney to reduce or suspend a sentence for substantial assistance rendered may reduce or suspend, defer, or withhold, the sentence or adjudication of guilt (current law authorizes the judge to reduce or suspend the sentence).

- Revises current legislative findings regarding cases relevant to construction of controlled substance scheduling language in relation to drug trafficking weight thresholds.

This bill substantially amends ss. 893.135 and 921.0022, F.S. and reenacts ss. 775.087(2)(a) and 782.04(1)(a), (3), and (4), F.S.

II. Present Situation:

The Drug Trafficking Statute (s. 893.135, F.S.) and Sentencing

Section 893.135, F.S., punishes drug trafficking, which is generally the knowing sale, purchase, manufacture, delivery, or bringing into this state, or the knowing actual or constructive possession of, certain controlled substances (such as cocaine, cannabis, methamphetamine, hydrocodone, and oxycodone) that meet a specified minimum weight threshold or fall within a specified weight range. Section 893.13, F.S., does not require proof of possession with the intent to sell, etc.

In addition to covering specified controlled substances, s. 893.135, F.S., covers any salt, derivative, isomer, or salt of an isomer of the controlled substance, and any mixture containing the substance or its salt, derivative, etc.

There is a minimum weight threshold for trafficking in each relevant controlled substance or mixture. There are also escalating weight ranges. A mandatory minimum term and fine apply to each trafficking offense. As weight ranges escalate, so do mandatory minimum terms and fines. For example, knowing possession of less than 28 grams of cocaine is not a trafficking offense (28 grams is the minimum weight threshold for cocaine trafficking). There is a 3-year mandatory minimum term and \$50,000 fine for knowing possession of 28 grams or more, but less than 200 grams of cocaine. Mandatory minimum terms and fines increase to a 7-year mandatory minimum term and \$100,000 fine for 200 grams or more, but less than 400 grams of cocaine, and a 15-year mandatory minimum term and \$250,000 fine for 400 grams or more of cocaine.

If the controlled substance appears in a mixture, the total weight of the mixture is treated as the weight of the controlled substance. For example, “street cocaine” is frequently adulterated (“cut”) with other agents, which increases the quantity of cocaine available for sale and the seller’s profits. In the case of opioid mixtures, these often involve pharmaceutical medications that have been unlawfully obtained. These mixtures, typically in tablet or pill form, contain the controlled substance (e.g., hydrocodone) and other constituents of the tablet/pill that are not controlled substances. The total weight of the tablets/pills is treated as the weight of the controlled substance.

The Criminal Punishment Code (Code) is Florida’s general framework or mechanism for determining permissible sentencing ranges for noncapital felonies. Non-capital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). Points are assigned and accrue based upon the level assigned (sentence points escalate as the level escalates). Level rankings and points are assigned to the primary offense, additional offenses, and prior offenses. Points may also accrue based upon other factors specified in the law. These points are entered into a mathematical calculation to determine the lowest permissible sentence.

Absent a permissible mitigating factor, the lowest permissible sentence is the “floor” for sentencing (a mandatory minimum term effectively becomes the floor if it exceeds the scored lowest permissible sentence). The “ceiling” is generally the statutory maximum penalty for the degree of the felony as provided in s. 775.082, F.S. The court may impose any sentence within this range (floor to ceiling).

Typically, trafficking offenses are first degree felonies but levels assigned to these trafficking offenses vary depending on the offense. For example, trafficking in 28 grams or more, but less than 200 grams of cocaine is a Level 7 offense, but trafficking in 200 grams or more, but less than 400 grams of cocaine is a Level 8 offense. Additionally, the Code authorizes the sentencing court to multiply subtotal sentence points by 1.5 for a Level 7 or Level 8 trafficking primary offense.

Even if a person knowingly possesses, sells, etc., a relevant controlled substance in a trafficking quantity, a mandatory minimum term may be avoided in some instances through the charging decision or plea offered. In some instances, the person is charged with or offered a plea to attempted trafficking or another controlled substance offense in which there is no mandatory minimum term (the prosecutor could charge a non-trafficking quantity in the information).

However, once a person is convicted of a drug trafficking offense, it appears the sentencing court has little discretion to elect not to impose the mandatory minimum term. To staff’s knowledge, this discretion may only be exercised in instances in which the defendant is a youthful offender¹ or when the court grants a motion from the State to reduce or suspend a sentence based on substantial assistance rendered.²

Knowledge of the Illicit Nature of a Controlled Substance

Although the bill does not amend or repeal s. 893.101, F.S. (discussed below), there are currently state and federal court proceedings regarding this statute in relation to provisions of the Florida Comprehensive Drug Abuse Prevention and Control Act (ch 893, F.S.), the resolution of which may substantially impact prosecutions of some offenses under the Act. Therefore, this statute and these proceedings are discussed for informational purposes.

In 2002, the Legislature enacted s. 893.101, F.S.³ The statute provides that the “[l]ack of knowledge of the illicit nature of a controlled substance is an affirmative defense”⁴ to the crime of possession of a controlled substance. If a defendant raises this affirmative defense, the trial

¹ Section 958.04, F.S. See *State v. Dishman*, 5 So.3d 773 (Fla. 4th DCA 2009) and *Inman v. State*, 842 So.2d 862 (Fla. 2d DCA 2003).

² Section 893.135(4), F.S. This mitigation cannot occur without the State’s motion. *State v. Agerton*, 523 So.2d 1241 (Fla. 5th DCA 1988), *rev. den.*, 531 So.2d 1352 (Fla.1988).

³ Chapter 2002-258, L.O.F.

⁴ Section 893.101(2), F.S. “An ‘affirmative defense’ is any defense that assumes the complaint or charges to be correct but raises other facts that, if true, would establish a valid excuse or justification or a right to engage in the conduct in question.” *State v. Cohen*, 568 So. 2d 49, 51 (Fla.1990). Florida courts have also recognized a defense (not in statute) where possession is based on temporary control of a controlled substance for legal disposition by throwing the substance away, destroying the substance, or giving the substance to police. See *Robinson v. State*, 57 So.3d 278, 281 (Fla. 4th DCA 2011); *Keller v. State*, 946 So.2d 1233, 1235 (Fla. 4th DCA 2007), *rev. den.*, 958 So.2d 919 (Fla.2007); *Ramsubhag v. State*, 937 So.2d 1192, 1194-1195 (Fla. 4th DCA 2006); and *Stanton v. State*, 746 So.2d 1229, 1230 (Fla. 3d DCA 1999).

court must instruct the jury that “possession of a controlled substance, whether actual or constructive, shall give rise to a permissive presumption that the possessor knew of the illicit nature of the substance.”⁵

Section 893.101, F.S., was intended to legislatively supersede *Chicone v. State*,⁶ in which the Florida Supreme Court held that knowledge of the illicit nature of a substance is an element of the crime of possession even though not explicitly stated in the law. Stated another way, *Chicone* (and other later cases) “stand for the proposition that ‘guilty knowledge’ is an element of the offense of possession and must be proven beyond a reasonable doubt.”⁷

On July 21, 2011, Judge Mary Scriven, who presides in the U.S. District Court, Middle District of Florida, Orlando Division, found s. 893.13, F.S., “to be unconstitutional on substantive due process grounds.”⁸ This case was *Shelton v. Secretary, Department of Corrections*.⁹ “In *Shelton*, the court concluded that Florida Statute § 893.13 is facially unconstitutional. The court reasoned that the Florida Legislature’s 2002 amendment to Florida’s Drug Abuse Prevention and Control law, codified at Fla. Stat. § 893.101, eliminated any *mens rea* requirement for the drug offenses enumerated in Fla. Stat. § 893.13, thus rendering these offenses strict liability offenses. The court then held that the statute could not pass constitutional muster as a strict liability statute because it subjects its offenders to ‘harsh penalties,’ ‘gravely besmirches an individual’s reputation,’ and ‘punishes otherwise innocuous conduct without proof of knowledge or other criminal intent,’ which violates the Due Process Clause of the United States Constitution.”¹⁰

Attorney General Pam Bondi appealed the order in *Shelton* to the United States Court of Appeals, Eleventh Circuit.¹¹ To date there has not been a decision on that appeal.

Subsequent to Judge Scriven’s order, at least one other Florida federal district court judge in the U.S. District Court, Middle District of Florida, Tampa Division, disagreed with *Shelton* that s. 893.13, F.S., is facially unconstitutional.¹² It appears that only two Florida circuit court judges have agreed with *Shelton*.¹³ Further, Florida’s First, Third, Fourth, and Fifth district courts of appeal have rejected *Shelton*. All of these courts have held that s. 893.13, F.S., as amended by

⁵ Section 893.101(3), F.S.

⁶ 684 So.2d 736 (Fla.1996).

⁷ *Garcia v. State*, 901 So.2d 788, 793 (Fla.2005).

⁸ *Maestas v. State*, --- So.3d --- (Fla. 4th DCA 2011), 2011 WL 5964337 (Fla. 4th DCA November 30, 2011), at *3 (citation omitted), describing the *Shelton* holding.

⁹ --- F.Supp.2d ---, No. 6:07-cv-839-ORL-35, 2011 WL 3236040 (M.D. Fla. July 27, 2011).

¹⁰ *United States v. Bunton*, No. 8:10-cr-327-T-30EAJ (M.D. Fla. October 26, 2011), 2011 WL 5080307 (M.D. Fla. October 26, 2011), at *1, citing *Shelton*, supra, at *9.

¹¹ *Secretary, Florida Department of Corrections v. Shelton*, No. 11-13515-G, United States Court of Appeals, Eleventh Circuit.

¹² *Bunton*, supra. Further, *Shelton* appears to conflict with another order out of the U.S. District Court, Middle District of Florida, Jacksonville Division, in which the court rejected the petitioner’s assertion that sale or delivery of cocaine was a strict liability offense. *Knox v. Secretary of the Florida Department of Corrections*, No. 8:10-cv-306-J-20TEM (M.D. Fla. August 11, 2011) (on file with the Committee on Criminal Justice).

¹³ *State v. Washington*, Nos. F11-11019, et al. (Fla. 11th Cir.Ct. August 17, 2011) and *State v. Adkins*, Nos. 2011 CF 002001, et al. (Fla. 12th Cir.Ct. September 14, 2011).

s. 893.101, F.S., is constitutional.¹⁴ The Second District Court of Appeal did not consider the merits of *Shelton* but rather certified the constitutionality issue to the Florida Supreme Court as an issue of great public importance.¹⁵ The Florida Supreme Court accepted jurisdiction to hear this question and briefs have been filed and oral argument has taken place.¹⁶ To date there has not been a decision.

The holdings of those district courts of appeal that have considered the merits are based on a number of findings. Perhaps the finding of greatest importance in regard to the question of whether *Shelton* was correctly decided is the finding that s. 893.101, F.S., does not create strict liability crimes. For example, the Fourth District in *Maestas* held that “section 893.101 did not remove scienter from section 893.13 offenses and did not create an unconstitutional strict liability crime.”¹⁷ The court found a *mens rea* requirement for drug possession: “Although knowledge of presence is not expressly required by the text of section 893.13, such knowledge has always been required in drug possession cases. Section 893.13 is no exception. Indeed, the standard jury instruction for possession of a controlled substance requires the jury find that ‘([d]efendant) had knowledge of the presence of the substance.’ Fla. Std. Jury Instr. (Crim.) 25:2.”¹⁸ The offenses in s. 893.13, F.S., are “general intent crimes and, although not expressly stated in the statute, require that the defendant *voluntarily* commit the proscribed act. Contrary to the holding in *Shelton*, the statute does not punish strictly an unknowing possession or delivery.”¹⁹

Hydrocodone Trafficking and Weighing Mixtures

Prior to legislative changes in 2000 (and subsequent changes in 2001), s. 893.03, Florida’s controlled substance scheduling statute, provided that, unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing not more than 300 milligrams of hydrocodone (or its salts) per 100 milliliters or not more than 15 milligrams per dosage unit (e.g., tablet or pill), with recognized therapeutic amounts of one or more active ingredients which are not controlled substances, was a Schedule III controlled substance. However, hydrocodone in amounts in excess of 300 milligrams per 100 milliliters or 15 milligrams per dosage unit was a Schedule II controlled substance.

In *Hayes v. State*, 750 So.2d 1 (Fla. 1999), a hydrocodone trafficking case, the Florida Supreme Court reviewed this scheduling language and s. 893.135, F.S. The court found that s. 893.135, F.S., applied only to Schedule I or Schedule II controlled substances (or mixtures containing such substances). Reading together s. 893.135, F.S., and s. 893.03, F.S., the court concluded that Hayes, who unlawfully possessed Lorcet tablets (which contain hydrocodone) could not be

¹⁴See *Flagg v. State*, 74 So.3d 138 (Fla. 1st DCA 2011); *Little v. State*, --- So.3d --- (Fla. 3d DCA 2011), 2011 WL 5554812 (Fla. 3d DCA November 16, 2011); *Maestas*, *supra*; and *Holcy v. State*, --- So.3d --- (Fla. 5th DCA 2011), 2011 WL 5299328 (Fla. 5th DCA November 1, 2011).

¹⁵ *State v. Adkins*, 71 So.3d 184 (Fla. 2d DCA 2011), *rev. granted*, 71 So.3d 117 (Fla. Oct 12, 2011).

¹⁶ *State v. Adkins*, No. SC11-1878, Supreme Court of Florida.

¹⁷ *Maestas*, at *4.

¹⁸ *Maestas*, at *2 (other citations omitted).

¹⁹ *Maestas*, at *2 (citation omitted). “A ‘general intent’ statute is one that prohibits either a specific voluntary act or something that is substantially certain to result from the act (e.g., damage to a building is the natural result of the act of setting a building afire. A person’s subjective intent to cause the particular result is irrelevant to general intent crimes because the law ascribes to him a presumption that he intended such result.” *Linehan v. State*, 442 So.2d 244, 247 (Fla. 2d DCA 1983).

charged with hydrocodone trafficking because the tablets possessed by Hayes each contained not more than 15 milligrams of hydrocodone and were, therefore, Schedule III controlled substances outside the purview of s. 893.135, F.S. The court also found it of further significance that the Schedule III scheduling language did not provide that aggregate weight of the dosage units should be considered in order to determine whether the hydrocodone was a Schedule III controlled substance.

In 2000, in reaction to the *Hayes* decision, the Legislature amended Schedule III to delete reference to hydrocodone.²⁰ The effect of this change was that hydrocodone was a Schedule II controlled substance subject to s. 893.135, F.S., if the weight threshold for trafficking was met. However, in 2001, the Legislature partially reversed itself.²¹ It reinstated the prior Schedule III scheduling language for hydrocodone (while retaining the existing Schedule II scheduling language). However, new language was added that specified that, for purposes of charging a trafficking violation involving hydrocodone, hydrocodone that meets Schedule III scheduling is a Schedule III controlled substance but the weight of the hydrocodone per milliliter or per dosage unit is not relevant to the charging of a trafficking violation. The weight of the hydrocodone is to be determined pursuant to s. 893.135(6), F.S. (a provision created by the 2001 legislation), which provides that the weight of a controlled substance is the total weight of the mixture, including the controlled substance and any other substance in the mixture. Further, aggregate weighing is authorized. The Legislature also added a findings provision indicating disagreement with the *Hayes* decision and agreement with two district court of appeal decisions which authorized aggregate weighing [*States v. Hayes*, 720 So.2d 1095 (Fla. 4th DCA 1998), which the *Hayes* decision quashed, and *State v. Baxley*, 684 So.2d 831 (Fla. 5th DCA 1996), which the *Hayes* decision abrogated].²²

Effect of Hydrocodone Trafficking on Possession Cases

In a 2009 interim project report, staff of the Senate Committee on Criminal Justice noted a concern that had been raised that a person could be subject to a trafficking mandatory minimum term and other trafficking penalties for knowing possession of a relatively small number of prescription tablets or pills containing hydrocodone, oxycodone, and hydromorphone:

Hydrocodone, oxycodone, and hydromorphone, which are listed in s. 893.135, F.S., are powerful opioid analgesics. Section 893.135, F.S., punishes trafficking in these controlled substances. The minimum weight threshold for trafficking in these substances is 4 grams. The minimum weight threshold as well as applicable weight ranges and mandatories have raised a concern that unlawful possession of relatively small numbers of tablets/pills containing these substances may result in trafficking penalties, including mandatories. For example, 6.25 tablets of Vicodin® that contain 10 milligrams per tablet weigh 4 grams. A person who unlawfully possesses 7 such tablets could be subject to a 3-year mandatory. The 28 gram threshold (potentially triggering a 25-year mandatory) for

²⁰ Chapter 2000-320, L.O.F.

²¹ Chapter 2001-55, L.O.F.

²² The *Hayes* decision has no relevancy to hydrocodone trafficking cases charged under the scheduling and/or trafficking statutes as amended in 2000 and 2001 since the law no longer exists in the form reviewed by the Florida Supreme Court in *Hayes*. Further, the *Hayes* decision did not address aggregate weighing of other mixtures, like oxycodone tablets. *State v. Travis*, 808 So.2d 194, 196 (Fla.2002).

hydrocodone trafficking can be reached by possession of 44 of these tablets (43.75 of these tablets equals 28 grams). As a point of comparison, a person trafficking in 149 kilograms of cocaine or 10,000 pounds or more of cannabis is subject to a 15-year mandatory. As another point of comparison, a person who commits lewd molestation on a child less than 12 years of age and who is sentenced under the statutory split-sentence option receives a minimum 25-year prison sentence.²³

Staff also noted a concern that had been raised about the application of trafficking mandatory minimum terms to chronic pain management cases involving patients who unlawfully procure pain medication because of limitations on access to those medications:

Important to understanding the concern about the potential application of mandatorics to chronic pain management patients is an understanding of some of the issues involving the use of opioid analgesics for chronic pain management. Expanded use of opioid analgesics in the treatment of chronic or acute pain has “magnified opportunities for diversion and abuse.” However, “[e]fforts to address prescription opioid abuse may have the undesirable consequence of diminishing legitimate access to opioids; conversely, actions to improve access to opioids for legitimate pain may fuel the prescription opioid abuse problem.” Medical information indicates that chronic pain management patients are rarely addicted to the opioid analgesics prescribed them for pain but over time may develop a tolerance to and physical dependence upon opioid analgesics that may be misperceived as addiction rather than the “normal consequences of sustained opioid use.” Some practitioners may be reluctant to treat chronic management cases for fear that regulatory and law enforcement agencies may not understand or appreciate this distinction.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 893.135, F.S., to make the following changes:

- Requires that prosecutors prove “intent to distribute” for various trafficking offenses when the trafficking charge is based on knowing possession of a relevant controlled substance in a trafficking quantity. This is a significant departure from current law in which the trafficking charge can be based on knowing possession of a relevant controlled substance in a trafficking quantity. (See “Technical Deficiencies” section of this analysis.)
- Increases minimum weight thresholds and weight ranges for various trafficking offenses involving cocaine, phenecylidine, amphetamine/methamphetamine, gamma-hydroxybutyric acid, (GHB), gamma-butyrolactone (GBL), 1,4-Butanediol, and various phenethylamines.

Offense	Current minimum weight threshold or weight range	Revised weight threshold or weight range (SB 732)
Trafficking in cocaine (s. 893.13(1)(b)1., F.S.)	Minimum weight threshold: 28 grams.	Minimum weight threshold: 50 grams.

²³ A Policy Analysis of Mandatory Minimum Sentencing for Drug Traffickers, Interim Report 2010-109 (October 2009), p. 8 (footnotes omitted), Committee on Criminal Justice, The Florida Senate.

²⁴ *Id.*, at p. 9 (footnotes omitted).

Offense	Current minimum weight threshold or weight range	Revised weight threshold or weight range (SB 732)
Trafficking in cocaine (s. 893.13(1)(b)1.a., F.S.)	Weight range: 28 grams or more, but less than 200 grams.	Weight range: 50 grams or more, but less than 400 grams.
Trafficking in cocaine (s. 893.13(1)(b)1.b., F.S.)	Weight range: 200 grams or more, but less than 400 grams.	Weight range: 400 grams or more, but less than 4 kilograms.
Trafficking in cocaine (s. 893.13(1)(b)1.c., F.S.)	Weight range: 400 grams or more, but less than 150 kilograms.	Weight range: 4 kilograms or more, but less than 150 kilograms.
Trafficking in phencyclidine (s. 893.13(1)(d)1., F.S.)	Minimum weight threshold: 28 grams.	Minimum weight threshold: 50 grams.
Trafficking in phencyclidine (s. 893.13(1)(d)1.a., F.S.)	Weight range: 28 grams or more, but less than 200 grams.	Weight range: 50 grams or more, but less than 200 grams.
Trafficking in phencyclidine (s. 893.13(1)(d)1.b., F.S.)	Weight range: 200 grams or more, but less than 400 grams.	Weight range: 400 grams or more, but less 4 kilograms.
Trafficking in phencyclidine (s. 893.13(1)(d)1.c., F.S.)	Weight range: 400 grams or more.	Weight range: 4 kilograms or more.
Capital importation of phencyclidine (s. 893.13(1)(d)2., F.S.)	Weight range: 800 grams or more.	Weight range: 8 kilograms or more.
Trafficking in amphetamine (s. 893.13(1)(f)1., F.S.)	Minimum weight threshold: 14 grams.	Minimum weight threshold: 30 grams.
Trafficking in amphetamine (s. 893.13(1)(f)1.a, F.S.)	Weight range: 14 grams or more, but less than 28 grams.	Weight range: 30 grams or more, but less than 200 grams.
Trafficking in amphetamine (s. 893.13(1)(f)1.b., F.S.)	Weight range: 28 grams or more, but less than 200 grams.	Weight range: 200 grams or more, but less than 400 grams.
Trafficking in amphetamine (s. 893.13(1)(f)1.c., F.S.)	Weight range: 200 grams or more.	Weight range: 400 grams or more.
Capital importation of amphetamine (s. 893.13(1)(f)2., F.S.)	Weight range: 400 grams or more.	Weight range: 1.5 kilograms or more.
Trafficking in GHB (s. 893.13(1)(h)1., F.S.)	Minimum weight threshold: 1 kilogram.	Minimum weight threshold: 5 kilograms.
Trafficking in GHB (s. 893.13(1)(h)1.a., F.S.)	Weight range: 1 kilogram or more, but less than 5 kilograms.	Weight range: 5 kilograms or more, but less than 15 kilograms.
Trafficking in GHB (s. 893.13(1)(h)1.b., F.S.)	Weight range: 5 kilograms or more, but less than 10 kilograms.	Weight range: 15 kilograms or more, but less than 30 kilograms.
Trafficking in GHB (s. 893.13(1)(h)1.c., F.S.)	Weight range: 10 kilograms or more.	Weight range: 30 kilograms or more.

Offense	Current minimum weight threshold or weight range	Revised weight threshold or weight range (SB 732)
Trafficking in GBL (s. 893.13(1)(i)1., F.S.)	Minimum weight threshold: 1 kilogram.	Minimum weight threshold: 5 kilograms.
Trafficking in GBL (s. 893.13(1)(i)1.a., F.S.)	Weight range: 1 kilogram or more, but less than 5 kilograms.	Weight range: 5 kilograms or more, but less than 15 kilograms.
Trafficking in GBL (s. 893.13(1)(i)1.b., F.S.)	Weight range: 5 kilograms or more, but less than 10 kilograms.	Weight range: 15 kilograms or more, but less than 30 kilograms.
Trafficking in GBL (s. 893.13(1)(i)1.c., F.S.)	Weight range: 10 kilograms or more.	Weight range: 30 kilograms or more.
Trafficking in 1,4-Butanediol (s. 893.13(1)(j)1., F.S.)	Minimum weight threshold: 1 kilogram.	Minimum weight threshold: 5 kilograms.
Trafficking in 1,4-Butanediol (s. 893.13(1)(j)1.a., F.S.)	Weight range: 1 kilogram or more, but less than 5 kilograms.	Weight range: 5 kilograms or more, but less than 15 kilograms.
Trafficking in 1,4-Butanediol (s. 893.13(1)(j)1.b., F.S.)	Weight range: 5 kilograms or more, but less than 10 kilograms.	Weight range: 15 kilograms or more, but less than 30 kilograms.
Trafficking in 1,4-Butanediol (s. 893.13(1)(j)1.c., F.S.)	Weight range: 10 kilograms or more.	Weight range: 30 kilograms or more.
Trafficking in phenethylamine (s. 893.13(1)(k)1., F.S.)	Minimum weight threshold: 10 grams.	Minimum weight threshold: 30 grams.
Trafficking in phenethylamine (s. 893.13(1)(k)1.a., F.S.)	Weight range: 10 grams or more, but less than 200 grams.	Weight range: 30 grams or more, but less than 200 grams.

- Specifies that if a mixture is a prescription drug as defined in s. 499.003, F.S., and the weight of the controlled substance in the mixture can be identified using the national drug code, the weight of the controlled substance is the weight identified in the national drug code. This weighing method applies only to those mixtures that meet the criteria. (See “Technical Deficiencies” section of this analysis.) The weight of other mixtures containing a relevant controlled substance would be the total weight of the mixtures possessed, sold, etc. (current law).
- Provides that a judge hearing a motion from the state attorney to reduce or suspend a sentence for substantial assistance rendered may reduce or suspend, defer, or withhold, the sentence or adjudication of guilt (current law authorizes the judge to reduce or suspend the sentence).
- Revises current legislative finding relevant to construction of controlled substance scheduling language in relation to drug trafficking weight thresholds. Specifically, current legislative findings are that *Hayes v. State*, 750 So.2d 1 (Fla. 1999) does not correctly construe legislative intent, and that *State v. Hayes*, 720 So.2d 1095 (Fla. 4th DCA 1998) and *State v. Baxley*, 684 So.2d 831 (Fla. 5th DCA 1996) do correctly construe legislative intent. The bill amends the findings provisions to reflect the complete opposite, i.e., support for the

construction in *Hayes v. State*, 750 So.2d 1 (Fla. 1999). (See “Technical Deficiencies” section of this analysis.)

Section 2 amends s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to make technical changes to a number of descriptions of ranked trafficking offenses to reflect changes made to weight ranges in Section 1 of the bill.

Sections 3 and 4 reenact, respectively, some provisions of s. 775.087, F.S. (the “10-20-Life” statute) and s. 782.04, F.S. (murder) for the purpose of incorporating amendments made by the act to s. 893.135, F.S., in reference to s. 893.135, F.S. These reenactments do not make any changes to these statutes.

Section 5 provides that the act takes effect July 1, 2012.

Other Potential Implications:

The Florida Department of Law Enforcement (FDLE) has indicated a potential issue with regard to the new language in the bill on weighing mixtures that are prescription drugs: “There are also questions as to the veracity of the information contained within the NDC. On the Food and Drug Administration’s website it clearly states that ‘Inclusion of information in the NDC Directory does not indicate that FDA has verified the information provided. The content of each NDC Directory entry is the responsibility of the labeler submitting the SPL file. Assignment of an NDC number does not in any way denote FDA approval of the product.’”²⁵

If the new language in the bill on weighing mixtures that are prescription drugs were to become law it would mean that a substantial number of tablets/pills containing hydrocodone or oxycodone would be required to charge trafficking: As stated by the FDLE: “The increased weight thresholds for trafficking prescription drugs and the requirements to separate and weigh only the drug in determining weight will increase the total number of pills or tablets that can be possessed or sold before minimum mandatory trafficking sentences could be applied. For example: The first level of trafficking in opiates is 4 grams. If a Lortab preparation consists of 5 milligrams of hydrocodone, it would take 800 or more tablets to reach the trafficking threshold. Similarly, it would take 133 or more tablets containing 30 milligrams [of] Oxycodone to constitute a trafficking weight. This is a substantial change in the number of tablets and potency one could possess without being subjected to trafficking penalties.”²⁶

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

²⁵ Analysis of SB 732, Florida Department of Law Enforcement, dated January 4, 2012 (on file with the Committee on Criminal Justice). Further references to this source are cited as “FDLE Analysis.”

²⁶ *Id.*

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, which provides the final official estimate of the prison bed impact, if any, of legislation, estimates that the bill will have an indeterminate prison bed impact.

The FDLE has indicated that the new language on weighing mixtures that are prescription drugs has a potential fiscal impact on the FDLE if quantitation (testing to determine weight of the controlled substance in tablets/pills) is required. FDLE does not perform quantitation but rather tests the tablets/pills to determine if they contain a controlled substance and identify what that substance is. The FDLE states:

The proposed wording to refer to the NDC for the weight of prescription drugs in a mixture will not impact Florida's crime laboratories. However, potential legal challenges may result in the state attorneys' requesting the crime laboratories to quantitate the exact amounts of the controlled substance. Unless there is enabling statutory language for prosecution by utilizing a reference sample, the only way to determine quantity of a controlled substance is through analytical quantitation. This will require the crime labs to first analyze the substance to determine if a controlled substance is present in the suspected pill, tablet or capsule. Upon determining the controlled substance presence in the pill, tablet or capsule, the chemist will need to perform a quantitation process to determine the exact amount of the substance present. This quantitation process will require a stringent quality monitoring program to maintain the laboratory's accreditation standards through the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB).²⁷

²⁷ FDLE Analysis.

The FDLE further states:

[T]he mandates to separate only the active ingredient within a controlled substance and determine the weight of only that portion of the substance could require forensic laboratories to perform quantitation analysis on drug exhibits. Between November 1, 2010 and October 31, 2010, FDLE received 12,681 exhibits containing tablets or pills for drug chemistry analysis. An estimated 50% of those exhibits contained tablets or pills potentially related to trafficking offenses (6,341).

Based on adjusted workload standards, 810 drug samples can be quantitated by per chemist per year, and initial analysis currently performed with existing staff will still be required for all case submissions. Therefore existing staff will need to be retained. Based on these estimates, the quantitation process will require 8 additional Crime Laboratory Analysts.²⁸

The FDLE has indicated the following specific costs²⁹ if quantitation is required:

	FY 2012-13	FY 2013-14	FY 2014-15	
8 Positions - 8 Crime Lab Analysts	\$502,893	\$502,893	\$502,893	Salary & Benefits
Standard Expense for 8 Positions	\$81,624	\$52,440	\$52,440	Expense
Standard HR Services for 8 Positions	\$2,848	\$2,848	\$2,848	Human Resources
Equipment for new Crime Lab Analysts (Gas Chromatographs, balances, and computer software)	\$337,200			Expense
Training for existing Crime Lab Analysts in quantitation process	\$20,000			Expense
Consumables (additional chemicals and supplies needed to run triplicate samples on every lab submission)	\$40,000	\$40,000	\$40,000	Expense
TOTAL	\$984,565	\$598,181	\$598,181	

In addition to the specified costs provided, the FDLE notes: “FDLE may be required to transition from gas chromatography to liquid chromatography to comply with accreditation standards if a quantitation process is required. This will result in an estimated additional \$780,000 in new equipment to outfit the 6 laboratories performing drug chemistry analysis. This would be in addition to the initial fiscal year impact of

²⁸ *Id.*

²⁹ *Id.*

\$984,565. Once implemented recurring consumable costs would be added to the recurring cost of \$598,181 each subsequent fiscal year.”³⁰

Finally, the FDLE notes local government impact if quantitation is required: “The five county operated crime labs would also experience a fiscal impact if legal challenges result in the need to quantitate the controlled substances. Previous estimates provided were approximately \$1.875 million for additional personnel, training, equipments and consumables.”³¹

There may be legal costs to state government if the bill becomes law and the veracity of the information contained within the national drug code is challenged and/or it is argued that, absent quantitation, evidence is insufficient to prove the weight of the controlled substance in tablets/pills possessed, sold, etc.

The Office of the State Courts Administrator provided the following estimate of the impact of the bill on the state court system:

The net effect will probably be an increase in court workload. By raising the quantity of drugs in order to qualify as trafficking, there will be fewer trafficking cases. But the trafficking cases are often resolved with plea agreements because of the mandatory minimum sentences. What had been charged as trafficking will now be charged as possession and possession with intent. When a person is caught with a large amount of drugs (although not a trafficking amount under the proposed bill), the state may push for a jail or prison sentence because the prosecutor will conclude the person is a drug dealer. That is uncertain, however. Prosecutors may end up treating the former trafficking cases like a low level felony case. It is also uncertain how judges will treat these new possession and possession with intent cases. Without the risk of a mandatory minimum sentence, the accused has more incentive to go to trial. Without the certainty of a mandatory minimum sentence, the state has less incentive to go to trial. In sum, the bill will probably lead to fewer pleas and more trials, which will increase judicial workload. The best estimate will be a modest increase in judicial workload, although that is highly speculative.³²

VI. Technical Deficiencies:

The bill requires that prosecutors prove “intent to distribute” for various trafficking offenses when the trafficking charge is based on knowing possession of a relevant controlled substance in a trafficking quantity. Staff performed a textual search of the Florida Statutes and could only find one statute that uses similar wording: s. 831.032(1), F.S. (“possesses with intent to distribute” the trademark or service mark). Typically, in the context of drug offenses, the language that is used to criminalize possession with intent is “possess with the intent to sell, manufacture or deliver”

³⁰ *Id.*

³¹ *Id.*

³² Analysis of SB 732, Office of the State Courts Administrator 2012 Judicial Impact Statement, dated November 18, 2011 (on file with the Committee on Criminal Justice).

or similar language.³³ That language is usually used because the possession with intent offense immediately follows “sell, manufacture, or deliver” and the Legislature is indicating that the possession with the intent to commit those acts (selling, etc.) is as serious as the actual commission of those acts.

There are two technical issues regarding new language in the bill on weighing mixtures that are prescription drugs:

First, while this new language specifically addresses a single mixture (tablet/pill), it does not specifically address how to weigh multiple mixtures (multiple tablets/pills). It must be inferred. Compounding the problems of inference is: 1) this new language appears in the middle of current law language that addresses how to weigh a mixture; and 2) the new language is immediately followed by current law language on how to weigh multiple mixtures that is different than the new language.

Second, the new language is in potential conflict with current law language pertaining to weight thresholds. The FDLE identifies this problem as follows: “[T]here appears to be conflicting language within the bill. On page 5, lines 125-126 is existing language that specifies ‘4 or more grams of any mixture containing any such substance’ is considered trafficking in morphine, opium, oxycodone, hydrocodone, or hydromorphone. The newly added language on page 20, lines 566-570, states that if the mixture is a prescription drug and the weight of the controlled substance can be identified using the NDC, then the weight of the controlled substance is the weight identified in the NDC. The controlled substances outlined on page 5 are all prescription drugs.”

Current legislative findings are that *Hayes v. State*, 750 So.2d 1 (Fla. 1999) does not correctly construe legislative intent, and that *State v. Hayes*, 720 So.2d 1095 (Fla. 4th DCA 1998) and *State v. Baxley*, 684 So.2d 831 (Fla. 5th DCA 1996) do correctly construe legislative intent. The bill amends the findings provisions to reflect the complete opposite, i.e., support for the construction in *Hayes v. State*, 750 So.2d 1 (Fla. 1999).

The changes made by the bill to s. 893.135, F.S., do not support the *Hayes* construction. *Hayes* (Florida Supreme Court) was superseded when the Legislature changed s. 893.03, F.S., in 2000, and changed ss. 890.03 and 893.135, F.S., in 2001. Changes to Schedule III scheduling language in 2001 allowed for dosage units that contain 15 milligrams or less of hydrocodone, and which are classified as Schedule III controlled substances, to be considered under s. 893.135, F.S. The effect of *Hayes* was that tablets/pills containing 15 milligrams or less of hydrocodone were outside the purview of s. 893.135, F.S. In the bill, such tablets/pills are within the purview of s. 893.135, F.S. The bill just changes the method of weighing those tablets/pills (considering only the weight of the controlled substance in the tablet/pills).

Hayes (4th DCA) and *Baxley* appear to provide some support for the aggregate weighing method currently used for weighing mixtures (total weight rather than weight of the controlled substances only), a method which is retained in the bill for mixtures (including tablets/pills) that are not prescription drugs. However, findings indicating support for these cases could be

³³ See, e.g., s. 893.13(1)(a), F.S.

confusing as it relates to the provision of the bill that requires a different weighing method for mixtures that are prescription drugs.

In light of these considerations and because post-*Hayes* changes to the law other than these findings appear to clearly indicate legislative intent, staff recommends that these findings be repealed if the sponsor retains in the bill the new language on weighing mixtures that are prescription drugs. If this language is removed from the bill, staff recommends not modifying these findings.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Criminal Justice on January 31, 2012:

Removes a provision that was in the original bill that repealed s. 893.101, F.S.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/01/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 24 - 580

and insert:

Section 1. Section 893.135, Florida Statutes, is amended to read:

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

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



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13 (a) A ~~Any~~ person who knowingly sells, purchases,
14 manufactures, delivers, or brings into this state, or who ~~is~~
15 knowingly is in actual or constructive possession with intent to
16 sell, purchase, manufacture, deliver, or bring into this state
17 ~~of~~, in excess of 25 pounds of cannabis, or 300 or more cannabis
18 plants, commits a felony of the first degree, which felony shall
19 be known as "trafficking in cannabis," punishable as provided in
20 s. 775.082, s. 775.083, or s. 775.084. If the quantity of
21 cannabis involved:

22 1. Is in excess of 25 pounds, but less than 2,000 pounds,
23 or is 300 or more cannabis plants, but not more than 2,000
24 cannabis plants, such person shall be sentenced to a mandatory
25 minimum term of imprisonment of 3 years, and the defendant shall
26 be ordered to pay a fine of \$25,000.

27 2. Is 2,000 pounds or more, but less than 10,000 pounds, or
28 is 2,000 or more cannabis plants, but not more than 10,000
29 cannabis plants, such person shall be sentenced to a mandatory
30 minimum term of imprisonment of 7 years, and the defendant shall
31 be ordered to pay a fine of \$50,000.

32 3. Is 10,000 pounds or more, or is 10,000 or more cannabis
33 plants, such person shall be sentenced to a mandatory minimum
34 term of imprisonment of 15 calendar years, and the defendant
35 shall be ordered to pay a fine of \$200,000.

36
37 For the purpose of this paragraph, a plant, including, but not
38 limited to, a seedling or cutting, is a "cannabis plant" if it
39 has some readily observable evidence of root formation, such as
40 root hairs. To determine if a piece or part of a cannabis plant
41 severed from the cannabis plant is itself a cannabis plant, the



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42 severed piece or part must have some readily observable evidence
43 of root formation, such as root hairs. Callous tissue is not
44 readily observable evidence of root formation. The viability and
45 sex of a plant and the fact that the plant may or may not be a
46 dead harvested plant are not relevant in determining if the
47 plant is a "cannabis plant" or in the charging of an offense
48 under this paragraph. Upon conviction, the court shall impose
49 the longest term of imprisonment provided for in this paragraph.

50 (b)1. Any person who knowingly sells, purchases,
51 manufactures, delivers, or brings into this state, or who ~~is~~
52 knowingly is in actual or constructive possession with intent to
53 sell, purchase, manufacture, deliver, or bring into this state
54 ~~of~~, 28 grams or more of cocaine, as described in s.
55 893.03(2)(a)4., or of any mixture containing cocaine, but less
56 than 150 kilograms of cocaine or any such mixture, commits a
57 felony of the first degree, which felony shall be known as
58 "trafficking in cocaine," punishable as provided in s. 775.082,
59 s. 775.083, or s. 775.084. If the quantity involved:

60 a. Is 28 grams or more, but less than 200 grams, such
61 person shall be sentenced to a mandatory minimum term of
62 imprisonment of 3 years, and the defendant shall be ordered to
63 pay a fine of \$50,000.

64 b. Is 200 grams or more, but less than 400 grams, such
65 person shall be sentenced to a mandatory minimum term of
66 imprisonment of 7 years, and the defendant shall be ordered to
67 pay a fine of \$100,000.

68 c. Is 400 grams or more, but less than 150 kilograms, such
69 person shall be sentenced to a mandatory minimum term of
70 imprisonment of 15 calendar years, and the defendant shall be



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71 ordered to pay a fine of \$250,000.

72 2. Any person who knowingly sells, purchases, manufactures,
73 delivers, or brings into this state, or who ~~is~~ knowingly is in
74 actual or constructive possession with intent to sell, purchase,
75 manufacture, deliver, or bring into this state ~~of~~, 150 kilograms
76 or more of cocaine, as described in s. 893.03(2)(a)4., commits
77 the first degree felony of trafficking in cocaine. A person who
78 has been convicted of the first-degree ~~first-degree~~ felony of
79 trafficking in cocaine under this subparagraph shall be punished
80 by life imprisonment and is ineligible for any form of
81 discretionary early release except pardon or executive clemency
82 or conditional medical release under s. 947.149. However, if the
83 court determines that, in addition to committing any act
84 specified in this paragraph:

85 a. The person intentionally killed an individual or
86 counseled, commanded, induced, procured, or caused the
87 intentional killing of an individual and such killing was the
88 result; or

89 b. The person's conduct in committing that act led to a
90 natural, though not inevitable, lethal result,
91
92 such person commits the capital felony of trafficking in
93 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
94 person sentenced for a capital felony under this paragraph shall
95 also be ordered ~~sentenced~~ to pay the maximum fine provided under
96 subparagraph 1.

97 3. Any person who knowingly brings into this state 300
98 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
99 and who knows that the probable result of such importation would



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100 be the death of any person, commits capital importation of
101 cocaine, a capital felony punishable as provided in ss. 775.082
102 and 921.142. Any person sentenced for a capital felony under
103 this paragraph shall also be ordered ~~sentenced~~ to pay the
104 maximum fine provided under subparagraph 1.

105 (c)1. Any person who knowingly sells, purchases,
106 manufactures, delivers, or brings into this state, or who ~~is~~
107 knowingly is in actual or constructive possession with intent to
108 sell, purchase, manufacture, deliver, or bring into this state
109 ~~of~~, 28 4 grams or more of any morphine, opium, oxycodone,
110 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
111 salt of an isomer thereof, including heroin, as described in s.
112 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 4 grams or more
113 of any mixture containing any such substance, but less than 30
114 kilograms of such substance or mixture, commits a felony of the
115 first degree, which felony shall be known as "trafficking in
116 illegal drugs," punishable as provided in s. 775.082, s.
117 775.083, or s. 775.084. If the quantity involved:

118 a. Is 28 4 grams or more, but less than 50 14 grams, such
119 person shall be sentenced to a mandatory minimum term of
120 imprisonment of 3 years, and the defendant shall be ordered to
121 pay a fine of \$50,000.

122 b. Is 50 14 grams or more, but less than 200 28 grams, such
123 person shall be sentenced to a mandatory minimum term of
124 imprisonment of 7 15 years, and the defendant shall be ordered
125 to pay a fine of \$100,000.

126 c. Is 200 28 grams or more, but less than 30 kilograms,
127 such person shall be sentenced to a mandatory minimum term of
128 imprisonment of 15 25 calendar years, and the defendant shall be



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

130 2. Any person who knowingly sells, purchases, manufactures,
131 delivers, or brings into this state, or who ~~is~~ knowingly is in
132 actual or constructive possession with intent to sell, purchase,
133 manufacture, deliver, or bring into this state ~~of~~, 30 kilograms
134 or more of any morphine, opium, oxycodone, hydrocodone,
135 hydromorphone, or any salt, derivative, isomer, or salt of an
136 isomer thereof, including heroin, as described in s.
137 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
138 more of any mixture containing any such substance, commits the
139 first-degree ~~first-degree~~ felony of trafficking in illegal
140 drugs. A person who has been convicted of the first-degree ~~first~~
141 ~~degree~~ felony of trafficking in illegal drugs under this
142 subparagraph shall be punished by life imprisonment and is
143 ineligible for any form of discretionary early release except
144 pardon or executive clemency or conditional medical release
145 under s. 947.149. However, if the court determines that, in
146 addition to committing any act specified in this paragraph:

147 a. The person intentionally killed an individual or
148 counseled, commanded, induced, procured, or caused the
149 intentional killing of an individual and such killing was the
150 result; or

151 b. The person's conduct in committing that act led to a
152 natural, though not inevitable, lethal result,
153
154 such person commits the capital felony of trafficking in illegal
155 drugs, punishable as provided in ss. 775.082 and 921.142. Any
156 person sentenced for a capital felony under this paragraph shall
157 also be ordered ~~sentenced~~ to pay the maximum fine provided under



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158 subparagraph 1.

159 3. Any person who knowingly brings into this state 60
160 kilograms or more of any morphine, opium, oxycodone,
161 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
162 salt of an isomer thereof, including heroin, as described in s.
163 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
164 more of any mixture containing any such substance, and who knows
165 that the probable result of such importation would be the death
166 of any person, commits capital importation of illegal drugs, a
167 capital felony punishable as provided in ss. 775.082 and
168 921.142. Any person sentenced for a capital felony under this
169 paragraph shall also be ordered ~~sentenced~~ to pay the maximum
170 fine provided under subparagraph 1.

171 (d)1. Any person who knowingly sells, purchases,
172 manufactures, delivers, or brings into this state, or who ~~is~~
173 knowingly is in actual or constructive possession with intent to
174 sell, purchase, manufacture, deliver, or bring into this state
175 ~~of~~, 28 grams or more of phencyclidine or of any mixture
176 containing phencyclidine, as described in s. 893.03(2)(b),
177 commits a felony of the first degree, which felony shall be
178 known as "trafficking in phencyclidine," punishable as provided
179 in s. 775.082, s. 775.083, or s. 775.084. If the quantity
180 involved:

181 a. Is 28 grams or more, but less than 200 grams, such
182 person shall be sentenced to a mandatory minimum term of
183 imprisonment of 3 years, and the defendant shall be ordered to
184 pay a fine of \$50,000.

185 b. Is 200 grams or more, but less than 400 grams, such
186 person shall be sentenced to a mandatory minimum term of



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187 imprisonment of 7 years, and the defendant shall be ordered to
188 pay a fine of \$100,000.

189 c. Is 400 grams or more, such person shall be sentenced to
190 a mandatory minimum term of imprisonment of 15 calendar years,
191 and the defendant shall be ordered to pay a fine of \$250,000.

192 2. Any person who knowingly brings into this state 800
193 grams or more of phencyclidine or of any mixture containing
194 phencyclidine, as described in s. 893.03(2)(b), and who knows
195 that the probable result of such importation would be the death
196 of any person commits capital importation of phencyclidine, a
197 capital felony punishable as provided in ss. 775.082 and
198 921.142. Any person sentenced for a capital felony under this
199 paragraph shall also be ordered ~~sentenced~~ to pay the maximum
200 fine provided under subparagraph 1.

201 (e)1. Any person who knowingly sells, purchases,
202 manufactures, delivers, or brings into this state, or who ~~is~~
203 knowingly is in actual or constructive possession with intent to
204 sell, purchase, manufacture, deliver, or bring into this state
205 ~~of~~, 200 grams or more of methaqualone or of any mixture
206 containing methaqualone, as described in s. 893.03(1)(d),
207 commits a felony of the first degree, which felony shall be
208 known as "trafficking in methaqualone," punishable as provided
209 in s. 775.082, s. 775.083, or s. 775.084. If the quantity
210 involved:

211 a. Is 200 grams or more, but less than 5 kilograms, such
212 person shall be sentenced to a mandatory minimum term of
213 imprisonment of 3 years, and the defendant shall be ordered to
214 pay a fine of \$50,000.

215 b. Is 5 kilograms or more, but less than 25 kilograms, such



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216 person shall be sentenced to a mandatory minimum term of
217 imprisonment of 7 years, and the defendant shall be ordered to
218 pay a fine of \$100,000.

219 c. Is 25 kilograms or more, such person shall be sentenced
220 to a mandatory minimum term of imprisonment of 15 calendar
221 years, and the defendant shall be ordered to pay a fine of
222 \$250,000.

223 2. Any person who knowingly brings into this state 50
224 kilograms or more of methaqualone or of any mixture containing
225 methaqualone, as described in s. 893.03(1)(d), and who knows
226 that the probable result of such importation would be the death
227 of any person commits capital importation of methaqualone, a
228 capital felony punishable as provided in ss. 775.082 and
229 921.142. Any person sentenced for a capital felony under this
230 paragraph shall also be ordered ~~sentenced~~ to pay the maximum
231 fine provided under subparagraph 1.

232 (f)1. Any person who knowingly sells, purchases,
233 manufactures, delivers, or brings into this state, or who ~~is~~
234 knowingly is in actual or constructive possession with intent to
235 sell, purchase, manufacture, deliver, or bring into this state
236 ~~of~~, 14 grams or more of amphetamine, as described in s.
237 893.03(2)(c)2., or methamphetamine, as described in s.
238 893.03(2)(c)4., or of any mixture containing amphetamine or
239 methamphetamine, or phenylacetone, phenylacetic acid,
240 pseudoephedrine, or ephedrine in conjunction with other
241 chemicals and equipment utilized in the manufacture of
242 amphetamine or methamphetamine, commits a felony of the first
243 degree, which felony shall be known as "trafficking in
244 amphetamine," punishable as provided in s. 775.082, s. 775.083,



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245 or s. 775.084. If the quantity involved:

246 a. Is 14 grams or more, but less than 28 grams, such person
247 shall be sentenced to a mandatory minimum term of imprisonment
248 of 3 years, and the defendant shall be ordered to pay a fine of
249 \$50,000.

250 b. Is 28 grams or more, but less than 200 grams, such
251 person shall be sentenced to a mandatory minimum term of
252 imprisonment of 7 years, and the defendant shall be ordered to
253 pay a fine of \$100,000.

254 c. Is 200 grams or more, such person shall be sentenced to
255 a mandatory minimum term of imprisonment of 15 calendar years,
256 and the defendant shall be ordered to pay a fine of \$250,000.

257 2. Any person who knowingly manufactures or brings into
258 this state 400 grams or more of amphetamine, as described in s.
259 893.03(2)(c)2., or methamphetamine, as described in s.
260 893.03(2)(c)4., or of any mixture containing amphetamine or
261 methamphetamine, or phenylacetone, phenylacetic acid,
262 pseudoephedrine, or ephedrine in conjunction with other
263 chemicals and equipment used in the manufacture of amphetamine
264 or methamphetamine, and who knows that the probable result of
265 such manufacture or importation would be the death of any person
266 commits capital manufacture or importation of amphetamine, a
267 capital felony punishable as provided in ss. 775.082 and
268 921.142. Any person sentenced for a capital felony under this
269 paragraph shall also be ordered ~~sentenced~~ to pay the maximum
270 fine provided under subparagraph 1.

271 (g)1. Any person who knowingly sells, purchases,
272 manufactures, delivers, or brings into this state, or who ~~is~~
273 knowingly is in actual or constructive possession with intent to



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274 sell, purchase, manufacture, deliver, or bring into this state
275 ~~of~~, 4 grams or more of flunitrazepam or any mixture containing
276 flunitrazepam as described in s. 893.03(1)(a) commits a felony
277 of the first degree, which felony shall be known as "trafficking
278 in flunitrazepam," punishable as provided in s. 775.082, s.
279 775.083, or s. 775.084. If the quantity involved:

280 a. Is 4 grams or more but less than 14 grams, such person
281 shall be sentenced to a mandatory minimum term of imprisonment
282 of 3 years, and the defendant shall be ordered to pay a fine of
283 \$50,000.

284 b. Is 14 grams or more but less than 28 grams, such person
285 shall be sentenced to a mandatory minimum term of imprisonment
286 of 7 years, and the defendant shall be ordered to pay a fine of
287 \$100,000.

288 c. Is 28 grams or more but less than 30 kilograms, such
289 person shall be sentenced to a mandatory minimum term of
290 imprisonment of 25 calendar years, and the defendant shall be
291 ordered to pay a fine of \$500,000.

292 2. Any person who knowingly sells, purchases, manufactures,
293 delivers, or brings into this state or who ~~is~~ knowingly is in
294 actual or constructive possession with intent to sell, purchase,
295 manufacture, deliver, or bring into this state ~~of~~ 30 kilograms
296 or more of flunitrazepam or any mixture containing flunitrazepam
297 as described in s. 893.03(1)(a) commits the first-degree ~~first~~
298 ~~degree~~ felony of trafficking in flunitrazepam. A person who has
299 been convicted of the first-degree ~~first-degree~~ felony of
300 trafficking in flunitrazepam under this subparagraph shall be
301 punished by life imprisonment and is ineligible for any form of
302 discretionary early release except pardon or executive clemency



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303 or conditional medical release under s. 947.149. However, if the
304 court determines that, in addition to committing any act
305 specified in this paragraph:

306 a. The person intentionally killed an individual or
307 counseled, commanded, induced, procured, or caused the
308 intentional killing of an individual and such killing was the
309 result; or

310 b. The person's conduct in committing that act led to a
311 natural, though not inevitable, lethal result,

312

313 such person commits the capital felony of trafficking in
314 flunitrazepam, punishable as provided in ss. 775.082 and
315 921.142. Any person sentenced for a capital felony under this
316 paragraph shall also be ordered ~~sentenced~~ to pay the maximum
317 fine provided under subparagraph 1.

318 (h)1. Any person who knowingly sells, purchases,
319 manufactures, delivers, or brings into this state, or who ~~is~~
320 knowingly is in actual or constructive possession with intent to
321 sell, purchase, manufacture, deliver, or bring into this state
322 ~~of~~, 1 kilogram or more of gamma-hydroxybutyric acid (GHB), as
323 described in s. 893.03(1)(d), or any mixture containing gamma-
324 hydroxybutyric acid (GHB), commits a felony of the first degree,
325 which felony shall be known as "trafficking in gamma-
326 hydroxybutyric acid (GHB)," punishable as provided in s.
327 775.082, s. 775.083, or s. 775.084. If the quantity involved:

328 a. Is 1 kilogram or more but less than 5 kilograms, such
329 person shall be sentenced to a mandatory minimum term of
330 imprisonment of 3 years, and the defendant shall be ordered to
331 pay a fine of \$50,000.



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332 b. Is 5 kilograms or more but less than 10 kilograms, such
333 person shall be sentenced to a mandatory minimum term of
334 imprisonment of 7 years, and the defendant shall be ordered to
335 pay a fine of \$100,000.

336 c. Is 10 kilograms or more, such person shall be sentenced
337 to a mandatory minimum term of imprisonment of 15 calendar
338 years, and the defendant shall be ordered to pay a fine of
339 \$250,000.

340 2. Any person who knowingly manufactures or brings into
341 this state 150 kilograms or more of gamma-hydroxybutyric acid
342 (GHB), as described in s. 893.03(1)(d), or any mixture
343 containing gamma-hydroxybutyric acid (GHB), and who knows that
344 the probable result of such manufacture or importation would be
345 the death of any person commits capital manufacture or
346 importation of gamma-hydroxybutyric acid (GHB), a capital felony
347 punishable as provided in ss. 775.082 and 921.142. Any person
348 sentenced for a capital felony under this paragraph shall also
349 be ordered ~~sentenced~~ to pay the maximum fine provided under
350 subparagraph 1.

351 (i)1. Any person who knowingly sells, purchases,
352 manufactures, delivers, or brings into this state, or who ~~is~~
353 knowingly is in actual or constructive possession with intent to
354 sell, purchase, manufacture, deliver, or bring into this state
355 ~~of~~, 1 kilogram or more of gamma-butyrolactone (GBL), as
356 described in s. 893.03(1)(d), or any mixture containing gamma-
357 butyrolactone (GBL), commits a felony of the first degree, which
358 felony shall be known as "trafficking in gamma-butyrolactone
359 (GBL)," punishable as provided in s. 775.082, s. 775.083, or s.
360 775.084. If the quantity involved:



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361 a. Is 1 kilogram or more but less than 5 kilograms, such
362 person shall be sentenced to a mandatory minimum term of
363 imprisonment of 3 years, and the defendant shall be ordered to
364 pay a fine of \$50,000.

365 b. Is 5 kilograms or more but less than 10 kilograms, such
366 person shall be sentenced to a mandatory minimum term of
367 imprisonment of 7 years, and the defendant shall be ordered to
368 pay a fine of \$100,000.

369 c. Is 10 kilograms or more, such person shall be sentenced
370 to a mandatory minimum term of imprisonment of 15 calendar
371 years, and the defendant shall be ordered to pay a fine of
372 \$250,000.

373 2. Any person who knowingly manufactures or brings into the
374 state 150 kilograms or more of gamma-butyrolactone (GBL), as
375 described in s. 893.03(1)(d), or any mixture containing gamma-
376 butyrolactone (GBL), and who knows that the probable result of
377 such manufacture or importation would be the death of any person
378 commits capital manufacture or importation of gamma-
379 butyrolactone (GBL), a capital felony punishable as provided in
380 ss. 775.082 and 921.142. Any person sentenced for a capital
381 felony under this paragraph shall also be ordered ~~sentenced~~ to
382 pay the maximum fine provided under subparagraph 1.

383 (j)1. Any person who knowingly sells, purchases,
384 manufactures, delivers, or brings into this state, or who ~~is~~
385 knowingly is in actual or constructive possession with intent to
386 sell, purchase, manufacture, deliver, or bring into this state
387 ~~of~~, 1 kilogram or more of 1,4-Butanediol as described in s.
388 893.03(1)(d), or of any mixture containing 1,4-Butanediol,
389 commits a felony of the first degree, which felony shall be



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390 known as "trafficking in 1,4-Butanediol," punishable as provided
391 in s. 775.082, s. 775.083, or s. 775.084. If the quantity
392 involved:

393 a. Is 1 kilogram or more, but less than 5 kilograms, such
394 person shall be sentenced to a mandatory minimum term of
395 imprisonment of 3 years, and the defendant shall be ordered to
396 pay a fine of \$50,000.

397 b. Is 5 kilograms or more, but less than 10 kilograms, such
398 person shall be sentenced to a mandatory minimum term of
399 imprisonment of 7 years, and the defendant shall be ordered to
400 pay a fine of \$100,000.

401 c. Is 10 kilograms or more, such person shall be sentenced
402 to a mandatory minimum term of imprisonment of 15 calendar
403 years, and the defendant shall be ordered to pay a fine of
404 \$500,000.

405 2. Any person who knowingly manufactures or brings into
406 this state 150 kilograms or more of 1,4-Butanediol as described
407 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
408 and who knows that the probable result of such manufacture or
409 importation would be the death of any person commits capital
410 manufacture or importation of 1,4-Butanediol, a capital felony
411 punishable as provided in ss. 775.082 and 921.142. Any person
412 sentenced for a capital felony under this paragraph shall also
413 be ordered ~~sentenced~~ to pay the maximum fine provided under
414 subparagraph 1.

415 (k)1. Any person who knowingly sells, purchases,
416 manufactures, delivers, or brings into this state, or who ~~is~~
417 knowingly is in actual or constructive possession with intent to
418 sell, purchase, manufacture, deliver, or bring into this state



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419 ~~e~~f, 10 grams or more of any of the following substances
420 described in s. 893.03(1) (a) or (c):

- 421 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 422 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 423 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 424 d. 2,5-Dimethoxyamphetamine;
- 425 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 426 f. N-ethylamphetamine;
- 427 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 428 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 429 i. 4-methoxyamphetamine;
- 430 j. 4-methoxymethamphetamine;
- 431 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 432 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 433 m. 3,4-Methylenedioxyamphetamine;
- 434 n. N,N-dimethylamphetamine; or
- 435 o. 3,4,5-Trimethoxyamphetamine,

436
437 individually or in any combination of or any mixture containing
438 any substance listed in sub-subparagraphs a.-o., commits a
439 felony of the first degree, which felony shall be known as
440 "trafficking in Phenethylamines," punishable as provided in s.
441 775.082, s. 775.083, or s. 775.084.

442 2. If the quantity involved:

443 a. Is 10 grams or more but less than 200 grams, such person
444 shall be sentenced to a mandatory minimum term of imprisonment
445 of 3 years, and the defendant shall be ordered to pay a fine of
446 \$50,000.

447 b. Is 200 grams or more, but less than 400 grams, such



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448 person shall be sentenced to a mandatory minimum term of
449 imprisonment of 7 years, and the defendant shall be ordered to
450 pay a fine of \$100,000.

451 c. Is 400 grams or more, such person shall be sentenced to
452 a mandatory minimum term of imprisonment of 15 calendar years,
453 and the defendant shall be ordered to pay a fine of \$250,000.

454 3. Any person who knowingly manufactures or brings into
455 this state 30 kilograms or more of any of the following
456 substances described in s. 893.03(1) (a) or (c):

- 457 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 458 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 459 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 460 d. 2,5-Dimethoxyamphetamine;
- 461 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 462 f. N-ethylamphetamine;
- 463 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 464 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 465 i. 4-methoxyamphetamine;
- 466 j. 4-methoxymethamphetamine;
- 467 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 468 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 469 m. 3,4-Methylenedioxyamphetamine;
- 470 n. N,N-dimethylamphetamine; or
- 471 o. 3,4,5-Trimethoxyamphetamine,

472
473 individually or in any combination of or any mixture containing
474 any substance listed in sub-subparagraphs a.-o., and who knows
475 that the probable result of such manufacture or importation
476 would be the death of any person commits capital manufacture or



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477 importation of Phenethylamines, a capital felony punishable as
478 provided in ss. 775.082 and 921.142. Any person sentenced for a
479 capital felony under this paragraph shall also be ordered
480 ~~sentenced~~ to pay the maximum fine provided under subparagraph 1.

481 (1)1. Any person who knowingly sells, purchases,
482 manufactures, delivers, or brings into this state, or who ~~is~~
483 knowingly is in actual or constructive possession with intent to
484 sell, purchase, manufacture, deliver, or bring into this state
485 ~~of~~, 1 gram or more of lysergic acid diethylamide (LSD) as
486 described in s. 893.03(1)(c), or of any mixture containing
487 lysergic acid diethylamide (LSD), commits a felony of the first
488 degree, which felony shall be known as "trafficking in lysergic
489 acid diethylamide (LSD)," punishable as provided in s. 775.082,
490 s. 775.083, or s. 775.084. If the quantity involved:

491 a. Is 1 gram or more, but less than 5 grams, such person
492 shall be sentenced to a mandatory minimum term of imprisonment
493 of 3 years, and the defendant shall be ordered to pay a fine of
494 \$50,000.

495 b. Is 5 grams or more, but less than 7 grams, such person
496 shall be sentenced to a mandatory minimum term of imprisonment
497 of 7 years, and the defendant shall be ordered to pay a fine of
498 \$100,000.

499 c. Is 7 grams or more, such person shall be sentenced to a
500 mandatory minimum term of imprisonment of 15 calendar years, and
501 the defendant shall be ordered to pay a fine of \$500,000.

502 2. Any person who knowingly manufactures or brings into
503 this state 7 grams or more of lysergic acid diethylamide (LSD)
504 as described in s. 893.03(1)(c), or any mixture containing
505 lysergic acid diethylamide (LSD), and who knows that the



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506 probable result of such manufacture or importation would be the
507 death of any person commits capital manufacture or importation
508 of lysergic acid diethylamide (LSD), a capital felony punishable
509 as provided in ss. 775.082 and 921.142. Any person sentenced for
510 a capital felony under this paragraph shall also be ordered
511 ~~sentenced~~ to pay the maximum fine provided under subparagraph 1.

512 (2) A person acts knowingly under subsection (1) if that
513 person intends to sell, purchase, manufacture, deliver, or bring
514 into this state, or to actually or constructively possess, any
515 of the controlled substances listed in subsection (1),
516 regardless of which controlled substance listed in subsection
517 (1) is in fact sold, purchased, manufactured, delivered, or
518 brought into this state, or actually or constructively
519 possessed.

520 (3) Notwithstanding the provisions of s. 948.01, with
521 respect to any person who is found to have violated this
522 section, adjudication of guilt or imposition of sentence may
523 ~~shall~~ not be suspended, deferred, or withheld, and ~~nor shall~~
524 such person is not ~~be~~ eligible for parole before ~~prior to~~
525 serving the mandatory minimum term of imprisonment prescribed by
526 this section. A person sentenced to a mandatory minimum term of
527 imprisonment under this section is not eligible for any form of
528 discretionary early release, except pardon or executive clemency
529 or conditional medical release under s. 947.149, before ~~prior to~~
530 serving the mandatory minimum term of imprisonment.

531 (4) The state attorney may move the sentencing court to
532 reduce or suspend the sentence of any person who is convicted of
533 a violation of this section and who provides substantial
534 assistance in the identification, arrest, or conviction of any



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535 of that person's accomplices, accessories, coconspirators, or
536 principals or of any other person engaged in trafficking in
537 controlled substances. The arresting agency shall be given an
538 opportunity to be heard in aggravation or mitigation in
539 reference to any such motion. Upon good cause shown, the motion
540 may be filed and heard in camera. The judge hearing the motion
541 may reduce or suspend, defer, or withhold the sentence or
542 adjudication of guilt if the judge finds that the defendant
543 rendered such substantial assistance.

544 (5) Any person who agrees, conspires, combines, or
545 confederates with another person to commit any act prohibited by
546 subsection (1) commits a felony of the first degree and is
547 punishable as if he or she had actually committed such
548 prohibited act. ~~Nothing in This subsection does not shall be~~
549 ~~construed to~~ prohibit separate convictions and sentences for a
550 violation of this subsection and any violation of subsection
551 (1).

552 (6) (a) A mixture, as defined in s. 893.02, containing any
553 controlled substance described in this section includes, but is
554 not limited to, a solution or a dosage unit, including, but not
555 limited to, a pill or tablet, containing a controlled substance.

556 (b) Except as provided in paragraph (c), ~~For the purpose of~~
557 ~~clarifying legislative intent regarding the weighing of a~~
558 ~~mixture containing a controlled substance described in this~~
559 ~~section,~~ the weight of the controlled substance is the total
560 weight of the mixture, including the controlled substance and
561 any other substance in the mixture. If there is more than one
562 mixture containing the same controlled substance, the weight of
563 the controlled substance is calculated by aggregating the total



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564 weight of each mixture.

565 (c) If the mixture is a prescription drug as defined in s.
566 499.003 and the weight of the controlled substance in the
567 mixture can be identified using the National Drug Code
568 Directory, as published by the United States Department of
569 Health and Human Services, the weight of the controlled
570 substance is the weight of the controlled substance identified
571 in the National Drug Code Directory, exclusive of other tablet
572 components. If there is more than one mixture that is a
573 prescription drug and all of the mixtures contain the same
574 controlled substance, and the weight of the controlled substance
575 in each mixture can be identified using the National Drug Code
576 Directory, the weight of the controlled substance is calculated
577 by aggregating the weight of the controlled substance in each
578 mixture.

579 ~~(7) For the purpose of further clarifying legislative~~
580 ~~intent, the Legislature finds that the opinion in Hayes v.~~
581 ~~State, 750 So. 2d 1 (Fla. 1999) does not correctly construe~~
582 ~~legislative intent. The Legislature finds that the opinions in~~
583 ~~State v. Hayes, 720 So. 2d 1095 (Fla. 4th DCA 1998) and State v.~~
584 ~~Baxley, 684 So. 2d 831 (Fla. 5th DCA 1996) correctly construe~~
585 ~~legislative intent.~~

586
587 ===== T I T L E A M E N D M E N T =====

588 And the title is amended as follows:

589 Delete line 11

590 and insert:

591 legislative intent; amending s. 921.0022, F.S.;



939132

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete line 972.

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

And the title is amended as follows:

Delete lines 17 - 20

and insert:

thereto; providing an effective date.

By Senator Bogdanoff

25-00224C-12

2012732__

1 A bill to be entitled
 2 An act relating to sentences of inmates; amending s.
 3 893.135, F.S.; revising the quantity of a controlled
 4 substance which a person must knowingly sell,
 5 purchase, manufacture, deliver, or bring into this
 6 state with the intent to distribute in order to be
 7 subject to the automatic imposition of a mandatory
 8 minimum term of imprisonment; providing the method for
 9 determining the weight of a controlled substance in a
 10 mixture that is a prescription drug; revising
 11 legislative intent; amending s. 921.0022, F.S.;
 12 revising provisions to conform to changes made by the
 13 act; reenacting ss. 775.087(2)(a) and 782.04(1)(a),
 14 (3), and (4), F.S., relating to the possession or use
 15 of a weapon and murder, respectively, to incorporate
 16 the amendments made to s. 893.135, F.S., in references
 17 thereto; repealing s. 893.101, F.S., relating to
 18 legislative findings and intent relative to knowledge
 19 of a person to the possession of a controlled
 20 substance; providing an effective date.

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

24 Section 1. Section 893.135, Florida Statutes, is amended to
 25 read:

26 893.135 Trafficking; mandatory sentences; suspension or
 27 reduction of sentences; conspiracy to engage in trafficking.-
 28 (1) Except as authorized in this chapter or in chapter 499
 29 and notwithstanding the provisions of s. 893.13:

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

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30 (a) A ~~Any~~ person who knowingly sells, purchases,
 31 manufactures, delivers, or brings into this state, or who ~~is~~
 32 knowingly is in actual or constructive possession with intent to
 33 distribute ~~of~~, in excess of 25 pounds of cannabis, or 300 or
 34 more cannabis plants, commits a felony of the first degree,
 35 which felony shall be known as "trafficking in cannabis,"
 36 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 37 If the quantity of cannabis involved:

38 1. Is in excess of 25 pounds, but less than 2,000 pounds,
 39 or is 300 or more cannabis plants, but not more than 2,000
 40 cannabis plants, such person shall be sentenced to a mandatory
 41 minimum term of imprisonment of 3 years, and the defendant shall
 42 be ordered to pay a fine of \$25,000.

43 2. Is 2,000 pounds or more, but less than 10,000 pounds, or
 44 is 2,000 or more cannabis plants, but not more than 10,000
 45 cannabis plants, such person shall be sentenced to a mandatory
 46 minimum term of imprisonment of 7 years, and the defendant shall
 47 be ordered to pay a fine of \$50,000.

48 3. Is 10,000 pounds or more, or is 10,000 or more cannabis
 49 plants, such person shall be sentenced to a mandatory minimum
 50 term of imprisonment of 15 calendar years, and the defendant
 51 shall be ordered to pay a fine of \$200,000.

52
 53 For the purpose of this paragraph, a plant, including, but not
 54 limited to, a seedling or cutting, is a "cannabis plant" if it
 55 has some readily observable evidence of root formation, such as
 56 root hairs. To determine if a piece or part of a cannabis plant
 57 severed from the cannabis plant is itself a cannabis plant, the
 58 severed piece or part must have some readily observable evidence

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

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59 of root formation, such as root hairs. Callous tissue is not
60 readily observable evidence of root formation. The viability and
61 sex of a plant and the fact that the plant may or may not be a
62 dead harvested plant are not relevant in determining if the
63 plant is a "cannabis plant" or in the charging of an offense
64 under this paragraph. Upon conviction, the court shall impose
65 the longest term of imprisonment provided for in this paragraph.

66 (b)1. Any person who knowingly sells, purchases,
67 manufactures, delivers, or brings into this state, or who ~~is~~
68 knowingly is in actual or constructive possession with intent to
69 distribute of, ~~50 28~~ grams or more of cocaine, as described in
70 s. 893.03(2)(a)4., or of any mixture containing cocaine, but
71 less than 150 kilograms of cocaine or any such mixture, commits
72 a felony of the first degree, which felony shall be known as
73 "trafficking in cocaine," punishable as provided in s. 775.082,
74 s. 775.083, or s. 775.084. If the quantity involved:

75 a. Is ~~50 28~~ grams or more, but less than ~~400 200~~ grams,
76 such person shall be sentenced to a mandatory minimum term of
77 imprisonment of 3 years, and the defendant shall be ordered to
78 pay a fine of \$50,000.

79 b. Is ~~400 200~~ grams or more, but less than 4 kilograms ~~400~~
80 ~~grams~~, such person shall be sentenced to a mandatory minimum
81 term of imprisonment of 7 years, and the defendant shall be
82 ordered to pay a fine of \$100,000.

83 c. Is 4 kilograms ~~400 grams~~ or more, but less than 150
84 kilograms, such person shall be sentenced to a mandatory minimum
85 term of imprisonment of 15 calendar years, and the defendant
86 shall be ordered to pay a fine of \$250,000.

87 2. Any person who knowingly sells, purchases, manufactures,

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88 delivers, or brings into this state, or who ~~is~~ knowingly is in
89 actual or constructive possession with intent to distribute of,
90 150 kilograms or more of cocaine, as described in s.

91 893.03(2)(a)4., commits the first degree felony of trafficking
92 in cocaine. A person who has been convicted of the first-degree
93 ~~first-degree~~ felony of trafficking in cocaine under this
94 subparagraph shall be punished by life imprisonment and is
95 ineligible for any form of discretionary early release except
96 pardon or executive clemency or conditional medical release
97 under s. 947.149. However, if the court determines that, in
98 addition to committing any act specified in this paragraph:

99 a. The person intentionally killed an individual or
100 counseled, commanded, induced, procured, or caused the
101 intentional killing of an individual and such killing was the
102 result; or

103 b. The person's conduct in committing that act led to a
104 natural, though not inevitable, lethal result,

105
106 such person commits the capital felony of trafficking in
107 cocaine, punishable as provided in ss. 775.082 and 921.142. Any
108 person sentenced for a capital felony under this paragraph shall
109 also be ordered sentenced to pay the maximum fine provided under
110 subparagraph 1.

111 3. Any person who knowingly brings into this state 300
112 kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
113 and who knows that the probable result of such importation would
114 be the death of any person, commits capital importation of
115 cocaine, a capital felony punishable as provided in ss. 775.082
116 and 921.142. Any person sentenced for a capital felony under

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117 this paragraph shall also be ordered ~~sentenced~~ to pay the
118 maximum fine provided under subparagraph 1.

119 (c)1. Any person who knowingly sells, purchases,
120 manufactures, delivers, or brings into this state, or who ~~is~~
121 knowingly is in actual or constructive possession with intent to
122 distribute ~~of~~, 4 grams or more of any morphine, opium,
123 oxycodone, hydrocodone, hydromorphone, or any salt, derivative,
124 isomer, or salt of an isomer thereof, including heroin, as
125 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
126 4 grams or more of any mixture containing any such substance,
127 but less than 30 kilograms of such substance or mixture, commits
128 a felony of the first degree, which felony shall be known as
129 "trafficking in illegal drugs," punishable as provided in s.
130 775.082, s. 775.083, or s. 775.084. If the quantity involved:

131 a. Is 4 grams or more, but less than 14 grams, such person
132 shall be sentenced to a mandatory minimum term of imprisonment
133 of 3 years, and the defendant shall be ordered to pay a fine of
134 \$50,000.

135 b. Is 14 grams or more, but less than 28 grams, such person
136 shall be sentenced to a mandatory minimum term of imprisonment
137 of 15 years, and the defendant shall be ordered to pay a fine of
138 \$100,000.

139 c. Is 28 grams or more, but less than 30 kilograms, such
140 person shall be sentenced to a mandatory minimum term of
141 imprisonment of 25 calendar years, and the defendant shall be
142 ordered to pay a fine of \$500,000.

143 2. Any person who knowingly sells, purchases, manufactures,
144 delivers, or brings into this state, or who ~~is~~ knowingly is in
145 actual or constructive possession with intent to distribute ~~of~~,

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146 30 kilograms or more of any morphine, opium, oxycodone,
147 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
148 salt of an isomer thereof, including heroin, as described in s.
149 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
150 more of any mixture containing any such substance, commits the
151 first-degree ~~first-degree~~ felony of trafficking in illegal
152 drugs. A person who has been convicted of the first-degree ~~first~~
153 ~~degree~~ felony of trafficking in illegal drugs under this
154 subparagraph shall be punished by life imprisonment and is
155 ineligible for any form of discretionary early release except
156 pardon or executive clemency or conditional medical release
157 under s. 947.149. However, if the court determines that, in
158 addition to committing any act specified in this paragraph:

159 a. The person intentionally killed an individual or
160 counseled, commanded, induced, procured, or caused the
161 intentional killing of an individual and such killing was the
162 result; or

163 b. The person's conduct in committing that act led to a
164 natural, though not inevitable, lethal result,

165 such person commits the capital felony of trafficking in illegal
166 drugs, punishable as provided in ss. 775.082 and 921.142. Any
167 person sentenced for a capital felony under this paragraph shall
168 also be ordered ~~sentenced~~ to pay the maximum fine provided under
169 subparagraph 1.

170 3. Any person who knowingly brings into this state 60
171 kilograms or more of any morphine, opium, oxycodone,
172 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
173 salt of an isomer thereof, including heroin, as described in s.
174

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175 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
 176 more of any mixture containing any such substance, and who knows
 177 that the probable result of such importation would be the death
 178 of any person, commits capital importation of illegal drugs, a
 179 capital felony punishable as provided in ss. 775.082 and
 180 921.142. Any person sentenced for a capital felony under this
 181 paragraph shall also be ordered sentenced to pay the maximum
 182 fine provided under subparagraph 1.

183 (d)1. Any person who knowingly sells, purchases,
 184 manufactures, delivers, or brings into this state, or who ~~is~~
 185 knowingly is in actual or constructive possession with intent to
 186 distribute ~~of~~, 50 ~~28~~ grams or more of phencyclidine or of any
 187 mixture containing phencyclidine, as described in s.
 188 893.03(2)(b), commits a felony of the first degree, which felony
 189 shall be known as "trafficking in phencyclidine," punishable as
 190 provided in s. 775.082, s. 775.083, or s. 775.084. If the
 191 quantity involved:

192 a. Is 50 ~~28~~ grams or more, but less than 400 ~~200~~ grams,
 193 such person shall be sentenced to a mandatory minimum term of
 194 imprisonment of 3 years, and the defendant shall be ordered to
 195 pay a fine of \$50,000.

196 b. Is 400 ~~200~~ grams or more, but less than 4 kilograms ~~400~~
 197 ~~grams~~, such person shall be sentenced to a mandatory minimum
 198 term of imprisonment of 7 years, and the defendant shall be
 199 ordered to pay a fine of \$100,000.

200 c. Is 4 kilograms ~~400 grams~~ or more, such person shall be
 201 sentenced to a mandatory minimum term of imprisonment of 15
 202 calendar years, and the defendant shall be ordered to pay a fine
 203 of \$250,000.

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204 2. Any person who knowingly brings into this state 8
 205 kilograms ~~800 grams~~ or more of phencyclidine or of any mixture
 206 containing phencyclidine, as described in s. 893.03(2)(b), and
 207 who knows that the probable result of such importation would be
 208 the death of any person commits capital importation of
 209 phencyclidine, a capital felony punishable as provided in ss.
 210 775.082 and 921.142. Any person sentenced for a capital felony
 211 under this paragraph shall also be ordered sentenced to pay the
 212 maximum fine provided under subparagraph 1.

213 (e)1. Any person who knowingly sells, purchases,
 214 manufactures, delivers, or brings into this state, or who ~~is~~
 215 knowingly is in actual or constructive possession with intent to
 216 distribute ~~of~~, 200 grams or more of methaqualone or of any
 217 mixture containing methaqualone, as described in s.
 218 893.03(1)(d), commits a felony of the first degree, which felony
 219 shall be known as "trafficking in methaqualone," punishable as
 220 provided in s. 775.082, s. 775.083, or s. 775.084. If the
 221 quantity involved:

222 a. Is 200 grams or more, but less than 5 kilograms, such
 223 person shall be sentenced to a mandatory minimum term of
 224 imprisonment of 3 years, and the defendant shall be ordered to
 225 pay a fine of \$50,000.

226 b. Is 5 kilograms or more, but less than 25 kilograms, such
 227 person shall be sentenced to a mandatory minimum term of
 228 imprisonment of 7 years, and the defendant shall be ordered to
 229 pay a fine of \$100,000.

230 c. Is 25 kilograms or more, such person shall be sentenced
 231 to a mandatory minimum term of imprisonment of 15 calendar
 232 years, and the defendant shall be ordered to pay a fine of

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233 \$250,000.

234 2. Any person who knowingly brings into this state 50
 235 kilograms or more of methaqualone or of any mixture containing
 236 methaqualone, as described in s. 893.03(1)(d), and who knows
 237 that the probable result of such importation would be the death
 238 of any person commits capital importation of methaqualone, a
 239 capital felony punishable as provided in ss. 775.082 and
 240 921.142. Any person sentenced for a capital felony under this
 241 paragraph shall also be ordered ~~sentenced~~ to pay the maximum
 242 fine provided under subparagraph 1.

243 (f)1. Any person who knowingly sells, purchases,
 244 manufactures, delivers, or brings into this state, or who ~~is~~
 245 knowingly is in actual or constructive possession with intent to
 246 distribute ~~of~~, 30 14 grams or more of amphetamine, as described
 247 in s. 893.03(2)(c)2., or methamphetamine, as described in s.
 248 893.03(2)(c)4., or of any mixture containing amphetamine or
 249 methamphetamine, or phenylacetone, phenylacetic acid,
 250 pseudoephedrine, or ephedrine in conjunction with other
 251 chemicals and equipment utilized in the manufacture of
 252 amphetamine or methamphetamine, commits a felony of the first
 253 degree, which felony shall be known as "trafficking in
 254 amphetamine," punishable as provided in s. 775.082, s. 775.083,
 255 or s. 775.084. If the quantity involved:

256 a. Is 30 14 grams or more, but less than 200 28 grams, such
 257 person shall be sentenced to a mandatory minimum term of
 258 imprisonment of 3 years, and the defendant shall be ordered to
 259 pay a fine of \$50,000.

260 b. Is 200 28 grams or more, but less than 400 200 grams,
 261 such person shall be sentenced to a mandatory minimum term of

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262 imprisonment of 7 years, and the defendant shall be ordered to
 263 pay a fine of \$100,000.

264 c. Is 400 200 grams or more, such person shall be sentenced
 265 to a mandatory minimum term of imprisonment of 15 calendar
 266 years, and the defendant shall be ordered to pay a fine of
 267 \$250,000.

268 2. Any person who knowingly manufactures or brings into
 269 this state 1.5 kilograms ~~400 grams~~ or more of amphetamine, as
 270 described in s. 893.03(2)(c)2., or methamphetamine, as described
 271 in s. 893.03(2)(c)4., or of any mixture containing amphetamine
 272 or methamphetamine, or phenylacetone, phenylacetic acid,
 273 pseudoephedrine, or ephedrine in conjunction with other
 274 chemicals and equipment used in the manufacture of amphetamine
 275 or methamphetamine, and who knows that the probable result of
 276 such manufacture or importation would be the death of any person
 277 commits capital manufacture or importation of amphetamine, a
 278 capital felony punishable as provided in ss. 775.082 and
 279 921.142. Any person sentenced for a capital felony under this
 280 paragraph shall also be ordered ~~sentenced~~ to pay the maximum
 281 fine provided under subparagraph 1.

282 (g)1. Any person who knowingly sells, purchases,
 283 manufactures, delivers, or brings into this state, or who ~~is~~
 284 knowingly is in actual or constructive possession with intent to
 285 distribute ~~of~~, 4 grams or more of flunitrazepam or any mixture
 286 containing flunitrazepam as described in s. 893.03(1)(a) commits
 287 a felony of the first degree, which felony shall be known as
 288 "trafficking in flunitrazepam," punishable as provided in s.
 289 775.082, s. 775.083, or s. 775.084. If the quantity involved:

290 a. Is 4 grams or more but less than 14 grams, such person

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 291 shall be sentenced to a mandatory minimum term of imprisonment
 292 of 3 years, and the defendant shall be ordered to pay a fine of
 293 \$50,000.

294 b. Is 14 grams or more but less than 28 grams, such person
 295 shall be sentenced to a mandatory minimum term of imprisonment
 296 of 7 years, and the defendant shall be ordered to pay a fine of
 297 \$100,000.

298 c. Is 28 grams or more but less than 30 kilograms, such
 299 person shall be sentenced to a mandatory minimum term of
 300 imprisonment of 25 calendar years, and the defendant shall be
 301 ordered to pay a fine of \$500,000.

302 2. Any person who knowingly sells, purchases, manufactures,
 303 delivers, or brings into this state, or who ~~is~~ knowingly is in
 304 actual or constructive possession with intent to distribute of
 305 30 kilograms or more of flunitrazepam or any mixture containing
 306 flunitrazepam as described in s. 893.03(1)(a) commits the first-
 307 degree first-degree felony of trafficking in flunitrazepam. A
 308 person who has been convicted of the first-degree first-degree
 309 felony of trafficking in flunitrazepam under this subparagraph
 310 shall be punished by life imprisonment and is ineligible for any
 311 form of discretionary early release except pardon or executive
 312 clemency or conditional medical release under s. 947.149.
 313 However, if the court determines that, in addition to committing
 314 any act specified in this paragraph:

315 a. The person intentionally killed an individual or
 316 counseled, commanded, induced, procured, or caused the
 317 intentional killing of an individual and such killing was the
 318 result; or

319 b. The person's conduct in committing that act led to a

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 320 natural, though not inevitable, lethal result,

321
 322 such person commits the capital felony of trafficking in
 323 flunitrazepam, punishable as provided in ss. 775.082 and
 324 921.142. Any person sentenced for a capital felony under this
 325 paragraph shall also be ordered sentenced to pay the maximum
 326 fine provided under subparagraph 1.

327 (h)1. Any person who knowingly sells, purchases,
 328 manufactures, delivers, or brings into this state, or who ~~is~~
 329 knowingly is in actual or constructive possession with intent to
 330 distribute of, 5 kilograms 1-kilogram or more of gamma-
 331 hydroxybutyric acid (GHB), as described in s. 893.03(1)(d), or
 332 any mixture containing gamma-hydroxybutyric acid (GHB), commits
 333 a felony of the first degree, which felony shall be known as
 334 "trafficking in gamma-hydroxybutyric acid (GHB)," punishable as
 335 provided in s. 775.082, s. 775.083, or s. 775.084. If the
 336 quantity involved:

337 a. Is 5 kilograms 1-kilogram or more but less than 15 5
 338 kilograms, such person shall be sentenced to a mandatory minimum
 339 term of imprisonment of 3 years, and the defendant shall be
 340 ordered to pay a fine of \$50,000.

341 b. Is 15 5 kilograms or more but less than 30 10 kilograms,
 342 such person shall be sentenced to a mandatory minimum term of
 343 imprisonment of 7 years, and the defendant shall be ordered to
 344 pay a fine of \$100,000.

345 c. Is 30 10 kilograms or more, such person shall be
 346 sentenced to a mandatory minimum term of imprisonment of 15
 347 calendar years, and the defendant shall be ordered to pay a fine
 348 of \$250,000.

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349 2. Any person who knowingly manufactures or brings into
 350 this state 150 kilograms or more of gamma-hydroxybutyric acid
 351 (GHB), as described in s. 893.03(1)(d), or any mixture
 352 containing gamma-hydroxybutyric acid (GHB), and who knows that
 353 the probable result of such manufacture or importation would be
 354 the death of any person commits capital manufacture or
 355 importation of gamma-hydroxybutyric acid (GHB), a capital felony
 356 punishable as provided in ss. 775.082 and 921.142. Any person
 357 sentenced for a capital felony under this paragraph shall also
 358 be ordered sentenced to pay the maximum fine provided under
 359 subparagraph 1.

360 (i)1. Any person who knowingly sells, purchases,
 361 manufactures, delivers, or brings into this state, or who ~~is~~
 362 knowingly is in actual or constructive possession with intent to
 363 distribute of, 5 kilograms ~~1 kilogram~~ or more of gamma-
 364 butyrolactone (GBL), as described in s. 893.03(1)(d), or any
 365 mixture containing gamma-butyrolactone (GBL), commits a felony
 366 of the first degree, which felony shall be known as "trafficking
 367 in gamma-butyrolactone (GBL)," punishable as provided in s.
 368 775.082, s. 775.083, or s. 775.084. If the quantity involved:

369 a. Is 5 kilograms ~~1 kilogram~~ or more but less than 15 ~~5~~
 370 kilograms, such person shall be sentenced to a mandatory minimum
 371 term of imprisonment of 3 years, and the defendant shall be
 372 ordered to pay a fine of \$50,000.

373 b. Is 15 ~~5~~ kilograms or more but less than 30 ~~10~~ kilograms,
 374 such person shall be sentenced to a mandatory minimum term of
 375 imprisonment of 7 years, and the defendant shall be ordered to
 376 pay a fine of \$100,000.

377 c. Is 30 ~~10~~ kilograms or more, such person shall be

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378 sentenced to a mandatory minimum term of imprisonment of 15
 379 calendar years, and the defendant shall be ordered to pay a fine
 380 of \$250,000.

381 2. Any person who knowingly manufactures or brings into the
 382 state 150 kilograms or more of gamma-butyrolactone (GBL), as
 383 described in s. 893.03(1)(d), or any mixture containing gamma-
 384 butyrolactone (GBL), and who knows that the probable result of
 385 such manufacture or importation would be the death of any person
 386 commits capital manufacture or importation of gamma-
 387 butyrolactone (GBL), a capital felony punishable as provided in
 388 ss. 775.082 and 921.142. Any person sentenced for a capital
 389 felony under this paragraph shall also be ordered sentenced to
 390 pay the maximum fine provided under subparagraph 1.

391 (j)1. Any person who knowingly sells, purchases,
 392 manufactures, delivers, or brings into this state, or who ~~is~~
 393 knowingly is in actual or constructive possession with intent to
 394 distribute of, 5 kilograms ~~1 kilogram~~ or more of 1,4-Butanediol
 395 as described in s. 893.03(1)(d), or of any mixture containing
 396 1,4-Butanediol, commits a felony of the first degree, which
 397 felony shall be known as "trafficking in 1,4-Butanediol,"
 398 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 399 If the quantity involved:

400 a. Is 5 kilograms ~~1 kilogram~~ or more, but less than 15 ~~5~~
 401 kilograms, such person shall be sentenced to a mandatory minimum
 402 term of imprisonment of 3 years, and the defendant shall be
 403 ordered to pay a fine of \$50,000.

404 b. Is 15 ~~5~~ kilograms or more, but less than 30 ~~10~~
 405 kilograms, such person shall be sentenced to a mandatory minimum
 406 term of imprisonment of 7 years, and the defendant shall be

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407 ordered to pay a fine of \$100,000.

408 c. Is 30 ~~10~~ kilograms or more, such person shall be
409 sentenced to a mandatory minimum term of imprisonment of 15
410 calendar years, and the defendant shall be ordered to pay a fine
411 of \$500,000.

412 2. Any person who knowingly manufactures or brings into
413 this state 150 kilograms or more of 1,4-Butanediol as described
414 in s. 893.03(1)(d), or any mixture containing 1,4-Butanediol,
415 and who knows that the probable result of such manufacture or
416 importation would be the death of any person commits capital
417 manufacture or importation of 1,4-Butanediol, a capital felony
418 punishable as provided in ss. 775.082 and 921.142. Any person
419 sentenced for a capital felony under this paragraph shall also
420 be ordered ~~sentenced~~ to pay the maximum fine provided under
421 subparagraph 1.

422 (k)1. Any person who knowingly sells, purchases,
423 manufactures, delivers, or brings into this state, or who ~~is~~
424 knowingly is in actual or constructive possession with intent to
425 distribute ~~of~~, 30 ~~10~~ grams or more of any of the following
426 substances described in s. 893.03(1)(a) or (c):

- 427 a. 3,4-Methylenedioxyamphetamine (MDMA);
- 428 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 429 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 430 d. 2,5-Dimethoxyamphetamine;
- 431 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 432 f. N-ethylamphetamine;
- 433 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 434 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 435 i. 4-methoxyamphetamine;

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436 j. 4-methoxymethamphetamine;

437 k. 4-Methyl-2,5-dimethoxyamphetamine;

438 l. 3,4-Methylenedioxy-N-ethylamphetamine;

439 m. 3,4-Methylenedioxyamphetamine;

440 n. N,N-dimethylamphetamine; or

441 o. 3,4,5-Trimethoxyamphetamine,

442
443 individually or in any combination of or any mixture containing
444 any substance listed in sub-subparagraphs a.-o., commits a
445 felony of the first degree, which felony shall be known as
446 "trafficking in Phenethylamines," punishable as provided in s.
447 775.082, s. 775.083, or s. 775.084.

448 2. If the quantity involved:

449 a. Is 30 ~~10~~ grams or more but less than 200 grams, such
450 person shall be sentenced to a mandatory minimum term of
451 imprisonment of 3 years, and the defendant shall be ordered to
452 pay a fine of \$50,000.

453 b. Is 200 grams or more, but less than 400 grams, such
454 person shall be sentenced to a mandatory minimum term of
455 imprisonment of 7 years, and the defendant shall be ordered to
456 pay a fine of \$100,000.

457 c. Is 400 grams or more, such person shall be sentenced to
458 a mandatory minimum term of imprisonment of 15 calendar years,
459 and the defendant shall be ordered to pay a fine of \$250,000.

460 3. Any person who knowingly manufactures or brings into
461 this state 30 kilograms or more of any of the following
462 substances described in s. 893.03(1)(a) or (c):

463 a. 3,4-Methylenedioxyamphetamine (MDMA);

464 b. 4-Bromo-2,5-dimethoxyamphetamine;

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465 c. 4-Bromo-2,5-dimethoxyphenethylamine;
 466 d. 2,5-Dimethoxyamphetamine;
 467 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
 468 f. N-ethylamphetamine;
 469 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
 470 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
 471 i. 4-methoxyamphetamine;
 472 j. 4-methoxymethamphetamine;
 473 k. 4-Methyl-2,5-dimethoxyamphetamine;
 474 l. 3,4-Methylenedioxy-N-ethylamphetamine;
 475 m. 3,4-Methylenedioxyamphetamine;
 476 n. N,N-dimethylamphetamine; or
 477 o. 3,4,5-Trimethoxyamphetamine,
 478
 479 individually or in any combination of or any mixture containing
 480 any substance listed in sub-subparagraphs a.-o., and who knows
 481 that the probable result of such manufacture or importation
 482 would be the death of any person commits capital manufacture or
 483 importation of Phenethylamines, a capital felony punishable as
 484 provided in ss. 775.082 and 921.142. Any person sentenced for a
 485 capital felony under this paragraph shall also be ordered
 486 ~~sentenced~~ to pay the maximum fine provided under subparagraph 1.
 487 (1)1. Any person who knowingly sells, purchases,
 488 manufactures, delivers, or brings into this state, or who ~~is~~
 489 knowingly is in actual or constructive possession with intent to
 490 distribute ~~of~~, 1 gram or more of lysergic acid diethylamide
 491 (LSD) as described in s. 893.03(1)(c), or of any mixture
 492 containing lysergic acid diethylamide (LSD), commits a felony of
 493 the first degree, which felony shall be known as "trafficking in

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494 lysergic acid diethylamide (LSD)," punishable as provided in s.
 495 775.082, s. 775.083, or s. 775.084. If the quantity involved:
 496 a. Is 1 gram or more, but less than 5 grams, such person
 497 shall be sentenced to a mandatory minimum term of imprisonment
 498 of 3 years, and the defendant shall be ordered to pay a fine of
 499 \$50,000.
 500 b. Is 5 grams or more, but less than 7 grams, such person
 501 shall be sentenced to a mandatory minimum term of imprisonment
 502 of 7 years, and the defendant shall be ordered to pay a fine of
 503 \$100,000.
 504 c. Is 7 grams or more, such person shall be sentenced to a
 505 mandatory minimum term of imprisonment of 15 calendar years, and
 506 the defendant shall be ordered to pay a fine of \$500,000.
 507 2. Any person who knowingly manufactures or brings into
 508 this state 7 grams or more of lysergic acid diethylamide (LSD)
 509 as described in s. 893.03(1)(c), or any mixture containing
 510 lysergic acid diethylamide (LSD), and who knows that the
 511 probable result of such manufacture or importation would be the
 512 death of any person commits capital manufacture or importation
 513 of lysergic acid diethylamide (LSD), a capital felony punishable
 514 as provided in ss. 775.082 and 921.142. Any person sentenced for
 515 a capital felony under this paragraph shall also be ordered
 516 ~~sentenced~~ to pay the maximum fine provided under subparagraph 1.
 517 (2) A person acts knowingly under subsection (1) if that
 518 person intends to sell, purchase, manufacture, deliver, or bring
 519 into this state, or to actually or constructively possess, any
 520 of the controlled substances listed in subsection (1),
 521 regardless of which controlled substance listed in subsection
 522 (1) is in fact sold, purchased, manufactured, delivered, or

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523 brought into this state, or actually or constructively
524 possessed.

525 (3) Notwithstanding the provisions of s. 948.01, with
526 respect to any person who is found to have violated this
527 section, adjudication of guilt or imposition of sentence may
528 ~~shall~~ not be suspended, deferred, or withheld, and ~~nor shall~~
529 such person is not be eligible for parole before prior to
530 serving the mandatory minimum term of imprisonment prescribed by
531 this section. A person sentenced to a mandatory minimum term of
532 imprisonment under this section is not eligible for any form of
533 discretionary early release, except pardon or executive clemency
534 or conditional medical release under s. 947.149, before prior to
535 serving the mandatory minimum term of imprisonment.

536 (4) The state attorney may move the sentencing court to
537 reduce or suspend the sentence of any person who is convicted of
538 a violation of this section and who provides substantial
539 assistance in the identification, arrest, or conviction of any
540 of that person's accomplices, accessories, coconspirators, or
541 principals or of any other person engaged in trafficking in
542 controlled substances. The arresting agency shall be given an
543 opportunity to be heard in aggravation or mitigation in
544 reference to any such motion. Upon good cause shown, the motion
545 may be filed and heard in camera. The judge hearing the motion
546 may reduce or suspend, defer, or withhold the sentence or
547 adjudication of guilt if the judge finds that the defendant
548 rendered such substantial assistance.

549 (5) Any person who agrees, conspires, combines, or
550 confederates with another person to commit any act prohibited by
551 subsection (1) commits a felony of the first degree and is

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552 punishable as if he or she had actually committed such
553 prohibited act. ~~Nothing in~~ This subsection does not shall be
554 ~~construed to~~ prohibit separate convictions and sentences for a
555 violation of this subsection and any violation of subsection
556 (1).

557 (6) A mixture, as defined in s. 893.02, containing any
558 controlled substance described in this section includes, but is
559 not limited to, a solution or a dosage unit, including, but not
560 limited to, a pill or tablet, containing a controlled substance.
561 For the purpose of clarifying legislative intent regarding the
562 weighing of a mixture containing a controlled substance
563 described in this section, the weight of the controlled
564 substance is the total weight of the mixture, including the
565 controlled substance and any other substance in the mixture.
566 However, if the mixture is a prescription drug as defined in s.
567 499.003 and the weight of the controlled substance in the
568 mixture can be identified using the national drug code, the
569 weight of the controlled substance is the weight identified in
570 the national drug code. If there is more than one mixture
571 containing the same controlled substance, the weight of the
572 controlled substance is calculated by aggregating the total
573 weight of each mixture.

574 (7) For the purpose of further clarifying legislative
575 intent, the Legislature finds that the opinion in *Hayes v.*
576 *State*, 750 So. 2d 1 (Fla. 1999) ~~does not~~ correctly construes
577 ~~construe~~ legislative intent. The Legislature finds that the
578 opinions in *State v. Hayes*, 720 So. 2d 1095 (Fla. 4th DCA 1998)
579 and *State v. Baxley*, 684 So. 2d 831 (Fla. 5th DCA 1996) do not
580 correctly construe legislative intent.

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581 Section 2. Paragraphs (g), (h), and (i) of subsection (3)
 582 of section 921.0022, Florida Statutes, are amended to read:
 583 921.0022 Criminal Punishment Code; offense severity ranking
 584 chart.—
 585 (3) OFFENSE SEVERITY RANKING CHART
 586 (g) LEVEL 7
 587

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 serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration,

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593 permanent disability, or death.
 409.920 3rd Medicaid provider fraud; \$10,000 or
 (2)(b)1.a. less.
 594 409.920 2nd Medicaid provider fraud; more than
 (2)(b)1.b. \$10,000, but less than \$50,000.
 595 456.065(2) 3rd Practicing a health care profession
 without a license.
 596 456.065(2) 2nd Practicing a health care profession
 without a license which results in
 serious bodily injury.
 597 458.327(1) 3rd Practicing medicine without a license.
 598 459.013(1) 3rd Practicing osteopathic medicine without
 a license.
 599 460.411(1) 3rd Practicing chiropractic medicine
 without a license.
 600 461.012(1) 3rd Practicing podiatric medicine without a
 license.
 601 462.17 3rd Practicing naturopathy without a
 license.
 602

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603	463.015(1)	3rd	Practicing optometry without a license.
604	464.016(1)	3rd	Practicing nursing without a license.
605	465.015(2)	3rd	Practicing pharmacy without a license.
606	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
607	467.201	3rd	Practicing midwifery without a license.
608	468.366	3rd	Delivering respiratory care services without a license.
609	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
610	483.901(9)	3rd	Practicing medical physics without a license.
611	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
612	484.053	3rd	Dispensing hearing aids without a license.
	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained

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613			exceeded \$50,000 and there were five or more victims.
614	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.
615	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
616	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
617	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
618	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
619	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
	782.051(3)	2nd	Attempted felony murder of a person by

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620 a person other than the perpetrator or
the perpetrator of an attempted felony.

621 782.07(1) 2nd Killing of a human being by the act,
procurement, or culpable negligence of
another (manslaughter).

622 782.071 2nd Killing of a human being or viable
fetus by the operation of a motor
vehicle in a reckless manner (vehicular
homicide).

623 782.072 2nd Killing of a human being by the
operation of a vessel in a reckless
manner (vessel homicide).

624 784.045(1)(a)1. 2nd Aggravated battery; intentionally
causing great bodily harm or
disfigurement.

625 784.045(1)(a)2. 2nd Aggravated battery; using deadly
weapon.

626 784.045(1)(b) 2nd Aggravated battery; perpetrator aware
victim pregnant.

627 784.048(4) 3rd Aggravated stalking; violation of
injunction or court order.

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628 784.048(7) 3rd Aggravated stalking; violation of court
order.

629 784.07(2)(d) 1st Aggravated battery on law enforcement
officer.

630 784.074(1)(a) 1st Aggravated battery on sexually violent
predators facility staff.

631 784.08(2)(a) 1st Aggravated battery on a person 65 years
of age or older.

632 784.081(1) 1st Aggravated battery on specified
official or employee.

633 784.082(1) 1st Aggravated battery by detained person
on visitor or other detainee.

634 784.083(1) 1st Aggravated battery on code inspector.

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

635 790.16(1) 1st Discharge of a machine gun under
specified circumstances.

636 790.165(2) 2nd Manufacture, sell, possess, or deliver
hoax bomb.

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637 790.165(3) 2nd Possessing, displaying, or threatening
to use any hoax bomb while committing
or attempting to commit a felony.

638 790.166(3) 2nd Possessing, selling, using, or
attempting to use a hoax weapon of mass
destruction.

639 790.166(4) 2nd Possessing, displaying, or threatening
to use a hoax weapon of mass
destruction while committing or
attempting to commit a felony.

640 790.23 1st,PBL Possession of a firearm by a person who
qualifies for the penalty enhancements
provided for in s. 874.04.

641 794.08(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.

642 796.03 2nd Procuring any person under 16 years for
prostitution.

643 800.04(5)(c)1. 2nd Lewd or lascivious molestation; victim
less than 12 years of age; offender
less than 18 years.

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644 800.04(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.

645 806.01(2) 2nd Maliciously damage structure by fire or
explosive.

646 810.02(3)(a) 2nd Burglary of occupied dwelling; unarmed;
no assault or battery.

647 810.02(3)(b) 2nd Burglary of unoccupied dwelling;
unarmed; no assault or battery.

648 810.02(3)(d) 2nd Burglary of occupied conveyance;
unarmed; no assault or battery.

649 810.02(3)(e) 2nd Burglary of authorized emergency
vehicle.

650 812.014(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.

651 812.014(2)(b)2. 2nd Property stolen, cargo valued at less
than \$50,000, grand theft in 2nd
degree.

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652

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

653

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

654

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

655

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

656

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

657

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

658

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

659

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

660

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

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661

817.2341 1st Making false entries of material fact
(2)(b) & or false statements regarding property
(3)(b) values relating to the solvency of an
insuring entity which are a significant
cause of the insolvency of that entity.

662

825.102(3)(b) 2nd Neglecting an elderly person or
disabled adult causing great bodily
harm, disability, or disfigurement.

663

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.

664

827.03(3)(b) 2nd Neglect of a child causing great bodily
harm, disability, or disfigurement.

665

827.04(3) 3rd Impregnation of a child under 16 years
of age by person 21 years of age or
older.

666

837.05(2) 3rd Giving false information about alleged
capital felony to a law enforcement
officer.

667

838.015 2nd Bribery.

668

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838.016 2nd Unlawful compensation or reward for
official behavior.

669 838.021(3)(a) 2nd Unlawful harm to a public servant.

670 838.22 2nd Bid tampering.

671 847.0135(3) 3rd Solicitation of a child, via a computer
service, to commit an unlawful sex act.

672 847.0135(4) 2nd Traveling to meet a minor to commit an
unlawful sex act.

673 872.06 2nd Abuse of a dead human body.

674 874.10 1st,PBL Knowingly initiates, organizes, plans,
finances, directs, manages, or
supervises criminal gang-related
activity.

675 893.13(1)(c)1. 1st Sell, manufacture, or deliver cocaine
(or other drug prohibited under s.
893.03(1)(a), (1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4.) within 1,000 feet
of a child care facility, school, or
state, county, or municipal park or
publicly owned recreational facility or
community center.

676

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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.

677 893.13(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).

678 893.135(1)(a)1. 1st Trafficking in cannabis, more than 25
lbs., less than 2,000 lbs.

679 893.135 1st Trafficking in cocaine, more than 50 ~~20~~
(1)(b)1.a. grams, less than 400 ~~200~~ grams.

680 893.135 1st Trafficking in illegal drugs, more than
(1)(c)1.a. 4 grams, less than 14 grams.

681 893.135(1)(d)1. 1st Trafficking in phencyclidine, more than
50 ~~20~~ grams, less than 400 ~~200~~ grams.

682 893.135(1)(e)1. 1st Trafficking in methaqualone, more than
200 grams, less than 5 kilograms.

683 893.135(1)(f)1. 1st Trafficking in amphetamine, more than
30 ~~14~~ grams, less than 200 ~~20~~ grams.

684

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

685 893.135 1st Trafficking in gamma-hydroxybutyric
(1)(h)1.a. acid (GHB), 5 kilograms ~~4 kilogram~~ or
more, less than 15 ~~5~~ kilograms.

686 893.135 1st Trafficking in 1,4-Butanediol, 5
(1)(j)1.a. kilograms ~~4 kilogram~~ or more, less than
15 ~~5~~ kilograms.

687 893.135 1st Trafficking in Phenethylamines, 30 ~~40~~
(1)(k)2.a. grams or more, less than 200 grams.

688 893.1351(2) 2nd Possession of place for trafficking in
or manufacturing of controlled
substance.

689 896.101(5)(a) 3rd Money laundering, financial
transactions exceeding \$300 but less
than \$20,000.

690 896.104(4)(a)1. 3rd Structuring transactions to evade
reporting or registration requirements,
financial transactions exceeding \$300
but less than \$20,000.

691 943.0435(4)(c) 2nd Sexual offender vacating permanent
residence; failure to comply with

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692 reporting requirements.

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

693 943.0435(9)(a) 3rd Sexual offender; failure to comply with
reporting requirements.

694 943.0435(13) 3rd Failure to report or providing false
information about a sexual offender;
harbor or conceal a sexual offender.

695 943.0435(14) 3rd Sexual offender; failure to report and
reregister; failure to respond to
address verification.

696 944.607(9) 3rd Sexual offender; failure to comply with
reporting requirements.

697 944.607(10)(a) 3rd Sexual offender; failure to submit to
the taking of a digitized photograph.

698 944.607(12) 3rd Failure to report or providing false
information about a sexual offender;
harbor or conceal a sexual offender.

699 944.607(13) 3rd Sexual offender; failure to report and
reregister; failure to respond to

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700	25-00224C-12		2012732__	address verification.
701	985.4815(10)	3rd		Sexual offender; failure to submit to the taking of a digitized photograph.
702	985.4815(12)	3rd		Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
703	985.4815(13)	3rd		Sexual offender; failure to report and reregister; failure to respond to address verification.
704	(h) LEVEL 8			
705	Florida Statute	Felony Degree		Description
706	316.193 (3) (c) 3.a.	2nd		DUI manslaughter.
707	316.1935(4) (b)	1st		Aggravated fleeing or attempted eluding with serious bodily injury or death.
708	327.35(3) (c) 3.	2nd		Vessel BUI manslaughter.
709	499.0051(7)	1st		Knowing trafficking in contraband prescription drugs.
710				

711	25-00224C-12		2012732__	
712	499.0051(8)	1st		Knowing forgery of prescription labels or prescription drug labels.
713	560.123(8) (b) 2.	2nd		Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
714	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.
715	655.50(10) (b) 2.	2nd		Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
716	777.03(2) (a)	1st		Accessory after the fact, capital felony.
	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, aircraft piracy, or unlawfully discharging bomb.
	782.051(2)	1st		Attempted felony murder while

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				disabled adult and property is valued at \$100,000 or more.
734	837.02 (2)	2nd		Perjury in official proceedings relating to prosecution of a capital felony.
735	837.021 (2)	2nd		Making contradictory statements in official proceedings relating to prosecution of a capital felony.
736	860.121 (2) (c)	1st		Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
737	860.16	1st		Aircraft piracy.
738	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).
739	893.13 (2) (b)	1st		Purchase in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
740	893.13 (6) (c)	1st		Possess in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).
741				

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	893.135 (1) (a) 2.	1st		Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
742	893.135 (1) (b) 1.b.	1st		Trafficking in cocaine, more than <u>400</u> 200 grams, less than <u>4 kilograms</u> 400 grams.
743	893.135 (1) (c) 1.b.	1st		Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
744	893.135 (1) (d) 1.b.	1st		Trafficking in phencyclidine, more than <u>400</u> 200 grams, less than <u>4 kilograms</u> 400 grams.
745	893.135 (1) (e) 1.b.	1st		Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
746	893.135 (1) (f) 1.b.	1st		Trafficking in amphetamine, more than <u>200</u> 20 grams, less than <u>400</u> 200 grams.
747	893.135 (1) (g) 1.b.	1st		Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
748	893.135 (1) (h) 1.b.	1st		Trafficking in gamma-hydroxybutyric acid (GHB), <u>15</u> 5 kilograms or more, less than <u>30</u> 10 kilograms.
749	893.135 (1) (j) 1.b.	1st		Trafficking in 1,4-Butanediol, <u>15</u> 5 kilograms or more, less than <u>30</u> 10 kilograms.

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750 kilograms.

751 893.135 1st Trafficking in Phenethylamines, 200
(1)(k)2.b. grams or more, less than 400 grams.

752 893.1351(3) 1st Possession of a place used to
manufacture controlled substance when
minor is present or resides there.

753 895.03(1) 1st Use or invest proceeds derived from
pattern of racketeering activity.

754 895.03(2) 1st Acquire or maintain through
racketeering activity any interest in
or control of any enterprise or real
property.

755 895.03(3) 1st Conduct or participate in any
enterprise through pattern of
racketeering activity.

756 896.101(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

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757 \$100,000.

758 (i) LEVEL 9

759

Florida Statute	Felony Degree	Description
760 316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
761 327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
762 409.920 (2)(b)1.c.	1st	Medicaid provider fraud; \$50,000 or more.
763 499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
764 560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
765 560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
766		

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 655.50(10)(b)3. 1st Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.

767

775.0844 1st Aggravated white collar crime.

768

782.04(1) 1st Attempt, conspire, or solicit to commit premeditated murder.

769

782.04(3) 1st,PBL Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.

770

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

771

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

772

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

773

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

774

787.01(1)(a)4. 1st,PBL Kidnapping with intent to interfere

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 with performance of any governmental or political function.

775

787.02(3)(a) 1st False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.

776

790.161 1st Attempted capital destructive device offense.

777

790.166(2) 1st,PBL Possessing, selling, using, or attempting to use a weapon of mass destruction.

778

794.011(2) 1st Attempted sexual battery; victim less than 12 years of age.

779

794.011(2) Life Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.

780

794.011(4) 1st Sexual battery; victim 12 years or older, certain circumstances.

781

794.011(8)(b) 1st Sexual battery; engage in sexual conduct with minor 12 to 18 years by

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782 person in familial or custodial
authority.

783 794.08 (2) 1st Female genital mutilation; victim
younger than 18 years of age.

784 800.04 (5) (b) Life Lewd or lascivious molestation; victim
less than 12 years; offender 18 years
or older.

785 812.13 (2) (a) 1st,PBL Robbery with firearm or other deadly
weapon.

786 812.133 (2) (a) 1st,PBL Carjacking; firearm or other deadly
weapon.

787 812.135 (2) (b) 1st Home-invasion robbery with weapon.

817.568 (7) 2nd, Fraudulent use of personal
PBL identification information of an
individual under the age of 18 by his
or her parent, legal guardian, or
person exercising custodial authority.

788 827.03 (2) 1st Aggravated child abuse.

789 847.0145 (1) 1st Selling, or otherwise transferring
custody or control, of a minor.

790

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791 847.0145 (2) 1st Purchasing, or otherwise obtaining
custody or control, of a minor.

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.

792 893.135 1st Attempted capital trafficking offense.

793 893.135 (1) (a) 3. 1st Trafficking in cannabis, more than
10,000 lbs.

794 893.135 1st Trafficking in cocaine, more than 4
(1) (b) 1.c. kilograms ~~400 grams~~, less than 150
kilograms.

795 893.135 1st Trafficking in illegal drugs, more
(1) (c) 1.c. than 28 grams, less than 30 kilograms.

796 893.135 1st Trafficking in phencyclidine, more
(1) (d) 1.c. than 4 kilograms ~~400 grams~~.

797 893.135 1st Trafficking in methaqualone, more than
(1) (e) 1.c. 25 kilograms.

798 893.135 1st Trafficking in amphetamine, more than
(1) (f) 1.c. 400 ~~200~~ grams.

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799 893.135 1st Trafficking in gamma-hydroxybutyric
 (1) (h) 1.c. acid (GHB), 30 ~~40~~ kilograms or more.

800 893.135 1st Trafficking in 1,4-Butanediol, 30 ~~40~~
 (1) (j) 1.c. kilograms or more.

801 893.135 1st Trafficking in Phenethylamines, 400
 (1) (k) 2.c. grams or more.

802 896.101(5) (c) 1st Money laundering, financial
 instruments totaling or exceeding
 \$100,000.

803 896.104(4) (a) 3. 1st Structuring transactions to evade
 reporting or registration
 requirements, financial transactions
 totaling or exceeding \$100,000.

804
 805 Section 3. For the purpose of incorporating the amendments
 806 made by this act to section 893.135, Florida Statutes, in a
 807 reference thereto, paragraph (a) of subsection (2) of section
 808 775.087, Florida Statutes, is reenacted to read:

809 775.087 Possession or use of weapon; aggravated battery;
 810 felony reclassification; minimum sentence.—

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

814 a. Murder;

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815 b. Sexual battery;

816 c. Robbery;

817 d. Burglary;

818 e. Arson;

819 f. Aggravated assault;

820 g. Aggravated battery;

821 h. Kidnapping;

822 i. Escape;

823 j. Aircraft piracy;

824 k. Aggravated child abuse;

825 l. Aggravated abuse of an elderly person or disabled adult;

826 m. Unlawful throwing, placing, or discharging of a
 827 destructive device or bomb;

828 n. Carjacking;

829 o. Home-invasion robbery;

830 p. Aggravated stalking;

831 q. Trafficking in cannabis, trafficking in cocaine, capital
 832 importation of cocaine, trafficking in illegal drugs, capital
 833 importation of illegal drugs, trafficking in phencyclidine,
 834 capital importation of phencyclidine, trafficking in
 835 methaqualone, capital importation of methaqualone, trafficking
 836 in amphetamine, capital importation of amphetamine, trafficking
 837 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
 838 (GHB), trafficking in 1,4-Butanediol, trafficking in
 839 Phenethylamines, or other violation of s. 893.135(1); or
 840 r. Possession of a firearm by a felon

841
 842 and during the commission of the offense, such person actually
 843 possessed a "firearm" or "destructive device" as those terms are

25-00224C-12

2012732__

844 defined in s. 790.001, shall be sentenced to a minimum term of
 845 imprisonment of 10 years, except that a person who is convicted
 846 for aggravated assault, possession of a firearm by a felon, or
 847 burglary of a conveyance shall be sentenced to a minimum term of
 848 imprisonment of 3 years if such person possessed a "firearm" or
 849 "destructive device" during the commission of the offense.

850 2. Any person who is convicted of a felony or an attempt to
 851 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
 852 regardless of whether the use of a weapon is an element of the
 853 felony, and during the course of the commission of the felony
 854 such person discharged a "firearm" or "destructive device" as
 855 defined in s. 790.001 shall be sentenced to a minimum term of
 856 imprisonment of 20 years.

857 3. Any person who is convicted of a felony or an attempt to
 858 commit a felony listed in sub-subparagraphs (a)1.a.-q.,
 859 regardless of whether the use of a weapon is an element of the
 860 felony, and during the course of the commission of the felony
 861 such person discharged a "firearm" or "destructive device" as
 862 defined in s. 790.001 and, as the result of the discharge, death
 863 or great bodily harm was inflicted upon any person, the
 864 convicted person shall be sentenced to a minimum term of
 865 imprisonment of not less than 25 years and not more than a term
 866 of imprisonment of life in prison.

867 Section 4. For the purpose of incorporating the amendments
 868 made by this act to section 893.135, Florida Statutes, in
 869 references thereto, paragraph (a) of subsection (1) and
 870 subsections (3) and (4) of section 782.04, Florida Statutes, are
 871 reenacted to read:

872 782.04 Murder.—

Page 49 of 53

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

25-00224C-12

2012732__

873 (1) (a) The unlawful killing of a human being:

874 1. When perpetrated from a premeditated design to effect
 875 the death of the person killed or any human being;

876 2. When committed by a person engaged in the perpetration
 877 of, or in the attempt to perpetrate, any:

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

879 b. Arson,

880 c. Sexual battery,

881 d. Robbery,

882 e. Burglary,

883 f. Kidnapping,

884 g. Escape,

885 h. Aggravated child abuse,

886 i. Aggravated abuse of an elderly person or disabled adult,

887 j. Aircraft piracy,

888 k. Unlawful throwing, placing, or discharging of a

889 destructive device or bomb,

890 l. Carjacking,

891 m. Home-invasion robbery,

892 n. Aggravated stalking,

893 o. Murder of another human being,

894 p. Resisting an officer with violence to his or her person,

895 q. Felony that is an act of terrorism or is in furtherance

896 of an act of terrorism; or

897 3. Which resulted from the unlawful distribution of any
 898 substance controlled under s. 893.03(1), cocaine as described in
 899 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
 900 compound, derivative, or preparation of opium, or methadone by a
 901 person 18 years of age or older, when such drug is proven to be

Page 50 of 53

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

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902 the proximate cause of the death of the user,
 903
 904 is murder in the first degree and constitutes a capital felony,
 905 punishable as provided in s. 775.082.
 906 (3) When a person is killed in the perpetration of, or in
 907 the attempt to perpetrate, any:
 908 (a) Trafficking offense prohibited by s. 893.135(1),
 909 (b) Arson,
 910 (c) Sexual battery,
 911 (d) Robbery,
 912 (e) Burglary,
 913 (f) Kidnapping,
 914 (g) Escape,
 915 (h) Aggravated child abuse,
 916 (i) Aggravated abuse of an elderly person or disabled
 917 adult,
 918 (j) Aircraft piracy,
 919 (k) Unlawful throwing, placing, or discharging of a
 920 destructive device or bomb,
 921 (l) Carjacking,
 922 (m) Home-invasion robbery,
 923 (n) Aggravated stalking,
 924 (o) Murder of another human being,
 925 (p) Resisting an officer with violence to his or her
 926 person, or
 927 (q) Felony that is an act of terrorism or is in furtherance
 928 of an act of terrorism,
 929
 930 by a person other than the person engaged in the perpetration of

25-00224C-12 2012732__

931 or in the attempt to perpetrate such felony, the person
 932 perpetrating or attempting to perpetrate such felony is guilty
 933 of murder in the second degree, which constitutes a felony of
 934 the first degree, punishable by imprisonment for a term of years
 935 not exceeding life or as provided in s. 775.082, s. 775.083, or
 936 s. 775.084.
 937 (4) The unlawful killing of a human being, when perpetrated
 938 without any design to effect death, by a person engaged in the
 939 perpetration of, or in the attempt to perpetrate, any felony
 940 other than any:
 941 (a) Trafficking offense prohibited by s. 893.135(1),
 942 (b) Arson,
 943 (c) Sexual battery,
 944 (d) Robbery,
 945 (e) Burglary,
 946 (f) Kidnapping,
 947 (g) Escape,
 948 (h) Aggravated child abuse,
 949 (i) Aggravated abuse of an elderly person or disabled
 950 adult,
 951 (j) Aircraft piracy,
 952 (k) Unlawful throwing, placing, or discharging of a
 953 destructive device or bomb,
 954 (l) Unlawful distribution of any substance controlled under
 955 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or
 956 opium or any synthetic or natural salt, compound, derivative, or
 957 preparation of opium by a person 18 years of age or older, when
 958 such drug is proven to be the proximate cause of the death of
 959 the user,

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2012732__

960 (m) Carjacking,
961 (n) Home-invasion robbery,
962 (o) Aggravated stalking,
963 (p) Murder of another human being,
964 (q) Resisting an officer with violence to his or her
965 person, or
966 (r) Felony that is an act of terrorism or is in furtherance
967 of an act of terrorism,
968
969 is murder in the third degree and constitutes a felony of the
970 second degree, punishable as provided in s. 775.082, s. 775.083,
971 or s. 775.084.
972 Section 5. Section 893.101, Florida Statutes, is repealed.
973 Section 6. This act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR ELLYN SETNOR
BOGDANOFF**
25th District

COMMITTEES:

Budget - Subcommittee on Finance and Tax,
Chair
Budget
Budget - Subcommittee on Transportation,
Tourism,
and Economic Development
Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Governmental Oversight and Accountability
Regulated Industries

JOINT COMMITTEE:

Administrative Procedures, *Alternating Chair*

November 2, 2011

Senator Greg Evers, Chair
Senate Committee on Criminal Justice
510 Knott Building
Tallahassee, FL 32399

Re: **SB 732, Relating to Sentences of Inmates**

Chair Evers:

I am writing to request that you place **SB 732, Relating to Sentences of Inmates** on the agenda of your Committee on Criminal Justice at your earliest convenience.

Feel free to contact me with any questions or concerns about this legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ellyn".

Senator Ellyn Setnor Bogdanoff
Florida Senate –District 25

cc: Amanda Cannon, Staff Director

REPLY TO:

- 312 Clematis Street, Suite 403, West Palm Beach, FL 33401 (561) 650-6833
- 1845 Cordova Road, Suite 202, Fort Lauderdale, Florida 33316 (954) 467-4205
- 212 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5100

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

SB 732

Meeting Date

Topic DRUG TRAFFICKING AMENDMENT

Bill Number SB 732
(if applicable)

Name BRAD KING

Amendment Barcode 186548
(if applicable)

Job Title STATE ATTORNEY 5th CIRCUIT

Address 110 NW 1ST AVE SUITE 5000
Street

Phone 352-671-5914

OCALA FL 34480
City State Zip

E-mail _____

Speaking: For Against Information Amendment

Representing 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.

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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)

1/31/12

Meeting Date

Topic DRUG TRAFFICKING

Bill Number SB 732
(if applicable)

Name BRAD KING

Amendment Barcode 939132
(if applicable)

Job Title STATE ATTORNEY, FIFTH CIRCUIT

Address 110 NW 1ST AVE SUITE 5000
Street

Phone 352-671-5914

OCALA FL 34475
City State Zip

E-mail _____

Speaking: For Against Information

Representing FLORIDA PROSECUTING ATTORNEY'S ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

1/8/12

Meeting Date

Topic TRAFFICKING IN PRESCRIPTION DRUGS

Bill Number 732
(if applicable)

Name JAMES S. PURDY

Amendment Barcode 186548
(if applicable)

Job Title PUBLIC DEFENDER, 7TH JUDICIAL CIRCUIT

Address 251 N. RIDGEWOOD AVE.
Street

Phone (386) 239-7730

DAYTONA BEACH, FL 32114
City State Zip

E-mail purdy.james@pd7.org

Speaking: For Against Information

Representing PUBLIC DEFENDER, 7TH JUDICIAL CIRCUIT

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)

1/31

Meeting Date

Topic

DRUG LAWS

Bill Number

732

(if applicable)

Name

Bob Dillinger

Amendment Barcode

(if applicable)

Job Title

Public Defender - 6th Circuit

Address

14250 49th St N

Phone

727-464-6865

Street

City

Wtr

33762

State

Zip

E-mail

pd6@pinellascounty.org

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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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4/31/2012

Meeting Date

Topic Intent element; trafficing amount Bill Number 732
Name Carey Haughwout Amendment Barcode 186549
Job Title PUBLIC DEFENDER, 15th Circuit (Palm Beach) (if applicable)
Address 421 3rd St Phone 561-355-7651
Street WPB FL 33401 E-mail CareyPd@pd15.org
City *State* *Zip* (if applicable)

Speaking: For Against Information

Representing FPDA

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)

1/31/12
Meeting Date

Topic Sentences of Inmates

Bill Number SB 732
(if applicable)

Name Greg Newburn

Amendment Barcode _____
(if applicable)

Job Title Florida Project Director

Address P.O. Box 142933

Phone 352.682.2542

Gainesville FL 32614
City State Zip

E-mail gnewburn@famm.org

Speaking: For Against Information

Representing Families Against Mandatory Minimums

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

1/31/12

Meeting Date

Topic Sentences of Inmate

Bill Number 732
(if applicable)

Name TRUDY DUFFY

Amendment Barcode _____
(if applicable)

Job Title PARENT

Address 1011 FAULKNER ST
Street

Phone 386-235-8057

NEW SMYRNA BCH FL 32168
City State Zip

E-mail trudyd1011@live.com

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/31/12

Meeting Date

Topic Sentence of Inmate

Bill Number 732
(if applicable)

Name Kimberly Mitchell

Amendment Barcode _____
(if applicable)

Job Title Parent

Address 921 PINEAPPLE RD

Phone 386-299-0925

Street
South Daytona FL 32119
City *State* *Zip*

E-mail kimemitch@gmail.com

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-31-12

Meeting Date

Topic Sentencing Reform

Bill Number SB 732
(if applicable)

Name Jeffrey A. Siegmeister

Amendment Barcode _____
(if applicable)

Job Title attorney

Address PO Box 250, 379 W. Duval St

Phone 386 755 9773

Street

Lake City FL 32056

City

State

Zip

E-mail jeff@lakecitylawoffice.com

Speaking: For Against Information

Representing FACDL

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)

11/31/11
Meeting Date

Topic SB 732

Bill Number 732
(if applicable)

Name Lisa Anderson

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 460 Harrison Ave

Phone 850/215-2529

Panama City, FL 32401
Street City State Zip

E-mail LisaAndersonLaw@aol.com

Speaking: For Against Information

Representing FACDL

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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1/31/12

Meeting Date

Topic SB-732

Bill Number SB 732
(if applicable)

Name Aaron J. Slavin

Amendment Barcode _____
(if applicable)

Job Title Attorney - Slavin Law Firm

Address 4707 140th Ave. N., Suite #211

Phone 727-278-5234

Street
Clearwater, FL 33762
City State Zip

E-mail aaron@slavinlawfirm.com

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

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31 JAN 2012
Meeting Date

Topic sentencing of inmates

Bill Number 732 + Amendments
(if applicable)

Name Shannon Macgillis

Amendment Barcode _____
(if applicable)

Job Title ASSISTANT STATEWIDE PROSECUTOR PROSECUTORIAL INITIATIVE COMMANDER

Address 1300 RIVERPLACE BLVD.
Street

Phone 904 994 0325

JACKSONVILLE, FL
City State Zip

E-mail shannon.macgillis@myfloridalegal.com

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-31-12

Meeting Date

Topic Minimum Mandatory

Bill Number 732
(if applicable)

Name Frank Merrens

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2901 Sk Blvd
Street

Phone _____

Tall _____
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Sheriffs Assoc

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)

1/31/12

Meeting Date

Topic SENTENCES OF INMATES

Bill Number SB 732
(if applicable)

Name Jim Gabbard

Amendment Barcode _____
(if applicable)

Job Title _____

Address 924 N. GADSDEN ST.
Street

Phone 850-219-3631

Tallahassee FL 32303
City State Zip

E-mail _____

Speaking: For Against Information

Representing The Florida Police Chiefs Assoc.

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)

01-31-12

Meeting Date

Topic Sentences of Inmates

Bill Number SB 732
(if applicable)

Name Harri Hall

Amendment Barcode _____
(if applicable)

Job Title Detective JAX Sheriff's office

Address 501 E. Bay St.
Street

Phone (904) 256-5506

JAX FL 32202
City State Zip

E-mail _____

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/31/12

Meeting Date

Topic Sentences of Inmates

Bill Number SB 732
(if applicable)

Name Vickie Gardner

Amendment Barcode _____
(if applicable)

Job Title Director of Forensic Services

Address 2331 Phillips Road

Phone 850-410-7756

Street

Tallahassee

FL

32308

E-mail vickiegardner@fdle.state.fl.us

City

State

Zip

Speaking: For Against Information

Representing Florida Department of Law Enforcement

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)

1/31/12

Meeting Date

Topic Sentencing of Inmates

Bill Number SB 732
(if applicable)

Name David Gross

Amendment Barcode _____
(if applicable)

Job Title Inspector

Address 2331 Phillips Road

Phone 850-410-8389

Street

Tallahassee

FL

32308

E-mail davidgross@fdle.state.fl.us

City

State

Zip

Speaking: For Against Information

Representing Florida Department of Law Enforcement

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)

1/31/12
Meeting Date

Topic DRUG TRAFFICKING

Bill Number SB 732
(if applicable)

Name BRAD KING

Amendment Barcode _____
(if applicable)

Job Title STATE ATTORNEY, FIFTH CIRCUIT

Address 110 NW 1ST AVE SUITE 5000
Street

Phone 352-671-5914

OCALA FL 34475
City State Zip

E-mail _____

Speaking: For Against Information

Representing FLORIDA PROSECUTING ATTORNEYS ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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 Criminal Justice Committee

BILL: SB 1200

INTRODUCER: Senator Bogdanoff

SUBJECT: Sexual Offenders and Sexual Predators

DATE: January 26, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Favorable
2.	_____	_____	BC	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill amends various statutes relating to sexual predator and sexual offender registration and notification requirements. It bases some requirements on homelessness, rather than transient status, and requires sexual predators and sexual offenders who are homeless to update the location where they sleep or seek shelter monthly at the sheriff’s office. Currently, sexual predators and sexual offenders are required to update their information every quarter.

The bill also changes an element of the enhanced crime of loitering or prowling to apply when a sexual offender or sexual predator commits the offense within 300 feet of a place where children congregate. Currently, the statute applies only when the offense was committed within 300 feet of a place where children were congregating at the time of the offense.

This bill substantially amends sections 775.21, 856.022, 943.0435, 944.606, 944.607, 985.481, and 985.4815 of the Florida Statutes.

II. Present Situation:

Sexual Predator and Sexual Offender Reporting Requirements

The distinction between a sexual predator and a sexual offender is based on the offense, the date the offense occurred or when sanctions were completed, and whether the person was previously convicted of a sexual offense. Conviction of committing or attempting to commit any of the following offenses would require registration as either a sexual offender or a sexual predator¹:

¹ The criteria for designation as a sexual predator is found in s. 775.21, F.S. The criteria for registration as a sexual offender is found in s. 943.0435, F.S.

- Kidnapping, false imprisonment, or luring or enticing a child where the victim is a minor and the defendant is not the victim's parent (ss. 787.01, 787.02, and 787.025(2)(c), F.S.).
- Sexual battery (s. 794.011, F.S., except false accusation of another under subsection (10)).
- Sexual activity by a person who is 24 years old or older with a minor who is 16 or 17 years old (s. 794.05, F.S.).
- Procuring a person under the age of 18 for prostitution (s. 796.03, F.S.).
- Selling or buying of minors into sex trafficking or prostitution (s. 796.035, F.S.).
- Lewd or lascivious offenses upon or in the presence of a person under the age of 16 (s. 800.04, F.S.).
- Lewd or lascivious offenses upon an elderly or disabled person (s. 825.1025, F.S.).
- Enticing, promoting, or possessing images of sexual performance by a child (s. 827.071, F.S.).
- Distribution of obscene materials to a minor (s. 847.0133, F.S.).
- Computer pornography (s. 847.0135, F.S., except owners or operators of computer services liable under subsection (6)).
- Selling or buying of minors for child pornography (s. 847.0145, F.S.).
- Sexual misconduct by a Department of Juvenile Justice (DJJ) employee with a juvenile offender (s. 985.701(1), F.S.).
- Violating a similar law of another jurisdiction.

Designation as a sexual predator requires either: (1) conviction of one of the enumerated offenses after having previously been convicted of one of the offenses, or (2) conviction of a capital, life, or first-degree felony violation of s. 787.01, F.S., or s. 787.02, F.S.; where the victim is a minor and the defendant is not the victim's parent or guardian; s. 794.011, F.S.; s. 800.04, F.S.; s. 847.0145, F.S.; or conviction for violating a similar law of another jurisdiction. Sexual predator status can only be conferred as the result of offenses committed on or after October 1, 1993.

The requirement to register as a sexual offender is triggered by conviction of committing or attempting, soliciting, or conspiring to commit one of the offenses, transmission of child pornography by electronic device (s. 847.0137, F.S.), or transmission of material harmful to minors to a minor by electronic device (s. 847.0138, F.S.). It applies only when the offender was released from the sanction for the offense on or after October 1, 1997.

A sexual predator or sexual offender is required to comply with a number of statutory requirements.² Those in custody will be registered by the agency by which they are held. Persons under the supervision of the Department of Corrections (DOC) or the Department of Juvenile Justice (DJJ) must register with the respective department. All others must register at the county sheriff's office within 48 hours of either: (1) being designated as a sexual predator; (2) convicted of an offense that requires registration as a sexual offender; or (3) establishing a residence in the county.

² The specific offender reporting requirements and law enforcement reporting and notification requirements are found in ss. 775.21, 943.0435, 944.606, 944.607, 985.481, and 985.4815, F.S.

A variety of personal identifying information must be provided to the sheriff's office as part of the registration process. This information includes the address of a legal residence or temporary residence or the address, location or description of a transient residence, any electronic mail address, and any instant message name.

The sheriff's office provides this information to the Florida Department of Law Enforcement (FDLE) for inclusion in the statewide database. The offender or predator must also register at a driver's license office within 48 hours of the initial registration at the sheriff's department.

After the initial registration, both sexual predators and sexual offenders must report to the sheriff's office during their birth month to update the information. Sexual predators are required to report every quarter thereafter, while sexual offenders are required to report every six months.

Both sexual predators and sexual offenders must report any change of permanent, temporary, or transient residence within the state to the driver's license office within 48 hours. If a new permanent, temporary, or transient residence is not established, the sheriff's office must be given the address for the residence or other location that will be occupied until a new residence is established. Transient residence is defined as:

... a place or county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.³

The predator or offender must also report his or her intent to establish a residence in another state or jurisdiction within 48 hours of the intended change. However, this notice must be given in person to the county sheriff, not to the driver's license office.

The county sheriff or municipal police chief must notify child care centers and schools within a one-mile radius of the sexual predator's permanent, temporary, or transient residence within 48 hours of the notification by the predator. In addition, the sheriff or police chief is required to notify the community of the presence of the predator in an appropriate manner, which is often by posting on the sheriff's website. Both notices must include the predator's address, including the name of the municipality or county.

DOC and DJJ are required to provide FDLE with information including the offender's intended residence address, if known six months prior to release from custody or commitment. The agencies must also provide FDLE with the current or intended permanent, temporary, or transient address, if known during the time of incarceration or residential commitment.

Loitering and Prowling

"Loitering and prowling" is a second degree misdemeanor prohibited by s. 856.021, F.S. The elements required to be proven for conviction are that the defendant loitered or prowled in a place, at a time, or in a manner not usual for law-abiding individuals under circumstances that

³ Section 775.21(2)(m), F.S.

warranted justifiable and reasonable alarm or immediate concern for the safety of persons or property in the vicinity. Among circumstances that may be considered in determining whether such alarm or immediate concern is warranted is the fact that the person takes flight upon appearance of a law enforcement officer, refuses to identify him or herself, or manifestly endeavors to conceal him or herself or any object. Because it is a misdemeanor, all elements of the offense must be committed in the officer's presence prior to arrest. An unusual requirement of the statute is that the law enforcement officer must give the suspect an opportunity to dispel any alarm or immediate concern by requesting the suspect to identify him or herself and to explain his or her presence or conduct.

Section 856.022, F.S., increases the penalty for loitering and prowling to a first degree misdemeanor if it is proven that:

- (1) The offender committed loitering or prowling;
- (2) At the time, the offender was within 300 feet of a place where children were congregating;
- (3) The offender was previously convicted of a crime that is a qualifying offense for designation as either a sexual offender or a sexual predator, and the victim was under 18 years of age at the time. This includes offenders who are designated as a sexual offender or a sexual predator as well as those who are not so designated for some reason. However, it does not include offenders who have been removed from the registration requirements pursuant to s. 943.04354, F.S., who have been pardoned, or whose conviction was set aside in a post-conviction proceeding.

III. Effect of Proposed Changes:

Provisions Relating to Registration and Notification Requirements

Sections 1 and 3-7 of the bill amend statutes relating to registration and notification requirements for sexual predators and sexual offenders.

Section 1 of the bill amends s. 775.21, F.S., the Florida Sexual Predators Act, to remove the definition of "transient residence" and add a definition of "homelessness." As defined in the bill, homelessness means "... a temporary condition and social category of people without a dwelling who are unable to maintain adequate housing" and the term dwelling "includes, but is not limited to, a place where a person sleeps or seeks shelter." The bill's definition of homelessness is more inclusive than the current statute's definition of transient residence, which applies only to places where the predator stayed for a total of at least 5 days during a calendar year. The broader term "homelessness" would apply to persons who move from place to place even if they are not in one place for more than five days in the year. The department has estimated that approximately 75 homeless sexual predators or sexual offenders are on community supervision statewide.⁴

This section of the bill makes amendments throughout s. 775.21, F.S., to replace references to establishing or maintaining a transient residence with references to establishing or maintaining homeless status. It also changes current references to a sexual predator's transient residence to refer to a place where the predator sleeps or seeks shelter.

⁴ Department of Corrections Analysis of Senate Bill 1178 (2011).

Two new provisions are included in addition to changes related to referring to homelessness rather than transiency:

- Section 775.21(6)(a), F.S., adds a requirement that a homeless predator must go to the sheriff's office in person each month to update the location where he or she sleeps or seeks shelter. The homeless predator would still be subject to the requirement in s. 775.21(8), F.S., to report to the sheriff's office annually during his or her birth month and every third month thereafter to update all registration information. It is presumed that both the monthly report and the quarterly update requirements could be met in the same visit.
- Failure to meet the monthly reporting requirement or falsely claiming to be homeless are made violations of the registration requirement, which is a second degree felony offense.

Section 3 amends s. 944.0435, F.S., which relates to sexual offenders, to be consistent with the amendments s. 775.21, F.S., in section 1 of the bill relating to sexual predators.

Sections 4-8 make consistent amendments to ss. 943.0435, 944.606, 944.607, 985.481, and 985.4815, F.S., in order to refer to homelessness rather than transiency.

Loitering and Prowling in Close Proximity to Children

Section 2 of the bill amends s. 856.022, F.S., to change an element of the enhanced loitering or prowling statute. Currently, an element of the enhanced offense is that it applies only if the offender was loitering or prowling within 300 feet of a place where children were congregating at the time of the offense. The bill amends the statute to apply to offenses committed within 300 feet of a place where children congregate, without the requirement for children to be congregating at the time of the offense.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The amendment to the wording of the enhanced loitering or prowling offense in Section 2 of the bill raises due process concerns. Proving a violation of s. 856.022, F.S., currently requires that, in committing loitering or prowling, the offender must have been within 300 feet of a place where children were congregating. The bill's proposed change of the

statutory language from “a place where children were congregating” to “a place where children congregate” elevates concerns that the offender may not reasonably be able to ascertain that he or she is within a prohibited area. It is recommended that consideration be given to requiring that the offender be within 300 feet of a place where children “regularly congregate” or “regularly congregate or were congregating at the time of the offense.”

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Corrections has reported that the increase in reporting frequency and the new offense of falsely reporting homelessness by a sexual predator or sexual offender could increase community supervision violations. However, the Criminal Justice Impact Conference has not yet considered the impact of the bill.

FDLE estimates that the provisions of the bill would require 2 additional FTEs and implementation costs for programming and translation. They estimate that this will cost \$152,957 in the first year, with annual recurring costs of \$115,106.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

By Senator Bogdanoff

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A bill to be entitled

An act relating to sexual offenders and sexual predators; amending s. 775.21, F.S.; defining the term "homelessness" and deleting the definition of the term "transient residence"; conforming provisions to the revisions in terminology made by the act; amending s. 856.022, F.S.; clarifying provisions concerning loitering by certain offenders; amending ss. 943.0435, 944.606, 944.607, 985.481, and 985.4815, F.S.; conforming provisions to the revisions in terminology made by the act; requiring specified monthly registration by homeless offenders and predators; providing that failure to comply with such registration is a violation of specified provisions; providing an effective date.

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

Section 1. Paragraphs (i), (j), (k), (l), and (m) of subsection (2), paragraph (c) of subsection (4), paragraph (a) of subsection (5), paragraphs (a), (f), (g), (i), and (j) of subsection (6), paragraph (a) of subsection (7), and paragraph (a) of subsection (8) of section 775.21, Florida Statutes, are amended to read:

775.21 The Florida Sexual Predators Act.—

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

(i) "Homelessness" means a temporary condition and social category of people without a dwelling who are unable to maintain adequate housing. The term "dwelling" includes, but is not

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limited to, a place where a person sleeps or seeks shelter.

~~(j)-(i)~~ "Instant message name" means an identifier that allows a person to communicate in real time with another person using the Internet.

~~(k)-(j)~~ "Institution of higher education" means a career center, community college, college, state university, or independent postsecondary institution.

~~(l)-(k)~~ "Permanent residence" means a place where the person abides, lodges, or resides for 5 or more consecutive days.

~~(m)-(i)~~ "Temporary residence" means a place where the person abides, lodges, or resides, including, but not limited to, vacation, business, or personal travel destinations in or out of this state, for a period of 5 or more days in the aggregate during any calendar year and which is not the person's permanent address or, for a person whose permanent residence is not in this state, a place where the person is employed, practices a vocation, or is enrolled as a student for any period of time in this state.

~~(m) "Transient residence" means a place or county where a person lives, remains, or is located for a period of 5 or more days in the aggregate during a calendar year and which is not the person's permanent or temporary address. The term includes, but is not limited to, a place where the person sleeps or seeks shelter and a location that has no specific street address.~~

(4) SEXUAL PREDATOR CRITERIA.—

(c) If an offender has been registered as a sexual predator by the Department of Corrections, the department, or any other law enforcement agency and if:

1. The court did not, for whatever reason, make a written

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59 finding at the time of sentencing that the offender was a sexual
60 predator; or

61 2. The offender was administratively registered as a sexual
62 predator because the Department of Corrections, the department,
63 or any other law enforcement agency obtained information that
64 indicated that the offender met the criteria for designation as
65 a sexual predator based on a violation of a similar law in
66 another jurisdiction,

67
68 the department shall remove that offender from the department's
69 list of sexual predators and, for an offender described under
70 subparagraph 1., shall notify the state attorney who prosecuted
71 the offense that met the criteria for administrative designation
72 as a sexual predator, and, for an offender described under this
73 paragraph, shall notify the state attorney of the county where
74 the offender establishes or maintains a permanent or temporary,
75 ~~or transient~~ residence or homeless status. The state attorney
76 shall bring the matter to the court's attention in order to
77 establish that the offender meets the criteria for designation
78 as a sexual predator. If the court makes a written finding that
79 the offender is a sexual predator, the offender must be
80 designated as a sexual predator, must register or be registered
81 as a sexual predator with the department as provided in
82 subsection (6), and is subject to the community and public
83 notification as provided in subsection (7). If the court does
84 not make a written finding that the offender is a sexual
85 predator, the offender may not be designated as a sexual
86 predator with respect to that offense and is not required to
87 register or be registered as a sexual predator with the

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88 department.

89 (5) SEXUAL PREDATOR DESIGNATION.—An offender is designated
90 as a sexual predator as follows:

91 (a)1. An offender who meets the sexual predator criteria
92 described in paragraph (4)(d) is a sexual predator, and the
93 court shall make a written finding at the time such offender is
94 determined to be a sexually violent predator under chapter 394
95 that such person meets the criteria for designation as a sexual
96 predator for purposes of this section. The clerk shall transmit
97 a copy of the order containing the written finding to the
98 department within 48 hours after the entry of the order;

99 2. An offender who meets the sexual predator criteria
100 described in paragraph (4)(a) who is before the court for
101 sentencing for a current offense committed on or after October
102 1, 1993, is a sexual predator, and the sentencing court must
103 make a written finding at the time of sentencing that the
104 offender is a sexual predator, and the clerk of the court shall
105 transmit a copy of the order containing the written finding to
106 the department within 48 hours after the entry of the order; or

107 3. If the Department of Corrections, the department, or any
108 other law enforcement agency obtains information which indicates
109 that an offender who establishes or maintains a permanent or
110 temporary, ~~or transient~~ residence or homeless status in this
111 state meets the sexual predator criteria described in paragraph
112 (4)(a) or paragraph (4)(d) because the offender was civilly
113 committed or committed a similar violation in another
114 jurisdiction on or after October 1, 1993, the Department of
115 Corrections, the department, or the law enforcement agency shall
116 notify the state attorney of the county where the offender

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 117 establishes or maintains a permanent ~~or, temporary, or transient~~
 118 residence or homeless status of the offender's presence in the
 119 community. The state attorney shall file a petition with the
 120 criminal division of the circuit court for the purpose of
 121 holding a hearing to determine if the offender's criminal record
 122 or record of civil commitment from another jurisdiction meets
 123 the sexual predator criteria. If the court finds that the
 124 offender meets the sexual predator criteria because the offender
 125 has violated a similar law or similar laws in another
 126 jurisdiction, the court shall make a written finding that the
 127 offender is a sexual predator.

128
 129 When the court makes a written finding that an offender is a
 130 sexual predator, the court shall inform the sexual predator of
 131 the registration and community and public notification
 132 requirements described in this section. Within 48 hours after
 133 the court designating an offender as a sexual predator, the
 134 clerk of the circuit court shall transmit a copy of the court's
 135 written sexual predator finding to the department. If the
 136 offender is sentenced to a term of imprisonment or supervision,
 137 a copy of the court's written sexual predator finding must be
 138 submitted to the Department of Corrections.

139 (6) REGISTRATION.—

140 (a) A sexual predator must register with the department
 141 through the sheriff's office by providing the following
 142 information to the department:

143 1. Name; social security number; age; race; sex; date of
 144 birth; height; weight; hair and eye color; photograph; address
 145 of legal residence and address of any current temporary

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 146 residence, within the state or out of state, including a rural
 147 route address and a post office box; if no permanent or
 148 temporary address, a specific sleeping location or location
 149 where he or she is seeking shelter ~~any transient residence~~
 150 within the state, which the person must update in person once
 151 each month with the sheriff's office of the county in which he
 152 or she is located as long as he or she has no permanent or
 153 temporary address; address, location or description, and dates
 154 of any current or known future temporary residence, specific
 155 sleeping location, or location where he or she is or will be
 156 seeking shelter within the state or out of state; any electronic
 157 mail address and any instant message name required to be
 158 provided pursuant to subparagraph (g)4.; home telephone number
 159 and any cellular telephone number; date and place of any
 160 employment; date and place of each conviction; fingerprints; and
 161 a brief description of the crime or crimes committed by the
 162 offender. A post office box may ~~shall~~ not be provided in lieu of
 163 a physical residential address.

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

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175 name of the vessel, live-aboard vessel, or houseboat; the
176 registration number; and a description, including color scheme,
177 of the vessel, live-aboard vessel, or houseboat.

178 b. If the sexual predator is enrolled, employed, or
179 carrying on a vocation at an institution of higher education in
180 this state, the sexual predator shall also provide to the
181 department the name, address, and county of each institution,
182 including each campus attended, and the sexual predator's
183 enrollment or employment status. Each change in enrollment or
184 employment status shall be reported in person at the sheriff's
185 office, or the Department of Corrections if the sexual predator
186 is in the custody or control of or under the supervision of the
187 Department of Corrections, within 48 hours after any change in
188 status. The sheriff or the Department of Corrections shall
189 promptly notify each institution of the sexual predator's
190 presence and any change in the sexual predator's enrollment or
191 employment status.

192 2. Any other information determined necessary by the
193 department, including criminal and corrections records;
194 nonprivileged personnel and treatment records; and evidentiary
195 genetic markers when available.

196 (f) Within 48 hours after the registration required under
197 paragraph (a) or paragraph (e), a sexual predator who is not
198 incarcerated and who resides in the community, including a
199 sexual predator under the supervision of the Department of
200 Corrections, shall register in person at a driver's license
201 office of the Department of Highway Safety and Motor Vehicles
202 and shall present proof of registration. At the driver's license
203 office the sexual predator shall:

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204 1. If otherwise qualified, secure a Florida driver's
205 license, renew a Florida driver's license, or secure an
206 identification card. The sexual predator shall identify himself
207 or herself as a sexual predator who is required to comply with
208 this section, provide his or her place of permanent ~~or~~
209 ~~temporary, or transient residence,~~ specific sleeping location,
210 or location where he or she is seeking shelter, including a
211 rural route address and a post office box, and submit to the
212 taking of a photograph for use in issuing a driver's license,
213 renewed license, or identification card, and for use by the
214 department in maintaining current records of sexual predators. A
215 post office box may ~~shall~~ not be provided in lieu of a physical
216 residential address. If the sexual predator's place of residence
217 is a motor vehicle, trailer, mobile home, or manufactured home,
218 as defined in chapter 320, the sexual predator shall also
219 provide to the Department of Highway Safety and Motor Vehicles
220 the vehicle identification number; the license tag number; the
221 registration number; and a description, including color scheme,
222 of the motor vehicle, trailer, mobile home, or manufactured
223 home. If a sexual predator's place of residence is a vessel,
224 live-aboard vessel, or houseboat, as defined in chapter 327, the
225 sexual predator shall also provide to the Department of Highway
226 Safety and Motor Vehicles the hull identification number; the
227 manufacturer's serial number; the name of the vessel, live-
228 aboard vessel, or houseboat; the registration number; and a
229 description, including color scheme, of the vessel, live-aboard
230 vessel, or houseboat.

231 2. Pay the costs assessed by the Department of Highway
232 Safety and Motor Vehicles for issuing or renewing a driver's

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233 license or identification card as required by this section. The
234 driver's license or identification card issued to the sexual
235 predator must be in compliance with s. 322.141(3).

236 3. Provide, upon request, any additional information
237 necessary to confirm the identity of the sexual predator,
238 including a set of fingerprints.

239 (g)1. Each time a sexual predator's driver's license or
240 identification card is subject to renewal, and, without regard
241 to the status of the predator's driver's license or
242 identification card, within 48 hours after any change of the
243 predator's residence or change in the predator's name by reason
244 of marriage or other legal process, the predator shall report in
245 person to a driver's license office and shall be subject to the
246 requirements specified in paragraph (f). The Department of
247 Highway Safety and Motor Vehicles shall forward to the
248 department and to the Department of Corrections all photographs
249 and information provided by sexual predators. Notwithstanding
250 the restrictions set forth in s. 322.142, the Department of
251 Highway Safety and Motor Vehicles is authorized to release a
252 reproduction of a color-photograph or digital-image license to
253 the Department of Law Enforcement for purposes of public
254 notification of sexual predators as provided in this section.

255 2. A sexual predator who vacates a permanent ~~or~~ temporary,
256 ~~or transient~~ residence, specific sleeping location, or location
257 where he or she is seeking shelter and fails to establish or
258 maintain another permanent ~~or~~ temporary, ~~or transient~~
259 residence, specific sleeping location, or location where he or
260 she is seeking shelter shall, within 48 hours after vacating the
261 permanent ~~or~~ temporary, ~~or transient~~ residence, specific

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262 sleeping location, or location where he or she is seeking
263 shelter, report in person to the sheriff's office of the county
264 in which he or she is located. A sexual predator who remains
265 homeless must report in person once a month and register a
266 specific sleeping location or location where he or she is
267 seeking shelter. The sexual predator shall specify the date upon
268 which he or she intends to or did vacate such residence. The
269 sexual predator must provide or update all of the registration
270 information required under paragraph (a). The sexual predator
271 must provide an address for the residence or other place that he
272 or she is or will be located during the time in which he or she
273 fails to establish or maintain a permanent or temporary
274 residence or, if in a homelessness status, must report his or
275 her new sleeping location.

276 3. A sexual predator who remains at a permanent ~~or~~
277 temporary, ~~or transient~~ residence, specific sleeping location,
278 or location where he or she is seeking shelter after reporting
279 his or her intent to vacate such residence shall, within 48
280 hours after the date upon which the predator indicated he or she
281 would or did vacate such residence, report in person to the
282 sheriff's office to which he or she reported pursuant to
283 subparagraph 2. for the purpose of reporting his or her address
284 at such residence. A sexual predator who fails to update this
285 registration once each month as required in subparagraph 2.
286 violates this registration requirement. This registration is in
287 addition to any other registration mandated by this section. If
288 the predator claims to be homeless but actually has a residence
289 or place to live, he or she commits a violation of this section.
290 When the sheriff receives the report, the sheriff shall promptly

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 291 convey the information to the department. An offender who makes
 292 a report as required under subparagraph 2. but fails to make a
 293 report as required under this subparagraph commits a felony of
 294 the second degree, punishable as provided in s. 775.082, s.
 295 775.083, or s. 775.084.

296 4. A sexual predator must register any electronic mail
 297 address or instant message name with the department prior to
 298 using such electronic mail address or instant message name on or
 299 after October 1, 2007. The department shall establish an online
 300 system through which sexual predators may securely access and
 301 update all electronic mail address and instant message name
 302 information.

303 (i) A sexual predator who intends to establish a permanent
 304 or, temporary, or transient residence or homeless status in
 305 another state or jurisdiction other than the State of Florida
 306 shall report in person to the sheriff of the county of current
 307 residence within 48 hours before the date he or she intends to
 308 leave this state to establish residence in another state or
 309 jurisdiction. The sexual predator must provide to the sheriff
 310 the address, municipality, county, and state of intended
 311 residence. The sheriff shall promptly provide to the department
 312 the information received from the sexual predator. The
 313 department shall notify the statewide law enforcement agency, or
 314 a comparable agency, in the intended state or jurisdiction of
 315 residence of the sexual predator's intended residence. The
 316 failure of a sexual predator to provide his or her intended
 317 place of residence is punishable as provided in subsection (10).

318 (j) A sexual predator who indicates his or her intent to
 319 establish a permanent or, temporary, or transient residence or

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 320 homelessness status in another state or jurisdiction other than
 321 the State of Florida and later decides to remain in this state
 322 shall, within 48 hours after the date upon which the sexual
 323 predator indicated he or she would leave this state, report in
 324 person to the sheriff to which the sexual predator reported the
 325 intended change of residence, and report his or her intent to
 326 remain in this state. If the sheriff is notified by the sexual
 327 predator that he or she intends to remain in this state, the
 328 sheriff shall promptly report this information to the
 329 department. A sexual predator who reports his or her intent to
 330 establish a permanent or, temporary, or transient residence or
 331 homelessness status in another state or jurisdiction, but who
 332 remains in this state without reporting to the sheriff in the
 333 manner required by this paragraph, commits a felony of the
 334 second degree, punishable as provided in s. 775.082, s. 775.083,
 335 or s. 775.084.

336 (7) COMMUNITY AND PUBLIC NOTIFICATION.—

337 (a) Law enforcement agencies must inform members of the
 338 community and the public of a sexual predator's presence. Upon
 339 notification of the presence of a sexual predator, the sheriff
 340 of the county or the chief of police of the municipality where
 341 the sexual predator establishes or maintains a permanent or
 342 temporary residence shall notify members of the community and
 343 the public of the presence of the sexual predator in a manner
 344 deemed appropriate by the sheriff or the chief of police. Within
 345 48 hours after receiving notification of the presence of a
 346 sexual predator, the sheriff of the county or the chief of
 347 police of the municipality where the sexual predator temporarily
 348 or permanently resides shall notify each licensed child care

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 349 facility, elementary school, middle school, and high school
 350 within a 1-mile radius of the temporary or permanent residence
 351 of the sexual predator of the presence of the sexual predator.
 352 Information provided to members of the community and the public
 353 regarding a sexual predator must include:

- 354 1. The name of the sexual predator;
- 355 2. A description of the sexual predator, including a
 356 photograph;
- 357 3. The sexual predator's current permanent ~~or~~ temporary,
 358 and transient addresses, specific sleeping location, or location
 359 where he or she is seeking shelter, ~~and descriptions of~~
 360 ~~registered locations that have no specific street address,~~
 361 ~~including the name of the county or municipality if known;~~
- 362 4. The circumstances of the sexual predator's offense or
 363 offenses; and
- 364 5. Whether the victim of the sexual predator's offense or
 365 offenses was, at the time of the offense, a minor or an adult.

366 This paragraph does not authorize the release of the name of any
 367 victim of the sexual predator.

369 (8) VERIFICATION.—The department and the Department of
 370 Corrections shall implement a system for verifying the addresses
 371 of sexual predators. The system must be consistent with the
 372 provisions of the federal Adam Walsh Child Protection and Safety
 373 Act of 2006 and any other federal standards applicable to such
 374 verification or required to be met as a condition for the
 375 receipt of federal funds by the state. The Department of
 376 Corrections shall verify the addresses of sexual predators who
 377 are not incarcerated but who reside in the community under the

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 378 supervision of the Department of Corrections and shall report to
 379 the department any failure by a sexual predator to comply with
 380 registration requirements. County and local law enforcement
 381 agencies, in conjunction with the department, shall verify the
 382 addresses of sexual predators who are not under the care,
 383 custody, control, or supervision of the Department of
 384 Corrections. Local law enforcement agencies shall report to the
 385 department any failure by a sexual predator to comply with
 386 registration requirements.

387 (a) A sexual predator must report in person each year
 388 during the month of the sexual predator's birthday and during
 389 every third month thereafter to the sheriff's office in the
 390 county in which he or she resides or is otherwise located to
 391 reregister. The sheriff's office may determine the appropriate
 392 times and days for reporting by the sexual predator, which shall
 393 be consistent with the reporting requirements of this paragraph.
 394 Reregistration shall include any changes to the following
 395 information:

- 396 1. Name; social security number; age; race; sex; date of
 397 birth; height; weight; hair and eye color; address of any
 398 permanent residence and address of any current temporary
 399 residence, within the state or out of state, including a rural
 400 route address and a post office box; if no permanent or
 401 temporary address, a specific sleeping location or location
 402 where he or she is seeking shelter ~~any transient residence~~
 403 within the state; address, location or description, and dates of
 404 any current or known future temporary residence, specific
 405 sleeping location, or location where he or she is or will be
 406 seeking shelter within the state or out of state; any electronic

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 407 mail address and any instant message name required to be
 408 provided pursuant to subparagraph (6)(g)4.; home telephone
 409 number and any cellular telephone number; date and place of any
 410 employment; vehicle make, model, color, and license tag number;
 411 fingerprints; and photograph. A post office box ~~may shall~~ not be
 412 provided in lieu of a physical residential address.

413 2. If the sexual predator is enrolled, employed, or
 414 carrying on a vocation at an institution of higher education in
 415 this state, the sexual predator shall also provide to the
 416 department the name, address, and county of each institution,
 417 including each campus attended, and the sexual predator's
 418 enrollment or employment status.

419 3. If the sexual predator's place of residence is a motor
 420 vehicle, trailer, mobile home, or manufactured home, as defined
 421 in chapter 320, the sexual predator shall also provide the
 422 vehicle identification number; the license tag number; the
 423 registration number; and a description, including color scheme,
 424 of the motor vehicle, trailer, mobile home, or manufactured
 425 home. If the sexual predator's place of residence is a vessel,
 426 live-aboard vessel, or houseboat, as defined in chapter 327, the
 427 sexual predator shall also provide the hull identification
 428 number; the manufacturer's serial number; the name of the
 429 vessel, live-aboard vessel, or houseboat; the registration
 430 number; and a description, including color scheme, of the
 431 vessel, live-aboard vessel, or houseboat.

432 Section 2. Subsection (3) of section 856.022, Florida
 433 Statutes, is amended to read:

434 856.022 Loitering or prowling by certain offenders in close
 435 proximity to children; penalty.-

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 436 (3) A person described in subsection (1) commits loitering
 437 and prowling by a person convicted of a sexual offense against a
 438 minor if, in committing loitering and prowling, he or she was
 439 within 300 feet of a place where children congregate ~~were~~
 440 ~~congregating~~.

441 Section 3. Paragraph (c) of subsection (1), subsection (2),
 442 paragraphs (a), (b), and (c) of subsection (4), subsections (7),
 443 (8), and (10), and paragraph (c) of subsection (14) of section
 444 943.0435, Florida Statutes, are amended to read:

445 943.0435 Sexual offenders required to register with the
 446 department; penalty.-

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

448 (c) "Permanent residence," "temporary residence," and
 449 "homelessness" ~~"transient residence"~~ have the same meaning
 450 ascribed in s. 775.21.

451 (2) A sexual offender shall:

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

453 1. In the county in which the offender establishes or
 454 maintains a permanent or temporary, ~~or transient~~ residence or
 455 homelessness status within 48 hours after:

456 a. Establishing a permanent or temporary, ~~or transient~~
 457 residence or a specific sleeping location or location where he
 458 or she is seeking shelter in this state; or

459 b. Being released from the custody, control, or supervision
 460 of the Department of Corrections or from the custody of a
 461 private correctional facility; or

462 2. In the county where he or she was convicted within 48
 463 hours after being convicted for a qualifying offense for
 464 registration under this section if the offender is not in the

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 465 custody or control of, or under the supervision of, the
 466 Department of Corrections, or is not in the custody of a private
 467 correctional facility.

468
 469 Any change in the information required to be provided pursuant
 470 to paragraph (b), including, but not limited to, any change in
 471 the sexual offender's permanent ~~or, temporary, or transient~~
 472 residence or homelessness status, name, any electronic mail
 473 address and any instant message name required to be provided
 474 pursuant to paragraph (4)(d), after the sexual offender reports
 475 in person at the sheriff's office, shall be accomplished in the
 476 manner provided in subsections (4), (7), and (8).

477 (b) Provide his or her name; date of birth; social security
 478 number; race; sex; height; weight; hair and eye color; tattoos
 479 or other identifying marks; occupation and place of employment;
 480 address of permanent or legal residence or address of any
 481 current temporary residence, within the state or out of state,
 482 including a rural route address and a post office box; if no
 483 permanent or temporary address, a specific sleeping location or
 484 location where he or she is seeking shelter ~~any transient~~
 485 ~~residence~~ within the state, which the person must update in
 486 person once each month with the sheriff's office of the county
 487 in which he or she is located as long as he or she has no
 488 permanent or temporary address, address, location or
 489 description, and dates of any current or known future temporary
 490 residence, specific sleeping location, or location where he or
 491 she is or will be seeking shelter within the state or out of
 492 state; home telephone number and any cellular telephone number;
 493 any electronic mail address and any instant message name

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 494 required to be provided pursuant to paragraph (4)(d); date and
 495 place of each conviction; and a brief description of the crime
 496 or crimes committed by the offender. A post office box may shall
 497 not be provided in lieu of a physical residential address.

498 1. If the sexual offender's place of residence is a motor
 499 vehicle, trailer, mobile home, or manufactured home, as defined
 500 in chapter 320, the sexual offender shall also provide to the
 501 department through the sheriff's office written notice of the
 502 vehicle identification number; the license tag number; the
 503 registration number; and a description, including color scheme,
 504 of the motor vehicle, trailer, mobile home, or manufactured
 505 home. If the sexual offender's place of residence is a vessel,
 506 live-aboard vessel, or houseboat, as defined in chapter 327, the
 507 sexual offender shall also provide to the department written
 508 notice of the hull identification number; the manufacturer's
 509 serial number; the name of the vessel, live-aboard vessel, or
 510 houseboat; the registration number; and a description, including
 511 color scheme, of the vessel, live-aboard vessel, or houseboat.

512 2. If the sexual offender is enrolled, employed, or
 513 carrying on a vocation at an institution of higher education in
 514 this state, the sexual offender shall also provide to the
 515 department through the sheriff's office the name, address, and
 516 county of each institution, including each campus attended, and
 517 the sexual offender's enrollment or employment status. Each
 518 change in enrollment or employment status shall be reported in
 519 person at the sheriff's office, within 48 hours after any change
 520 in status. The sheriff shall promptly notify each institution of
 521 the sexual offender's presence and any change in the sexual
 522 offender's enrollment or employment status.

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523
524 When a sexual offender reports at the sheriff's office, the
525 sheriff shall take a photograph and a set of fingerprints of the
526 offender and forward the photographs and fingerprints to the
527 department, along with the information provided by the sexual
528 offender. The sheriff shall promptly provide to the department
529 the information received from the sexual offender.

530 (4) (a) Each time a sexual offender's driver's license or
531 identification card is subject to renewal, and, without regard
532 to the status of the offender's driver's license or
533 identification card, within 48 hours after any change in the
534 offender's permanent ~~or~~ temporary, ~~or transient~~ residence,
535 specific sleeping location, or location where he or she is
536 seeking shelter or change in the offender's name by reason of
537 marriage or other legal process, the offender shall report in
538 person to a driver's license office, and shall be subject to the
539 requirements specified in subsection (3). The Department of
540 Highway Safety and Motor Vehicles shall forward to the
541 department all photographs and information provided by sexual
542 offenders. Notwithstanding the restrictions set forth in s.
543 322.142, the Department of Highway Safety and Motor Vehicles is
544 authorized to release a reproduction of a color-photograph or
545 digital-image license to the Department of Law Enforcement for
546 purposes of public notification of sexual offenders as provided
547 in this section and ss. 943.043 and 944.606.

548 (b) A sexual offender who vacates a permanent ~~or~~
549 temporary, ~~or transient~~ residence, specific sleeping location,
550 or location where he or she is seeking shelter and fails to
551 establish or maintain another permanent ~~or~~ temporary, ~~or~~

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552 ~~transient~~ residence, specific sleeping location, or location
553 where he or she is seeking shelter shall, within 48 hours after
554 vacating the permanent ~~or~~ temporary, ~~or transient~~ residence,
555 specific sleeping location, or location where he or she is
556 seeking shelter, report in person to the sheriff's office of the
557 county in which he or she is located. A sexual offender who
558 remains homeless must report in person once a month to the
559 sheriff's office of the county in which he or she is located and
560 register a specific sleeping location or location where he or
561 she is seeking shelter. The sexual offender shall specify the
562 date upon which he or she intends to or did vacate such
563 residence. The sexual offender must provide or update all of the
564 registration information required under paragraph (2) (b). The
565 sexual offender must provide an address for the residence or
566 other place that he or she is or will be located during the time
567 in which he or she fails to establish or maintain a permanent or
568 temporary residence.

569 (c) A sexual offender who remains at a permanent ~~or~~
570 temporary, ~~or transient~~ residence, specific sleeping location,
571 or location where he or she is seeking shelter after reporting
572 his or her intent to vacate such residence, specific sleeping
573 location, or location where he or she is seeking shelter shall,
574 within 48 hours after the date upon which the offender indicated
575 he or she would or did vacate such residence, specific sleeping
576 location, or location where he or she is seeking shelter, report
577 in person to the agency to which he or she reported pursuant to
578 paragraph (b) for the purpose of reporting his or her address at
579 such residence, specific sleeping location, or location where he
580 or she is seeking shelter. A sexual offender who fails to update

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 581 this registration once each month as required in paragraph (b)
 582 violates this registration requirement. This registration is in
 583 addition to any other registration mandated by this section. If
 584 the offender claims to be homeless but actually has a residence
 585 or place to live, he or she commits a violation of this section.
 586 When the sheriff receives the report, the sheriff shall promptly
 587 convey the information to the department. An offender who makes
 588 a report as required under paragraph (b) but fails to make a
 589 report as required under this paragraph commits a felony of the
 590 second degree, punishable as provided in s. 775.082, s. 775.083,
 591 or s. 775.084.

592 (7) A sexual offender who intends to establish a permanent
 593 or, temporary, or transient residence or homelessness status in
 594 another state or jurisdiction other than the State of Florida
 595 shall report in person to the sheriff of the county of current
 596 residence, specific sleeping location, or location where he or
 597 she is seeking shelter within 48 hours before the date he or she
 598 intends to leave this state to establish residence or
 599 homelessness status in another state or jurisdiction. The
 600 notification must include the address, municipality, county, and
 601 state of intended residence, specific sleeping location, or
 602 location where he or she is seeking shelter. The sheriff shall
 603 promptly provide to the department the information received from
 604 the sexual offender. The department shall notify the statewide
 605 law enforcement agency, or a comparable agency, in the intended
 606 state or jurisdiction of residence or homelessness status of the
 607 sexual offender's intended residence, specific sleeping
 608 location, or location where he or she is seeking shelter. The
 609 failure of a sexual offender to provide his or her intended

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 610 place of residence, specific sleeping location, or location
 611 where he or she is seeking shelter is punishable as provided in
 612 subsection (9).

613 (8) A sexual offender who indicates his or her intent to
 614 establish a permanent or, temporary, or transient residence or
 615 homelessness status in another state or jurisdiction other than
 616 the State of Florida and later decides to remain in this state
 617 shall, within 48 hours after the date upon which the sexual
 618 offender indicated he or she would leave this state, report in
 619 person to the sheriff to which the sexual offender reported the
 620 intended change of permanent or, temporary, or transient
 621 residence or homelessness status, and report his or her intent
 622 to remain in this state. The sheriff shall promptly report this
 623 information to the department. A sexual offender who reports his
 624 or her intent to establish a permanent or, temporary, or
 625 transient residence or homelessness status in another state or
 626 jurisdiction but who remains in this state without reporting to
 627 the sheriff in the manner required by this subsection commits a
 628 felony of the second degree, punishable as provided in s.
 629 775.082, s. 775.083, or s. 775.084.

630 (10) The department, the Department of Highway Safety and
 631 Motor Vehicles, the Department of Corrections, the Department of
 632 Juvenile Justice, any law enforcement agency in this state, and
 633 the personnel of those departments; an elected or appointed
 634 official, public employee, or school administrator; or an
 635 employee, agency, or any individual or entity acting at the
 636 request or upon the direction of any law enforcement agency is
 637 immune from civil liability for damages for good faith
 638 compliance with the requirements of this section or for the

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 639 release of information under this section, and shall be presumed
 640 to have acted in good faith in compiling, recording, reporting,
 641 or releasing the information. The presumption of good faith is
 642 not overcome if a technical or clerical error is made by the
 643 department, the Department of Highway Safety and Motor Vehicles,
 644 the Department of Corrections, the Department of Juvenile
 645 Justice, the personnel of those departments, or any individual
 646 or entity acting at the request or upon the direction of any of
 647 those departments in compiling or providing information, or if
 648 information is incomplete or incorrect because a sexual offender
 649 fails to report or falsely reports his or her current place of
 650 permanent ~~or, temporary, or transient~~ residence, specific
 651 sleeping location, or location where he or she is seeking
 652 shelter.

653 (14)

654 (c) The sheriff's office may determine the appropriate
 655 times and days for reporting by the sexual offender, which shall
 656 be consistent with the reporting requirements of this
 657 subsection. Reregistration shall include any changes to the
 658 following information:

659 1. Name; social security number; age; race; sex; date of
 660 birth; height; weight; hair and eye color; address of any
 661 permanent residence and address of any current temporary
 662 residence, within the state or out of state, including a rural
 663 route address and a post office box; if no permanent or
 664 temporary address, a specific sleeping location or location
 665 where he or she is seeking shelter ~~any transient residence~~
 666 within the state; address, location or description, and dates of
 667 any current or known future temporary residence, specific

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 668 sleeping location, or location where he or she is or will be
 669 seeking shelter within the state or out of state; any electronic
 670 mail address and any instant message name required to be
 671 provided pursuant to paragraph (4) (d); home telephone number and
 672 any cellular telephone number; date and place of any employment;
 673 vehicle make, model, color, and license tag number;
 674 fingerprints; and photograph. A post office box may ~~shall~~ not be
 675 provided in lieu of a physical residential address.

676 2. If the sexual offender is enrolled, employed, or
 677 carrying on a vocation at an institution of higher education in
 678 this state, the sexual offender shall also provide to the
 679 department the name, address, and county of each institution,
 680 including each campus attended, and the sexual offender's
 681 enrollment or employment status.

682 3. If the sexual offender's place of residence is a motor
 683 vehicle, trailer, mobile home, or manufactured home, as defined
 684 in chapter 320, the sexual offender shall also provide the
 685 vehicle identification number; the license tag number; the
 686 registration number; and a description, including color scheme,
 687 of the motor vehicle, trailer, mobile home, or manufactured
 688 home. If the sexual offender's place of residence is a vessel,
 689 live-aboard vessel, or houseboat, as defined in chapter 327, the
 690 sexual offender shall also provide the hull identification
 691 number; the manufacturer's serial number; the name of the
 692 vessel, live-aboard vessel, or houseboat; the registration
 693 number; and a description, including color scheme, of the
 694 vessel, live-aboard vessel or houseboat.

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

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 697 address verification correspondence from the department within 3
 698 weeks of the date of the correspondence or who fails to report
 699 electronic mail addresses or instant message names, commits a
 700 felony of the third degree, punishable as provided in s.
 701 775.082, s. 775.083, or s. 775.084.

702 Section 4. Paragraph (a) of subsection (3) of section
 703 944.606, Florida Statutes, is amended to read:

704 944.606 Sexual offenders; notification upon release.—

705 (3)(a) The department must provide information regarding
 706 any sexual offender who is being released after serving a period
 707 of incarceration for any offense, as follows:

708 1. The department must provide: the sexual offender's name,
 709 any change in the offender's name by reason of marriage or other
 710 legal process, and any alias, if known; the correctional
 711 facility from which the sexual offender is released; the sexual
 712 offender's social security number, race, sex, date of birth,
 713 height, weight, and hair and eye color; address of any planned
 714 permanent residence or temporary residence, within the state or
 715 out of state, including a rural route address and a post office
 716 box; if no permanent or temporary address, a specific sleeping
 717 location or location where he or she is seeking shelter ~~any~~
 718 ~~transient residence~~ within the state; address, location or
 719 description, and dates of any known future temporary residence,
 720 specific sleeping location, or location where he or she is or
 721 will be seeking shelter within the state or out of state; date
 722 and county of sentence and each crime for which the offender was
 723 sentenced; a copy of the offender's fingerprints and a digitized
 724 photograph taken within 60 days before release; the date of
 725 release of the sexual offender; any electronic mail address and

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 726 any instant message name required to be provided pursuant to s.
 727 943.0435(4)(d); and home telephone number and any cellular
 728 telephone number. The department shall notify the Department of
 729 Law Enforcement if the sexual offender escapes, absconds, or
 730 dies. If the sexual offender is in the custody of a private
 731 correctional facility, the facility shall take the digitized
 732 photograph of the sexual offender within 60 days before the
 733 sexual offender's release and provide this photograph to the
 734 Department of Corrections and also place it in the sexual
 735 offender's file. If the sexual offender is in the custody of a
 736 local jail, the custodian of the local jail shall register the
 737 offender within 3 business days after intake of the offender for
 738 any reason and upon release, and shall notify the Department of
 739 Law Enforcement of the sexual offender's release and provide to
 740 the Department of Law Enforcement the information specified in
 741 this paragraph and any information specified in subparagraph 2.
 742 that the Department of Law Enforcement requests.

743 2. The department may provide any other information deemed
 744 necessary, including criminal and corrections records,
 745 nonprivileged personnel and treatment records, when available.

746 Section 5. Paragraph (a) of subsection (4), paragraph (b)
 747 of subsection (6), and paragraph (c) of subsection (13) of
 748 section 944.607, Florida Statutes, are amended to read:

749 944.607 Notification to Department of Law Enforcement of
 750 information on sexual offenders.—

751 (4) A sexual offender, as described in this section, who is
 752 under the supervision of the Department of Corrections but is
 753 not incarcerated must register with the Department of
 754 Corrections within 3 business days after sentencing for a

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755 registrable offense and otherwise provide information as
 756 required by this subsection.

757 (a) The sexual offender shall provide his or her name; date
 758 of birth; social security number; race; sex; height; weight;
 759 hair and eye color; tattoos or other identifying marks; any
 760 electronic mail address and any instant message name required to
 761 be provided pursuant to s. 943.0435(4) (d); permanent or legal
 762 residence and address of temporary residence within the state or
 763 out of state while the sexual offender is under supervision in
 764 this state, including any rural route address or post office
 765 box; if no permanent or temporary address, a specific sleeping
 766 location or location where he or she is seeking shelter ~~any~~
 767 ~~transient residence~~ within the state, which the person must
 768 update in person once each month with the sheriff's office of
 769 the county in which he or she is located as long as he or she
 770 has no permanent or temporary address; and address, location or
 771 description, and dates of any current or known future temporary
 772 residence, specific sleeping location, or location where he or
 773 she is or will be seeking shelter within the state or out of
 774 state. The Department of Corrections shall verify the address of
 775 each sexual offender in the manner described in ss. 775.21 and
 776 943.0435. The department shall report to the Department of Law
 777 Enforcement any failure by a sexual predator or sexual offender
 778 to comply with registration requirements.

779 (6) The information provided to the Department of Law
 780 Enforcement must include:

781 (b) The sexual offender's most current address, place of
 782 permanent ~~or~~ temporary, ~~or transient~~ residence, specific
 783 sleeping location, or location where he or she is seeking

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784 shelter within the state or out of state, and address, location
 785 or description, and dates of any current or known future
 786 temporary residence, specific sleeping location, or location
 787 where he or she is or will be seeking shelter within the state
 788 or out of state, while the sexual offender is under supervision
 789 in this state, including the name of the county or municipality
 790 in which the offender permanently or temporarily resides, or has
 791 homelessness status ~~a transient residence~~, and address, location
 792 or description, and dates of any current or known future
 793 temporary residence within the state or out of state, and, if
 794 known, the intended place of permanent ~~or~~ temporary, ~~or~~
 795 ~~transient~~ residence, specific sleeping location, or location
 796 where he or she is seeking shelter, and address, location or
 797 description, and dates of any current or known future specific
 798 sleeping location or location where he or she is seeking shelter
 799 ~~temporary residence~~ within the state or out of state upon
 800 satisfaction of all sanctions;

801

802 If any information provided by the department changes during the
 803 time the sexual offender is under the department's control,
 804 custody, or supervision, including any change in the offender's
 805 name by reason of marriage or other legal process, the
 806 department shall, in a timely manner, update the information and
 807 provide it to the Department of Law Enforcement in the manner
 808 prescribed in subsection (2).

809 (13)

810 (c) The sheriff's office may determine the appropriate
 811 times and days for reporting by the sexual offender, which shall
 812 be consistent with the reporting requirements of this

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813 subsection. Reregistration shall include any changes to the
 814 following information:

815 1. Name; social security number; age; race; sex; date of
 816 birth; height; weight; hair and eye color; address of any
 817 permanent residence and address of any current temporary
 818 residence, within the state or out of state, including a rural
 819 route address and a post office box; if no permanent or
 820 temporary address, a specific sleeping location or location
 821 where he or she is seeking shelter ~~any transient residence~~;
 822 address, location or description, and dates of any current or
 823 known future temporary residence, specific sleeping location, or
 824 location where he or she is or will be seeking shelter within
 825 the state or out of state; any electronic mail address and any
 826 instant message name required to be provided pursuant to s.
 827 943.0435(4)(d); date and place of any employment; vehicle make,
 828 model, color, and license tag number; fingerprints; and
 829 photograph. A post office box may ~~shall~~ not be provided in lieu
 830 of a physical residential address.

831 2. If the sexual offender is enrolled, employed, or
 832 carrying on a vocation at an institution of higher education in
 833 this state, the sexual offender shall also provide to the
 834 department the name, address, and county of each institution,
 835 including each campus attended, and the sexual offender's
 836 enrollment or employment status.

837 3. If the sexual offender's place of residence is a motor
 838 vehicle, trailer, mobile home, or manufactured home, as defined
 839 in chapter 320, the sexual offender shall also provide the
 840 vehicle identification number; the license tag number; the
 841 registration number; and a description, including color scheme,

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842 of the motor vehicle, trailer, mobile home, or manufactured
 843 home. If the sexual offender's place of residence is a vessel,
 844 live-aboard vessel, or houseboat, as defined in chapter 327, the
 845 sexual offender shall also provide the hull identification
 846 number; the manufacturer's serial number; the name of the
 847 vessel, live-aboard vessel, or houseboat; the registration
 848 number; and a description, including color scheme, of the
 849 vessel, live-aboard vessel or houseboat.

850 4. Any sexual offender who fails to report in person as
 851 required at the sheriff's office, or who fails to respond to any
 852 address verification correspondence from the department within 3
 853 weeks of the date of the correspondence, or who fails to report
 854 electronic mail addresses or instant message names, commits a
 855 felony of the third degree, punishable as provided in s.
 856 775.082, s. 775.083, or s. 775.084.

857 Section 6. Paragraph (a) of subsection (3) of section
 858 985.481, Florida Statutes, is amended to read:

859 985.481 Sexual offenders adjudicated delinquent;
 860 notification upon release.—

861 (3) (a) The department must provide information regarding
 862 any sexual offender who is being released after serving a period
 863 of residential commitment under the department for any offense,
 864 as follows:

865 1. The department must provide the sexual offender's name,
 866 any change in the offender's name by reason of marriage or other
 867 legal process, and any alias, if known; the correctional
 868 facility from which the sexual offender is released; the sexual
 869 offender's social security number, race, sex, date of birth,
 870 height, weight, and hair and eye color; address of any planned

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871 permanent residence or temporary residence, within the state or
 872 out of state, including a rural route address and a post office
 873 box; if no permanent or temporary address, a specific sleeping
 874 location or location where he or she is seeking shelter ~~any~~
 875 ~~transient residence~~ within the state; address, location or
 876 description, and dates of any known future temporary residence,
 877 specific sleeping location, or location where he or she is or
 878 will be seeking shelter within the state or out of state; date
 879 and county of disposition and each crime for which there was a
 880 disposition; a copy of the offender's fingerprints and a
 881 digitized photograph taken within 60 days before release; the
 882 date of release of the sexual offender; and home telephone
 883 number and any cellular telephone number. The department shall
 884 notify the Department of Law Enforcement if the sexual offender
 885 escapes, absconds, or dies. If the sexual offender is in the
 886 custody of a private correctional facility, the facility shall
 887 take the digitized photograph of the sexual offender within 60
 888 days before the sexual offender's release and also place it in
 889 the sexual offender's file. If the sexual offender is in the
 890 custody of a local jail, the custodian of the local jail shall
 891 register the offender within 3 business days after intake of the
 892 offender for any reason and upon release, and shall notify the
 893 Department of Law Enforcement of the sexual offender's release
 894 and provide to the Department of Law Enforcement the information
 895 specified in this subparagraph and any information specified in
 896 subparagraph 2. which the Department of Law Enforcement
 897 requests.

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

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900 records, when available.

901 Section 7. Paragraph (a) of subsection (4), paragraph (a)
 902 of subsection (6), and paragraph (b) of subsection (13) of
 903 section 985.4815, Florida Statutes, are amended to read:
 904 985.4815 Notification to Department of Law Enforcement of
 905 information on juvenile sexual offenders.—
 906 (4) A sexual offender, as described in this section, who is
 907 under the supervision of the department but who is not committed
 908 must register with the department within 3 business days after
 909 adjudication and disposition for a registrable offense and
 910 otherwise provide information as required by this subsection.
 911 (a) The sexual offender shall provide his or her name; date
 912 of birth; social security number; race; sex; height; weight;
 913 hair and eye color; tattoos or other identifying marks;
 914 permanent or legal residence and address of temporary residence
 915 within the state or out of state while the sexual offender is in
 916 the care or custody or under the jurisdiction or supervision of
 917 the department in this state, including any rural route address
 918 or post office box; if no permanent or temporary address, a
 919 specific sleeping location or location where he or she is
 920 seeking shelter ~~any transient residence~~; address, location or
 921 description, and dates of any current or known future temporary
 922 residence, specific sleeping location, or location where he or
 923 she is or will be seeking shelter within the state or out of
 924 state; and the name and address of each school attended. The
 925 department shall verify the address of each sexual offender and
 926 shall report to the Department of Law Enforcement any failure by
 927 a sexual offender to comply with registration requirements.
 928 (6) (a) The information provided to the Department of Law

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929 Enforcement must include the following:

930 1. The information obtained from the sexual offender under

931 subsection (4).

932 2. The sexual offender's most current address and place of

933 permanent ~~or, temporary, or transient~~ residence, specific

934 sleeping location, or location where he or she is seeking

935 shelter within the state or out of state, and address, location

936 or description, and dates of any current or known future

937 temporary residence, specific sleeping location, or location

938 where he or she is or will be seeking shelter within the state

939 or out of state, while the sexual offender is in the care or

940 custody or under the jurisdiction or supervision of the

941 department in this state, including the name of the county or

942 municipality in which the offender permanently or temporarily

943 resides, or has a specific sleeping location or location where

944 he or she is seeking shelter ~~transient residence~~, and address,

945 location or description, and dates of any current or known

946 future temporary residence, specific sleeping location, or

947 location where he or she is or will be seeking shelter within

948 the state or out of state; and, if known, the intended place of

949 permanent ~~or, temporary, or transient~~ residence, specific

950 sleeping location, or location where he or she is or will be

951 seeking shelter, and address, location or description, and dates

952 of any current or known future temporary residence, specific

953 sleeping location, or location where he or she is or will be

954 seeking shelter within the state or out of state upon

955 satisfaction of all sanctions.

956 3. The legal status of the sexual offender and the

957 scheduled termination date of that legal status.

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958 4. The location of, and local telephone number for, any

959 department office that is responsible for supervising the sexual

960 offender.

961 5. An indication of whether the victim of the offense that

962 resulted in the offender's status as a sexual offender was a

963 minor.

964 6. The offense or offenses at adjudication and disposition

965 that resulted in the determination of the offender's status as a

966 sex offender.

967 7. A digitized photograph of the sexual offender, which

968 must have been taken within 60 days before the offender was

969 released from the custody of the department or a private

970 correctional facility by expiration of sentence under s.

971 944.275, or within 60 days after the onset of the department's

972 supervision of any sexual offender who is on probation,

973 postcommitment probation, residential commitment, nonresidential

974 commitment, licensed child-caring commitment, community control,

975 conditional release, parole, provisional release, or control

976 release or who is supervised by the department under the

977 Interstate Compact Agreement for Probationers and Parolees. If

978 the sexual offender is in the custody of a private correctional

979 facility, the facility shall take a digitized photograph of the

980 sexual offender within the time period provided in this

981 subparagraph and shall provide the photograph to the department.

982 (13)

983 (b) The sheriff's office may determine the appropriate

984 times and days for reporting by the sexual offender, which shall

985 be consistent with the reporting requirements of this

986 subsection. Reregistration shall include any changes to the

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987 following information:

988 1. Name; social security number; age; race; sex; date of
 989 birth; height; weight; hair and eye color; address of any
 990 permanent residence and address of any current temporary
 991 residence, within the state or out of state, including a rural
 992 route address and a post office box; if no permanent or
 993 temporary address, a specific sleeping location or location
 994 where he or she is seeking shelter ~~any transient residence;~~
 995 ~~address, location or description,~~ and dates of any current or
 996 known future temporary residence, specific sleeping location, or
 997 location where he or she is or will be seeking shelter within
 998 the state or out of state; name and address of each school
 999 attended; date and place of any employment; vehicle make, model,
 1000 color, and license tag number; fingerprints; and photograph. A
 1001 post office box may ~~shall~~ not be provided in lieu of a physical
 1002 residential address.

1003 2. If the sexual offender is enrolled, employed, or
 1004 carrying on a vocation at an institution of higher education in
 1005 this state, the sexual offender shall also provide to the
 1006 department the name, address, and county of each institution,
 1007 including each campus attended, and the sexual offender's
 1008 enrollment or employment status.

1009 3. If the sexual offender's place of residence is a motor
 1010 vehicle, trailer, mobile home, or manufactured home, as defined
 1011 in chapter 320, the sexual offender shall also provide the
 1012 vehicle identification number; the license tag number; the
 1013 registration number; and a description, including color scheme,
 1014 of the motor vehicle, trailer, mobile home, or manufactured
 1015 home. If the sexual offender's place of residence is a vessel,

Page 35 of 36

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

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1016 live-aboard vessel, or houseboat, as defined in chapter 327, the
 1017 sexual offender shall also provide the hull identification
 1018 number; the manufacturer's serial number; the name of the
 1019 vessel, live-aboard vessel, or houseboat; the registration
 1020 number; and a description, including color scheme, of the
 1021 vessel, live-aboard vessel, or houseboat.

1022 4. Any sexual offender who fails to report in person as
 1023 required at the sheriff's office, or who fails to respond to any
 1024 address verification correspondence from the department within 3
 1025 weeks after the date of the correspondence, commits a felony of
 1026 the third degree, punishable as provided in ss. 775.082,
 1027 775.083, and 775.084.

1028 Section 8. This act shall take effect July 1, 2012.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR ELLYN SETNOR
BOGDANOFF**
25th District

COMMITTEES:
Budget - Subcommittee on Finance and Tax,
Chair
Budget
Budget - Subcommittee on Transportation,
Tourism,
and Economic Development
Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Governmental Oversight and Accountability
Regulated Industries

JOINT COMMITTEE:
Administrative Procedures, *Alternating Chair*

January 17, 2012

Senator Greg Evers, Chair
Senate Committee on Criminal Justice
510 Knott Building
Tallahassee, FL 32399



Re: SB 1200, Relating to Sexual Offenders and Sexual Predators

Chair Evers:

I am writing to request that you place **SB 1200, Relating to Sexual Offenders and Sexual Predators** on the agenda of your Committee on Criminal Justice at your earliest convenience.

Feel free to contact me with any questions or concerns about this legislation.

Sincerely,

Senator Ellyn Setnor Bogdanoff
Florida Senate –District 25

cc: Amanda Cannon, Staff Director

REPLY TO:

- 312 Clematis Street, Suite 403, West Palm Beach, FL 33401 (561) 650-6833
- 1845 Cordova Road, Suite 202, Fort Lauderdale, Florida 33316 (954) 467-4205
- 212 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5100

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR ELLYN SETNOR
BOGDANOFF**
25th District

COMMITTEES:
Budget - Subcommittee on Finance and Tax,
Chair
Budget
Budget - Subcommittee on Transportation,
Tourism,
and Economic Development
Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Governmental Oversight and Accountability
Regulated Industries

JOINT COMMITTEE:
Administrative Procedures, *Alternating Chair*

January 17, 2012

Senator Greg Evers, Chair
Senate Committee on Criminal Justice
404 South Monroe Street
Tallahassee, FL 32399

Re: Bill Referencing

Chair Evers:

I am writing to request that you place the following bills on the agenda of your Committee on Criminal Justice at your earliest convenience:

- **SB 1198, Relating to The Prescribing of Controlled Substances**
- **SB 1200, Relating to Sexual Offenders and Sexual Predators**

Feel free to contact me with any questions or concerns about this legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ellyn Setnor Bogdanoff".

Senator Ellyn Setnor Bogdanoff
Florida Senate –District 25

cc: Amanda Cannon, Staff Director

REPLY TO:

- 312 Clematis Street, Suite 403, West Palm Beach, FL 33401 (561) 650-6833
- 1845 Cordova Road, Suite 202, Fort Lauderdale, Florida 33316 (954) 467-4205
- 212 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5100

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-31-12

Meeting Date

Topic Sexual Predator

Bill Number 1200
(if applicable)

Name Frank Menessuth

Amendment Barcode _____
(if applicable)

Job Title _____

Address _____

Phone 576-5858

Street _____
City Tall State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Florida Sheriffs Assoc

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)

1/31/12
Meeting Date

Topic _____

Bill Number 1200
(if applicable)

Name Marty Cassini

Amendment Barcode _____
(if applicable)

Job Title _____

Address 205 S Adams St
Street
Tallahassee FL 32301
City State Zip

Phone 850-224-0880

E-mail _____

Speaking: For Against Information

Representing Broward Sheriffs Office

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)

11/3/12
Meeting Date

Topic Sexual Predators

Bill Number 1200
(if applicable)

Name Candice Ericks

Amendment Barcode _____
(if applicable)

Job Title _____

Address 205 S. Adams St

Phone 954-648-1204

Tallahassee FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing Broward Sheriff's Office

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)

1/31/12

Meeting Date

Topic Sexual Offenders and Sexual Predators

Bill Number SB 1200
(if applicable)

Name Mary Coffee

Amendment Barcode _____
(if applicable)

Job Title Planning and Policy Administrator

Address 2331 Phillips Road

Phone 850-410-8784

Street

Tallahassee

FL

32308

City

State

Zip

E-mail marycoffee@fdle.state.fl.us

Speaking: For Against Information

Representing Florida Department of Law Enforcement

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 Criminal Justice Committee

BILL: CS/SB 1502

INTRODUCER: Criminal Justice Committee and Senator Evers

SUBJECT: Controlled Substances

DATE: January 31, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.	_____	_____	HR	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill lists a number of synthetic cannabinoids and synthetic stimulants as Schedule I controlled substances. According to the Florida Department of Law Enforcement (FDLE), none of these substances has “an accepted medical use or a legitimate industrial or commercial purpose.”¹

This bill substantially amends section 893.03, Florida Statutes, and reenacts sections 893.12(1) - (6) and 921.0022(3)(b) – (e), Florida Statutes.

II. Present Situation:

Synthetic Cannabinoids

The FDLE has provided the following information on synthetic cannabinoids:

¹ Analysis of SB 1502, Florida Department of Law Enforcement, dated January 12, 2011 (on file with the Committee on Criminal Justice). Further cited as “FDLE Analysis.”

K2 or Spice, marketed as “synthetic marijuana,” is an herbal substance being sold in the United States as incense labeled “not for human consumption.” The products contain one or more synthetic compounds which interact with the body similarly to the primary psychoactive constituent of marijuana, delta-tetrahydrocannabinol, or THC. Therefore, the corrupt term of “synthetic marijuana” has been attached to these substances when in fact the correct term should be “synthetic cannabinoids.” Synthetic cannabinoids are distinctly different from marijuana and create unknown long-term medical risks and immediate dangerous side effects when consumed. The synthetic cannabinoids do not mimic the chemical compound of THC, but cause pharmacological activity at the same receptors as THC in the brain, with the accompanying high potential for abuse.

The JWH series of compounds found in synthetic cannabinoids was created for research purposes to determine the relationship of these compounds in the body and document physiological responses with the CB1 and CB2 receptors in the brain and spleen. These substances, in the hundreds, were never intended to be used on humans; however, the publishing of research studies resulted in the creation of synthetic cannabinoids that are marketed for commercial distribution. Once the white powder is created, it can be taken alone or applied to any type of material such as a plant or paper and ingested in a manner similar to marijuana use. Some of the negative side effects include hallucinations, increased heart rate, increased anxiety, convulsions, unresponsiveness and suicidal thoughts.²

Synthetic Stimulants

The Florida Department of Law Enforcement (FDLE) has provided the following information on synthetic stimulants:

Psychoactive substances being marketed as “bath salts” are being produced as legal substitutes for ecstasy, cocaine, and amphetamines. The term ‘bath salts’ refer to commercially available products that have as part of their composition a legal stimulant called 3, 4-Methylenedioxypropylamphetamine, or MDPV. These synthetic stimulants are in a class of drugs known as synthetic cathinones.³ “Bath salts” can be comprised of different unregulated chemical substances and are being sold under a variety of names or brands. Both the law enforcement community and medical professionals indicate that “bath salts” are becoming increasingly popular due to the perception that they pose a seemingly safer alternative to illegal methods of getting “high.” Synthetic cathinones produce a euphoric effect on the user comparable to more common illicit drugs, and therefore have the same potential for abuse.

“Bath salt” products are known to produce certain side effects, some of which are quite severe. The following is the list of milder, short-term side effects associated with

² *Id.*

³ Cathinone is a Schedule I controlled substance under s. 893.03(1)(c)8., F.S. It is an alkaloid found in the shrub *Catha edulis* (khat) and is chemically similar to amphetamines and other substances. “Consideration of the cathinones” (March 2010), Advisory Council on the Misuse of Drugs, United Kingdom, <http://www.homeoffice.gov.uk/publications/drugs/acmd1/acmd-cathinodes-report-2010?view=Binary>. The “molecular architecture” of cathinone “can be altered to produces a series of different compounds which are closely structurally related to cathinone.” *Id.* (This footnote is not part of the quoted text.)

consumption of this drug as documented by medical personnel during treatment of abusers:

- Increased heart rate
- Increased alertness and awareness
- Agitation
- Anxiety
- Diminished requirement for sleep
- Fits and delusions
- Lack of appetite
- Nosebleeds

More serious side effects associated with these drugs reportedly include:

- Muscle spasms
- Hallucinations
- Blood circulation problems, including increased blood pressure
- Aggression
- Kidney failure
- Severe paranoia
- Seizures
- Panic attacks
- Risk of renal failure
- Sharp increase in body temperature

In most extreme cases, powdered “bath salt” products have been linked to self-mutilation and drug induced deaths to include an increased risk of suicide.⁴

Schedule I Controlled Substances

A substance is a “controlled substance” if it is listed in any of five schedules in s. 893.03, F.S. The particular scheduling determines penalties that may be imposed for unlawful possession, sale, etc., and the conditions under which the substance can be legally possessed, prescribed, sold, etc. Relevant to the bill, a substance in Schedule I is considered to have a high potential for abuse and no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards.

Recent Legislation

In 2011, the Legislature listed a number of synthetic cannabinoids and synthetic stimulants in Schedule I.⁵ The following synthetic cannabinoids were listed in Schedule I:

⁴ FDLE Analysis.

⁵ Chapters 2001-73 and 2011-90, L.O.F.

- 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-yl) phenol, also known as CP 47,497 and its dimethyloctyl (C8) homologue⁶
- (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol, also known as HU-210
- 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018
- 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073
- 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole, also known as JWH-200⁷

As a result of the 2011 legislation, penalties for unlawful acts involving synthetic cannabinoids are generally the same as penalties for unlawful acts involving other controlled substances listed in s. 893.03(1)(c), F.S. The exception is that simple possession of 3 grams or less of these 5 synthetic cannabinoids in a non-powdered form is a first degree misdemeanor.⁸

The 2011 legislation also listed the following synthetic stimulants in Schedule I:

- 3,4-methylenedioxy methcathinone
- 3,4-methylenedioxy pyrovalerone (MDPV)
- Methy methcathinone
- Methoxy methcathinone
- Methoxy methcathinone
- Fluoromethcathinone⁹

III. Effect of Proposed Changes:

Section 1 amends s. 893.03, F.S., to list the following synthetic cannabinoids and synthetic stimulants (none of which currently appear in any schedule) in Schedule I:

- BZP (Benzylpiperazine).
- Fluorophenylpiperazine.
- Methylphenylpiperazine.
- Chlorophenylpiperazine.
- Methoxyphenylpiperazine.
- DBZP (1,4-dibenzylpiperazine).
- TFMPP (3-Trifluoromethylphenylpiperazine).
- MBDB (Methylbenzodioxolylbutanamine).
- 5-Hydroxy-alpha-methyltryptamine.
- 5-Hydroxy-N-methyltryptamine.
- 5-Methoxy-N-methyl-N-isopropyltryptamine.
- 5-Methoxy-alpha-methyltryptamine.
- Methyltryptamine.

⁶ A “homologue” is “a chemical compound in a series in which each compound differs by one or more alkyl functional groups on an alkyl side chain. s. 893.02(11), F.S.

⁷ Section 893.03(1)(c)46.-50., F.S.

⁸ Section 893.13(6)(b), F.S.

⁹ Section 893.03(1)(c)40.-45., F.S.

- 5-Methoxy-N,N-dimethyltryptamine.
- 5-Methyl-N,N-dimethyltryptamine.
- Tyramine (4-Hydroxyphenethylamine).
- 5-Methoxy-N,N-Diisopropyltryptamine.
- DiPT (N,N-Diisopropyltryptamine).
- DPT (N,N-Dipropyltryptamine).
- 4-Hydroxy-N,N-diisopropyltryptamine.
- Methoxytryptamine.
- DOI (4-Iodo-2,5-dimethoxyamphetamine).
- DOC (4-Chloro-2,5-dimethoxyamphetamine).
- 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).
- 2C-T-4 (2,5-Dimethoxy-4-isopropylthiophenethylamine).
- 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).
- 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine).
- 2C-T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine).
- 2C-T-7 (2,5-Dimethoxy-4-propylthiophenethylamine).
- 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).
- Butylone (beta-keto-N-methylbenzodioxolylpropylamine).
- Ethcathinone.
- Ethylone (3,4-methylenedioxy-N-ethylcathinone).
- Naphyrone (naphthylpyrovalerone).
- N-N-Dimethyl-3,4-methylenedioxycathinone.
- N-N-Diethyl-3,4-methylenedioxycathinone.
- 3,4-methylenedioxy-propiofenone.
- 2-Bromo-3,4-Methylenedioxypropiofenone.
- 3,4-methylenedioxy-propiofenone-2-oxime.
- N-Acetyl-3,4-methylenedioxycathinone.
- N-Acetyl-N-Methyl-3,4-Methylenedioxycathinone.
- N-Acetyl-N-Ethyl-3,4-Methylenedioxycathinone.
- Bromomethcathinone.
- Buphedrone (alpha-methylamino-butyrophenone).
- Eutylone (beta-Keto-Ethylbenzodioxolylbutanamine).
- Dimethylcathinone.
- Dimethylmethcathinone.
- Pentylone (beta-Keto-Methylbenzodioxolylpentanamine).
- (MDPPP) 3,4-Methylenedioxy-alpha-pyrrolidinopropiofenone.
- (MDPBP) 3,4-Methylenedioxy-alpha-pyrrolidinobutiophenone.
- Methoxypyrrolidinopropiofenone (MOPPP).
- Methylpyrrolidinohexiophenone (MPHP).
- Benzocyclidine (BCP) or benzothiophenylcyclohexylpiperidine (BTCP).
- Fluoromethylaminobutyrophenone (F-MABP).
- Methoxypyrrolidinobutyrophenone (MeO-PBP).
- Ethylpyrrolidinobutyrophenone (Et-PBP).
- 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO-MCAT).

- Methylethylaminobutyrophenone (Me-EABP).
- Methylaminobutyrophenone (MABP).
- Pyrrolidinopropiophenone.
- Pyrrolidinobutiophenone (PBP).
- Pyrrolidinovalerophenone (PVP).
- Methylpyrrolidinopropiophenone (MPPP).
- JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole).
- JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenylmethanone).
- JWH-019 (Naphthalen-1-yl-(1-pentylindol-3-yl)methanone).
- JWH-020 (1-heptyl-3-(1-naphthoyl)indole).
- JWH-072 (Naphthalen-1-yl-(1-propyl-1H-indol-3-yl)methanone).
- JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone).
- JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).
- JWH-133 ((6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran)).
- JWH-175 (3-(naphthalen-1-ylmethyl)-1-pentyl-1H-indole).
- JWH-201 (1-pentyl-3-(4-methoxyphenylacetyl)indole).
- JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-yl)ethanone).
- JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-yl)methanone).
- JWH-250 (2-(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone).
- JWH-251 (2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone).
- JWH-302 (1-pentyl-3-(3-methoxyphenylacetyl)indole).
- JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).
- HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol)).
- HU-308 ([9R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol).
- HU-331 (3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-1,4-dione).
- CB-13 (Naphthalen-1-yl-(4-pentylloxynaphthalen-1-yl)methanone).
- CB-25 (N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-undecanamide).
- CB-52 (N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-undecanamide).
- CP55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol).
- AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(2-iodophenyl)methanone).
- AM-2201 (1-[(5-fluoropentyl)-1H-indol-3-yl]-(naphthalen-1-yl)methanone).
- RCS-4 (((4-methoxyphenyl) (1-pentyl-1H-indol-3-yl)methanone)).
- RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-methoxyphenylethanone)).
- WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone).
- WIN55,212-3 ([3S]-2,3-Dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-naphthalenylmethanone).

The FDLE states that the scheduling of these substances “would give state and local law enforcement the ability to affect a lawful arrest and seek criminal prosecution against an

individual engaged in the possession, distribution, and unlawful use of these chemical substances.”

Sections 2 and 3 reenact, respectively, s. 893.12(1) - (6), F.S., and s. 921.0022(3)(b) – (e), F.S., to incorporate the amendments made to s. 893.03, F.S., in Section 1 of the bill. Section 893.13(6)(b), F.S. is also amended to add reference to the new synthetic cannabinoids scheduled by the bill.

Section 4 provides that the act take effect October 1, 2012.

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:

The FDLE states that the bill “should have little impact on the private sector and would only affect those retailers who are currently profiting on the sale of chemical substances known to be abused by those seeking an altered mental state or ‘high.’ Although synthetic stimulants have been sold to abusers labeled as ‘bath salts’ or ‘plant food,’ these labels were a subterfuge on the part of sellers to attempt to conceal their true nature as drugs of abuse. [The bill] ... will have no impact on manufacturers, distributors or retailers of actual bath products or fertilizers. None of the new substances listed in [the bill] ... have an accepted medical use or a legitimate industrial or commercial purpose.”¹⁰

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any of legislation has reviewed SB 1502 and estimates the bill will have an insignificant prison bed impact.

¹⁰ FDLE Analysis.

The FDLE states that the bill “could potentially increase the number of evidence submissions into FDLE’s Crime Laboratory System. The lab system will need to acquire all of the required standards necessary to test the proposed chemical substances.”¹¹ The department also notes that “[l]ocal agencies which fund and maintain their own crime lab with a chemistry section would potentially be facing a similar rise in submissions associated with the additions of the proposed chemical substances.”¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Criminal Justice on January 31, 2012:

- Corrects misspellings of chemical nomenclature.
- References in s. 893.13(6)(b), F.S., the new synthetic cannabinoids scheduled by the bill.

- B. **Amendments:**

None.

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

¹¹ FDLE Analysis.

¹² *Id.*



883742

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2012	.	
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	.	

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

Senate Amendment

Delete lines 147 - 231
and insert:

- 84. Naphyrone (naphthylpyrovalerone).
- 85. N-N-Dimethyl-3,4-methylenedioxcathinone.
- 86. N-N-Diethyl-3,4-methylenedioxcathinone.
- 87. 3,4-methylenedioxy-propiofenone.
- 88. 2-Bromo-3,4-Methylenedioxypropiofenone.
- 89. 3,4-methylenedioxy-propiofenone-2-oxime.
- 90. N-Acetyl-3,4-methylenedioxcathinone.
- 91. N-Acetyl-N-Methyl-3,4-Methylenedioxcathinone.



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- 13 92. N-Acetyl-N-Ethyl-3,4-Methylenedioxcathinone.
14 93. Bromomethcathinone.
15 94. Buphedrone (alpha-methylamino-butyrophenone).
16 95. Eutylone (beta-Keto-Ethylbenzodioxolylbutanamine).
17 96. Dimethylcathinone.
18 97. Dimethylmethcathinone.
19 98. Pentylone (beta-Keto-Methylbenzodioxolylpentanamine).
20 99. (MDPPP) 3,4-Methylenedioxy-alpha-
21 pyrrolidinopropiophenone.
22 100. (MDPBP) 3,4-Methylenedioxy-alpha-
23 pyrrolidinobutiophenone.
24 101. Methoxypyrrolidinopropiophenone (MOPPP).
25 102. Methylpyrrolidinohexiophenone (MPHP).
26 103. Benzocyclidine (BCP) or
27 benzothiophenylcyclohexylpiperidine (BTCP).
28 104. Fluoromethylaminobutyrophenone (F-MABP).
29 105. Methoxypyrrolidinobutyrophenone (MeO-PBP).
30 106. Ethylpyrrolidinobutyrophenone (Et-PBP).
31 107. 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO-MCAT).
32 108. Methylethylaminobutyrophenone (Me-EABP).
33 109. Methylaminobutyrophenone (MABP).
34 110. Pyrrolidinopropiophenone.
35 111. Pyrrolidinobutiophenone (PBP).
36 112. Pyrrolidinovalerophenone (PVP).
37 113. Methylpyrrolidinopropiophenone (MPPP).
38 114. JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole).
39 115. JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1-
40 naphthalenylmethanone).
41 116. JWH-019 (Naphthanlen-1-yl-(1-pentylindol-3-



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- 42 yl)methanone).
- 43 117. JWH-020 (1-heptyl-3-(1-naphthoyl)indole).
- 44 118. JWH-072 (Naphthalen-1-yl-(1-propyl-1H-indol-3-
- 45 yl)methanone).
- 46 119. JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-
- 47 yl)methanone).
- 48 120. JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).
- 49 121. JWH-133 ((6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-
- 50 tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran)).
- 51 122. JWH-175 (3-(naphthalen-1-ylmethyl)-1-pentyl-1H-
- 52 indole).
- 53 123. JWH-201 (1-pentyl-3-(4-methoxyphenylacetyl)indole).
- 54 124. JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-
- 55 yl)ethanone).
- 56 125. JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-
- 57 yl)methanone).
- 58 126. JWH-250 (2-(2-methoxyphenyl)-1-(1-pentylindol-3-
- 59 yl)ethanone).
- 60 127. JWH-251 (2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-
- 61 yl)ethanone).
- 62 128. JWH-302 (1-pentyl-3-(3-methoxyphenylacetyl)indole).
- 63 129. JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).
- 64 130. HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-2-
- 65 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol)).
- 66 131. HU-308 ([91R,2R,5R)-2-[2,6-dimethoxy-4-(2-methyloctan-
- 67 2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl)methanol).
- 68 132. HU-331 (3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-
- 69 methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-
- 70 1,4-dione).



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- 71 133. CB-13 (Naphthalen-1-yl-(4-pentyloxynaphthalen-1-
72 yl)methanone).
- 73 134. CB-25 (N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-
74 undecanamide).
- 75 135. CB-52 (N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-
76 undecanamide).
- 77 136. CP55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-
78 hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol).
- 79 137. AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-2-
80 iodophenyl)methanone).
- 81 138. AM-2201 (1-[(5-fluoropentyl)-1H-indol-3-yl]-
82 (naphthalen-1-yl)methanone).
- 83 139. RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-
84 yl)methanone)).
- 85 140. RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-
86 methoxyphenylethanone).
- 87 141. WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-
88 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
89 naphthalenylmethanone).
- 90



803350

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2012	.	
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The Committee on Criminal Justice (Evers) recommended the following:

Senate Amendment (with title amendment)

Delete lines 479 - 486
and insert:
less of a controlled substance described in s. 893.03(1)(c)46.-
50. and 114.-142., the person commits a misdemeanor of the first
degree, punishable as provided in s. 775.082 or s. 775.083. For
the purposes of this subsection, "cannabis" does not include the
resin extracted from the plants of the genus Cannabis, or any
compound manufacture, salt, derivative, mixture, or preparation
of such resin, and a controlled substance described in s.
893.03(1)(c)46.-50. and 114.-142. does not include the substance



803350

13 in a powdered

14

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

16 And the title is amended as follows:

17 Delete line 15

18 and insert:

19 thereto; providing that it is a misdemeanor of the
20 first degree to possess specified amounts of certain
21 synthetic cannabinoids in nonpowdered form; providing
22 an effective date.

By Senator Evers

2-01108B-12

20121502__

1 A bill to be entitled
 2 An act relating to controlled substances; amending s.
 3 893.03, F.S.; adding to the list of Schedule I
 4 controlled substances certain specified materials,
 5 compounds, mixtures, or preparations that contain
 6 hallucinogenic substances or that contain any of these
 7 substances' salts, isomers, and salts of isomers, if
 8 the existence of such salts, isomers, and salts of
 9 isomers is possible within the specific chemical
 10 designation; reenacting ss. 893.13(1)-(6) and
 11 921.0022(3)(b)-(e), F.S., relating to prohibited acts
 12 involving controlled substances and the Criminal
 13 Punishment Code, respectively, to incorporate the
 14 amendments made to s. 893.03, F.S., in references
 15 thereto; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Paragraph (c) of subsection (1) of section
 20 893.03, Florida Statutes, is amended to read:

21 893.03 Standards and schedules.—The substances enumerated
 22 in this section are controlled by this chapter. The controlled
 23 substances listed or to be listed in Schedules I, II, III, IV,
 24 and V are included by whatever official, common, usual,
 25 chemical, or trade name designated. The provisions of this
 26 section shall not be construed to include within any of the
 27 schedules contained in this section any excluded drugs listed
 28 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
 29 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical

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30 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
 31 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
 32 Anabolic Steroid Products."

33 (1) SCHEDULE I.—A substance in Schedule I has a high
 34 potential for abuse and has no currently accepted medical use in
 35 treatment in the United States and in its use under medical
 36 supervision does not meet accepted safety standards. The
 37 following substances are controlled in Schedule I:

38 (c) Unless specifically excepted or unless listed in
 39 another schedule, any material, compound, mixture, or
 40 preparation that ~~which~~ contains any quantity of the following
 41 hallucinogenic substances or that ~~which~~ contains any of their
 42 salts, isomers, and salts of isomers, if ~~whenever~~ the existence
 43 of such salts, isomers, and salts of isomers is possible within
 44 the specific chemical designation:

- 45 1. Alpha-ethyltryptamine.
- 46 2. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-
 47 methylaminorex).
- 48 3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).
- 49 4. 4-Bromo-2,5-dimethoxyamphetamine.
- 50 5. 4-Bromo-2, 5-dimethoxyphenethylamine.
- 51 6. Bufotenine.
- 52 7. Cannabis.
- 53 8. Cathinone.
- 54 9. Diethyltryptamine.
- 55 10. 2,5-Dimethoxyamphetamine.
- 56 11. 2,5-Dimethoxy-4-ethylamphetamine (DOET).
- 57 12. Dimethyltryptamine.
- 58 13. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine

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59 analog of phencyclidine).
 60 14. N-Ethyl-3-piperidyl benzilate.
 61 15. N-ethylamphetamine.
 62 16. Fenethylamine.
 63 17. N-Hydroxy-3,4-methylenedioxyamphetamine.
 64 18. Ibogaine.
 65 19. Lysergic acid diethylamide (LSD).
 66 20. Mescaline.
 67 21. Methcathinone.
 68 22. 5-Methoxy-3,4-methylenedioxyamphetamine.
 69 23. 4-methoxyamphetamine.
 70 24. 4-methoxymethamphetamine.
 71 25. 4-Methyl-2,5-dimethoxyamphetamine.
 72 26. 3,4-Methylenedioxy-N-ethylamphetamine.
 73 27. 3,4-Methylenedioxyamphetamine.
 74 28. N-Methyl-3-piperidyl benzilate.
 75 29. N,N-dimethylamphetamine.
 76 30. Parahexyl.
 77 31. Peyote.
 78 32. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine
 79 analog of phencyclidine).
 80 33. Psilocybin.
 81 34. Psilocyn.
 82 35. Salvia divinorum, except for any drug product approved
 83 by the United States Food and Drug Administration which contains
 84 Salvia divinorum or its isomers, esters, ethers, salts, and
 85 salts of isomers, esters, and ethers, if whenever the existence
 86 of such isomers, esters, ethers, and salts is possible within
 87 the specific chemical designation.

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

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88 36. Salvinorin A, except for any drug product approved by
 89 the United States Food and Drug Administration which contains
 90 Salvinorin A or its isomers, esters, ethers, salts, and salts of
 91 isomers, esters, and ethers, if whenever the existence of such
 92 isomers, esters, ethers, and salts is possible within the
 93 specific chemical designation.
 94 37. Tetrahydrocannabinols.
 95 38. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP)
 96 (Thiophene analog of phencyclidine).
 97 39. 3,4,5-Trimethoxyamphetamine.
 98 40. 3,4-Methylenedioxymethcathinone.
 99 41. 3,4-Methylenedioxypropylvalerone (MDPV).
 100 42. Methylmethcathinone.
 101 43. Methoxymethcathinone.
 102 44. Fluoromethcathinone.
 103 45. Methylethcathinone.
 104 46. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-
 105 yl)phenol, also known as CP 47,497 and its dimethyloctyl (C8)
 106 homologue.
 107 47. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-
 108 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol,
 109 also known as HU-210.
 110 48. 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018.
 111 49. 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073.
 112 50. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole, also
 113 known as JWH-200.
 114 51. BZP (Benzylpiperazine).
 115 52. Fluorophenylpiperazine.
 116 53. Methylphenylpiperazine.

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117 54. Chlorophenylpiperazine.
 118 55. Methoxyphenylpiperazine.
 119 56. DBZP (1,4-dibenzylpiperazine).
 120 57. TFMPP (3-Trifluoromethylphenylpiperazine).
 121 58. MBDB (Methylbenzodioxolylbutanamine).
 122 59. 5-Hydroxy-alpha-methyltryptamine.
 123 60. 5-Hydroxy-N-methyltryptamine.
 124 61. 5-Methoxy-N-methyl-N-isopropyltryptamine.
 125 62. 5-Methoxy-alpha-methyltryptamine.
 126 63. Methyltryptamine.
 127 64. 5-Methoxy-N,N-dimethyltryptamine.
 128 65. 5-Methyl-N,N-dimethyltryptamine.
 129 66. Tyramine (4-Hydroxyphenethylamine).
 130 67. 5-Methoxy-N,N-Diisopropyltryptamine.
 131 68. DiPT (N,N-Diisopropyltryptamine).
 132 69. DPT (N,N-Dipropyltryptamine).
 133 70. 4-Hydroxy-N,N-diisopropyltryptamine.
 134 71. Methoxytryptamine.
 135 72. DOI (4-Iodo-2,5-dimethoxyamphetamine).
 136 73. DOC (4-Chloro-2,5-dimethoxyamphetamine).
 137 74. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).
 138 75. 2C-T-4 (2,5-Dimethoxy-4-isopropylthiophenethylamine).
 139 76. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).
 140 77. 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine).
 141 78. 2C-T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine).
 142 79. 2C-T-7 (2,5-Dimethoxy-4-propylthiophenethylamine).
 143 80. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).
 144 81. Butylone (beta-keto-N-methylbenzodioxolylpropylamine).
 145 82. Ethcathinone.

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146 83. Ethylone (3,4-methylenedioxy-N-ethylcathinone).
 147 84. Naphyrone (naphthylpyrovalerone).
 148 85. N-N-Dimethyl-3,4-methylenedioxcathinone.
 149 86. N-N-Diethyl-3,4-methylenedioxcathinone.
 150 87. 3,4-methylenedioxy-propiofenone.
 151 88. 2-Bromo-3,4-Methylenedioxypropiofenone.
 152 89. 3,4-methylenedioxy-propiofenone-2-oxime.
 153 90. N-Acetyl-3,4-methylenedioxcathinone.
 154 91. N-Acetyl-N-Methyl-3,4-Methylenedioxcathinone.
 155 92. N-Acetyl-N-Ethyl-3,4-Methylenedioxcathinone.
 156 93. Bromomethcathinone.
 157 94. Buphedrone (alpha-methylamino-butyrophenone).
 158 95. Eutylone (beta-Keto-Ethylbenzodioxolylbutanamine).
 159 96. Dimethylcathinone.
 160 97. Dimethylmethcathinone.
 161 98. Pentylone (beta-Keto-Methylbenzodioxolylpentanamine).
 162 99. (MDPPP) 3,4-Methylenedioxy-alpha-
 163 pyrrolidinopropiofenone.
 164 100. (MDPBP) 3,4-Methylenedioxy-alpha-
 165 pyrrolidinobutiophenone.
 166 101. Methoxypyrrolidinopropiofenone (MOPPP).
 167 102. Methylpyrrolidinohexiophenone (MPHP).
 168 103. Benocyclidine (BCP) or
 169 benzothiophenylcyclohexylpiperidine (BTCP).
 170 104. Fluoromethylaminobutyrophenone (F-MABP).
 171 105. Methoxypyrrolidinobutyrophenone (MeO-PBP).
 172 106. Ethylpyrrolidinobutyrophenone (Et-PBP).
 173 107. 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO-MCAT).
 174 108. Methyl-ethylaminobutyrophenone (Me-EABP).

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175 109. Methylaminobutyrophenone (MABP).
 176 110. Pyrrolidinopropiophenone.
 177 111. Pyrrolidinobutiophenone (PBP).
 178 112. Pyrrolidinovalerophenone (PVP).
 179 113. Methylpyrrolidinopropiophenone (MPPP).
 180 114. JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole).
 181 115. JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1-
 182 naphthalenylmethanone).
 183 116. JWH-019 (Naphthalen-1-yl-(1-pentylindol-3-
 184 yl)methanone).
 185 117. JWH-020 (1-heptyl-3-(1-naphthoyl)indole).
 186 118. JWH-072 (naphthalen-1-yl(1-propyl-1H-indol-3-
 187 yl)methanone).
 188 119. JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-
 189 yl)methanone).
 190 120. JWH-122 (1-Pentyl-3-(40methyl-1-naphthoyl)indole).
 191 121. JWH-133 ((6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-
 192 tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran).
 193 122. JWH-175 (3-(naphthalen-1-ylmethyl)-1-pentyl-1H-indole).
 194 123. JWH-201 (1-pentyl-3-(4-methoxyphenylacetyl)indole).
 195 124. JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-
 196 yl)ethanone).
 197 125. JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-
 198 yl)methanone).
 199 126. JWH-250 (2-(2-methoxyphenyl)-1-(1-pentylindol-3-
 200 yl)ethanone).
 201 127. JWH-251 (2-(2-methylphenyl)-1-(1 pentyl-1H-indol-3-
 202 yl)ethanone).
 203 128. JWH-302 (1-pentyl-3-(3-methoxyphenylacetyl)indole).

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204 129. JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).
 205 130. HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-
 206 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-
 207 ol).
 208 131. HU-308 ([91R,2R,5R-2-[2,6-dimethoxy-4-(2-methyloctan-
 209 2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]methanol).
 210 132. HU-331 (3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-
 211 methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-
 212 1,4-dione).
 213 133. CB-13 (Naphthalen-1-yl-(4-pentylloxynaphthalen-1-
 214 yl)methanone).
 215 134. CB-25 (N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-
 216 undecanamide).
 217 135. CB-52 (N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-
 218 undecanamide).
 219 136. CP55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-hydroxypropyl)
 220 cyclohexyl]-5-(2-methyloctan-2-yl)phenol.)
 221 137. AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]- (2-
 222 iodophenyl)methanone).
 223 138. AM-2201 (1-[(5-fluoropentyl)-1H-indol-3-yl]-
 224 (naphthalen-1-yl)methanone).
 225 139. RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-
 226 yl)methanone).
 227 140. RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-
 228 methoxypehnylethanone)).
 229 141. WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-
 230 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
 231 naphthalenylmethanone).
 232 142. WIN55,212-3 ([(3S)-2,3-Dihydro-5-methyl-3-(4-

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233 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
 234 naphthalenylmethanone).

235 Section 2. For the purpose of incorporating the amendment
 236 made by this act to section 893.03, Florida Statutes, in
 237 references thereto, subsections (1), (2), (3), (4), (5), and (6)
 238 of section 893.13, Florida Statutes, are reenacted to read:

239 893.13 Prohibited acts; penalties.—

240 (1) (a) Except as authorized by this chapter and chapter
 241 499, it is unlawful for any person to sell, manufacture, or
 242 deliver, or possess with intent to sell, manufacture, or
 243 deliver, a controlled substance. Any person who violates this
 244 provision with respect to:

245 1. A controlled substance named or described in s.
 246 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.,
 247 commits a felony of the second degree, punishable as provided in
 248 s. 775.082, s. 775.083, or s. 775.084.

249 2. A controlled substance named or described in s.
 250 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6.,
 251 (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) commits a felony of
 252 the third degree, punishable as provided in s. 775.082, s.
 253 775.083, or s. 775.084.

254 3. A controlled substance named or described in s.
 255 893.03(5) commits a misdemeanor of the first degree, punishable
 256 as provided in s. 775.082 or s. 775.083.

257 (b) Except as provided in this chapter, it is unlawful to
 258 sell or deliver in excess of 10 grams of any substance named or
 259 described in s. 893.03(1) (a) or (1) (b), or any combination
 260 thereof, or any mixture containing any such substance. Any
 261 person who violates this paragraph commits a felony of the first

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262 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 263 775.084.

264 (c) Except as authorized by this chapter, it is unlawful
 265 for any person to sell, manufacture, or deliver, or possess with
 266 intent to sell, manufacture, or deliver, a controlled substance
 267 in, on, or within 1,000 feet of the real property comprising a
 268 child care facility as defined in s. 402.302 or a public or
 269 private elementary, middle, or secondary school between the
 270 hours of 6 a.m. and 12 midnight, or at any time in, on, or
 271 within 1,000 feet of real property comprising a state, county,
 272 or municipal park, a community center, or a publicly owned
 273 recreational facility. For the purposes of this paragraph, the
 274 term "community center" means a facility operated by a nonprofit
 275 community-based organization for the provision of recreational,
 276 social, or educational services to the public. Any person who
 277 violates this paragraph with respect to:

278 1. A controlled substance named or described in s.
 279 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.,
 280 commits a felony of the first degree, punishable as provided in
 281 s. 775.082, s. 775.083, or s. 775.084. The defendant must be
 282 sentenced to a minimum term of imprisonment of 3 calendar years
 283 unless the offense was committed within 1,000 feet of the real
 284 property comprising a child care facility as defined in s.
 285 402.302.

286 2. A controlled substance named or described in s.
 287 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6.,
 288 (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) commits a felony of
 289 the second degree, punishable as provided in s. 775.082, s.
 290 775.083, or s. 775.084.

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291 3. Any other controlled substance, except as lawfully sold,
 292 manufactured, or delivered, must be sentenced to pay a \$500 fine
 293 and to serve 100 hours of public service in addition to any
 294 other penalty prescribed by law.

295
 296 This paragraph does not apply to a child care facility unless
 297 the owner or operator of the facility posts a sign that is not
 298 less than 2 square feet in size with a word legend identifying
 299 the facility as a licensed child care facility and that is
 300 posted on the property of the child care facility in a
 301 conspicuous place where the sign is reasonably visible to the
 302 public.

303 (d) Except as authorized by this chapter, it is unlawful
 304 for any person to sell, manufacture, or deliver, or possess with
 305 intent to sell, manufacture, or deliver, a controlled substance
 306 in, on, or within 1,000 feet of the real property comprising a
 307 public or private college, university, or other postsecondary
 308 educational institution. Any person who violates this paragraph
 309 with respect to:

310 1. A controlled substance named or described in s.
 311 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.,
 312 commits a felony of the first degree, punishable as provided in
 313 s. 775.082, s. 775.083, or s. 775.084.

314 2. A controlled substance named or described in s.
 315 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6.,
 316 (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) commits a felony of
 317 the second degree, punishable as provided in s. 775.082, s.
 318 775.083, or s. 775.084.

319 3. Any other controlled substance, except as lawfully sold,

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320 manufactured, or delivered, must be sentenced to pay a \$500 fine
 321 and to serve 100 hours of public service in addition to any
 322 other penalty prescribed by law.

323 (e) Except as authorized by this chapter, it is unlawful
 324 for any person to sell, manufacture, or deliver, or possess with
 325 intent to sell, manufacture, or deliver, a controlled substance
 326 not authorized by law in, on, or within 1,000 feet of a physical
 327 place for worship at which a church or religious organization
 328 regularly conducts religious services or within 1,000 feet of a
 329 convenience business as defined in s. 812.171. Any person who
 330 violates this paragraph with respect to:

331 1. A controlled substance named or described in s.
 332 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.,
 333 commits a felony of the first degree, punishable as provided in
 334 s. 775.082, s. 775.083, or s. 775.084.

335 2. A controlled substance named or described in s.
 336 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6.,
 337 (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) commits a felony of
 338 the second degree, punishable as provided in s. 775.082, s.
 339 775.083, or s. 775.084.

340 3. Any other controlled substance, except as lawfully sold,
 341 manufactured, or delivered, must be sentenced to pay a \$500 fine
 342 and to serve 100 hours of public service in addition to any
 343 other penalty prescribed by law.

344 (f) Except as authorized by this chapter, it is unlawful
 345 for any person to sell, manufacture, or deliver, or possess with
 346 intent to sell, manufacture, or deliver, a controlled substance
 347 in, on, or within 1,000 feet of the real property comprising a
 348 public housing facility at any time. For purposes of this

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349 section, the term "real property comprising a public housing
350 facility" means real property, as defined in s. 421.03(12), of a
351 public corporation created as a housing authority pursuant to
352 part I of chapter 421. Any person who violates this paragraph
353 with respect to:

354 1. A controlled substance named or described in s.
355 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
356 commits a felony of the first degree, punishable as provided in
357 s. 775.082, s. 775.083, or s. 775.084.

358 2. A controlled substance named or described in s.
359 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
360 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
361 the second degree, punishable as provided in s. 775.082, s.
362 775.083, or s. 775.084.

363 3. Any other controlled substance, except as lawfully sold,
364 manufactured, or delivered, must be sentenced to pay a \$500 fine
365 and to serve 100 hours of public service in addition to any
366 other penalty prescribed by law.

367 (g) Except as authorized by this chapter, it is unlawful
368 for any person to manufacture methamphetamine or phencyclidine,
369 or possess any listed chemical as defined in s. 893.033 in
370 violation of s. 893.149 and with intent to manufacture
371 methamphetamine or phencyclidine. If any person violates this
372 paragraph and:

373 1. The commission or attempted commission of the crime
374 occurs in a structure or conveyance where any child under 16
375 years of age is present, the person commits a felony of the
376 first degree, punishable as provided in s. 775.082, s. 775.083,
377 or s. 775.084. In addition, the defendant must be sentenced to a

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378 minimum term of imprisonment of 5 calendar years.

379 2. The commission of the crime causes any child under 16
380 years of age to suffer great bodily harm, the person commits a
381 felony of the first degree, punishable as provided in s.
382 775.082, s. 775.083, or s. 775.084. In addition, the defendant
383 must be sentenced to a minimum term of imprisonment of 10
384 calendar years.

385 (h) Except as authorized by this chapter, it is unlawful
386 for any person to sell, manufacture, or deliver, or possess with
387 intent to sell, manufacture, or deliver, a controlled substance
388 in, on, or within 1,000 feet of the real property comprising an
389 assisted living facility, as that term is used in chapter 429.
390 Any person who violates this paragraph with respect to:

391 1. A controlled substance named or described in s.
392 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
393 commits a felony of the first degree, punishable as provided in
394 s. 775.082, s. 775.083, or s. 775.084.

395 2. A controlled substance named or described in s.
396 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
397 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
398 the second degree, punishable as provided in s. 775.082, s.
399 775.083, or s. 775.084.

400 (2)(a) Except as authorized by this chapter and chapter
401 499, it is unlawful for any person to purchase, or possess with
402 intent to purchase, a controlled substance. Any person who
403 violates this provision with respect to:

404 1. A controlled substance named or described in s.
405 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
406 commits a felony of the second degree, punishable as provided in

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407 s. 775.082, s. 775.083, or s. 775.084.

408 2. A controlled substance named or described in s.
409 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
410 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
411 the third degree, punishable as provided in s. 775.082, s.
412 775.083, or s. 775.084.

413 3. A controlled substance named or described in s.
414 893.03(5) commits a misdemeanor of the first degree, punishable
415 as provided in s. 775.082 or s. 775.083.

416 (b) Except as provided in this chapter, it is unlawful to
417 purchase in excess of 10 grams of any substance named or
418 described in s. 893.03(1)(a) or (1)(b), or any combination
419 thereof, or any mixture containing any such substance. Any
420 person who violates this paragraph commits a felony of the first
421 degree, punishable as provided in s. 775.082, s. 775.083, or s.
422 775.084.

423 (3) Any person who delivers, without consideration, not
424 more than 20 grams of cannabis, as defined in this chapter,
425 commits a misdemeanor of the first degree, punishable as
426 provided in s. 775.082 or s. 775.083. For the purposes of this
427 paragraph, "cannabis" does not include the resin extracted from
428 the plants of the genus *Cannabis* or any compound manufacture,
429 salt, derivative, mixture, or preparation of such resin.

430 (4) Except as authorized by this chapter, it is unlawful
431 for any person 18 years of age or older to deliver any
432 controlled substance to a person under the age of 18 years, or
433 to use or hire a person under the age of 18 years as an agent or
434 employee in the sale or delivery of such a substance, or to use
435 such person to assist in avoiding detection or apprehension for

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436 a violation of this chapter. Any person who violates this
437 provision with respect to:

438 (a) A controlled substance named or described in s.
439 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
440 commits a felony of the first degree, punishable as provided in
441 s. 775.082, s. 775.083, or s. 775.084.

442 (b) A controlled substance named or described in s.
443 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
444 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
445 the second degree, punishable as provided in s. 775.082, s.
446 775.083, or s. 775.084.

447
448 Imposition of sentence may not be suspended or deferred, nor
449 shall the person so convicted be placed on probation.

450 (5) It is unlawful for any person to bring into this state
451 any controlled substance unless the possession of such
452 controlled substance is authorized by this chapter or unless
453 such person is licensed to do so by the appropriate federal
454 agency. Any person who violates this provision with respect to:

455 (a) A controlled substance named or described in s.
456 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
457 commits a felony of the second degree, punishable as provided in
458 s. 775.082, s. 775.083, or s. 775.084.

459 (b) A controlled substance named or described in s.
460 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
461 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
462 the third degree, punishable as provided in s. 775.082, s.
463 775.083, or s. 775.084.

464 (c) A controlled substance named or described in s.

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465 893.03(5) commits a misdemeanor of the first degree, punishable
466 as provided in s. 775.082 or s. 775.083.

467 (6) (a) It is unlawful for any person to be in actual or
468 constructive possession of a controlled substance unless such
469 controlled substance was lawfully obtained from a practitioner
470 or pursuant to a valid prescription or order of a practitioner
471 while acting in the course of his or her professional practice
472 or to be in actual or constructive possession of a controlled
473 substance except as otherwise authorized by this chapter. Any
474 person who violates this provision commits a felony of the third
475 degree, punishable as provided in s. 775.082, s. 775.083, or s.
476 775.084.

477 (b) If the offense is the possession of not more than 20
478 grams of cannabis, as defined in this chapter, or 3 grams or
479 less of a controlled substance described in s. 893.03(1)(c)46.-
480 50., the person commits a misdemeanor of the first degree,
481 punishable as provided in s. 775.082 or s. 775.083. For the
482 purposes of this subsection, "cannabis" does not include the
483 resin extracted from the plants of the genus *Cannabis*, or any
484 compound manufacture, salt, derivative, mixture, or preparation
485 of such resin, and a controlled substance described in s.
486 893.03(1)(c)46.-50. does not include the substance in a powdered
487 form.

488 (c) Except as provided in this chapter, it is unlawful to
489 possess in excess of 10 grams of any substance named or
490 described in s. 893.03(1)(a) or (1)(b), or any combination
491 thereof, or any mixture containing any such substance. Any
492 person who violates this paragraph commits a felony of the first
493 degree, punishable as provided in s. 775.082, s. 775.083, or s.

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494 775.084.

495 (d) Notwithstanding any provision to the contrary of the
496 laws of this state relating to arrest, a law enforcement officer
497 may arrest without warrant any person who the officer has
498 probable cause to believe is violating the provisions of this
499 chapter relating to possession of cannabis.

500 Section 3. For the purpose of incorporating the amendment
501 made by this act to section 893.03, Florida Statutes, in
502 references thereto, paragraphs (b), (c), (d), and (e) of
503 subsection (3) of section 921.0022, Florida Statutes, are
504 reenacted to read:

505 921.0022 Criminal Punishment Code; offense severity ranking
506 chart.-

507 (3) OFFENSE SEVERITY RANKING CHART

508 (b) LEVEL 2

509

Florida Statute	Felony Degree	Description
510 379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
511 379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
512 403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or

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 any quantity for commercial purposes, or
 hazardous waste.

513 517.07 3rd Registration of securities and
 furnishing of prospectus required.

514 590.28(1) 3rd Intentional burning of lands.

515 784.05(3) 3rd Storing or leaving a loaded firearm
 within reach of minor who uses it to
 inflict injury or death.

516 787.04(1) 3rd In violation of court order, take,
 entice, etc., minor beyond state limits.

517 806.13(1)(b)3. 3rd Criminal mischief; damage \$1,000 or more
 to public communication or any other
 public service.

518 810.061(2) 3rd Impairing or impeding telephone or power
 to a dwelling; facilitating or
 furthering burglary.

519 810.09(2)(e) 3rd Trespassing on posted commercial
 horticulture property.

520 812.014(2)(c)1. 3rd Grand theft, 3rd degree; \$300 or more
 but less than \$5,000.

521

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 812.014(2)(d) 3rd Grand theft, 3rd degree; \$100 or more
 but less than \$300, taken from
 unenclosed curtilage of dwelling.

522 812.015(7) 3rd Possession, use, or attempted use of an
 antishoplifting or inventory control
 device countermeasure.

523 817.234(1)(a)2. 3rd False statement in support of insurance
 claim.

524 817.481(3)(a) 3rd Obtain credit or purchase with false,
 expired, counterfeit, etc., credit card,
 value over \$300.

525 817.52(3) 3rd Failure to redeliver hired vehicle.

526 817.54 3rd With intent to defraud, obtain mortgage
 note, etc., by false representation.

527 817.60(5) 3rd Dealing in credit cards of another.

528 817.60(6)(a) 3rd Forgery; purchase goods, services with
 false card.

529 817.61 3rd Fraudulent use of credit cards over \$100
 or more within 6 months.

530 826.04 3rd Knowingly marries or has sexual

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intercourse with person to whom related.
531 831.01 3rd Forgery.
532 831.02 3rd Uttering forged instrument; utters or
publishes alteration with intent to
defraud.
533 831.07 3rd Forging bank bills, checks, drafts, or
promissory notes.
534 831.08 3rd Possessing 10 or more forged notes,
bills, checks, or drafts.
535 831.09 3rd Uttering forged notes, bills, checks,
drafts, or promissory notes.
536 831.11 3rd Bringing into the state forged bank
bills, checks, drafts, or notes.
537 832.05(3)(a) 3rd Cashing or depositing item with intent
to defraud.
538 843.08 3rd Falsely impersonating an officer.
539 893.13(2)(a)2. 3rd Purchase of any s. 893.03(1)(c),
(2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9.,
(3), or (4) drugs other than cannabis.

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540 893.147(2) 3rd Manufacture or delivery of drug
paraphernalia.
541 (c) LEVEL 3
542 Florida Felony
543 Statute Degree Description
544 119.10(2)(b) 3rd Unlawful use of confidential information
from police reports.
545 316.066 3rd Unlawfully obtaining or using
(3)(b)-(d) confidential crash reports.
546 316.193(2)(b) 3rd Felony DUI, 3rd conviction.
547 316.1935(2) 3rd Fleeing or attempting to elude law
enforcement officer in patrol vehicle
with siren and lights activated.
548 319.30(4) 3rd Possession by junkyard of motor vehicle
with identification number plate
removed.
549 319.33(1)(a) 3rd Alter or forge any certificate of title
to a motor vehicle or mobile home.
550 319.33(1)(c) 3rd Procure or pass title on stolen vehicle.

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551 319.33(4) 3rd With intent to defraud, possess, sell,
etc., a blank, forged, or unlawfully
obtained title or registration.

552 327.35(2)(b) 3rd Felony BUI.

553 328.05(2) 3rd Possess, sell, or counterfeit
fictitious, stolen, or fraudulent titles
or bills of sale of vessels.

554 328.07(4) 3rd Manufacture, exchange, or possess vessel
with counterfeit or wrong ID number.

555 376.302(5) 3rd Fraud related to reimbursement for
cleanup expenses under the Inland
Protection Trust Fund.

556 379.2431 3rd Taking, disturbing, mutilating,
(1)(e)5. destroying, causing to be destroyed,
transferring, selling, offering to sell,
molesting, or harassing marine turtles,
marine turtle eggs, or marine turtle
nests in violation of the Marine Turtle
Protection Act.

557 379.2431 3rd Soliciting to commit or conspiring to
(1)(e)6. commit a violation of the Marine Turtle
Protection Act.

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558 400.9935(4) 3rd Operating a clinic without a license or
filing false license application or
other required information.

559 440.1051(3) 3rd False report of workers' compensation
fraud or retaliation for making such a
report.

560 501.001(2)(b) 2nd Tamper with a consumer product or the
container using materially
false/misleading information.

561 624.401(4)(a) 3rd Transacting insurance without a
certificate of authority.

562 624.401(4)(b)1. 3rd Transacting insurance without a
certificate of authority; premium
collected less than \$20,000.

563 626.902(1)(a) & 3rd Representing an unauthorized insurer.
(b)

564 697.08 3rd Equity skimming.

565 790.15(3) 3rd Person directs another to discharge
firearm from a vehicle.

566 796.05(1) 3rd Live on earnings of a prostitute.

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567	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
568	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
569	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
570	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
571	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
572	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
573	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
574	817.233	3rd	Burning to defraud insurer.
575	817.234	3rd	Unlawful solicitation of persons

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

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576	(8)(b)-(c)		involved in motor vehicle accidents.
577	817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.
578	817.236	3rd	Filing a false motor vehicle insurance application.
579	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
580	817.413(2)	3rd	Sale of used goods as new.
581	817.505(4)	3rd	Patient brokering.
582	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
583	831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
584	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
	838.021(3)(b)	3rd	Threatens unlawful harm to public

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585 servant.

843.19 3rd Injure, disable, or kill police dog or
horse.

586 860.15(3) 3rd Overcharging for repairs and parts.

587 870.01(2) 3rd Riot; inciting or encouraging.

588 893.13(1)(a)2. 3rd Sell, manufacture, or deliver cannabis
(or other s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
(2)(c)7., (2)(c)8., (2)(c)9., (3), or
589 (4) drugs).

893.13(1)(d)2. 2nd Sell, manufacture, or deliver s.
893.03(1)(c), (2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9., (3), or (4) drugs
within 1,000 feet of university.

590 893.13(1)(f)2. 2nd Sell, manufacture, or deliver s.
893.03(1)(c), (2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9., (3), or (4) drugs
within 1,000 feet of public housing
591 facility.

893.13(6)(a) 3rd Possession of any controlled substance

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592 other than felony possession of
cannabis.

893.13(7)(a)8. 3rd Withhold information from practitioner
regarding previous receipt of or
593 prescription for a controlled substance.

893.13(7)(a)9. 3rd Obtain or attempt to obtain controlled
substance by fraud, forgery,
594 misrepresentation, etc.

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

595 893.13(7)(a)11. 3rd Furnish false or fraudulent material
information on any document or record
required by chapter 893.

596 893.13(8)(a)1. 3rd Knowingly assist a patient, other
person, or owner of an animal in
obtaining a controlled substance through
deceptive, untrue, or fraudulent
597 representations in or related to the
practitioner's practice.

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

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				substance.
598	893.13(8)(a)3.	3rd		Knowingly write a prescription for a controlled substance for a fictitious person.
599	893.13(8)(a)4.	3rd		Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
600	918.13(1)(a)	3rd		Alter, destroy, or conceal investigation evidence.
601	944.47	3rd		Introduce contraband to correctional facility.
	(1)(a)1.-2.			
602	944.47(1)(c)	2nd		Possess contraband while upon the grounds of a correctional institution.
603	985.721	3rd		Escapes from a juvenile facility (secure detention or residential commitment facility).
604				
605	(d) LEVEL 4			
606	Florida Statute	Felony Degree		Description

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607	316.1935(3)(a)	2nd		Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
608	499.0051(1)	3rd		Failure to maintain or deliver pedigree papers.
609	499.0051(2)	3rd		Failure to authenticate pedigree papers.
610	499.0051(6)	2nd		Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
611	784.07(2)(b)	3rd		Battery of law enforcement officer, firefighter, etc.
612	784.074(1)(c)	3rd		Battery of sexually violent predators facility staff.
613	784.075	3rd		Battery on detention or commitment facility staff.
614	784.078	3rd		Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
615				

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 616 784.08(2)(c) 3rd Battery on a person 65 years of age or
 older.
 617 784.081(3) 3rd Battery on specified official or
 employee.
 618 784.082(3) 3rd Battery by detained person on visitor or
 other detainee.
 619 784.083(3) 3rd Battery on code inspector.
 784.085 3rd Battery of child by throwing, tossing,
 projecting, or expelling certain fluids
 or materials.
 620 787.03(1) 3rd Interference with custody; wrongly takes
 minor from appointed guardian.
 621 787.04(2) 3rd Take, entice, or remove child beyond
 state limits with criminal intent
 pending custody proceedings.
 622 787.04(3) 3rd Carrying child beyond state lines with
 criminal intent to avoid producing child
 at custody hearing or delivering to
 designated person.
 623 790.115(1) 3rd Exhibiting firearm or weapon within
 1,000 feet of a school.

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

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 624 790.115(2)(b) 3rd Possessing electric weapon or device,
 destructive device, or other weapon on
 school property.
 625 790.115(2)(c) 3rd Possessing firearm on school property.
 626 800.04(7)(c) 3rd Lewd or lascivious exhibition; offender
 less than 18 years.
 627 810.02(4)(a) 3rd Burglary, or attempted burglary, of an
 unoccupied structure; unarmed; no
 assault or battery.
 628 810.02(4)(b) 3rd Burglary, or attempted burglary, of an
 unoccupied conveyance; unarmed; no
 assault or battery.
 629 810.06 3rd Burglary; possession of tools.
 630 810.08(2)(c) 3rd Trespass on property, armed with firearm
 or dangerous weapon.
 631 812.014(2)(c)3. 3rd Grand theft, 3rd degree \$10,000 or more
 but less than \$20,000.
 632 812.014 3rd Grand theft, 3rd degree, a will,
 (2)(c)4.-10. firearm, motor vehicle, livestock, etc.
 633

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

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634	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
635	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
636	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
637	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
638	837.02(1)	3rd	Perjury in official proceedings.
639	837.021(1)	3rd	Make contradictory statements in official proceedings.
640	838.022	3rd	Official misconduct.
641	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
642	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Family Services.

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643	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
644	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
645	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreatment or bond jumping).
646	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
647	874.05(1)	3rd	Encouraging or recruiting another to join a criminal gang.
648	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).
649	914.14(2)	3rd	Witnesses accepting bribes.
650	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
651	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.

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652 918.12 3rd Tampering with jurors.

653 934.215 3rd Use of two-way communications device to
facilitate commission of a crime.

654 (e) LEVEL 5

655 Florida Felony

656 Statute Degree Description

657 316.027(1)(a) 3rd Accidents involving personal injuries,
failure to stop; leaving scene.

658 316.1935(4)(a) 2nd Aggravated fleeing or eluding.

659 322.34(6) 3rd Careless operation of motor vehicle with
suspended license, resulting in death or
serious bodily injury.

660 327.30(5) 3rd Vessel accidents involving personal
injury; leaving scene.

661 381.0041(11)(b) 3rd Donate blood, plasma, or organs knowing
HIV positive.

662 440.10(1)(g) 2nd Failure to obtain workers' compensation
coverage.

663

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664 440.105(5) 2nd Unlawful solicitation for the purpose of
making workers' compensation claims.

665 440.381(2) 2nd Submission of false, misleading, or
incomplete information with the purpose
of avoiding or reducing workers'
compensation premiums.

666 624.401(4)(b)2. 2nd Transacting insurance without a
certificate or authority; premium
collected \$20,000 or more but less than
\$100,000.

667 626.902(1)(c) 2nd Representing an unauthorized insurer;
repeat offender.

668 790.01(2) 3rd Carrying a concealed firearm.

669 790.162 2nd Threat to throw or discharge destructive
device.

670 790.163(1) 2nd False report of deadly explosive or
weapon of mass destruction.

671 790.221(1) 2nd Possession of short-barreled shotgun or
machine gun.

790.23 2nd Felons in possession of firearms,
ammunition, or electronic weapons or

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 devices.
 672 800.04 (6) (c) 3rd Lewd or lascivious conduct; offender
 less than 18 years.
 673 800.04 (7) (b) 2nd Lewd or lascivious exhibition; offender
 18 years or older.
 674 806.111 (1) 3rd Possess, manufacture, or dispense fire
 bomb with intent to damage any structure
 or property.
 675 812.0145 (2) (b) 2nd Theft from person 65 years of age or
 older; \$10,000 or more but less than
 \$50,000.
 676 812.015 (8) 3rd Retail theft; property stolen is valued
 at \$300 or more and one or more
 specified acts.
 677 812.019 (1) 2nd Stolen property; dealing in or
 trafficking in.
 678 812.131 (2) (b) 3rd Robbery by sudden snatching.
 679 812.16 (2) 3rd Owning, operating, or conducting a chop
 shop.
 680 817.034 (4) (a) 2. 2nd Communications fraud, value \$20,000 to

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 \$50,000.
 681 817.234 (11) (b) 2nd Insurance fraud; property value \$20,000
 or more but less than \$100,000.
 682 817.2341 (1), 3rd Filing false financial statements,
 (2) (a) & making false entries of material fact or
 (3) (a) false statements regarding property
 values relating to the solvency of an
 insuring entity.
 683 817.568 (2) (b) 2nd Fraudulent use of personal
 identification information; value of
 benefit, services received, payment
 avoided, or amount of injury or fraud,
 \$5,000 or more or use of personal
 identification information of 10 or more
 individuals.
 684 817.625 (2) (b) 2nd Second or subsequent fraudulent use of
 scanning device or reencoder.
 685 825.1025 (4) 3rd Lewd or lascivious exhibition in the
 presence of an elderly person or
 disabled adult.
 686 827.071 (4) 2nd Possess with intent to promote any
 photographic material, motion picture,
 etc., which includes sexual conduct by a

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687 child.

827.071(5) 3rd Possess, control, or intentionally view
any photographic material, motion
picture, etc., which includes sexual
conduct by a child.

688 839.13(2)(b) 2nd Falsifying records of an individual in
the care and custody of a state agency
involving great bodily harm or death.

689 843.01 3rd Resist officer with violence to person;
resist arrest with violence.

690 847.0135(5)(b) 2nd Lewd or lascivious exhibition using
computer; offender 18 years or older.

691 847.0137 3rd Transmission of pornography by
(2) & (3) electronic device or equipment.

692 847.0138 3rd Transmission of material harmful to
(2) & (3) minors to a minor by electronic device
or equipment.

693 874.05(2) 2nd Encouraging or recruiting another to
join a criminal gang; second or
subsequent offense.

694 893.13(1)(a)1. 2nd Sell, manufacture, or deliver cocaine

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695 (or other s. 893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or (2)(c)4.
drugs).

893.13(1)(c)2. 2nd Sell, manufacture, or deliver cannabis
(or other s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
(2)(c)7., (2)(c)8., (2)(c)9., (3), or
(4) drugs) within 1,000 feet of a child
care facility, school, or state, county,
or municipal park or publicly owned
recreational facility or community
center.

696 893.13(1)(d)1. 1st Sell, manufacture, or deliver cocaine
(or other s. 893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or (2)(c)4.
drugs) within 1,000 feet of university.

697 893.13(1)(e)2. 2nd Sell, manufacture, or deliver cannabis
or other drug prohibited under s.
893.03(1)(c), (2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9., (3), or (4) within
1,000 feet of property used for
religious services or a specified
business site.

698 893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine

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(or other s. 893.03(1) (a), (1) (b),
 (1) (d), or (2) (a), (2) (b), or (2) (c)4.
 drugs) within 1,000 feet of public
 housing facility.

699

893.13(4) (b) 2nd Deliver to minor cannabis (or other s.
 893.03(1) (c), (2) (c)1., (2) (c)2.,
 (2) (c)3., (2) (c)5., (2) (c)6., (2) (c)7.,
 (2) (c)8., (2) (c)9., (3), or (4) drugs).

700

893.1351(1) 3rd Ownership, lease, or rental for
 trafficking in or manufacturing of
 controlled substance.

701

702

Section 4. This act shall take effect October 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/31/12

Meeting Date

Topic Controlled Substances

Bill Number SB 1502
(if applicable)

Name Vickie Gardner

Amendment Barcode _____
(if applicable)

Job Title Director of Forensic Services

Address 2331 Phillips Road

Phone 850-410-7756

Street

Tallahassee

FL

32308

E-mail vickiegardner@fdle.state.fl.us

City

State

Zip

Speaking: For Against Information

Representing Florida Department of Law Enforcement

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)

1/31/12

Meeting Date

Topic Controlled Substances

Bill Number SB 1502
(if applicable)

Name David Gross

Amendment Barcode _____
(if applicable)

Job Title Inspector

Address 2331 Phillips Road

Phone 850-410-8389

Street

Tallahassee

FL

32308

City

State

Zip

E-mail davidgross@fdle.state.fl.us

Speaking: For Against Information

Representing Florida Department of Law Enforcement

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 Criminal Justice Committee

BILL: CS/SB 1816

INTRODUCER: Criminal Justice Committee and Senator Benacquisto

SUBJECT: Protection of Vulnerable Persons

DATE: January 31, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The major features of the bill are described as follows:

- Requires reporting of child abuse, abandonment, or neglect by *any person* to the Department of Children and Family Services (DCF) (current law: duty to report child abuse, etc., is limited to a parent, legal custodian, caregiver, or other person responsible for the child's welfare).
- Provides that any report of child abuse, etc., by a person other than the child's caregiver shall be taken by the Florida Abuse Hotline and forwarded to the appropriate county sheriff's office as currently provided in s. 39.201(2)(b), F.S.
- Creates two new reporting violations for which a Florida College System institution, state university, or nonpublic college, university, or school is subject to a \$1 million fine for each reporting violation and loss of *all* state funding for a period of 2 years. These violations involve:
 - Personnel of the Florida College System institution, etc., who knowingly and willfully fail to report known or suspected child abuse, etc., committed on the property of the institution, etc., or during an event or function sponsored by the institution, etc., or who knowingly and willfully prevent another person from doing so.

- A law enforcement agency of the institution, etc., which fails to transmit to prosecutorial authorities any report of known or suspected child abuse, etc., committed on the property of the institution, etc., or during an event or function sponsored by the institution, etc.
- Reclassifies the felony or misdemeanor degree of any violation of ch. 796, F.S., other than s. 796.03, F.S., or s. 796.035, F.S., in which a minor engages in prostitution, lewdness, assignation, sexual conduct, or other conduct as defined in or prohibited by ch. 796, F.S., but the minor is not the person charged with the violation.
- Broadens the current authority of the Department of Legal Affairs to award a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of \$3,000 to certain domestic violence victims to include such awards to certain victims of sexual violence who reasonably fear for their safety.

This bill substantially amends ss. 39.01, 39.201, 39.205, 39.302, 794.056, 938.085, and 960.198, F.S., and creates s. 796.036, F.S.

II. Present Situation:

For a discussion of the provisions of ss. 39.01, 39.201, 39.205, 39.302, 794.056, 938.085, and 960.198, F.S., amended by the bill, see the “Effect of Proposed Changes” section of this analysis.

III. Effect of Proposed Changes:

Section 1 amends s. 39.01, F.S., the definitions section of ch. 39, F.S. It deletes the current definition of the term “other person responsible for a child’s welfare.”

Section 2 amends s. 39.201, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; and the central abuse hotline. Currently, this statute provides, in part, that any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian, caregiver, or other person responsible for the child’s welfare shall report such knowledge or suspicion to the DCF. The bill requires this reporting when any person knows, or has reasonable cause to suspect that a child is abused, abandoned, or neglected by *any person*.

Additionally, it is provided that any report of child abuse, abandonment, or neglect by a person other than the child’s caregiver as defined in s. 39.01(10), F.S., shall be taken by the Florida Abuse Hotline and forwarded to the appropriate county sheriff’s office as provided in s. 39.201(2)(b), F.S., which provides that if the report is of an instance of known or suspected child abuse by someone other than a parent, legal custodian, caregiver, or other person responsible for the child’s welfare as defined in ch. 39, F.S., the report or call shall be immediately electronically transferred to the appropriate county sheriff’s office by the central abuse hotline.

Section 3 amends s. 39.205, F.S., which addresses penalties for acts relating to reporting child abuse, abandonment, or neglect. The bill creates two new reporting violations for which a Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21, F.S., or s. 1005.02, F.S., is subject to a \$1 million fine for each

reporting violation and loss of *all* state funding, including the funds under the Florida Resident Access Grant program, for a period of 2 years. These violations involve:

- Personnel of the Florida College System institution, etc., who knowingly and willfully fail to report known or suspected child abuse, etc., committed on the property of the institution, etc., or during an event or function sponsored by the institution, etc., or who knowingly and willfully prevent another person from doing so.
- A law enforcement agency of the institution, etc., which fails to transmit to prosecutorial authorities any report of known or suspected child abuse, etc., committed on the property of the institution, etc., or during an event or function sponsored by the institution, etc.

While the substantial fine and loss of state funding are based on knowing and willful failure to report child abuse, etc., it is possible this knowing and willful failure may have been by personnel of the institution without the knowledge of the institution's administrators.

Section 4 amends s. 39.302, F.S., relating to protective investigations of institutional child abuse, abandonment, or neglect. Currently, this statute, provides, in part, that the DCF shall conduct a child protective investigation of each report of institutional child abuse, abandonment, or neglect. Upon receipt of a report that alleges that an employee or agent of the DCF, or any other entity or person covered by s. 39.01(33) or (47), F.S., acting in an official capacity, has committed an act of child abuse, etc., the DCF shall initiate a child protective investigation as provided in the statute. The bill deletes reference to s. 39.01(47), F.S. This change is conforming since Section 1 of the bill deletes the current definition of the term "other person responsible for a child's welfare," which is contained in s. 39.01(47), F.S.

Section 5 creates s. 796.036, F.S., which reclassifies as follows the felony or misdemeanor degree of any violation of ch. 796, F.S., other than s. 796.03, F.S., or s. 796.035, F.S., in which a minor engages in prostitution, lewdness, assignation,¹ sexual conduct, or other conduct as defined in or prohibited by ch. 796, F.S., but the minor is not the person charged with the violation:

- A second degree misdemeanor is reclassified to a first degree misdemeanor.
- A first degree misdemeanor is reclassified to a third degree felony.
- A third degree felony is reclassified to a second degree felony.
- A second degree felony is reclassified to a first degree felony.
- A first degree felony is reclassified to a life felony.

Section 6 amends s. 960.198, F.S., relating to relocation assistance for victims of domestic violence. Under this statute, the Department of Legal Affairs is authorized to award a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of \$3,000 to a victim of domestic violence who needs immediate assistance to escape from a domestic violence environment, if specific criteria are met.² The statute is amended to also authorize these

¹ "Assignation" is the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. Section 796.07(1)(c), F.S.

² As with domestic violence, there must be proof that a sexual violence offense was committed and the sexual violence offense must be reported to proper authorities. Further, consistent with the current requirement that the domestic violence

payments for a victim of sexual violence who reasonably fears for her or his safety and meets criteria of the statute. Conforming changes are made to the statute title and text to reference “sexual violence” and, relevant to victims of sexual violence, require that the victim’s need for assistance is certified by a certified rape crisis center.

Section 7 amends s. 794.056, F.S., relating to the Rape Crises Program Trust Fund. This fund is created within the Department of Health to provide funds for rape crisis centers in this state. Trust fund moneys must be used exclusively for the purpose of providing services for victims of sexual assault. Funds credited to the trust fund consist of those funds collected as an additional court assessment in each case in which a defendant pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, an offense provided in any number of specified statutes or statutory provisions. The statute is amended to delete reference to s. 796.045, F.S., which punishes sex trafficking. (See Technical Deficiencies” section of this analysis.)

Section 8 amends s. 938.085, F.S., which provides, in part, that in addition to any sanction imposed when a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, a violation of any of a number of specified statutes or statutory provisions, the court shall impose a surcharge of \$151.³ The statute is amended to delete reference to s. 796.045, which punishes sex trafficking. (See Technical Deficiencies” section of this analysis.)

Section 9 provides that the act takes effect October 1, 2012.

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.

victim’s need for assistance be certified by a certified domestic violence shelter in this state, the sexual violence offense victim’s need for assistance must be certified by a certified rape crisis center in this state.

³ Payment of the surcharge is a condition of probation, community control, or any other court-ordered supervision. This surcharge is deposited into the Rape Crisis Program Trust Fund.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Fiscal impact and other information regarding the bill was requested from the Department of Education, the Florida Department of Law Enforcement, and the Division of Risk Management. Agency analyses were not received at or prior to the time this bill analysis was completed.

POTENTIAL DCF IMPACT

Section 2 of the bill amends s. 39.201, F.S., relating to mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; and the central abuse hotline. Currently, this statute provides, in part, that any person who knows, or has reasonable cause to suspect, that a child is abused, abandoned, or neglected by a parent, legal custodian caregiver, or other person responsible for the child's welfare shall report such knowledge or suspicion to the DCF. The bill requires this reporting when any person knows, or has reasonable cause to suspect that a child is abused, abandoned, or neglected by *any person*.

While the DCF provided a fiscal analysis of the original bill, the bill has changed to provide that any report of child abuse, abandonment, or neglect by a person other than the child's caregiver as defined in s. 39.01(10), F.S., shall be taken by the Florida Abuse Hotline and forwarded to the appropriate county sheriff's office as provided in s. 39.201(2)(b), F.S., which provides that if the report is of an instance of known or suspected child abuse by someone other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in ch. 39, F.S., the report or call shall be immediately electronically transferred to the appropriate county sheriff's office by the central abuse hotline.

While it is likely that the DCF will incur a fiscal impact as a result of Section 2 as modified, there is currently no fiscal analysis by the DCF of Section 2 as modified.

POTENTIAL IMPACT ON EDUCATIONAL INSTITUTIONS

Section 3 of the bill creates two new reporting violations for which a Florida College System institution, state university, or nonpublic college, university, or school, as defined in s. 1000.21, F.S., or s. 1005.02, F.S., is subject to a \$1 million fine for each failure and loss of state funding, including the funds under the Florida Resident Access Grant program, for a period of 2 years. It is uncertain if an institution, etc., subject to a \$1 million fine and loss of all state funding for a period of 2 years would be able to continue to operate.

POTENTIAL IMPACT ON DEPARTMENT OF LEGAL AFFAIRS

Section 6 of the bill amends s. 960.198, F.S., relating to relocation assistance for victims of domestic violence. Under this statute, the Department of Legal Affairs is authorized to award a one-time payment of up to \$1,500 on any one claim and a lifetime maximum of

\$3,000 to a victim of domestic violence who needs immediate assistance to escape from a domestic violence environment, if specific criteria are met. The statute is amended to also authorize these payments for a victim of sexual violence who reasonably fears for her or his safety and meets criteria of the statute.

HB 1355, in its original form, contained a provision similar to Section 6 of SB 1816. The Department of Legal Affairs provided the following information relevant to this provision:

- The 2010 Crime in Florida Annual Report indicated that there were 9,885 Forcible Sex Offenses. It is unknown how many of these forcible sex victims may have qualified as a domestic violence victim, as well. It is unknown how many would have requested relocation assistance as a sexual violence victim.
- Revenues for the Crimes Compensation Trust Fund are derived from the collection of state and federal criminal assessments. The funds are used to run the Crimes Compensation Program. Crime victims serviced by this program include victims of assault, battery, homicide, sexual offenses, domestic violence, driving while intoxicated, hit and run, stalking, robbery, terrorism, kidnapping, arson, and all other violent crimes. Eligible expenses currently paid by the victims compensation program include medical/dental, mental health treatment, crime scene clean-up, funeral/burial, wage loss, loss of support, disability, forensic sexual assault examinations, property loss (for elderly and disabled adults only), and relocations expenses for victims of domestic violence. Since Fiscal Year 2005-06, the claims workload has increased by 19.3 percent and the dollars paid has increased by 40 percent. However, the Crimes Compensation Trust Fund has had declining revenue collections in that time.
- In Fiscal Year 2010-11, the Crimes Compensation Trust Fund collected \$21,493,324 in revenues a 14 percent decrease from the previous fiscal year. Any additional payments to victims could reduce payments to all other victims.⁴

VI. Technical Deficiencies:

The bill amends ss. 794.056, F.S. (Rape Crisis Program Trust Fund) and s. 938.085, F.S. (Additional cost to fund rape crisis centers) to delete reference to s. 796.045, F.S., which punishes sex trafficking. The original bill repealed s. 796.045, F.S., and therefore, the deletion of the reference to s. 796.045, F.S., in ss. 794.056 and 938.085, F.S., was simply a conforming change. However, the current bill does not repeal s. 796.045, F.S., and therefore, there is no longer a need for the conforming change. Consequently, the bill sponsor may wish to consider removing Sections 7 and 8 from the bill to avoid confusion.

VII. Related Issues:

None.

⁴ See *House of Representatives State Analysis* (HB 1355), House Judiciary Committee, dated January 25, 2012.

VIII. Additional Information:

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

CS by Criminal Justice on January 31, 2012:

- Removes from the bill provisions in the original bill that amended ss. 90.404, 772.102, 787.06, 796.035, 796.07, 895.02, 921.0022, and 932.701, F.S., and that repealed ss. 787.05 and 796.045, F.S.
- Provides that any report of child abuse, abandonment, or neglect by a person other than the child's caregiver as defined in s. 39.01(10), F.S., shall be taken by the Florida Abuse Hotline and forwarded to the appropriate county sheriff's office as provided in s. 39.201(2)(b), F.S.

- B. **Amendments:**

None.

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



529782

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/01/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 205 - 576.

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

And the title is amended as follows:

Delete lines 14 - 68

and insert:

to unlawfully obtaining labor or services; amending s.

932.701, F.S.; providing



397186

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/01/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 701 - 859.

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

And the title is amended as follows:

Delete lines 74 - 77

and insert:

amending ss. 794.056, 895.02, and 938.085, F.S.;



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/01/2012	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsections (48) through (76) of section 39.01, Florida Statutes, are renumbered as subsections (47) through (75), respectively, and present subsections (10) and (47) of that section are amended to read:

39.01 Definitions.—When used in this chapter, unless the context otherwise requires:

(10) "Caregiver" means the parent, legal custodian,



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13 permanent guardian, adult household member, or other person
14 responsible for a child's welfare as defined in subsection (47).

15 ~~(47) "Other person responsible for a child's welfare"~~
16 ~~includes the child's legal guardian or foster parent; an~~
17 ~~employee of any school, public or private child day care center,~~
18 ~~residential home, institution, facility, or agency; a law~~
19 ~~enforcement officer employed in any facility, service, or~~
20 ~~program for children that is operated or contracted by the~~
21 ~~Department of Juvenile Justice; or any other person legally~~
22 ~~responsible for the child's welfare in a residential setting;~~
23 ~~and also includes an adult sitter or relative entrusted with a~~
24 ~~child's care. For the purpose of departmental investigative~~
25 ~~jurisdiction, this definition does not include the following~~
26 ~~persons when they are acting in an official capacity: law~~
27 ~~enforcement officers, except as otherwise provided in this~~
28 ~~subsection; employees of municipal or county detention~~
29 ~~facilities; or employees of the Department of Corrections.~~

30 Section 2. Paragraph (a) of subsection (1) and paragraph
31 (a) of subsection (2) of section 39.201, Florida Statutes, are
32 amended to read:

33 39.201 Mandatory reports of child abuse, abandonment, or
34 neglect; mandatory reports of death; central abuse hotline.—

35 (1) (a) Any person who knows, or has reasonable cause to
36 suspect, that a child is abused, abandoned, or neglected by any
37 person ~~a parent, legal custodian, caregiver, or other person~~
38 ~~responsible for the child's welfare, as defined in this chapter,~~
39 or that a child is in need of supervision and care and has no
40 parent, legal custodian, or responsible adult relative
41 immediately known and available to provide supervision and care,



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42 shall report such knowledge or suspicion to the department in
43 the manner prescribed in subsection (2).

44 (2) (a) Each report of known or suspected child abuse,
45 abandonment, or neglect by any person ~~a parent, legal custodian,~~
46 ~~caregiver, or other person responsible for the child's welfare~~
47 ~~as defined in this chapter,~~ except those solely under s.
48 827.04(3), and each report that a child is in need of
49 supervision and care and has no parent, legal custodian, or
50 responsible adult relative immediately known and available to
51 provide supervision and care shall be made immediately to the
52 department's central abuse hotline. Such reports may be made on
53 the single statewide toll-free telephone number or via fax or
54 web-based report. Personnel at the department's central abuse
55 hotline shall determine if the report received meets the
56 statutory definition of child abuse, abandonment, or neglect.
57 Any report meeting one of these definitions shall be accepted
58 for the protective investigation pursuant to part III of this
59 chapter. Any report of child abuse, abandonment, or neglect by a
60 person other than the child's caregiver as defined in s.
61 39.01(10), shall be taken by the Florida Abuse Hotline and
62 forwarded to the appropriate county sheriff's office pursuant to
63 paragraph (b).

64 Section 3. Subsections (3) through (6) of section 39.205,
65 Florida Statutes, are renumbered as subsections (5) through (8),
66 respectively, and new subsections (3) and (4) are added to that
67 section to read:

68 39.205 Penalties relating to reporting of child abuse,
69 abandonment, or neglect.—

70 (3) Any Florida College System institution, state



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71 university, or nonpublic college, university, or school, as
72 defined in s. 1000.21 or s. 1005.02, whose administrators,
73 faculty, or staff knowingly and willfully fail to report known
74 or suspected child abuse, abandonment, or neglect committed on
75 the property of the institution, university, college, or school,
76 or during an event or function sponsored by the institution,
77 university, college, or school, or who knowingly and willfully
78 prevent another person from doing so, shall be subject to fines
79 of \$1 million for each such failure and the loss of all state
80 funding, including the funds under the Florida Resident Access
81 Grant Program, for a period of 2 years.

82 (4) Any Florida College System institution, state
83 university, or nonpublic college, university, or school, as
84 defined in s. 1000.21 or s. 1005.02, whose law enforcement
85 agency fails to transmit to prosecutorial authorities any report
86 of known or suspected child abuse, abandonment, or neglect
87 committed on the property of the institution, university,
88 college, or school, or during an event or function sponsored by
89 the institution, university, college, or school, shall be
90 subject to fines of \$1 million for each such failure and the
91 loss of all state funding, including the funds under the Florida
92 Resident Access Grant Program, for a period of 2 years.

93 Section 4. Subsection (1) of section 39.302, Florida
94 Statutes, is amended to read:

95 39.302 Protective investigations of institutional child
96 abuse, abandonment, or neglect.—

97 (1) The department shall conduct a child protective
98 investigation of each report of institutional child abuse,
99 abandonment, or neglect. Upon receipt of a report that alleges



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100 that an employee or agent of the department, or any other entity
101 or person covered by s. 39.01(33) ~~or (47)~~, acting in an official
102 capacity, has committed an act of child abuse, abandonment, or
103 neglect, the department shall initiate a child protective
104 investigation within the timeframe established under s.
105 39.201(5) and orally notify the appropriate state attorney, law
106 enforcement agency, and licensing agency, which shall
107 immediately conduct a joint investigation, unless independent
108 investigations are more feasible. When conducting investigations
109 onsite or having face-to-face interviews with the child,
110 investigation visits shall be unannounced unless it is
111 determined by the department or its agent that unannounced
112 visits threaten the safety of the child. If a facility is exempt
113 from licensing, the department shall inform the owner or
114 operator of the facility of the report. Each agency conducting a
115 joint investigation is entitled to full access to the
116 information gathered by the department in the course of the
117 investigation. A protective investigation must include an onsite
118 visit of the child's place of residence. The department shall
119 make a full written report to the state attorney within 3
120 working days after making the oral report. A criminal
121 investigation shall be coordinated, whenever possible, with the
122 child protective investigation of the department. Any interested
123 person who has information regarding the offenses described in
124 this subsection may forward a statement to the state attorney as
125 to whether prosecution is warranted and appropriate. Within 15
126 days after the completion of the investigation, the state
127 attorney shall report the findings to the department and shall
128 include in the report a determination of whether or not



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129 prosecution is justified and appropriate in view of the
130 circumstances of the specific case.

131 Section 5. Section 796.036, Florida Statutes, is created to
132 read:

133 796.036 Violations involving minors; reclassification.-

134 (1) The felony or misdemeanor degree of any violation of
135 this chapter, other than s. 796.03 or s. 796.035, in which a
136 minor engages in prostitution, lewdness, assignation, sexual
137 conduct, or other conduct as defined in or prohibited by this
138 chapter, but the minor is not the person charged with the
139 violation, is reclassified as provided in this section.

140 (2) Offenses shall be reclassified as follows:

141 (a) A misdemeanor of the second degree is reclassified to a
142 misdemeanor of the first degree.

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

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

147 (d) A felony of the second degree is reclassified to a
148 felony of the first degree.

149 (e) A felony of the first degree is reclassified to a life
150 felony.

151 Section 6. Section 960.198, Florida Statutes, is amended to
152 read:

153 960.198 Relocation assistance for victims of domestic
154 violence or sexual violence.-

155 (1) Notwithstanding the criteria set forth in s. 960.13 for
156 crime victim compensation awards, the department may award a
157 one-time payment of up to \$1,500 on any one claim and a lifetime



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158 maximum of \$3,000 to a victim of domestic violence who needs
159 immediate assistance to escape from a domestic violence
160 environment or to a victim of sexual violence who reasonably
161 fears for her or his safety.

162 (2) In order for an award to be granted to a victim for
163 relocation assistance:

164 (a) There must be proof that a domestic violence or sexual
165 violence offense was committed;

166 (b) The domestic violence or sexual violence offense must
167 be reported to the proper authorities;

168 (c) The victim's need for assistance must be certified by a
169 certified domestic violence center or a certified rape crisis
170 center in this state; and

171 (d) The center certification must assert that the victim is
172 cooperating with law enforcement officials, if applicable, and
173 must include documentation that the victim has developed a
174 safety plan.

175 Section 7. Subsection (1) of section 794.056, Florida
176 Statutes, is amended to read:

177 794.056 Rape Crisis Program Trust Fund.—

178 (1) The Rape Crisis Program Trust Fund is created within
179 the Department of Health for the purpose of providing funds for
180 rape crisis centers in this state. Trust fund moneys shall be
181 used exclusively for the purpose of providing services for
182 victims of sexual assault. Funds credited to the trust fund
183 consist of those funds collected as an additional court
184 assessment in each case in which a defendant pleads guilty or
185 nolo contendere to, or is found guilty of, regardless of
186 adjudication, an offense provided in s. 775.21(6) and (10)(a),



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187 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
188 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
189 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
190 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
191 s. 796.03; s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s.
192 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.
193 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
194 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
195 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),
196 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust
197 fund also shall include revenues provided by law, moneys
198 appropriated by the Legislature, and grants from public or
199 private entities.

200 Section 8. Section 938.085, Florida Statutes, is amended to
201 read:

202 938.085 Additional cost to fund rape crisis centers.—In
203 addition to any sanction imposed when a person pleads guilty or
204 nolo contendere to, or is found guilty of, regardless of
205 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
206 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
207 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
208 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
209 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; s. 796.03;
210 s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s. 796.06; s.
211 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
212 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
213 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
214 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and
215 (14)(c); or s. 985.701(1), the court shall impose a surcharge of



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216 \$151. Payment of the surcharge shall be a condition of
217 probation, community control, or any other court-ordered
218 supervision. The sum of \$150 of the surcharge shall be deposited
219 into the Rape Crisis Program Trust Fund established within the
220 Department of Health by chapter 2003-140, Laws of Florida. The
221 clerk of the court shall retain \$1 of each surcharge that the
222 clerk of the court collects as a service charge of the clerk's
223 office.

224 Section 9. This act shall take effect October 1, 2012.
225

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

227 And the title is amended as follows:

228 Delete everything before the enacting clause
229 and insert:

230 A bill to be entitled
231 An act relating to protection of vulnerable persons;
232 amending s. 39.01, F.S.; deleting the definition of
233 the term "other person responsible for a child's
234 welfare"; conforming provisions; amending s. 39.201,
235 F.S.; revising provisions concerning child abuse
236 reporting; amending s. 39.205, F.S.; requiring
237 specified educational institutions and their law
238 enforcement agencies to report known or suspected
239 child abuse, abandonment, or neglect in certain
240 circumstances; providing financial penalties for
241 violations; amending s. 39.302, F.S.; conforming a
242 cross-reference; creating s. 796.036, F.S.; providing
243 for upward reclassification of certain prostitution
244 offenses involving minors; amending s. 960.198, F.S.;



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245 providing for relocation assistance for certain
246 victims of sexual violence; amending ss. 794.056 and
247 938.085, F.S.; conforming cross-references; providing
248 an effective date.

By Senator Benacquisto

27-00724B-12

20121816__

1 A bill to be entitled
 2 An act relating to protection of vulnerable persons;
 3 amending s. 39.01, F.S.; deleting the definition of
 4 the term "other person responsible for a child's
 5 welfare"; conforming provisions; amending s. 39.201,
 6 F.S.; revising language concerning child abuse
 7 reporting; amending s. 39.205, F.S.; requiring
 8 specified educational institutions and their law
 9 enforcement agencies to report known or suspected
 10 child abuse, abandonment, or neglect in certain
 11 circumstances; providing financial penalties for
 12 violations; amending s. 39.302, F.S.; correcting a
 13 cross-reference; repealing s. 787.05, F.S., relating
 14 to unlawfully obtaining labor or services; amending s.
 15 787.06, F.S.; providing additional legislative
 16 findings and intent concerning human trafficking;
 17 providing definitions; revising the definition of the
 18 terms "forced labor or services" and "human
 19 trafficking"; prohibiting knowingly or in reckless
 20 disregard of the facts engaging in certain acts
 21 relating to human trafficking; providing criminal
 22 penalties; increasing the felony classification of
 23 certain human trafficking violations; providing that
 24 each instance of human trafficking of any individual
 25 is a separate crime for which a separate punishment is
 26 authorized; prohibiting knowingly or in reckless
 27 disregard of the facts engaging in human trafficking
 28 by the transfer or transport of any individual from
 29 outside the state to within the state or from one

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

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30 jurisdiction within the state to another; providing
 31 criminal penalties; prohibiting knowingly or in
 32 reckless disregard of the facts engaging in human
 33 trafficking in which any child under the age of 18 is
 34 involved; providing criminal penalties; prohibiting
 35 knowingly or in reckless disregard of the facts
 36 engaging in human trafficking in which any child under
 37 the age of 15 is involved; providing criminal
 38 penalties; prohibiting specified persons with custody
 39 or control of a minor from engaging in certain acts
 40 with knowledge that, as a consequence, the minor will
 41 engage in commercial sexual activity or forced labor
 42 or services; providing criminal penalties; providing
 43 that sexual history or history of commercial sexual
 44 activity of a person alleged to have been trafficked
 45 shall be excluded from evidence in certain
 46 circumstances; providing that a corporation may be
 47 prosecuted under this section for an act or omission
 48 constituting a crime under this section only in
 49 certain circumstances; providing additional duties for
 50 the Criminal Justice Standards and Training Commission
 51 concerning instruction in human trafficking; requiring
 52 the Department of Children and Family Services to
 53 develop guidelines for serving children who have been
 54 the victims of human trafficking; requiring a report
 55 by the department; amending s. 796.035, F.S.;
 56 substituting a reference to human trafficking for a
 57 reference to sex trafficking; creating s. 796.036,
 58 F.S.; providing for upward reclassification of certain

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

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59 prostitution offenses involving minors; repealing s.
 60 796.045, F.S., relating to sex trafficking; amending
 61 s. 796.07, F.S.; providing that a court may, in
 62 certain circumstances, vacate certain convictions on
 63 the ground that the defendant's participation in the
 64 offense was a result of having been a victim of
 65 trafficking in violation of specified provisions;
 66 requiring due diligence for a motion for vacation of a
 67 conviction on that ground; requiring documentation of
 68 such trafficking; amending s. 932.701, F.S.; providing
 69 for forfeiture of real and personal property intended
 70 for use in the course of, derived from, or realized
 71 through specified human trafficking violations;
 72 amending s. 960.198, F.S.; providing for relocation
 73 assistance for certain victims of sexual violence;
 74 amending s. 921.0022, F.S.; ranking specified offenses
 75 for purposes of the offense severity ranking chart of
 76 the Criminal Punishment Code; amending ss. 90.404,
 77 772.102, 794.056, 895.02, and 938.085, F.S.;

78 conforming cross-references; providing an effective
 79 date.

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

82
 83 Section 1. Subsections (48) through (76) of section 39.01,
 84 Florida Statutes, are renumbered as subsections (47) through
 85 (75), respectively, and present subsections (10) and (47) of
 86 that section are amended to read:

87 39.01 Definitions.—When used in this chapter, unless the

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88 context otherwise requires:

89 (10) "Caregiver" means the parent, legal custodian,
 90 permanent guardian, adult household member, or other person
 91 responsible for a child's welfare as defined in subsection (47).

92 ~~(47) "Other person responsible for a child's welfare"~~
 93 ~~includes the child's legal guardian or foster parent; an~~
 94 ~~employee of any school, public or private child day care center,~~
 95 ~~residential home, institution, facility, or agency; a law~~
 96 ~~enforcement officer employed in any facility, service, or~~
 97 ~~program for children that is operated or contracted by the~~
 98 ~~Department of Juvenile Justice; or any other person legally~~
 99 ~~responsible for the child's welfare in a residential setting;~~
 100 ~~and also includes an adult sitter or relative entrusted with a~~
 101 ~~child's care. For the purpose of departmental investigative~~
 102 ~~jurisdiction, this definition does not include the following~~
 103 ~~persons when they are acting in an official capacity: law~~
 104 ~~enforcement officers, except as otherwise provided in this~~
 105 ~~subsection; employees of municipal or county detention~~
 106 ~~facilities; or employees of the Department of Corrections.~~

107 Section 2. Paragraph (a) of subsection (1) and paragraph
 108 (a) of subsection (2) of section 39.201, Florida Statutes, are
 109 amended to read:

110 39.201 Mandatory reports of child abuse, abandonment, or
 111 neglect; mandatory reports of death; central abuse hotline.—

112 (1) (a) Any person who knows, or has reasonable cause to
 113 suspect, that a child is abused, abandoned, or neglected by any
 114 person ~~a parent, legal custodian, caregiver, or other person~~
 115 ~~responsible for the child's welfare, as defined in this chapter,~~
 116 or that a child is in need of supervision and care and has no

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 117 parent, legal custodian, or responsible adult relative
 118 immediately known and available to provide supervision and care,
 119 shall report such knowledge or suspicion to the department in
 120 the manner prescribed in subsection (2).

121 (2) (a) Each report of known or suspected child abuse,
 122 abandonment, or neglect by any person ~~a parent, legal custodian,~~
 123 ~~caregiver, or other person responsible for the child's welfare~~
 124 ~~as defined in this chapter~~, except those solely under s.
 125 827.04(3), and each report that a child is in need of
 126 supervision and care and has no parent, legal custodian, or
 127 responsible adult relative immediately known and available to
 128 provide supervision and care shall be made immediately to the
 129 department's central abuse hotline. Such reports may be made on
 130 the single statewide toll-free telephone number or via fax or
 131 web-based report. Personnel at the department's central abuse
 132 hotline shall determine if the report received meets the
 133 statutory definition of child abuse, abandonment, or neglect.
 134 Any report meeting one of these definitions shall be accepted
 135 for the protective investigation pursuant to part III of this
 136 chapter.

137 Section 3. Subsections (3) through (6) of section 39.205,
 138 Florida Statutes, are renumbered as subsections (5) through (8),
 139 respectively, and new subsections (3) and (4) are added to that
 140 section to read:

141 39.205 Penalties relating to reporting of child abuse,
 142 abandonment, or neglect.—

143 (3) Any Florida College System institution, state
 144 university, or nonpublic college, university, or school, as
 145 defined in s. 1000.21 or s. 1005.02, whose administrators,

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 146 faculty, or staff knowingly and willfully fail to report known
 147 or suspected child abuse, abandonment, or neglect committed on
 148 the property of the institution, university, college, or school,
 149 or during an event or function sponsored by the institution,
 150 university, college, or school, or who knowingly and willfully
 151 prevent another person from doing so, shall be subject to fines
 152 of \$1 million for each such failure and the loss of all state
 153 funding, including the funds under the Florida Resident Access
 154 Grant Program, for a period of 2 years.

155 (4) Any Florida College System institution, state
 156 university, or nonpublic college, university, or school, as
 157 defined in s. 1000.21 or s. 1005.02, whose law enforcement
 158 agency fails to transmit to prosecutorial authorities any report
 159 of known or suspected child abuse, abandonment, or neglect
 160 committed on the property of the institution, university,
 161 college, or school, or during an event or function sponsored by
 162 the institution, university, college, or school, shall be
 163 subject to fines of \$1 million for each such failure and the
 164 loss of all state funding, including the funds under the Florida
 165 Resident Access Grant Program, for a period of 2 years.

166 Section 4. Subsection (1) of section 39.302, Florida
 167 Statutes, is amended to read:

168 39.302 Protective investigations of institutional child
 169 abuse, abandonment, or neglect.—

170 (1) The department shall conduct a child protective
 171 investigation of each report of institutional child abuse,
 172 abandonment, or neglect. Upon receipt of a report that alleges
 173 that an employee or agent of the department, or any other entity
 174 or person covered by s. 39.01(33) ~~or (47)~~, acting in an official

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175 capacity, has committed an act of child abuse, abandonment, or
 176 neglect, the department shall initiate a child protective
 177 investigation within the timeframe established under s.
 178 39.201(5) and orally notify the appropriate state attorney, law
 179 enforcement agency, and licensing agency, which shall
 180 immediately conduct a joint investigation, unless independent
 181 investigations are more feasible. When conducting investigations
 182 onsite or having face-to-face interviews with the child,
 183 investigation visits shall be unannounced unless it is
 184 determined by the department or its agent that unannounced
 185 visits threaten the safety of the child. If a facility is exempt
 186 from licensing, the department shall inform the owner or
 187 operator of the facility of the report. Each agency conducting a
 188 joint investigation is entitled to full access to the
 189 information gathered by the department in the course of the
 190 investigation. A protective investigation must include an onsite
 191 visit of the child's place of residence. The department shall
 192 make a full written report to the state attorney within 3
 193 working days after making the oral report. A criminal
 194 investigation shall be coordinated, whenever possible, with the
 195 child protective investigation of the department. Any interested
 196 person who has information regarding the offenses described in
 197 this subsection may forward a statement to the state attorney as
 198 to whether prosecution is warranted and appropriate. Within 15
 199 days after the completion of the investigation, the state
 200 attorney shall report the findings to the department and shall
 201 include in the report a determination of whether or not
 202 prosecution is justified and appropriate in view of the
 203 circumstances of the specific case.

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204 Section 5. Section 787.05, Florida Statutes, is repealed.
 205 Section 6. Section 787.06, Florida Statutes, is amended to
 206 read:
 207 787.06 Human trafficking.—
 208 (1)(a) The Legislature finds that human trafficking is a
 209 form of modern-day slavery. Victims of human trafficking are
 210 young children, teenagers, and adults. Thousands of victims are
 211 trafficked annually across international borders worldwide. Many
 212 of these victims are trafficked into this state. Also, many
 213 Florida youth are trafficked within the state. The Legislature
 214 finds that victims of human trafficking are subjected to force,
 215 fraud, or coercion for the purpose of sexual exploitation or
 216 forced labor.
 217 (b) The Legislature finds that while many victims of human
 218 trafficking are forced to work in prostitution or the sexual
 219 entertainment industry, trafficking also occurs in forms of
 220 labor exploitation, such as domestic servitude, restaurant work,
 221 janitorial work, sweatshop factory work, and migrant
 222 agricultural work.
 223 (c) The Legislature finds that traffickers use various
 224 techniques to instill fear in victims and to keep them enslaved.
 225 Some traffickers keep their victims under lock and key. However,
 226 the most frequently used practices are less obvious techniques
 227 that include isolating victims from the public and family
 228 members; confiscating passports, visas, or other identification
 229 documents; using or threatening to use violence toward victims
 230 or their families; telling victims that they will be imprisoned
 231 or deported for immigration violations if they contact
 232 authorities; and controlling the victims' funds by holding the

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233 money ostensibly for safekeeping.

234 (d) It is the intent of the Legislature that the
 235 perpetrators of human trafficking be penalized for their illegal
 236 conduct and that the victims of trafficking be protected and
 237 assisted by this state and its agencies. In furtherance of this
 238 policy, it is the intent of the Legislature that the state
 239 Supreme Court, The Florida Bar, and relevant state agencies
 240 prepare and implement training programs in order that judges,
 241 attorneys, law enforcement personnel, investigators, and others
 242 are able to identify traffickers and victims of human
 243 trafficking and direct victims to appropriate agencies for
 244 assistance. It is the intent of the Legislature that the
 245 Department of Children and Family Services and other state
 246 agencies cooperate with other state, local, and federal agencies
 247 to ensure that victims of human trafficking can access social
 248 services and benefits, including those made available to victims
 249 of sexual and domestic violence, to alleviate their plight.

250 (e) The Legislature finds that sex trafficking is a large
 251 part of human trafficking and that children are often the
 252 victims of sex trafficking by becoming prostitutes. It is the
 253 intent of the Legislature to protect children from sexual
 254 exploitation. The Legislature finds that children are at an
 255 increased risk of being exploited because they are
 256 psychologically less developed than adults. Children may
 257 perceive the persons who exploit them for purposes of
 258 prostitution as protectors, parental surrogates, boyfriends, or
 259 girlfriends and they may be uncooperative with the attempts of
 260 law enforcement to prosecute these persons. It is the intent of
 261 the Legislature to provide liability for persons who benefit

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262 financially or receive anything of value knowing or in reckless
 263 disregard of the fact that children will be caused to engage in
 264 prostitution. It is the intent of the Legislature to prevent
 265 those persons from using more experienced prostitutes to recruit
 266 and manage new child prostitutes in order to distance themselves
 267 from overt criminal acts.

268 (2) As used in this section, the term:

269 (a) "Commercial sexual activity" means any violation of
 270 chapter 796 or any offense that is in violation of a law of any
 271 other jurisdiction if the elements of such offense are
 272 substantially similar to the elements of any offense contained
 273 in chapter 796, or an attempt to commit any such offense.

274 (b) ~~(a)~~ "Financial harm" includes extortionate extension of
 275 credit, loan sharking as defined in s. 687.071, or employment
 276 contracts that violate the statute of frauds as provided in s.
 277 725.01.

278 (c) ~~(b)~~ "Forced labor or services" means labor or services
 279 obtained from a person by:

- 280 1. Using or threatening to use physical force against that
 281 person or another person;
- 282 2. Restraining, isolating, or confining or threatening to
 283 restrain, isolate, or confine that person or another person
 284 without lawful authority and against her or his will;
- 285 3. Using lending or other credit methods to establish a
 286 debt by that person or another person when labor or services are
 287 pledged as a security for the debt, if the value of the labor or
 288 services as reasonably assessed is not applied toward the
 289 liquidation of the debt, and the length and nature of the labor
 290 or services are not respectively limited and defined;

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291 4. Destroying, concealing, removing, confiscating,
 292 withholding, or possessing any actual or purported passport,
 293 visa, or other immigration document, or any other actual or
 294 purported government identification document, of that person or
 295 another person;
 296 5. Causing or threatening to cause financial harm to any
 297 person; ~~or~~
 298 6. Enticing or luring any person by fraud, deceit, or
 299 coercion; or
 300 7. Providing a controlled substance as outlined in Schedule
 301 I or Schedule II of s. 893.03 to that person for the purpose of
 302 compelling that person to engage in labor or sexual servitude
 303 against her or his will.
 304 (d)(e) "Human trafficking" means transporting, soliciting,
 305 recruiting, harboring, providing, enticing, maintaining, or
 306 obtaining another person by means of the threat or use of force
 307 or other forms of coercion, abduction, fraud, deception, abuse
 308 of power or of a position of vulnerability, or the giving or
 309 receiving of payments or benefits to achieve the consent of a
 310 person having control over another person for the purpose of
 311 exploitation of that person for transport. Exploitation
 312 includes, but is not limited to, the exploitation of commercial
 313 sexual activity of others or other forms of sexual exploitation,
 314 forced labor or services, slavery, practices similar to slavery,
 315 forced marriage, servitude, or the removal of organs.
 316 (e) "Labor" means work of economic or financial value.
 317 (f)(d) "Maintain," means, when used in relation to labor
 318 services, means to secure or make possible continued performance
 319 thereof, regardless of any initial agreement on the part of the

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320 victim to perform such type service.
 321 (g) "Obtain" means, in relation to labor or services, to
 322 secure performance thereof.
 323 (h) "Services" means an ongoing relationship between a
 324 person and an actor in which the person performs activities
 325 under the supervision of or for the benefit of the actor.
 326 Commercial sexual activity, production of pornography, and
 327 sexually explicit performances are forms of services under this
 328 section.
 329 (i) "Sexually explicit performance" means a live or public
 330 act or show intended to arouse or satisfy the sexual desires or
 331 appeal to the prurient interests of patrons.
 332 (j) "Venture" means any group of two or more individuals
 333 associated in fact, whether or not a legal entity.
 334 (3) Any person who knowingly or in reckless disregard of
 335 the facts:
 336 (a) Engages, or attempts to engage, in human trafficking
 337 ~~with the intent or knowledge that the trafficked person will be~~
 338 ~~subjected to forced labor or services; or~~
 339 (b) Benefits financially by receiving anything of value
 340 from participation in a venture that has subjected a person to
 341 ~~human trafficking forced labor or services;~~
 342
 343 commits a felony of the ~~first second~~ degree, punishable as
 344 provided in s. 775.082, s. 775.083, or s. 775.084. For each
 345 instance of human trafficking of any individual, a separate
 346 crime is committed and a separate punishment is authorized.
 347 (4) Any person who knowingly or in reckless disregard of
 348 the facts engages in human trafficking and who does so by the

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349 transfer or transport of any individual from outside the state
 350 to within the state or from one jurisdiction within this state
 351 to another commits a felony of the first degree, punishable as
 352 provided in s. 775.082, s. 775.083, or s. 775.084. For each
 353 instance of human trafficking of any individual from outside
 354 this state to within the state or from one jurisdiction within
 355 this state to another, a separate crime is committed and a
 356 separate punishment is authorized.

357 (5) Any person who knowingly or in reckless disregard of
 358 the facts engages in human trafficking in which a child under
 359 the age of 18 is involved commits a felony of the first degree,
 360 punishable by imprisonment for a term of years not exceeding
 361 life, or as provided in s. 775.082, s. 775.083, or s. 775.084.
 362 For each instance of human trafficking of a child under the age
 363 of 18, a separate crime is committed and a separate punishment
 364 is authorized. In a prosecution under this subsection in which
 365 the defendant had a reasonable opportunity to observe the person
 366 so recruited, enticed, harbored, transported, provided,
 367 obtained, or maintained, the state need not prove that the
 368 defendant knew that the person had not attained the age of 18
 369 years.

370 (6) Any person who knowingly or in reckless disregard of
 371 the facts engages in human trafficking in which any child under
 372 the age of 15 is involved commits a life felony, punishable as
 373 provided in s. 775.082, s. 775.083, or s. 775.084. For each
 374 instance of human trafficking of a child under the age of 15, a
 375 separate crime is committed and a separate punishment is
 376 authorized. In a prosecution under this subsection in which the
 377 defendant had a reasonable opportunity to observe the person so

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378 recruited, enticed, harbored, transported, provided, obtained,
 379 or maintained, the state need not prove that the defendant knew
 380 that the person had not attained the age of 15 years.

381 (7) Any parent, legal guardian, or other person having
 382 custody or control of a minor who sells or otherwise transfers
 383 custody or control of such minor, or offers to sell or otherwise
 384 transfer custody of such minor, with knowledge that, as a
 385 consequence of the sale or transfer, the minor will engage in
 386 commercial sexual activity or forced labor or services commits a
 387 life felony, punishable as provided in s. 775.082, s. 775.083,
 388 or s. 775.084.

389 (8) The sexual history or history of commercial sexual
 390 activity of a person alleged to have been trafficked shall be
 391 excluded from evidence if the court finds at a hearing outside
 392 the presence of the jury that the probative value of the
 393 evidence is substantially outweighed by the danger of unfair
 394 prejudice, confusion of the issues, or misleading the jury.

395 (9) A corporation may be prosecuted under this section for
 396 an act or omission constituting a crime under this section only
 397 if an agent of the corporation performs the conduct that is an
 398 element of the crime while acting within the scope of her or his
 399 office or employment and on behalf of the corporation and the
 400 commission of the crime was authorized, requested, commanded,
 401 performed, or within the scope of her or his employment on
 402 behalf of the corporation or constituted a pattern of illegal
 403 activity that an agent of the company knew or should have known
 404 was occurring.

405 (10){4} The Criminal Justice Standards and Training
 406 Commission shall establish standards for basic and advanced

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 407 training programs for law enforcement officers in the subjects
 408 of investigating and preventing human trafficking crimes. ~~After~~
 409 ~~January 1, 2007,~~ Every basic skills course required for law
 410 enforcement officers to obtain initial certification must
 411 include training on human trafficking crime prevention and
 412 investigation, as well as methods by which the victimization of
 413 children by human traffickers occurs. Every advanced training
 414 program on human trafficking must also include the methods by
 415 which victimization of children by human traffickers occurs.

416 (11)(5) Each state attorney shall develop standards of
 417 instruction for prosecutors to receive training on the
 418 investigation and prosecution of human trafficking crimes and
 419 shall provide for periodic and timely instruction.

420 (12) The Department of Children and Family Services shall
 421 develop guidelines for serving children who have been victims of
 422 human trafficking and shall produce a report to the President of
 423 the Senate and the Speaker of the House of Representatives
 424 detailing the department's plan by June 1, 2013. At a minimum,
 425 the plan must include the following elements:

426 (a) An assessment of need.—The department shall estimate
 427 the number of children who have been the victims of human
 428 trafficking and who are in need of services currently and over
 429 the next 5 years.

430 (b) Residential services.—The department shall consider all
 431 options for treating children who have been victims of human
 432 trafficking and provide recommendations on the best options of
 433 care for these children and reunification with the child's
 434 family, if appropriate.

435 (c) Other services.—The department shall recommend specific

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 436 service needs, including, but not limited to, assessment,
 437 security, crisis, and behavioral health services that are needed
 438 for children who have been victims of human trafficking.

439 (d) Coordination.—The department shall consider and
 440 recommend partnership opportunities with law enforcement and
 441 other state and local governmental entities to best serve
 442 children who have been victims of human trafficking.

443 Section 7. Section 796.035, Florida Statutes, is amended to
 444 read:

445 796.035 Selling or buying of minors into ~~human sex~~
 446 trafficking or prostitution; penalties.—Any parent, legal
 447 guardian, or other person having custody or control of a minor
 448 who sells or otherwise transfers custody or control of such
 449 minor, or offers to sell or otherwise transfer custody of such
 450 minor, with knowledge that, as a consequence of the sale or
 451 transfer, the minor will engage in prostitution, perform naked
 452 for compensation, or otherwise participate in the trade of ~~human~~
 453 ~~sex~~ trafficking, commits a felony of the first degree,
 454 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

455 Section 8. Section 796.036, Florida Statutes, is created to
 456 read:

457 796.036 Violations involving minors; reclassification.—
 458 (1) The felony or misdemeanor degree of any violation of
 459 this chapter, other than s. 796.03 or s. 796.035, in which a
 460 minor engages in prostitution, lewdness, assignation, sexual
 461 conduct, or other conduct as defined in or prohibited by this
 462 chapter, but the minor is not the person charged with the
 463 violation, is reclassified as provided in this section.

464 (2) Offenses shall be reclassified as follows:

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465 (a) A misdemeanor of the second degree is reclassified to a
 466 misdemeanor of the first degree.

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

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

471 (d) A felony of the second degree is reclassified to a
 472 felony of the first degree.

473 (e) A felony of the first degree is reclassified to a life
 474 felony.

475 Section 9. Section 796.045, Florida Statutes, is repealed.

476 Section 10. Section 796.07, Florida Statutes, is amended to
 477 read:

478 796.07 Prohibiting prostitution, etc.; evidence; penalties;
 479 definitions.—

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

481 (a) "Prostitution" means the giving or receiving of the
 482 body for sexual activity for hire but excludes sexual activity
 483 between spouses.

484 (b) "Lewdness" means any indecent or obscene act.

485 (c) "Assignment" means the making of any appointment or
 486 engagement for prostitution or lewdness, or any act in
 487 furtherance of such appointment or engagement.

488 (d) "Sexual activity" means oral, anal, or vaginal
 489 penetration by, or union with, the sexual organ of another; anal
 490 or vaginal penetration of another by any other object; or the
 491 handling or fondling of the sexual organ of another for the
 492 purpose of masturbation; however, the term does not include acts
 493 done for bona fide medical purposes.

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494 (2) It is unlawful:

495 (a) To own, establish, maintain, or operate any place,
 496 structure, building, or conveyance for the purpose of lewdness,
 497 assignation, or prostitution.

498 (b) To offer, or to offer or agree to secure, another for
 499 the purpose of prostitution or for any other lewd or indecent
 500 act.

501 (c) To receive, or to offer or agree to receive, any person
 502 into any place, structure, building, or conveyance for the
 503 purpose of prostitution, lewdness, or assignation, or to permit
 504 any person to remain there for such purpose.

505 (d) To direct, take, or transport, or to offer or agree to
 506 direct, take, or transport, any person to any place, structure,
 507 or building, or to any other person, with knowledge or
 508 reasonable cause to believe that the purpose of such directing,
 509 taking, or transporting is prostitution, lewdness, or
 510 assignation.

511 (e) To offer to commit, or to commit, or to engage in,
 512 prostitution, lewdness, or assignation.

513 (f) To solicit, induce, entice, or procure another to
 514 commit prostitution, lewdness, or assignation.

515 (g) To reside in, enter, or remain in, any place,
 516 structure, or building, or to enter or remain in any conveyance,
 517 for the purpose of prostitution, lewdness, or assignation.

518 (h) To aid, abet, or participate in any of the acts or
 519 things enumerated in this subsection.

520 (i) To purchase the services of any person engaged in
 521 prostitution.

522 (3) (a) In the trial of a person charged with a violation of

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523 this section, testimony concerning the reputation of any place,
524 structure, building, or conveyance involved in the charge,
525 testimony concerning the reputation of any person residing in,
526 operating, or frequenting such place, structure, building, or
527 conveyance, and testimony concerning the reputation of the
528 defendant is admissible in evidence in support of the charge.

529 (b) Notwithstanding any other provision of law, a police
530 officer may testify as an offended party in an action regarding
531 charges filed pursuant to this section.

532 (4) A person who violates ~~any provision of~~ this section
533 commits:

534 (a) A misdemeanor of the second degree for a first
535 violation, punishable as provided in s. 775.082 or s. 775.083.

536 (b) A misdemeanor of the first degree for a second
537 violation, punishable as provided in s. 775.082 or s. 775.083.

538 (c) A felony of the third degree for a third or subsequent
539 violation, punishable as provided in s. 775.082, s. 775.083, or
540 s. 775.084.

541 (5) A person who is charged with a third or subsequent
542 violation of this section shall be offered admission to a
543 pretrial intervention program or a substance-abuse treatment
544 program as provided in s. 948.08.

545 (6) In addition to the punishment provided in subsection
546 (4), a person who violates paragraph (2)(f) shall be assessed a
547 civil penalty of \$500 if the violation results in any judicial
548 disposition other than acquittal or dismissal. The proceeds from
549 penalties assessed under this subsection shall be paid to the
550 circuit court administrator for the sole purpose of paying the
551 administrative costs of treatment-based drug court programs

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552 provided under s. 397.334.

553 (7) (a) At any time after the entry of a judgment for a
554 conviction where the arresting charge was under this section,
555 the court in which it was entered may, upon motion of the
556 defendant, with the consent of the state attorney, vacate such
557 judgment upon the ground that the defendant's participation in
558 the offense was a result of having been a victim of trafficking
559 under s. 787.06 or trafficking in persons under the federal
560 Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

561 (b) A motion under this subsection must be made with due
562 diligence, after the defendant has ceased to be a victim of such
563 trafficking or has sought services for victims of such
564 trafficking, subject to reasonable concerns for the safety of
565 the defendant, family members of the defendant, or other victims
566 of such trafficking who may be jeopardized by the bringing of
567 such motion, or for other reasons consistent with the purpose of
568 this subsection.

569 (c) Official documentation of the defendant's status as a
570 victim of sex trafficking or trafficking in persons at the time
571 of the offense from a federal, state, or local government law
572 enforcement agency or prosecuting authority creates a
573 presumption that the defendant's participation in the offense
574 was a result of having been a victim of sex trafficking or
575 trafficking in persons, but is not required for granting a
576 motion under this subsection.

577 Section 11. Subsection (2) of section 932.701, Florida
578 Statutes, is amended to read:

579 932.701 Short title; definitions.—

580 (2) As used in the Florida Contraband Forfeiture Act, the

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581 term:

582 (a) "Contraband article" means:

583 1. Any controlled substance as defined in chapter 893 or
 584 any substance, device, paraphernalia, or currency or other means
 585 of exchange that was used, was attempted to be used, or was
 586 intended to be used in violation of any provision of chapter
 587 893, if the totality of the facts presented by the state is
 588 clearly sufficient to meet the state's burden of establishing
 589 probable cause to believe that a nexus exists between the
 590 article seized and the narcotics activity, whether or not the
 591 use of the contraband article can be traced to a specific
 592 narcotics transaction.

593 2. Any gambling paraphernalia, lottery tickets, money,
 594 currency, or other means of exchange which was used, was
 595 attempted, or intended to be used in violation of the gambling
 596 laws of the state.

597 3. Any equipment, liquid or solid, which was being used, is
 598 being used, was attempted to be used, or intended to be used in
 599 violation of the beverage or tobacco laws of the state.

600 4. Any motor fuel upon which the motor fuel tax has not
 601 been paid as required by law.

602 5. Any personal property, including, but not limited to,
 603 any vessel, aircraft, item, object, tool, substance, device,
 604 weapon, machine, vehicle of any kind, money, securities, books,
 605 records, research, negotiable instruments, or currency, which
 606 was used or was attempted to be used as an instrumentality in
 607 the commission of, or in aiding or abetting in the commission
 608 of, any felony, whether or not comprising an element of the
 609 felony, or which is acquired by proceeds obtained as a result of

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610 a violation of the Florida Contraband Forfeiture Act.

611 6. Any real property, including any right, title,
 612 leasehold, or other interest in the whole of any lot or tract of
 613 land, which was used, is being used, or was attempted to be used
 614 as an instrumentality in the commission of, or in aiding or
 615 abetting in the commission of, any felony, or which is acquired
 616 by proceeds obtained as a result of a violation of the Florida
 617 Contraband Forfeiture Act.

618 7. Any personal property, including, but not limited to,
 619 equipment, money, securities, books, records, research,
 620 negotiable instruments, currency, or any vessel, aircraft, item,
 621 object, tool, substance, device, weapon, machine, or vehicle of
 622 any kind in the possession of or belonging to any person who
 623 takes aquaculture products in violation of s. 812.014(2)(c).

624 8. Any motor vehicle offered for sale in violation of s.
 625 320.28.

626 9. Any motor vehicle used during the course of committing
 627 an offense in violation of s. 322.34(9)(a).

628 10. Any photograph, film, or other recorded image,
 629 including an image recorded on videotape, a compact disc,
 630 digital tape, or fixed disk, that is recorded in violation of s.
 631 810.145 and is possessed for the purpose of amusement,
 632 entertainment, sexual arousal, gratification, or profit, or for
 633 the purpose of degrading or abusing another person.

634 11. Any real property, including any right, title,
 635 leasehold, or other interest in the whole of any lot or tract of
 636 land, which is acquired by proceeds obtained as a result of
 637 Medicaid fraud under s. 409.920 or s. 409.9201; any personal
 638 property, including, but not limited to, equipment, money,

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 639 securities, books, records, research, negotiable instruments, or
 640 currency; or any vessel, aircraft, item, object, tool,
 641 substance, device, weapon, machine, or vehicle of any kind in
 642 the possession of or belonging to any person which is acquired
 643 by proceeds obtained as a result of Medicaid fraud under s.
 644 409.920 or s. 409.9201.

645 12. Any personal property, including, but not limited to,
 646 any vehicle, item, object, tool, device, weapon, machine, money,
 647 security, book, or record, that is used or attempted to be used
 648 as an instrumentality in the commission of, or in aiding and
 649 abetting in the commission of, a person's third or subsequent
 650 violation of s. 509.144, whether or not comprising an element of
 651 the offense.

652 13. All real and personal property of every kind used or
 653 intended for use in the course of, derived from, or realized
 654 through a violation of s. 787.06.

655 (b) "Bona fide lienholder" means the holder of a lien
 656 perfected pursuant to applicable law.

657 (c) "Promptly proceed" means to file the complaint within
 658 45 days after seizure.

659 (d) "Complaint" ~~means~~ is a petition for forfeiture filed in
 660 the civil division of the circuit court by the seizing agency
 661 requesting the court to issue a judgment of forfeiture.

662 (e) "Person entitled to notice" means any owner, entity,
 663 bona fide lienholder, or person in possession of the property
 664 subject to forfeiture when seized, who is known to the seizing
 665 agency after a diligent search and inquiry.

666 (f) "Adversarial preliminary hearing" means a hearing in
 667 which the seizing agency is required to establish probable cause

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 668 that the property subject to forfeiture was used in violation of
 669 the Florida Contraband Forfeiture Act.

670 (g) "Forfeiture proceeding" means a hearing or trial in
 671 which the court or jury determines whether the subject property
 672 shall be forfeited.

673 (h) "Claimant" means any party who has proprietary interest
 674 in property subject to forfeiture and has standing to challenge
 675 such forfeiture, including owners, registered owners, bona fide
 676 lienholders, and titleholders.

677 Section 12. Section 960.198, Florida Statutes, is amended
 678 to read:

679 960.198 Relocation assistance for victims of domestic
 680 violence or sexual violence.-

681 (1) Notwithstanding the criteria set forth in s. 960.13 for
 682 crime victim compensation awards, the department may award a
 683 one-time payment of up to \$1,500 on any one claim and a lifetime
 684 maximum of \$3,000 to a victim of domestic violence who needs
 685 immediate assistance to escape from a domestic violence
 686 environment or to a victim of sexual violence who reasonably
 687 fears for her or his safety.

688 (2) In order for an award to be granted to a victim for
 689 relocation assistance:

690 (a) There must be proof that a domestic violence or sexual
 691 violence offense was committed;

692 (b) The domestic violence or sexual violence offense must
 693 be reported to the proper authorities;

694 (c) The victim's need for assistance must be certified by a
 695 certified domestic violence center or a certified rape crisis
 696 center in this state; and

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697 (d) The center certification must assert that the victim is
 698 cooperating with law enforcement officials, if applicable, and
 699 must include documentation that the victim has developed a
 700 safety plan.

701 Section 13. Paragraphs (i) and (j) of subsection (3) of
 702 section 921.0022, Florida Statutes, are amended to read:

703 921.0022 Criminal Punishment Code; offense severity ranking
 704 chart.-

705 (3) OFFENSE SEVERITY RANKING CHART

706 (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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712 560.125 (5) (c) 1st Money transmitter business by
 unauthorized person, currency, or
 713 payment instruments totaling or
 exceeding \$100,000.

714 655.50 (10) (b) 3. 1st Failure to report financial
 transactions totaling or exceeding
 715 \$100,000 by financial institution.

716 775.0844 1st Aggravated white collar crime.

717 782.04 (1) 1st Attempt, conspire, or solicit to
 commit premeditated murder.

718 782.04 (3) 1st,PBL Accomplice to murder in connection
 with arson, sexual battery, robbery,
 719 burglary, and other specified
 felonies.

720 782.051 (1) 1st Attempted felony murder while
 perpetrating or attempting to
 721 perpetrate a felony enumerated in s.
 782.04 (3).

722 782.07 (2) 1st Aggravated manslaughter of an elderly
 person or disabled adult.

723 787.01 (1) (a) 1. 1st,PBL Kidnapping; hold for ransom or reward

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 720 or as a shield or hostage.
 787.01(1)(a)2. 1st,PBL Kidnapping with intent to commit or
 721 facilitate commission of any felony.
 787.01(1)(a)4. 1st,PBL Kidnapping with intent to interfere
 722 with performance of any governmental
 or political function.
 787.02(3)(a) 1st False imprisonment; child under age
 13; perpetrator also commits
 aggravated child abuse, sexual
 battery, or lewd or lascivious
 battery, molestation, conduct, or
 exhibition.
 723 787.06(3) 1st Human trafficking; benefitting
financially from human trafficking.
 724 787.06(4) 1st Human trafficking; transfer or
transport into state.
 725 790.161 1st Attempted capital destructive device
 offense.
 726 790.166(2) 1st,PBL Possessing, selling, using, or
 attempting to use a weapon of mass
 destruction.
 727

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

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 794.011(2) 1st Attempted sexual battery; victim less
 728 than 12 years of age.
 794.011(2) Life Sexual battery; offender younger than
 729 18 years and commits sexual battery on
 a person less than 12 years.
 794.011(4) 1st Sexual battery; victim 12 years or
 730 older, certain circumstances.
 794.011(8)(b) 1st Sexual battery; engage in sexual
 731 conduct with minor 12 to 18 years by
 person in familial or custodial
 authority.
 794.08(2) 1st Female genital mutilation; victim
 732 younger than 18 years of age.
 800.04(5)(b) Life Lewd or lascivious molestation; victim
 733 less than 12 years; offender 18 years
 or older.
 812.13(2)(a) 1st,PBL Robbery with firearm or other deadly
 734 weapon.
 812.133(2)(a) 1st,PBL Carjacking; firearm or other deadly
 735 weapon.
 812.135(2)(b) 1st Home-invasion robbery with weapon.

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

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736 817.568(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.

737 827.03(2) 1st Aggravated child abuse.

738 847.0145(1) 1st Selling, or otherwise transferring custody or control, of a minor.

739 847.0145(2) 1st Purchasing, or otherwise obtaining custody or control, of a minor.

740 859.01 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.

741 893.135 1st Attempted capital trafficking offense.

742 893.135(1)(a)3. 1st Trafficking in cannabis, more than 10,000 lbs.

743 893.135(1)(b)1.c. 1st Trafficking in cocaine, more than 400 grams, less than 150 kilograms.

744

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

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

745 893.135(1)(d)1.c. 1st Trafficking in phencyclidine, more than 400 grams.

746 893.135(1)(e)1.c. 1st Trafficking in methaqualone, more than 25 kilograms.

747 893.135(1)(f)1.c. 1st Trafficking in amphetamine, more than 200 grams.

748 893.135(1)(h)1.c. 1st Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.

749 893.135(1)(j)1.c. 1st Trafficking in 1,4-Butanediol, 10 kilograms or more.

750 893.135(1)(k)2.c. 1st Trafficking in Phenethylamines, 400 grams or more.

751 896.101(5)(c) 1st Money laundering, financial instruments totaling or exceeding \$100,000.

752 896.104(4)(a)3. 1st Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.

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

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753
754 (j) LEVEL 10
755 Florida Felony
756 Statute Degree Description

499.0051(10) 1st Knowing sale or purchase of contraband
prescription drugs resulting in death.

757 782.04(2) 1st,PBL Unlawful killing of human; act is
homicide, unpremeditated.

758 787.01(1)(a)3. 1st,PBL Kidnapping; inflict bodily harm upon or
terrorize victim.

787.01(3)(a) Life Kidnapping; child under age 13,
perpetrator also commits aggravated
child abuse, sexual battery, or lewd or
lascivious battery, molestation,
conduct, or exhibition.

759 782.07(3) 1st Aggravated manslaughter of a child.

760 787.06(5) 1st,PBL Human trafficking; minors.

761 787.06(6) Life Human trafficking; child under 15.

762 787.06(7) Life Human trafficking; sale or transfer of
763 minor.

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794.011(3) Life Sexual battery; victim 12 years or
older, offender uses or threatens to use
deadly weapon or physical force to cause
serious injury.

764 796.035 1st Selling or buying minors; human
trafficking or prostitution.

765 812.135(2)(a) 1st,PBL Home-invasion robbery with firearm or
other deadly weapon.

766 876.32 1st Treason against the state.

767
768 Section 14. Paragraphs (b) and (c) of subsection (2) of
769 section 90.404, Florida Statutes, are amended to read:
770 90.404 Character evidence; when admissible.-
771 (2) OTHER CRIMES, WRONGS, OR ACTS.-
772 (b)1. In a criminal case in which the defendant is charged
773 with a crime involving child molestation, evidence of the
774 defendant's commission of other crimes, wrongs, or acts of child
775 molestation is admissible and may be considered for its bearing
776 on any matter to which it is relevant.

777 2. For the purposes of this paragraph, the term "child
778 molestation" means conduct proscribed by s. 787.025(2)(c), s.
779 787.06 only as it relates to commercial sexual activity, s.
780 794.011, excluding s. 794.011(10), s. 794.05, s. 796.03, s.
781 796.035, ~~s. 796.045~~, s. 800.04, s. 827.071, s. 847.0135(5), s.
782 847.0145, or s. 985.701(1) when committed against a person 16
783 years of age or younger.

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784 (c)1. In a criminal case in which the defendant is charged
785 with a sexual offense, evidence of the defendant's commission of
786 other crimes, wrongs, or acts involving a sexual offense is
787 admissible and may be considered for its bearing on any matter
788 to which it is relevant.

789 2. For the purposes of this paragraph, the term "sexual
790 offense" means conduct proscribed by s. 787.025(2)(c), s. 787.06
791 only as it relates to commercial sexual activity, s. 794.011,
792 excluding s. 794.011(10), s. 794.05, s. 796.03, s. 796.035, ~~s.~~
793 ~~796.045~~, s. 825.1025(2)(b), s. 827.071, s. 847.0135(5), s.
794 847.0145, or s. 985.701(1).

795 Section 15. Paragraph (a) of subsection (1) of section
796 772.102, Florida Statutes, is amended to read:

797 772.102 Definitions.—As used in this chapter, the term:

798 (1) "Criminal activity" means to commit, to attempt to
799 commit, to conspire to commit, or to solicit, coerce, or
800 intimidate another person to commit:

801 (a) Any crime that is chargeable by indictment or
802 information under the following provisions:

- 803 1. Section 210.18, relating to evasion of payment of
- 804 cigarette taxes.
- 805 2. Section 414.39, relating to public assistance fraud.
- 806 3. Section 440.105 or s. 440.106, relating to workers'
- 807 compensation.
- 808 4. Part IV of chapter 501, relating to telemarketing.
- 809 5. Chapter 517, relating to securities transactions.
- 810 6. Section 550.235 or s. 550.3551, relating to dogracing
- 811 and horseracing.
- 812 7. Chapter 550, relating to jai alai frontons.

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813 8. Chapter 552, relating to the manufacture, distribution,
814 and use of explosives.

815 9. Chapter 562, relating to beverage law enforcement.

816 10. Section 624.401, relating to transacting insurance
817 without a certificate of authority, s. 624.437(4)(c)1., relating
818 to operating an unauthorized multiple-employer welfare
819 arrangement, or s. 626.902(1)(b), relating to representing or
820 aiding an unauthorized insurer.

821 11. Chapter 687, relating to interest and usurious
822 practices.

823 12. Section 721.08, s. 721.09, or s. 721.13, relating to
824 real estate timeshare plans.

825 13. Chapter 782, relating to homicide.

826 14. Chapter 784, relating to assault and battery.

827 15. Chapter 787, relating to kidnapping or human
828 trafficking.

829 16. Chapter 790, relating to weapons and firearms.

830 17. Section 796.03, s. 796.04, ~~s. 796.045~~, s. 796.05, or s.
831 796.07, relating to prostitution.

832 18. Chapter 806, relating to arson.

833 19. Section 810.02(2)(c), relating to specified burglary of
834 a dwelling or structure.

835 20. Chapter 812, relating to theft, robbery, and related
836 crimes.

837 21. Chapter 815, relating to computer-related crimes.

838 22. Chapter 817, relating to fraudulent practices, false
839 pretenses, fraud generally, and credit card crimes.

840 23. Section 827.071, relating to commercial sexual
841 exploitation of children.

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842 24. Chapter 831, relating to forgery and counterfeiting.
843 25. Chapter 832, relating to issuance of worthless checks
844 and drafts.
845 26. Section 836.05, relating to extortion.
846 27. Chapter 837, relating to perjury.
847 28. Chapter 838, relating to bribery and misuse of public
848 office.
849 29. Chapter 843, relating to obstruction of justice.
850 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
851 s. 847.07, relating to obscene literature and profanity.
852 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
853 849.25, relating to gambling.
854 32. Chapter 893, relating to drug abuse prevention and
855 control.
856 33. Section 914.22 or s. 914.23, relating to witnesses,
857 victims, or informants.
858 34. Section 918.12 or s. 918.13, relating to tampering with
859 jurors and evidence.
860 Section 16. Subsection (1) of section 794.056, Florida
861 Statutes, is amended to read:
862 794.056 Rape Crisis Program Trust Fund.—
863 (1) The Rape Crisis Program Trust Fund is created within
864 the Department of Health for the purpose of providing funds for
865 rape crisis centers in this state. Trust fund moneys shall be
866 used exclusively for the purpose of providing services for
867 victims of sexual assault. Funds credited to the trust fund
868 consist of those funds collected as an additional court
869 assessment in each case in which a defendant pleads guilty or
870 nolo contendere to, or is found guilty of, regardless of

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871 adjudication, an offense provided in s. 775.21(6) and (10) (a),
872 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
873 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
874 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
875 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
876 s. 796.03; s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s.
877 796.06; s. 796.07(2) (a)-(d) and (i); s. 800.03; s. 800.04; s.
878 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
879 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
880 847.0137; s. 847.0145; s. 943.0435(4) (c), (7), (8), (9) (a),
881 (13), and (14) (c); or s. 985.701(1). Funds credited to the trust
882 fund also shall include revenues provided by law, moneys
883 appropriated by the Legislature, and grants from public or
884 private entities.
885 Section 17. Paragraph (a) of subsection (1) of section
886 895.02, Florida Statutes, is amended to read:
887 895.02 Definitions.—As used in ss. 895.01-895.08, the term:
888 (1) "Racketeering activity" means to commit, to attempt to
889 commit, to conspire to commit, or to solicit, coerce, or
890 intimidate another person to commit:
891 (a) Any crime that is chargeable by petition, indictment,
892 or information under the following provisions of the Florida
893 Statutes:
894 1. Section 210.18, relating to evasion of payment of
895 cigarette taxes.
896 2. Section 316.1935, relating to fleeing or attempting to
897 elude a law enforcement officer and aggravated fleeing or
898 eluding.
899 3. Section 403.727(3) (b), relating to environmental

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900 control.

901 4. Section 409.920 or s. 409.9201, relating to Medicaid

902 fraud.

903 5. Section 414.39, relating to public assistance fraud.

904 6. Section 440.105 or s. 440.106, relating to workers'

905 compensation.

906 7. Section 443.071(4), relating to creation of a fictitious

907 employer scheme to commit unemployment compensation fraud.

908 8. Section 465.0161, relating to distribution of medicinal

909 drugs without a permit as an Internet pharmacy.

910 9. Section 499.0051, relating to crimes involving

911 contraband and adulterated drugs.

912 10. Part IV of chapter 501, relating to telemarketing.

913 11. Chapter 517, relating to sale of securities and

914 investor protection.

915 12. Section 550.235 or s. 550.3551, relating to dogracing

916 and horseracing.

917 13. Chapter 550, relating to jai alai frontons.

918 14. Section 551.109, relating to slot machine gaming.

919 15. Chapter 552, relating to the manufacture, distribution,

920 and use of explosives.

921 16. Chapter 560, relating to money transmitters, if the

922 violation is punishable as a felony.

923 17. Chapter 562, relating to beverage law enforcement.

924 18. Section 624.401, relating to transacting insurance

925 without a certificate of authority, s. 624.437(4)(c)1., relating

926 to operating an unauthorized multiple-employer welfare

927 arrangement, or s. 626.902(1)(b), relating to representing or

928 aiding an unauthorized insurer.

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929 19. Section 655.50, relating to reports of currency

930 transactions, when such violation is punishable as a felony.

931 20. Chapter 687, relating to interest and usurious

932 practices.

933 21. Section 721.08, s. 721.09, or s. 721.13, relating to

934 real estate timeshare plans.

935 22. Section 775.13(5)(b), relating to registration of

936 persons found to have committed any offense for the purpose of

937 benefiting, promoting, or furthering the interests of a criminal

938 gang.

939 23. Section 777.03, relating to commission of crimes by

940 accessories after the fact.

941 24. Chapter 782, relating to homicide.

942 25. Chapter 784, relating to assault and battery.

943 26. Chapter 787, relating to kidnapping or human

944 trafficking.

945 27. Chapter 790, relating to weapons and firearms.

946 28. Chapter 794, relating to sexual battery, but only if

947 such crime was committed with the intent to benefit, promote, or

948 further the interests of a criminal gang, or for the purpose of

949 increasing a criminal gang member's own standing or position

950 within a criminal gang.

951 29. Section 796.03, s. 796.035, s. 796.04, ~~s. 796.045~~, s.

952 796.05, or s. 796.07, relating to prostitution and sex

953 trafficking.

954 30. Chapter 806, relating to arson and criminal mischief.

955 31. Chapter 810, relating to burglary and trespass.

956 32. Chapter 812, relating to theft, robbery, and related

957 crimes.

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958 33. Chapter 815, relating to computer-related crimes.
 959 34. Chapter 817, relating to fraudulent practices, false
 960 pretenses, fraud generally, and credit card crimes.
 961 35. Chapter 825, relating to abuse, neglect, or
 962 exploitation of an elderly person or disabled adult.
 963 36. Section 827.071, relating to commercial sexual
 964 exploitation of children.
 965 37. Chapter 831, relating to forgery and counterfeiting.
 966 38. Chapter 832, relating to issuance of worthless checks
 967 and drafts.
 968 39. Section 836.05, relating to extortion.
 969 40. Chapter 837, relating to perjury.
 970 41. Chapter 838, relating to bribery and misuse of public
 971 office.
 972 42. Chapter 843, relating to obstruction of justice.
 973 43. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
 974 s. 847.07, relating to obscene literature and profanity.
 975 44. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
 976 849.25, relating to gambling.
 977 45. Chapter 874, relating to criminal gangs.
 978 46. Chapter 893, relating to drug abuse prevention and
 979 control.
 980 47. Chapter 896, relating to offenses related to financial
 981 transactions.
 982 48. Sections 914.22 and 914.23, relating to tampering with
 983 or harassing a witness, victim, or informant, and retaliation
 984 against a witness, victim, or informant.
 985 49. Sections 918.12 and 918.13, relating to tampering with
 986 jurors and evidence.

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987 Section 18. Section 938.085, Florida Statutes, is amended
 988 to read:
 989 938.085 Additional cost to fund rape crisis centers.—In
 990 addition to any sanction imposed when a person pleads guilty or
 991 nolo contendere to, or is found guilty of, regardless of
 992 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
 993 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
 994 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
 995 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
 996 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; s. 796.03;
 997 s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s. 796.06; s.
 998 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
 999 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
 1000 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
 1001 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and
 1002 (14)(c); or s. 985.701(1), the court shall impose a surcharge of
 1003 \$151. Payment of the surcharge shall be a condition of
 1004 probation, community control, or any other court-ordered
 1005 supervision. The sum of \$150 of the surcharge shall be deposited
 1006 into the Rape Crisis Program Trust Fund established within the
 1007 Department of Health by chapter 2003-140, Laws of Florida. The
 1008 clerk of the court shall retain \$1 of each surcharge that the
 1009 clerk of the court collects as a service charge of the clerk's
 1010 office.
 1011 Section 19. This act shall take effect October 1, 2012.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/31/12

Meeting Date

Topic Mandatory Reporting / Penalties Bill Number SB 1816
(if applicable)

Name Ron Book Amendment Barcode _____
(if applicable)

Job Title _____

Address 104 W Jefferson Phone _____
Street

TCIF E-mail _____
City State Zip

Speaking: For Against Information

Representing Lauren's Kids And Fla Council Against Sexual Violence

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/30/12
Meeting Date

Topic Protection of Vulnerable Persons

Bill Number 1816
(if applicable)

Name Jennife Dr.itt

Amendment Barcode _____
(if applicable)

Job Title Exec. Director

Address 1820 E. PARK AVE SUITE 100
Street

Phone (850) 297-2800

MILWAUKEE FL 32301
City State Zip

E-mail jdritt@fcasr.org

Speaking: For Against Information

Representing Florida Council Against Sexual Violence

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

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 Criminal Justice Committee

BILL: CS/SB 1880

INTRODUCER: Criminal Justice Committee and Senator Flores

SUBJECT: Human Trafficking

DATE: January 31, 2012 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The major features of the bill are described as follows:

- Authorizes the Office of Statewide Prosecution to investigate and prosecute any violation of the provisions of ch. 787, F.S., as well as any and all offenses related to a violation of the provisions of that chapter (including human trafficking offenses) if other requirements of s. 16.56, F.S., are also met.
- Requires a person employed by a massage establishment and any person performing massage therein to immediately present, upon the request of a Department of Health (DOH) investigator or a law enforcement officer, valid government identification while in the establishment, and provides criminal penalties for noncompliance.
- Adds various new human trafficking offenses to the list of offenses that qualify a person as a sexual predator or sexual offender for the purpose of registration and to various statutes that require agencies to provide information regarding sexual predators and sexual offenders.
- Repeals s. 787.05, F.S., which punishes unlawfully obtaining labor and services, and s. 796.045, F.S., which punishes sex trafficking.

- Creates a number of new human trafficking offenses which are first degree felonies, first degree felonies punishable by up to life imprisonment, or life felonies, and ranks those offenses.
- Authorizes seizure and forfeiture of any real or personal property that was used, was attempted to be used, or intended to be used in violation of s. 787.06, F.S., subject to the provisions of the Florida Contraband Forfeiture Act.
- Raises the degree of the offense of human smuggling from a first degree misdemeanor to a third degree felony, provides for repeat offender sanctions under s. 775.084, F.S., and ranks the offense.
- Modifies the elements of the current first degree felony offense of selling or buying minors into sex trafficking or prostitution so that the offense now punishes any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfers custody of such minor, with knowledge or in reckless disregard of the fact that, as a consequence of the sale or transfer, the minor will engage in prostitution.
- Provides a statewide grand jury with subject matter jurisdiction over any violation of ch. 787, F.S., as well as any and all offense related to a violation of ch. 787, F.S.
- Provides that the Governor, the Attorney General, the Statewide Prosecutor, or any state attorney may authorize an application to a judge of competent jurisdiction for an order authorizing or approving the interception of wire, oral, or electronic communications by the Florida Department of Law Enforcement (FDLE) or any law enforcement agency having responsibility for the investigation of the offense as to which the application is made when such interception may provide or has provided evidence of the commission of a violation of s. 787.06, F.S.
- Adds two human trafficking offenses that only involve a victim who is a minor or a child under 15 years of age to the definitions of “child molestation” and “sexual offense” in s. 90.404, F.S., which provides, in part, that in a criminal case in which the defendant is charged with a crime involving child molestation, evidence of the defendant’s commission of other crimes, wrongs, or acts of child molestation is admissible and may be considered for its bearing on any matter to which it is relevant.

This bill substantially amends ss. 16.56, 90.404, 772.102, 775.21, 787.06, 787.07, 794.056, 796.035, 895.02, 905.34, 921.0022, 934.07, 938.085, 943.0435, 944.606, and 944.607, F.S.; and repeals ss. 787.05 and 796.045, F.S.

II. Present Situation:

Human Trafficking Statute

Section 787.06, F.S., punishes human trafficking, which is defined in the statute as transporting, soliciting, recruiting, harboring, providing, or obtaining another person for transport. The specific offense that is punished as a second degree felony involves knowingly:

- Engaging, or attempting to engage, in human trafficking with the intent or knowledge that the trafficked person will be subjected to forced labor or services; or
- Benefiting financially by receiving anything of value from participation in a venture that has subjected a person to forced labor or services.

The statute defines “forced labor or services” as labor or services obtained from a person by:

- Using or threatening to use physical force against that person or another person;
- Restraining, isolating, or confining or threatening to restrain, isolate, or confine that person or another person without lawful authority and against her or his will;
- Using lending or other credit methods to establish a debt by that person or another person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or services are not respectively limited and defined;
- Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of that person or another person;
- Causing or threatening to cause financial harm to any person; or
- Fraud or coercion.

For a discussion of the provisions of ss. 16.56, 90.404, 772.102, 775.21, 787.05, 787.07, 794.056, 796.035, 796.045, 895.02, 905.34, 921.0022, 934.07, 938.085, 943.0435, 944.606, and 944.607, F.S., which, in addition to s. 787.06, F.S., are amended or repealed by the bill, see the “Effect of Proposed Changes” section of this analysis.

III. Effect of Proposed Changes:

Section 1 amends s. 16.56, F.S., relating to the Office of Statewide Prosecution, to authorize that office to investigate and prosecute any violation of the provisions of ch. 787, F.S., as well as any and all offenses related to a violation of provisions of ch. 787, F.S., if other requirements of the statute are also met (the offense must occur or have occurred in two or more judicial circuits as part of a related transaction, or be connected with an organized criminal conspiracy affecting two or more judicial circuits).

Section 2 creates s. 480.0535, F.S. The new statute states that, in order to provide the DOH and law enforcement agencies the means to more effectively identify, investigate, and arrest persons engaging in human trafficking, a person employed by a massage establishment and any person performing massage therein must immediately present, upon the request of a DOH investigator or a law enforcement officer, valid government identification while in the establishment. A valid government identification is any of the following:

- A valid, unexpired driver license issued by any state, territory, or district of the United States.
- A valid, unexpired identification card issued by any state, territory, or district of the United States.
- A valid, unexpired United States passport.
- A naturalization certificate issued by the United States Department of Homeland Security;
- A valid, unexpired alien registration receipt card (green card).
- A valid, unexpired employment authorization card issued by the United States Department of Homeland Security.

A person operating a massage establishment must:

- Immediately present, upon the request of a DOH investigator or a law enforcement officer:
 - Valid government identification while in the establishment.
 - A copy of the documentation previously specified for each employee and any person performing massage in the establishment.
- Ensure that each employee and any person performing massage in the massage establishment is able to immediately present, upon the request of a DOH investigator or a law enforcement officer, valid government identification while in the establishment.

A person who violates any of the previously described requirements commits:

- For a first violation, a second degree misdemeanor.
- For a second violation, a first degree misdemeanor.
- For a third or subsequent violation, a third degree felony.

Section 3 amends s. 775.21, F.S., relating to sexual predator registration. There are offense-based criteria for being designated as a sexual predator. One of the ways a person can qualify for sexual predator designation is when the person has a qualifying current offense and a qualifying prior offense. The statute provides that for a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a sexual predator and subject to registration and community notification requirements if the felony is any felony violation, or an attempt thereof, of a statute or statutory provision specified in s. 775.21, F.S., and the offender has previously been convicted or found to have committed, or has pled nolo contendere or guilty to, regardless of adjudication, any violation of a statute or statutory provision specified in s. 775.21, F.S.

The bill adds the human trafficking offenses created by Section 5 of the bill and that involve commercial sexual activity to the list of qualifying current offenses and prior offenses:

Section 4 repeals s. 787.05, F.S., which punishes unlawfully obtaining labor and services.

Section 5 amends s. 787.06, F.S., the human trafficking statute, as follows:

- Amends legislative findings to indicate that victims of human trafficking also include citizens of the United States and those persons trafficked domestically within the borders of the United States.
- Takes the current definition of “forced labor services” and deletes reference to the term and substitutes the term “coercion,” then modifies the definition to indicate that “coercion” also applies to labor or services obtained from a person by:
 - Enticing or luring any person by fraud or deceit (currently, the statute only mentions fraud or coercion).
 - Providing a controlled substance as outlined in Schedule I or Schedule II of s. 893.03, F.S., to any person for the purpose of exploitation of that person.

- Defines the term “commercial sexual activity” as any violation of ch. 796, F.S., or an attempt to commit any such offense, and includes sexually explicit performances and the production of pornography.
- Modifies the definition of the term “human trafficking” to mean transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person. (The current definition only includes transporting, soliciting, recruiting, harboring, providing, or obtaining another person for transport.)
- Defines the term “labor” as work of economic or financial value.
- Modifies the definition of the term “maintain” to include making possible the continued performance of labor service. (The current definition only speaks to securing continued performance of labor services.)
- Defines the term “obtain” as, in relation to labor or services, to secure performance thereof.
- Defines the term “services” as any act committed at the behest of, under the supervision of, or for the benefit of another. The term includes, but is not limited to, forced marriage, servitude, or the removal of organs.
- Defines the term “sexually explicit performance” as an act or show, whether public or private, live, photographed, recorded, or videotaped and intended to arouse or satisfy the sexual desires or appeal to the prurient interest.
- Defines the term “unauthorized alien” as an alien who is not authorized under federal law to be employed in the United States, as provided in 8 U.S.C. s. 1324a(h)(3). This term must be interpreted consistently with that section and any applicable federal rules or regulations.
- Defines the term “venture” as any group of two or more individuals associated in fact, whether or not a legal entity.
- Revises the elements and penalties of the current human trafficking offense found at s. 787.06(3), F.S. Currently, this subsection provides that it is a second degree felony to knowingly engage, or attempt to engage, in human trafficking with the intent or knowledge that the trafficked person will be subjected to forced labor or services; or to benefit financially by receiving anything of value from participation in a venture that has subjected a person to forced labor or services.

As revised, human trafficking consists of any of a number of specific acts of different felony degrees and offense severity level rankings. It is unlawful for a person to knowingly, or in reckless disregard of the facts, engage in, or attempt to engage in, or benefit financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking:

- Using coercion for labor or services. (First degree felony.)¹
- Using coercion for commercial sexual activity. (First degree felony.)
- Using coercion for labor or services of any individual who is an unauthorized alien. (First degree felony.)
- Using coercion for commercial sexual activity of any individual who is an unauthorized alien. (First degree felony.)
- Using coercion for labor or services by the transfer or transfer of any individual from outside this state to within the state. (First degree felony.)

¹ The maximum term of imprisonment for a first degree felony is generally 30 years in state prison, though the Legislature may provide by statute for a term of imprisonment not exceeding life imprisonment. Section 775.082., F.S.

- Using coercion for commercial activity by the transfer or transport of any individual from outside this state to within the state. (First degree felony.)
- For commercial sexual activity in which any child under the age of 18 is involved. (First degree felony punishable by imprisonment for a term of years not exceeding life.)
- For commercial sexual activity in which any child under the age of 15 is involved. (Life felony.)²
- Provides that in a prosecution for the human trafficking offense that only involves a victim who is a minor and in which the defendant had a reasonable opportunity to observe the person who was subject to human trafficking, the State need not prove the defendant knew that the person had not attained the age of 18 years. The same provision is created for the human trafficking offense that only involves a victim who is a child under the age of 15. Prosecutors do not need to prove the defendant knew that the person had not attained the age of 15 years.
- Provides that in a prosecution for any of the described human trafficking offenses a separate crime is committed and a separate punishment is authorized.
- Provides that any real property or personal property that was used, attempted to be used, or intended to be used in violation of any provision of s. 787.06, F.S., may be seized and shall be forfeited subject to the provisions of the Florida Contraband Forfeiture Act.

Section 6 amends s. 787.07, F.S. This section punishes as a first degree misdemeanor³ the offense of human smuggling, which specifically involves a person transporting into this state an individual who the person knows, or should know, is illegally entering the United States from another country. The bill raises the degree of the offense of human smuggling from a first degree misdemeanor to a third degree felony⁴ and provides for repeat offender sanctions under s. 775.084, F.S., if applicable.

Section 7 amends s. 796.035, F.S., which provides that it is a first degree felony for any parent, legal guardian, or other person having custody or control of a minor to sell or otherwise transfer custody or control of such minor, or offer to sell or otherwise transfer custody of such minor, with knowledge that, as a consequence of the sale or transfer, the minor will engage in prostitution, perform naked for compensation, or otherwise participate in the trade of sex trafficking.

The bill modifies the elements of this offense so that the offense punishes any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfers custody of such minor, with knowledge or in reckless disregard of the fact that, as a consequence of the sale or transfer, the minor will engage in prostitution. All references to sex trafficking are deleted.

Section 8 repeals s. 796.045, F.S., which punishes sex trafficking.

Section 9 amends s. 905.34, F.S. The statute currently lists a number of offenses over which a statewide grand jury has subject matter jurisdiction and may be impaneled subject to other

² The maximum term of imprisonment for a life felony is generally life imprisonment. Section 775.082, F.S.

³ The maximum term of imprisonment for a first degree misdemeanor is one year in jail. Section 775.082, F.S.

⁴ The maximum term of imprisonment for a third degree felony is 5 years in state prison. Section 775.082, F.S.

requirements of the statute (the offense must occur or have occurred in two or more judicial circuits as part of a related transaction, or be connected with an organized criminal conspiracy affecting two or more judicial circuits) The bill provides for subject matter jurisdiction over any violation of ch. 787, F.S., as well as any and all offenses related to a violation of ch. 787, F.S.

Section 10 amends s. 934.07, F.S. This statute, in part, provides that the Governor, the Attorney General, the Statewide Prosecutor, or any state attorney may authorize an application to a judge of competent jurisdiction for an order authorizing or approving the interception of wire, oral or electronic communications by the FDLE or any law enforcement agency having responsibility for the investigation of the offense as to which the application is made when such interception may provide or has provided evidence of the commission of a specific violation. The bill adds to the list of violations any violation of s. 787.06, F.S.

Section 11 amends s. 943.0435, F.S., relating to sexual offender registration. A person classified as a sexual offender is subject to registration and community notification requirements. The term “sexual offender” is defined, in part, as applying to a person who meets criteria in any of several provisions of the statute, and has been released on or after October 1, 1997, from the sanction imposed for a conviction for an offense specified in the statute. One of these provisions applies to a person who has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the statutes or statutory provisions specified in s. 943.0435, F.S.

The term “sexual offender” is defined, in part, as also applying to a person who establishes or maintains a residence in this state and who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the statutes or statutory provisions specified in s. 943.0435, F.S.

The bill adds the human trafficking offenses created by Section 5 of the bill and that involve commercial sexual activity to the list of specified offenses under the previously described criteria relevant to the definition of the term “sexual offender.”

Section 12 amends s. 944.606, F.S., which requires the Department of Corrections (DOC) to notify and provide specified information to certain persons of the release of a “sexual offender,” as defined in that statute. Under this definition, a person is a sexual offender if the person has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the statutes or statutory provisions specified in the definition. The bill adds the human trafficking offenses created by Section 5 of the bill and that involve commercial sexual activity to the list of specified offenses in the definition.

Section 13 amends s. 944.607, F.S., which, in part, requires the Department of Corrections to notify and provide specified information to the Florida Department of Law Enforcement and others regarding a “sexual offender,” which is defined, in part, as a person who is in the custody or control of, or under the supervision of, the DOC or in the custody of a private correctional facility, on or after October 1, 1997, as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in any statute or statutory provision specified in the definition. The bill adds the human trafficking offenses

created by Section 5 of the bill and that involve commercial sexual activity to the list of specified offenses in the definition.

Section 14 amends s. 90.04, F.S., relating to admissibility of character evidence. This statute provides, in part, that in a criminal case in which the defendant is charged with a crime involving child molestation, evidence of the defendant's commission of other crimes, wrongs, or acts of child molestation is admissible and may be considered for its bearing on any matter to which it is relevant. The statute defines the terms "child molestation" and "sexual offense" as conduct prohibited by any of a number of specified statutes or statutory provisions, including s. 796.045, F.S. The bill deletes reference to s. 796.045, F.S., a conforming change because of the repeal of s. 796.045, F.S., by Section 8 of the bill. The bill also modifies the definitions to reference the two human trafficking offenses that only involve a victim who is a minor or a child under 15 years of age.

Section 15 amends s. 772.102, F.S., the definitions section for ch. 772, F.S., the Civil Remedies for Criminal Practices Act. The civil remedies available under this chapter only apply to "criminal activity," as defined. "Criminal activity" is, in part, defined as committing, attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating another person to commit any crime that is chargeable by indictment or information under any of a number of specified statutes or chapters. This definition is amended to delete reference to s. 796.045, F.S., which Section 8 of the bill repeals.

Section 16 amends s. 794.056, F.S., relating to the Rape Crises Program Trust Fund. This fund is created within the DOH to provide funds for rape crisis centers in this state. Trust fund moneys must be used exclusively for the purpose of providing services for victims of sexual assault. Funds credited to the trust fund consist of those funds collected as an additional court assessment in each case in which a defendant pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, an offense provided in any of a number of specified statutes or statutory provisions. The statute is amended to delete reference to s. 796.045, F.S., which Section 8 of the bill repeals.

Section 17 amends s. 895.02, F.S., the definitions section of the Florida RICO (Racketeer Influenced and Corrupt Organization) Act,⁵ which punishes "racketeering activity." The term "racketeering activity" is, in part, defined as committing, attempting to commit, conspiring to commit, or soliciting, coercing, or intimidating another person to commit any crime that is chargeable by petition, indictment or information under any of a number of specified statutes, statutory provisions, or chapters. This definition is amended to delete reference to s. 796.045, F.S., which Section 8 of the bill repeals.

Section 18 amends s. 938.085, F.S., which provides, in part, that in addition to any sanction imposed when a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, a violation of any of a number of specified statutes or statutory provisions, the court shall impose a surcharge of \$151, which is deposited in the Rape Crisis Program Trust Fund. The statute is amended to delete reference to s. 796.045, F.S., which Section 6 of the bill repeals.

⁵ Sections 895.01-895.06, F.S.

Section 19 amends s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to rank offenses as follows:

- Human smuggling: Level 4.
- Human trafficking using coercion for labor and services (first degree felony): Level 7.
- Human trafficking using coercion for labor and services by the transfer or transport of any individual from outside Florida to within the state (first degree felony): Level 7.
- Human trafficking using coercion for commercial sexual activity (first degree felony): Level 8.
- Human trafficking using coercion for labor and services of an unauthorized alien (first degree felony): Level 8.
- Human trafficking using coercion for commercial sexual activity by the transfer or transport of any individual from outside Florida to within the state (first degree felony): Level 8.
- Human trafficking using coercion for commercial sexual activity of an unauthorized alien (first degree felony): Level 9.
- Human trafficking for commercial sexual activity of a child under the age of 18 (first degree felony punishable by a term of imprisonment not exceeding life): Level 9.
- Selling or buying of minors into human trafficking (first degree felony): Level 9.
- Human trafficking for commercial sexual activity of a child under the age of 15 (life felony): Level 10.

Section 20 provides that the act takes effect July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates several new human trafficking felonies. All of these offenses are first degree felonies, first degree felonies punishable by imprisonment not exceeding life, or life felonies. The bill is identical to HB 7049. The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates that HB 7049 (formerly PCB JDC 12-01) will have an indeterminate prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by Criminal Justice on January 31, 2012:

- Requires a person employed by a massage establishment and any person performing massage therein to immediately present, upon the request of a Department of Health investigator or a law enforcement officer, valid government identification while in the establishment, and provides criminal penalties for noncompliance.
- Adds various new human trafficking offenses to the list of offenses that qualify a person as a sexual predator or sexual offender for the purpose of registration and to various statutes that require agencies to provide information regarding sexual predators and sexual offenders.
- Creates a number of new human trafficking offenses which are first degree felonies, first degree felonies punishable by up to life imprisonment, or life felonies, and ranks those offenses.
- Authorizes seizure and forfeiture of any real or personal property that was used, was attempted to be used, or intended to be used in violation of s. 787.06, F.S., subject to the provisions of the Florida Contraband Forfeiture Act.
- Ranks human smuggling and new human trafficking offenses in the offense severity ranking chart of the Criminal Punishment Code.
- Modifies the elements of the current first degree felony offense of selling or buying minors into sex trafficking or prostitution so that the offense now punishes any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfers custody of such minor, with knowledge or in reckless disregard of the fact that, as a consequence of the sale or transfer, the minor will engage in prostitution.

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	.	
02/01/2012	.	
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The Committee on Criminal Justice (Margolis) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

16.56 Office of Statewide Prosecution.—

(1) There is created in the Department of Legal Affairs an
Office of Statewide Prosecution. The office shall be a separate
“budget entity” as that term is defined in chapter 216. The



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13 office may:

14 (a) Investigate and prosecute the offenses of:

15 1. Bribery, burglary, criminal usury, extortion, gambling,
16 kidnapping, larceny, murder, prostitution, perjury, robbery,
17 carjacking, and home-invasion robbery;

18 2. Any crime involving narcotic or other dangerous drugs;

19 3. Any violation of the provisions of the Florida RICO
20 (Racketeer Influenced and Corrupt Organization) Act, including
21 any offense listed in the definition of racketeering activity in
22 s. 895.02(1)(a), providing such listed offense is investigated
23 in connection with a violation of s. 895.03 and is charged in a
24 separate count of an information or indictment containing a
25 count charging a violation of s. 895.03, the prosecution of
26 which listed offense may continue independently if the
27 prosecution of the violation of s. 895.03 is terminated for any
28 reason;

29 4. Any violation of the provisions of the Florida Anti-
30 Fencing Act;

31 5. Any violation of the provisions of the Florida Antitrust
32 Act of 1980, as amended;

33 6. Any crime involving, or resulting in, fraud or deceit
34 upon any person;

35 7. Any violation of s. 847.0135, relating to computer
36 pornography and child exploitation prevention, or any offense
37 related to a violation of s. 847.0135 or any violation of
38 chapter 827 where the crime is facilitated by or connected to
39 the use of the Internet or any device capable of electronic data
40 storage or transmission;

41 8. Any violation of the provisions of chapter 815;



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42 9. Any criminal violation of part I of chapter 499;

43 10. Any violation of the provisions of the Florida Motor
44 Fuel Tax Relief Act of 2004;

45 11. Any criminal violation of s. 409.920 or s. 409.9201;

46 12. Any crime involving voter registration, voting, or
47 candidate or issue petition activities;

48 13. Any criminal violation of the Florida Money Laundering
49 Act; ~~or~~

50 14. Any criminal violation of the Florida Securities and
51 Investor Protection Act; or

52 15. Any violation of the provisions of chapter 787, as well
53 as any and all offenses related to a violation of the provisions
54 of chapter 787;

55
56 or any attempt, solicitation, or conspiracy to commit any of the
57 crimes specifically enumerated above. The office shall have such
58 power only when any such offense is occurring, or has occurred,
59 in two or more judicial circuits as part of a related
60 transaction, or when any such offense is connected with an
61 organized criminal conspiracy affecting two or more judicial
62 circuits. Informations or indictments charging such offenses
63 shall contain general allegations stating the judicial circuits
64 and counties in which crimes are alleged to have occurred or the
65 judicial circuits and counties in which crimes affecting such
66 circuits or counties are alleged to have been connected with an
67 organized criminal conspiracy.

68 Section 2. Section 480.0535, Florida Statutes, is created
69 to read:

70 480.0535 Documents required while working in a massage



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71 establishment.-

72 (1) In order to provide the department and law enforcement
73 agencies the means to more effectively identify, investigate,
74 and arrest persons engaging in human trafficking, a person
75 employed by a massage establishment and any person performing
76 massage therein must immediately present, upon the request of an
77 investigator of the department or a law enforcement officer,
78 valid government identification while in the establishment. A
79 valid government identification for the purposes of this section
80 is:

81 (a) A valid, unexpired driver license issued by any state,
82 territory, or district of the United States;

83 (b) A valid, unexpired identification card issued by any
84 state, territory, or district of the United States;

85 (c) A valid, unexpired United States passport;

86 (d) A naturalization certificate issued by the United
87 States Department of Homeland Security;

88 (e) A valid, unexpired alien registration receipt card
89 (green card); or

90 (f) A valid, unexpired employment authorization card issued
91 by the United States Department of Homeland Security.

92 (2) A person operating a massage establishment must:

93 (a) Immediately present, upon the request of an
94 investigator of the department or a law enforcement officer:

95 1. Valid government identification while in the
96 establishment.

97 2. A copy of the documentation specified in paragraph
98 (1)(a) for each employee and any person performing massage in
99 the establishment.



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100 (b) Ensure that each employee and any person performing
101 massage in the massage establishment is able to immediately
102 present, upon the request of an investigator of the department
103 or a law enforcement officer, valid government identification
104 while in the establishment.

105 (3) A person who violates any provision of this section
106 commits:

107 (a) For a first violation, a misdemeanor of the second
108 degree, punishable as provided in s. 775.082 or s. 775.083.

109 (b) For a second violation, a misdemeanor of the first
110 degree, punishable as provided in s. 775.082 or s. 775.083.

111 (c) For a third or subsequent violation, a felony of the
112 third degree, punishable as provided in s. 775.082, s. 775.083,
113 or s. 775.084.

114 Section 3. Paragraph (a) of subsection (4) of section
115 775.21, Florida Statutes, is amended to read:

116 775.21 The Florida Sexual Predators Act.—

117 (4) SEXUAL PREDATOR CRITERIA.—

118 (a) For a current offense committed on or after October 1,
119 1993, upon conviction, an offender shall be designated as a
120 “sexual predator” under subsection (5), and subject to
121 registration under subsection (6) and community and public
122 notification under subsection (7) if:

123 1. The felony is:

124 a. A capital, life, or first-degree felony violation, or
125 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
126 is a minor and the defendant is not the victim’s parent or
127 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
128 violation of a similar law of another jurisdiction; or



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129 b. Any felony violation, or any attempt thereof, of s.
130 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a
131 minor and the defendant is not the victim's parent or guardian;
132 s. 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
133 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
134 825.1025(2)(b); s. 827.071; s. 847.0135(5); s. 847.0145; or s.
135 985.701(1); or a violation of a similar law of another
136 jurisdiction, and the offender has previously been convicted of
137 or found to have committed, or has pled nolo contendere or
138 guilty to, regardless of adjudication, any violation of s.
139 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a
140 minor and the defendant is not the victim's parent or guardian;
141 s. 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
142 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
143 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
144 847.0135(6); s. 847.0145; or s. 985.701(1); or a violation of a
145 similar law of another jurisdiction;

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

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

152 Section 4. Section 787.05, Florida Statutes, is repealed.

153 Section 5. Section 787.06, Florida Statutes, is amended to
154 read:

155 787.06 Human trafficking.—

156 (1)(a) The Legislature finds that human trafficking is a
157 form of modern-day slavery. Victims of human trafficking are



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158 young children, teenagers, and adults. Thousands of victims are
159 trafficked annually across international borders worldwide. Many
160 of these victims are trafficked into this state. Victims of
161 human trafficking also include citizens of the United States and
162 those persons trafficked domestically within the borders of the
163 United States. The Legislature finds that victims of human
164 trafficking are subjected to force, fraud, or coercion for the
165 purpose of sexual exploitation or forced labor.

166 (b) The Legislature finds that while many victims of human
167 trafficking are forced to work in prostitution or the sexual
168 entertainment industry, trafficking also occurs in forms of
169 labor exploitation, such as domestic servitude, restaurant work,
170 janitorial work, sweatshop factory work, and migrant
171 agricultural work.

172 (c) The Legislature finds that traffickers use various
173 techniques to instill fear in victims and to keep them enslaved.
174 Some traffickers keep their victims under lock and key. However,
175 the most frequently used practices are less obvious techniques
176 that include isolating victims from the public and family
177 members; confiscating passports, visas, or other identification
178 documents; using or threatening to use violence toward victims
179 or their families; telling victims that they will be imprisoned
180 or deported for immigration violations if they contact
181 authorities; and controlling the victims' funds by holding the
182 money ostensibly for safekeeping.

183 (d) It is the intent of the Legislature that the
184 perpetrators of human trafficking be penalized for their illegal
185 conduct and that the victims of trafficking be protected and
186 assisted by this state and its agencies. In furtherance of this



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187 policy, it is the intent of the Legislature that the state
188 Supreme Court, The Florida Bar, and relevant state agencies
189 prepare and implement training programs in order that judges,
190 attorneys, law enforcement personnel, investigators, and others
191 are able to identify traffickers and victims of human
192 trafficking and direct victims to appropriate agencies for
193 assistance. It is the intent of the Legislature that the
194 Department of Children and Family Services and other state
195 agencies cooperate with other state and federal agencies to
196 ensure that victims of human trafficking can access social
197 services and benefits to alleviate their plight.

198 (2) As used in this section, the term:

199 ~~(a) "Financial harm" includes extortionate extension of~~
200 ~~credit, loan sharking as defined in s. 687.071, or employment~~
201 ~~contracts that violate the statute of frauds as provided in s.~~
202 ~~725.01.~~

203 ~~(a)(b) "Coercion" "Forced labor or services" means labor or~~
204 ~~services obtained from a person by:~~

205 1. Using or threatening to use physical force against any
206 ~~that person or another person;~~

207 2. Restraining, isolating, or confining or threatening to
208 restrain, isolate, or confine any ~~that person or another person~~
209 without lawful authority and against her or his will;

210 3. Using lending or other credit methods to establish a
211 debt by any ~~that person or another person~~ when labor or services
212 are pledged as a security for the debt, if the value of the
213 labor or services as reasonably assessed is not applied toward
214 the liquidation of the debt, the length and nature of the labor
215 or services are not respectively limited and defined;



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216 4. Destroying, concealing, removing, confiscating,
217 withholding, or possessing any actual or purported passport,
218 visa, or other immigration document, or any other actual or
219 purported government identification document, of any ~~that~~ person
220 ~~or another person~~;

221 5. Causing or threatening to cause financial harm to any
222 person; ~~or~~

223 6. Enticing or luring any person by fraud or deceit
224 ~~coercion~~; or

225 7. Providing a controlled substance as outlined in Schedule
226 I or Schedule II of s. 893.03 to any person for the purpose of
227 exploitation of that person.

228 (b) "Commercial sexual activity" means any violation of
229 chapter 796 or an attempt to commit any such offense, and
230 includes sexually explicit performances and the production of
231 pornography.

232 (c) "Financial harm" includes extortionate extension of
233 credit, loan sharking as defined in s. 687.071, or employment
234 contracts that violate the statute of frauds as provided in s.
235 725.01.

236 (d)~~(e)~~ "Human trafficking" means transporting, soliciting,
237 recruiting, harboring, providing, enticing, maintaining, or
238 obtaining another person for the purpose of exploitation of that
239 person for transport.

240 (e) "Labor" means work of economic or financial value.

241 (f)~~(d)~~ "Maintain~~r~~" means, when used in relation to labor or
242 services, means to secure or make possible continued performance
243 thereof, regardless of any initial agreement on the part of the
244 victim to perform such type service.



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245 (g) "Obtain" means, in relation to labor or services, to
246 secure performance thereof.

247 (h) "Services" means any act committed at the behest of,
248 under the supervision of, or for the benefit of another. The
249 term includes, but is not limited to, forced marriage,
250 servitude, or the removal of organs.

251 (i) "Sexually explicit performance" means an act or show,
252 whether public or private, that is live, photographed, recorded,
253 or videotaped and intended to arouse or satisfy the sexual
254 desires or appeal to the prurient interest.

255 (j) "Unauthorized alien" means an alien who is not
256 authorized under federal law to be employed in the United
257 States, as provided in 8 U.S.C. s. 1324a(h) (3). The term shall
258 be interpreted consistently with that section and any applicable
259 federal rules or regulations.

260 (k) "Venture" means any group of two or more individuals
261 associated in fact, whether or not a legal entity.

262 (3) Any person who knowingly, or in reckless disregard of
263 the facts, engages in, or attempts to engage in, or benefits
264 financially by receiving anything of value from participation in
265 a venture that has subjected a person to human trafficking:

266 (a) Using coercion for labor or services Engages, or
267 attempts to engage, in human trafficking with the intent or
268 knowledge that the trafficked person will be subjected to forced
269 labor or services; or

270 (b) Benefits financially by receiving anything of value
271 from participation in a venture that has subjected a person to
272 forced labor or services; commits a felony of the first ~~second~~
273 degree, punishable as provided in s. 775.082, s. 775.083, or s.



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274 775.084.

275 (b) Using coercion for commercial sexual activity commits a
276 felony of the first degree, punishable as provided in s.
277 775.082, s. 775.083, or s. 775.084.

278 (c) Using coercion for labor or services of any individual
279 who is an unauthorized alien commits a felony of the first
280 degree, punishable as provided in s. 775.082, s. 775.083, or s.
281 775.084.

282 (d) Using coercion for commercial sexual activity of any
283 individual who is an unauthorized alien commits a felony of the
284 first degree, punishable as provided in s. 775.082, s. 775.083,
285 or s. 775.084.

286 (e) Using coercion for labor or services who does so by the
287 transfer or transport of any individual from outside this state
288 to within the state commits a felony of the first degree,
289 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

290 (f) Using coercion for commercial sexual activity who does
291 so by the transfer or transport of any individual from outside
292 this state to within the state commits a felony of the first
293 degree, punishable as provided in s. 775.082, s. 775.083, or s.
294 775.084.

295 (g) For commercial sexual activity in which any child under
296 the age of 18 is involved commits a felony of the first degree,
297 punishable by imprisonment for a term of years not exceeding
298 life, or as provided in s. 775.082, s. 775.083, or s. 775.084.
299 In a prosecution under this paragraph in which the defendant had
300 a reasonable opportunity to observe the person who was subject
301 to human trafficking, the state need not prove that the
302 defendant knew that the person had not attained the age of 18



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303 years.

304 (h) For commercial sexual activity in which any child under
305 the age of 15 is involved commits a life felony, punishable as
306 provided in s. 775.082, s. 775.083, or s. 775.084. In a
307 prosecution under this paragraph in which the defendant had a
308 reasonable opportunity to observe the person who was subject to
309 human trafficking, the state need not prove that the defendant
310 knew that the person had not attained the age of 15 years.

311
312 For each instance of human trafficking of any individual under
313 this subsection, a separate crime is committed and a separate
314 punishment is authorized.

315 (4) Any parent, legal guardian, or other person having
316 custody or control of a minor who sells or otherwise transfers
317 custody or control of such minor, or offers to sell or otherwise
318 transfer custody of such minor, with knowledge or in reckless
319 disregard of the fact that, as a consequence of the sale or
320 transfer, the minor will be subject to human trafficking commits
321 a first degree felony, punishable as provided in s. 775.082, s.
322 775.083, or s. 775.084.

323 (5)~~(4)~~ The Criminal Justice Standards and Training
324 Commission shall establish standards for basic and advanced
325 training programs for law enforcement officers in the subjects
326 of investigating and preventing human trafficking crimes. ~~After~~
327 January 1, 2007, Every basic skills course required for law
328 enforcement officers to obtain initial certification must
329 include training on human trafficking crime prevention and
330 investigation.

331 (6)~~(5)~~ Each state attorney shall develop standards of



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332 instruction for prosecutors to receive training on the
333 investigation and prosecution of human trafficking crimes and
334 shall provide for periodic and timely instruction.

335 (7) Any real property or personal property that was used,
336 attempted to be used, or intended to be used in violation of any
337 provision of this section may be seized and shall be forfeited
338 subject to the provisions of the Florida Contraband Forfeiture
339 Act.

340 Section 6. Section 787.07, Florida Statutes, is amended to
341 read:

342 787.07 Human smuggling.—

343 (1) A person who transports into this state an individual
344 who the person knows, or should know, is illegally entering the
345 United States from another country commits a felony ~~misdemeanor~~
346 of the third ~~first~~ degree, punishable as provided in s. 775.082,
347 ~~or~~ s. 775.083, or s. 775.084.

348 (2) A person commits a separate offense for each individual
349 he or she transports into this state in violation of this
350 section.

351 Section 7. Section 796.035, Florida Statutes, is amended to
352 read:

353 796.035 Selling or buying of minors into ~~sex trafficking or~~
354 prostitution; penalties.—Any parent, legal guardian, or other
355 person having custody or control of a minor who sells or
356 otherwise transfers custody or control of such minor, or offers
357 to sell or otherwise transfer custody of such minor, with
358 knowledge or in reckless disregard of the fact that, as a
359 consequence of the sale or transfer, the minor will engage in
360 prostitution, ~~perform naked for compensation, or otherwise~~



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361 ~~participate in the trade of sex trafficking,~~ commits a felony of
362 the first degree, punishable as provided in s. 775.082, s.
363 775.083, or s. 775.084.

364 Section 8. Section 796.045, Florida Statutes, is repealed.

365 Section 9. Subsections (11) and (12) of section 905.34,
366 Florida Statutes, are amended, and subsection (13) is added to
367 that section, to read:

368 905.34 Powers and duties; law applicable.—The jurisdiction
369 of a statewide grand jury impaneled under this chapter shall
370 extend throughout the state. The subject matter jurisdiction of
371 the statewide grand jury shall be limited to the offenses of:

372 (11) Any criminal violation of the Florida Money Laundering
373 Act; ~~or~~

374 (12) Any criminal violation of the Florida Securities and
375 Investor Protection Act; or

376 (13) Any violation of chapter 787, as well as any and all
377 offenses related to a violation of chapter 787;

378
379 or any attempt, solicitation, or conspiracy to commit any
380 violation of the crimes specifically enumerated above, when any
381 such offense is occurring, or has occurred, in two or more
382 judicial circuits as part of a related transaction or when any
383 such offense is connected with an organized criminal conspiracy
384 affecting two or more judicial circuits. The statewide grand
385 jury may return indictments and presentments irrespective of the
386 county or judicial circuit where the offense is committed or
387 triable. If an indictment is returned, it shall be certified and
388 transferred for trial to the county where the offense was
389 committed. The powers and duties of, and law applicable to,



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390 county grand juries shall apply to a statewide grand jury except
391 when such powers, duties, and law are inconsistent with the
392 provisions of ss. 905.31-905.40.

393 Section 10. Paragraph (a) of subsection (1) of section
394 934.07, Florida Statutes, is amended to read:

395 934.07 Authorization for interception of wire, oral, or
396 electronic communications.-

397 (1) The Governor, the Attorney General, the statewide
398 prosecutor, or any state attorney may authorize an application
399 to a judge of competent jurisdiction for, and such judge may
400 grant in conformity with ss. 934.03-934.09 an order authorizing
401 or approving the interception of, wire, oral, or electronic
402 communications by:

403 (a) The Department of Law Enforcement or any law
404 enforcement agency as defined in s. 934.02 having responsibility
405 for the investigation of the offense as to which the application
406 is made when such interception may provide or has provided
407 evidence of the commission of the offense of murder, kidnapping,
408 aircraft piracy, arson, gambling, robbery, burglary, theft,
409 dealing in stolen property, criminal usury, bribery, or
410 extortion; any felony violation of ss. 790.161-790.166,
411 inclusive; any violation of s. 787.06; any violation of chapter
412 893; any violation of the provisions of the Florida Anti-Fencing
413 Act; any violation of chapter 895; any violation of chapter 896;
414 any violation of chapter 815; any violation of chapter 847; any
415 violation of s. 827.071; any violation of s. 944.40; or any
416 conspiracy or solicitation to commit any violation of the laws
417 of this state relating to the crimes specifically enumerated in
418 this paragraph.



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419 Section 11. Paragraph (a) of subsection (1) of section
420 943.0435, Florida Statutes, is amended to read:

421 943.0435 Sexual offenders required to register with the
422 department; penalty.—

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

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

427 a.(I) Has been convicted of committing, or attempting,
428 soliciting, or conspiring to commit, any of the criminal
429 offenses proscribed in the following statutes in this state or
430 similar offenses in another jurisdiction: s. 787.01, s. 787.02,
431 or s. 787.025(2)(c), where the victim is a minor and the
432 defendant is not the victim's parent or guardian; s.
433 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
434 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
435 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
436 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s.
437 985.701(1); or any similar offense committed in this state which
438 has been redesignated from a former statute number to one of
439 those listed in this sub-sub-subparagraph; and

440 (II) Has been released on or after October 1, 1997, from
441 the sanction imposed for any conviction of an offense described
442 in sub-sub-subparagraph (I). For purposes of sub-sub-
443 subparagraph (I), a sanction imposed in this state or in any
444 other jurisdiction includes, but is not limited to, a fine,
445 probation, community control, parole, conditional release,
446 control release, or incarceration in a state prison, federal
447 prison, private correctional facility, or local detention



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448 facility;

449 b. Establishes or maintains a residence in this state and
450 who has not been designated as a sexual predator by a court of
451 this state but who has been designated as a sexual predator, as
452 a sexually violent predator, or by another sexual offender
453 designation in another state or jurisdiction and was, as a
454 result of such designation, subjected to registration or
455 community or public notification, or both, or would be if the
456 person were a resident of that state or jurisdiction, without
457 regard to whether the person otherwise meets the criteria for
458 registration as a sexual offender;

459 c. Establishes or maintains a residence in this state who
460 is in the custody or control of, or under the supervision of,
461 any other state or jurisdiction as a result of a conviction for
462 committing, or attempting, soliciting, or conspiring to commit,
463 any of the criminal offenses proscribed in the following
464 statutes or similar offense in another jurisdiction: s. 787.01,
465 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
466 the defendant is not the victim's parent or guardian; s.
467 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
468 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
469 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
470 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; or s.
471 985.701(1); or any similar offense committed in this state which
472 has been redesignated from a former statute number to one of
473 those listed in this sub-subparagraph; or

474 d. On or after July 1, 2007, has been adjudicated
475 delinquent for committing, or attempting, soliciting, or
476 conspiring to commit, any of the criminal offenses proscribed in



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477 the following statutes in this state or similar offenses in
478 another jurisdiction when the juvenile was 14 years of age or
479 older at the time of the offense:

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

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

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

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

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

491
492 For each violation of a qualifying offense listed in this
493 subsection, the court shall make a written finding of the age of
494 the victim at the time of the offense. For a violation of s.
495 800.04(4), the court shall additionally make a written finding
496 indicating that the offense did or did not involve sexual
497 activity and indicating that the offense did or did not involve
498 force or coercion. For a violation of s. 800.04(5), the court
499 shall additionally make a written finding that the offense did
500 or did not involve unclothed genitals or genital area and that
501 the offense did or did not involve the use of force or coercion.

502 Section 12. Paragraph (b) of subsection (1) of section
503 944.606, Florida Statutes, is amended to read:

504 944.606 Sexual offenders; notification upon release.-

505 (1) As used in this section:



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506 (b) "Sexual offender" means a person who has been convicted
507 of committing, or attempting, soliciting, or conspiring to
508 commit, any of the criminal offenses proscribed in the following
509 statutes in this state or similar offenses in another
510 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
511 the victim is a minor and the defendant is not the victim's
512 parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s.
513 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
514 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
515 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
516 847.0145; or s. 985.701(1); or any similar offense committed in
517 this state which has been redesignated from a former statute
518 number to one of those listed in this subsection, when the
519 department has received verified information regarding such
520 conviction; an offender's computerized criminal history record
521 is not, in and of itself, verified information.

522 Section 13. Paragraph (a) of subsection (1) of section
523 944.607, Florida Statutes, is amended to read:

524 944.607 Notification to Department of Law Enforcement of
525 information on sexual offenders.—

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

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

530 1. On or after October 1, 1997, as a result of a conviction
531 for committing, or attempting, soliciting, or conspiring to
532 commit, any of the criminal offenses proscribed in the following
533 statutes in this state or similar offenses in another
534 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where



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535 the victim is a minor and the defendant is not the victim's
536 parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s.
537 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
538 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
539 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
540 847.0145; or s. 985.701(1); or any similar offense committed in
541 this state which has been redesignated from a former statute
542 number to one of those listed in this paragraph; or

543 2. Who establishes or maintains a residence in this state
544 and who has not been designated as a sexual predator by a court
545 of this state but who has been designated as a sexual predator,
546 as a sexually violent predator, or by another sexual offender
547 designation in another state or jurisdiction and was, as a
548 result of such designation, subjected to registration or
549 community or public notification, or both, or would be if the
550 person were a resident of that state or jurisdiction, without
551 regard as to whether the person otherwise meets the criteria for
552 registration as a sexual offender.

553 Section 14. Paragraphs (b) and (c) of subsection (2) of
554 section 90.404, Florida Statutes, are amended to read:

555 90.404 Character evidence; when admissible.—

556 (2) OTHER CRIMES, WRONGS, OR ACTS.—

557 (b)1. In a criminal case in which the defendant is charged
558 with a crime involving child molestation, evidence of the
559 defendant's commission of other crimes, wrongs, or acts of child
560 molestation is admissible and may be considered for its bearing
561 on any matter to which it is relevant.

562 2. For the purposes of this paragraph, the term "child
563 molestation" means conduct proscribed by s. 787.025(2)(c), s.



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564 787.06(3)(g) and (h), s. 794.011, excluding s. 794.011(10), s.
565 794.05, s. 796.03, s. 796.035, ~~s. 796.045~~, s. 800.04, s.
566 827.071, s. 847.0135(5), s. 847.0145, or s. 985.701(1) when
567 committed against a person 16 years of age or younger.

568 (c)1. In a criminal case in which the defendant is charged
569 with a sexual offense, evidence of the defendant's commission of
570 other crimes, wrongs, or acts involving a sexual offense is
571 admissible and may be considered for its bearing on any matter
572 to which it is relevant.

573 2. For the purposes of this paragraph, the term "sexual
574 offense" means conduct proscribed by s. 787.025(2)(c), s.
575 787.06(3)(b), (d), (f), (g), or (h), s. 794.011, excluding s.
576 794.011(10), s. 794.05, s. 796.03, s. 796.035, ~~s. 796.045~~, s.
577 825.1025(2)(b), s. 827.071, s. 847.0135(5), s. 847.0145, or s.
578 985.701(1).

579 Section 15. Paragraph (a) of subsection (1) of section
580 772.102, Florida Statutes, is amended to read:

581 772.102 Definitions.—As used in this chapter, the term:

582 (1) "Criminal activity" means to commit, to attempt to
583 commit, to conspire to commit, or to solicit, coerce, or
584 intimidate another person to commit:

585 (a) Any crime that is chargeable by indictment or
586 information under the following provisions:

587 1. Section 210.18, relating to evasion of payment of
588 cigarette taxes.

589 2. Section 414.39, relating to public assistance fraud.

590 3. Section 440.105 or s. 440.106, relating to workers'
591 compensation.

592 4. Part IV of chapter 501, relating to telemarketing.



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- 593 5. Chapter 517, relating to securities transactions.
594 6. Section 550.235 or s. 550.3551, relating to dogracing
595 and horseracing.
596 7. Chapter 550, relating to jai alai frontons.
597 8. Chapter 552, relating to the manufacture, distribution,
598 and use of explosives.
599 9. Chapter 562, relating to beverage law enforcement.
600 10. Section 624.401, relating to transacting insurance
601 without a certificate of authority, s. 624.437(4)(c)1., relating
602 to operating an unauthorized multiple-employer welfare
603 arrangement, or s. 626.902(1)(b), relating to representing or
604 aiding an unauthorized insurer.
605 11. Chapter 687, relating to interest and usurious
606 practices.
607 12. Section 721.08, s. 721.09, or s. 721.13, relating to
608 real estate timeshare plans.
609 13. Chapter 782, relating to homicide.
610 14. Chapter 784, relating to assault and battery.
611 15. Chapter 787, relating to kidnapping or human
612 trafficking.
613 16. Chapter 790, relating to weapons and firearms.
614 17. Section 796.03, s. 796.04, ~~s. 796.045~~, s. 796.05, or s.
615 796.07, relating to prostitution.
616 18. Chapter 806, relating to arson.
617 19. Section 810.02(2)(c), relating to specified burglary of
618 a dwelling or structure.
619 20. Chapter 812, relating to theft, robbery, and related
620 crimes.
621 21. Chapter 815, relating to computer-related crimes.



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- 622 22. Chapter 817, relating to fraudulent practices, false
623 pretenses, fraud generally, and credit card crimes.
- 624 23. Section 827.071, relating to commercial sexual
625 exploitation of children.
- 626 24. Chapter 831, relating to forgery and counterfeiting.
- 627 25. Chapter 832, relating to issuance of worthless checks
628 and drafts.
- 629 26. Section 836.05, relating to extortion.
- 630 27. Chapter 837, relating to perjury.
- 631 28. Chapter 838, relating to bribery and misuse of public
632 office.
- 633 29. Chapter 843, relating to obstruction of justice.
- 634 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
635 s. 847.07, relating to obscene literature and profanity.
- 636 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
637 849.25, relating to gambling.
- 638 32. Chapter 893, relating to drug abuse prevention and
639 control.
- 640 33. Section 914.22 or s. 914.23, relating to witnesses,
641 victims, or informants.
- 642 34. Section 918.12 or s. 918.13, relating to tampering with
643 jurors and evidence.
- 644 Section 16. Subsection (1) of section 794.056, Florida
645 Statutes, is amended to read:
- 646 794.056 Rape Crisis Program Trust Fund.—
- 647 (1) The Rape Crisis Program Trust Fund is created within
648 the Department of Health for the purpose of providing funds for
649 rape crisis centers in this state. Trust fund moneys shall be
650 used exclusively for the purpose of providing services for



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651 victims of sexual assault. Funds credited to the trust fund
652 consist of those funds collected as an additional court
653 assessment in each case in which a defendant pleads guilty or
654 nolo contendere to, or is found guilty of, regardless of
655 adjudication, an offense provided in s. 775.21(6) and (10)(a),
656 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
657 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
658 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
659 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
660 s. 796.03; s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s.
661 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.
662 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
663 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
664 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),
665 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust
666 fund also shall include revenues provided by law, moneys
667 appropriated by the Legislature, and grants from public or
668 private entities.

669 Section 17. Paragraph (a) of subsection (1) of section
670 895.02, Florida Statutes, is amended to read:

671 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

672 (1) "Racketeering activity" means to commit, to attempt to
673 commit, to conspire to commit, or to solicit, coerce, or
674 intimidate another person to commit:

675 (a) Any crime that is chargeable by petition, indictment,
676 or information under the following provisions of the Florida
677 Statutes:

678 1. Section 210.18, relating to evasion of payment of
679 cigarette taxes.



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- 680 2. Section 316.1935, relating to fleeing or attempting to
681 elude a law enforcement officer and aggravated fleeing or
682 eluding.
- 683 3. Section 403.727(3)(b), relating to environmental
684 control.
- 685 4. Section 409.920 or s. 409.9201, relating to Medicaid
686 fraud.
- 687 5. Section 414.39, relating to public assistance fraud.
- 688 6. Section 440.105 or s. 440.106, relating to workers'
689 compensation.
- 690 7. Section 443.071(4), relating to creation of a fictitious
691 employer scheme to commit unemployment compensation fraud.
- 692 8. Section 465.0161, relating to distribution of medicinal
693 drugs without a permit as an Internet pharmacy.
- 694 9. Section 499.0051, relating to crimes involving
695 contraband and adulterated drugs.
- 696 10. Part IV of chapter 501, relating to telemarketing.
- 697 11. Chapter 517, relating to sale of securities and
698 investor protection.
- 699 12. Section 550.235 or s. 550.3551, relating to dogracing
700 and horseracing.
- 701 13. Chapter 550, relating to jai alai frontons.
- 702 14. Section 551.109, relating to slot machine gaming.
- 703 15. Chapter 552, relating to the manufacture, distribution,
704 and use of explosives.
- 705 16. Chapter 560, relating to money transmitters, if the
706 violation is punishable as a felony.
- 707 17. Chapter 562, relating to beverage law enforcement.
- 708 18. Section 624.401, relating to transacting insurance



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709 without a certificate of authority, s. 624.437(4)(c)1., relating
710 to operating an unauthorized multiple-employer welfare
711 arrangement, or s. 626.902(1)(b), relating to representing or
712 aiding an unauthorized insurer.

713 19. Section 655.50, relating to reports of currency
714 transactions, when such violation is punishable as a felony.

715 20. Chapter 687, relating to interest and usurious
716 practices.

717 21. Section 721.08, s. 721.09, or s. 721.13, relating to
718 real estate timeshare plans.

719 22. Section 775.13(5)(b), relating to registration of
720 persons found to have committed any offense for the purpose of
721 benefiting, promoting, or furthering the interests of a criminal
722 gang.

723 23. Section 777.03, relating to commission of crimes by
724 accessories after the fact.

725 24. Chapter 782, relating to homicide.

726 25. Chapter 784, relating to assault and battery.

727 26. Chapter 787, relating to kidnapping or human
728 trafficking.

729 27. Chapter 790, relating to weapons and firearms.

730 28. Chapter 794, relating to sexual battery, but only if
731 such crime was committed with the intent to benefit, promote, or
732 further the interests of a criminal gang, or for the purpose of
733 increasing a criminal gang member's own standing or position
734 within a criminal gang.

735 29. Section 796.03, s. 796.035, s. 796.04, ~~s. 796.045~~, s.
736 796.05, or s. 796.07, relating to prostitution and sex
737 trafficking.



- 738 30. Chapter 806, relating to arson and criminal mischief.
739 31. Chapter 810, relating to burglary and trespass.
740 32. Chapter 812, relating to theft, robbery, and related
741 crimes.
742 33. Chapter 815, relating to computer-related crimes.
743 34. Chapter 817, relating to fraudulent practices, false
744 pretenses, fraud generally, and credit card crimes.
745 35. Chapter 825, relating to abuse, neglect, or
746 exploitation of an elderly person or disabled adult.
747 36. Section 827.071, relating to commercial sexual
748 exploitation of children.
749 37. Chapter 831, relating to forgery and counterfeiting.
750 38. Chapter 832, relating to issuance of worthless checks
751 and drafts.
752 39. Section 836.05, relating to extortion.
753 40. Chapter 837, relating to perjury.
754 41. Chapter 838, relating to bribery and misuse of public
755 office.
756 42. Chapter 843, relating to obstruction of justice.
757 43. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
758 s. 847.07, relating to obscene literature and profanity.
759 44. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
760 849.25, relating to gambling.
761 45. Chapter 874, relating to criminal gangs.
762 46. Chapter 893, relating to drug abuse prevention and
763 control.
764 47. Chapter 896, relating to offenses related to financial
765 transactions.
766 48. Sections 914.22 and 914.23, relating to tampering with



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767 or harassing a witness, victim, or informant, and retaliation
768 against a witness, victim, or informant.

769 49. Sections 918.12 and 918.13, relating to tampering with
770 jurors and evidence.

771 Section 18. Section 938.085, Florida Statutes, is amended
772 to read:

773 938.085 Additional cost to fund rape crisis centers.—In
774 addition to any sanction imposed when a person pleads guilty or
775 nolo contendere to, or is found guilty of, regardless of
776 adjudication, a violation of s. 775.21(6) and (10) (a), (b), and
777 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
778 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
779 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
780 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; s. 796.03;
781 s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s. 796.06; s.
782 796.07(2) (a)–(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
783 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
784 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
785 847.0145; s. 943.0435(4) (c), (7), (8), (9) (a), (13), and
786 (14) (c); or s. 985.701(1), the court shall impose a surcharge of
787 \$151. Payment of the surcharge shall be a condition of
788 probation, community control, or any other court-ordered
789 supervision. The sum of \$150 of the surcharge shall be deposited
790 into the Rape Crisis Program Trust Fund established within the
791 Department of Health by chapter 2003-140, Laws of Florida. The
792 clerk of the court shall retain \$1 of each surcharge that the
793 clerk of the court collects as a service charge of the clerk's
794 office.

795 Section 19. Paragraphs (d), (g), (h), (i), and (j) of



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796 subsection (3) of section 921.0022, Florida Statutes, are
797 amended to read:
798 921.0022 Criminal Punishment Code; offense severity ranking
799 chart.—

800

801 (3) OFFENSE SEVERITY RANKING CHART

802 (d) LEVEL 4

803

Florida Statute	Felony Degree	Description
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804

316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
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805

499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
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806

499.0051(2)	3rd	Failure to authenticate pedigree papers.
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807

499.0051(6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
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808

784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
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809



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810	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
811	784.075	3rd	Battery on detention or commitment facility staff.
812	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
813	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
814	784.081 (3)	3rd	Battery on specified official or employee.
815	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
816	784.083 (3)	3rd	Battery on code inspector.
817	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
818	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
	787.04 (2)	3rd	Take, entice, or remove child beyond



state limits with criminal intent
pending custody proceedings.

819

787.04(3) 3rd Carrying child beyond state lines with
criminal intent to avoid producing child
at custody hearing or delivering to
designated person.

820

787.07 3rd Human smuggling.

821

822

790.115(1) 3rd Exhibiting firearm or weapon within
1,000 feet of a school.

823

790.115(2)(b) 3rd Possessing electric weapon or device,
destructive device, or other weapon on
school property.

824

790.115(2)(c) 3rd Possessing firearm on school property.

825

800.04(7)(c) 3rd Lewd or lascivious exhibition; offender
less than 18 years.

826

810.02(4)(a) 3rd Burglary, or attempted burglary, of an
unoccupied structure; unarmed; no
assault or battery.

827

810.02(4)(b) 3rd Burglary, or attempted burglary, of an
unoccupied conveyance; unarmed; no



			assault or battery.
828	810.06	3rd	Burglary; possession of tools.
829	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
830	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
831	812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
832	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
833	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
834	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
835	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
836	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.



837	837.02(1)	3rd	Perjury in official proceedings.
838	837.021(1)	3rd	Make contradictory statements in official proceedings.
839	838.022	3rd	Official misconduct.
840	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
841	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Family Services.
842	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
843	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
844	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
845	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
846	874.05(1)	3rd	Encouraging or recruiting another to



join a criminal gang.

847

893.13(2)(a)1. 2nd Purchase of cocaine (or other s.
893.03(1)(a), (b), or (d), (2)(a),
(2)(b), or (2)(c)4. drugs).

848

914.14(2) 3rd Witnesses accepting bribes.

849

914.22(1) 3rd Force, threaten, etc., witness, victim,
or informant.

850

914.23(2) 3rd Retaliation against a witness, victim,
or informant, no bodily injury.

851

918.12 3rd Tampering with jurors.

852

934.215 3rd Use of two-way communications device to
facilitate commission of a crime.

853

854 (g) LEVEL 7

855

Florida Statute	Felony Degree	Description
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856

316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
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857

316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
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858



859	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.
860	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
861	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
862	409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
863	409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
864	456.065(2)	3rd	Practicing a health care profession without a license.
865	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.



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866	458.327(1)	3rd	Practicing medicine without a license.
867	459.013(1)	3rd	Practicing osteopathic medicine without a license.
868	460.411(1)	3rd	Practicing chiropractic medicine without a license.
869	461.012(1)	3rd	Practicing podiatric medicine without a license.
870	462.17	3rd	Practicing naturopathy without a license.
871	463.015(1)	3rd	Practicing optometry without a license.
872	464.016(1)	3rd	Practicing nursing without a license.
873	465.015(2)	3rd	Practicing pharmacy without a license.
874	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
875	467.201	3rd	Practicing midwifery without a license.
876	468.366	3rd	Delivering respiratory care services without a license.
	483.828(1)	3rd	Practicing as clinical laboratory



personnel without a license.

877

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

878

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

879

484.053 3rd Dispensing hearing aids without a license.

880

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.

881

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.

882

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

883

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



884 775.21(10) (a) 3rd Sexual predator; failure to register;
failure to renew driver's license or
identification card; other registration
violations.

885 775.21(10) (b) 3rd Sexual predator working where children
regularly congregate.

886 775.21(10) (g) 3rd Failure to report or providing false
information about a sexual predator;
harbor or conceal a sexual predator.

887 782.051(3) 2nd Attempted felony murder of a person by
a person other than the perpetrator or
the perpetrator of an attempted felony.

888 782.07(1) 2nd Killing of a human being by the act,
procurement, or culpable negligence of
another (manslaughter).

889 782.071 2nd Killing of a human being or viable
fetus by the operation of a motor
vehicle in a reckless manner (vehicular
homicide).

890 782.072 2nd Killing of a human being by the
operation of a vessel in a reckless
manner (vessel homicide).



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891	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
892	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
893	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
894	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
895	784.048 (7)	3rd	Aggravated stalking; violation of court order.
896	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
897	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
898	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
899	784.081 (1)	1st	Aggravated battery on specified official or employee.
900			



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901 784.082 (1) 1st Aggravated battery by detained person
902 on visitor or other detainee.

903 784.083 (1) 1st Aggravated battery on code inspector.

904

905 787.06 (3) (a) 1st Human trafficking using coercion for
labor and services.

906

907 787.06 (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.

908

909 790.07 (4) 1st Specified weapons violation subsequent
to previous conviction of s. 790.07(1)
or (2).

910

911 790.16 (1) 1st Discharge of a machine gun under
specified circumstances.

912

913 790.165 (2) 2nd Manufacture, sell, possess, or deliver
hoax bomb.



914	790.165 (3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
915	790.166 (3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
916	790.166 (4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
917	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
918	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.
919	796.03	2nd	Procuring any person under 16 years for prostitution.
920	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.



921	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.
922	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
923	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
924	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
925	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
926	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
927	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.
928	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.



929	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
930	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
931	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
932	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
933	812.131 (2) (a)	2nd	Robbery by sudden snatching.
934	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
935	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
936	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
937	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.



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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.
938		
825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
939		
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.
940		
827.03 (3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
941		
827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
942		
837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
943		
838.015	2nd	Bribery.
944		
838.016	2nd	Unlawful compensation or reward for



official behavior.

945

838.021(3)(a) 2nd Unlawful harm to a public servant.

946

838.22 2nd Bid tampering.

947

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

948

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

949

872.06 2nd Abuse of a dead human body.

950

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

951

893.13(1)(c)1. 1st Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

952

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.

953	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).
954	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
955	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
956	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
957	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
958	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
959	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
960	893.135	1st	Trafficking in flunitrazepam, 4 grams



961 (1) (g) 1.a. or more, less than 14 grams.

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

893.135 1st Trafficking in 1,4-Butanediol, 1
963 (1) (j) 1.a. kilogram or more, less than 5
kilograms.

893.135 1st Trafficking in Phenethylamines, 10
964 (1) (k) 2.a. grams or more, less than 200 grams.

893.1351 (2) 2nd Possession of place for trafficking in
965 or manufacturing of controlled
substance.

896.101 (5) (a) 3rd Money laundering, financial
966 transactions exceeding \$300 but less
than \$20,000.

896.104 (4) (a) 1. 3rd Structuring transactions to evade
967 reporting or registration requirements,
financial transactions exceeding \$300
but less than \$20,000.

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



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968	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
969	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
970	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
971	943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.
972	944.607(9)	3rd	Sexual offender; failure to comply with reporting requirements.
973	944.607(10)(a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
974	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
975	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification.



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985.4815(10) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

985.4815(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

985.4815(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.

(h) LEVEL 8

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

987

560.123 (8) (b) 2. 2nd Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.

988

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.

989

655.50 (10) (b) 2. 2nd Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.

990

777.03 (2) (a) 1st Accessory after the fact, capital felony.

991

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, aircraft piracy, or unlawfully discharging bomb.

992

782.051 (2) 1st Attempted felony murder while perpetrating or attempting to



perpetrate a felony not enumerated in
s. 782.04(3).

993

782.071(1)(b) 1st Committing vehicular homicide and
failing to render aid or give
information.

994

782.072(2) 1st Committing vessel homicide and failing
to render aid or give information.

995

787.06(3)(b) 1st Human trafficking using coercion for
commercial sexual activity.

996

787.06(3)(c) 1st Human trafficking using coercion for
labor and services of an unauthorized
alien.

997

998

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.

999

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790.161(3) 1st Discharging a destructive device which
results in bodily harm or property
damage.

1001



1002	794.011 (5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
1003	794.08 (3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
1004	800.04 (4)	2nd	Lewd or lascivious battery.
1005	806.01 (1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
1006	810.02 (2) (a)	1st, PBL	Burglary with assault or battery.
1007	810.02 (2) (b)	1st, PBL	Burglary; armed with explosives or dangerous weapon.
1008	810.02 (2) (c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
1009	812.014 (2) (a) 2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
1010	812.13 (2) (b)	1st	Robbery with a weapon.



1011	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
1012	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
1013	825.102 (2)	1st	Aggravated abuse of an elderly person or disabled adult.
1014	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
1015	825.103 (2) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$100,000 or more.
1016	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
1017	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
1018	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.



1019	860.16	1st	Aircraft piracy.
1020	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).
1021	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
1022	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
1023	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
1024	893.135(1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
1025	893.135(1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
1026	893.135(1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
1027	893.135(1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.



1028	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
1029	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
1030	893.135 (1) (h) 1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
1031	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
1032	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
1033	893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
1034	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
1035	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.



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895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
(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.



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1046	499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
1047	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
1048	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
1049	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
1050	775.0844	1st	Aggravated white collar crime.
1051	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
1052	782.04(3)	1st, PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to



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age of 18.

787.06(4) 1st Selling or buying of minors into human trafficking.

790.161 1st Attempted capital destructive device offense.

790.166(2) 1st,PBL Possessing, selling, using, or attempting to use a weapon of mass destruction.

794.011(2) 1st Attempted sexual battery; victim less than 12 years of age.

794.011(2) Life Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.

794.011(4) 1st Sexual battery; victim 12 years or older, certain circumstances.

794.011(8)(b) 1st Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.



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1070	794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
1071	800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
1072	812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
1073	812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
1074	812.135(2)(b)	1st	Home-invasion robbery with weapon.
1075	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.
1076	827.03(2)	1st	Aggravated child abuse.
1077	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
1078	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.



1079	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.
1080	893.135	1st	Attempted capital trafficking offense.
1081	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
1082	893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
1083	893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
1084	893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
1085	893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
1086	893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
1087	893.135 (1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.



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1088	893.135	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
	(1) (j) 1.c.		
1089	893.135	1st	Trafficking in Phenethylamines, 400 grams or more.
	(1) (k) 2.c.		
1090	896.101 (5) (c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
1091	896.104 (4) (a) 3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.
1092			
1093	(j) LEVEL 10		
1094			
	Florida	Felony	
	Statute	Degree	Description
1095	499.0051 (10)	1st	Knowing sale or purchase of contraband prescription drugs resulting in death.
1096	782.04 (2)	1st, PBL	Unlawful killing of human; act is homicide, unpremeditated.
1097	<u>782.07 (3)</u>	<u>1st</u>	<u>Aggravated manslaughter of a child.</u>
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787.01(1)(a)3. 1st,PBL Kidnapping; inflict bodily harm upon or
terrorize victim.

1101

787.01(3)(a) Life Kidnapping; child under age 13,
perpetrator also commits aggravated
child abuse, sexual battery, or lewd or
lascivious battery, molestation,
conduct, or exhibition.

1102

787.06(3)(h) Life Human trafficking for commercial sexual
activity of a child under the age of 15.

1103
1104

~~782.07(3)~~ ~~1st~~ ~~Aggravated manslaughter of a child.~~

1105

794.011(3) Life Sexual battery; victim 12 years or
older, offender uses or threatens to use
deadly weapon or physical force to cause
serious injury.

1106

812.135(2)(a) 1st,PBL Home-invasion robbery with firearm or
other deadly weapon.

1107
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876.32 1st Treason against the state.

1109

Section 20. This act shall take effect July 1, 2012.



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1111 ===== T I T L E A M E N D M E N T =====

1112 And the title is amended as follows:

1113 Delete everything before the enacting clause
1114 and insert:

1115 A bill to be entitled
1116 An act relating to human trafficking; amending s.
1117 16.56, F.S.; adding violations of ch. 787, F.S., to
1118 the jurisdiction of the Office of Statewide
1119 Prosecution; creating s. 480.0535, F.S.; requiring an
1120 employee of a massage establishment and any person
1121 performing massage therein to present, upon request of
1122 an investigator, valid government identification while
1123 in the establishment; providing documentation
1124 requirements for the operator of a massage
1125 establishment; providing criminal penalties; amending
1126 s. 775.21, F.S.; adding additional offenses to the
1127 list of sexual predator qualifying offenses; repealing
1128 s. 787.05, F.S., relating to unlawfully obtaining
1129 labor or services; amending s. 787.06, F.S.; revising
1130 legislative findings relating to human trafficking;
1131 revising definitions; creating additional offenses
1132 relating to human trafficking; providing criminal
1133 penalties; increasing criminal penalties for certain
1134 offenses; providing for forfeiture of property used,
1135 attempted to be used, or intended to be used in
1136 violation of specified human trafficking provisions;
1137 amending s. 787.07, F.S.; increasing criminal penalty
1138 for human smuggling; amending s. 796.035, F.S.;



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1139 revising provisions relating to selling or buying of
1140 minors into sex trafficking or prostitution; repealing
1141 s. 796.045, F.S., relating to sex trafficking;
1142 amending s. 905.34, F.S.; adding violations of ch.
1143 787, F.S., to the jurisdiction of a statewide grand
1144 jury; amending s. 934.07, F.S.; providing additional
1145 authorization for the interception of wire, oral, or
1146 electronic communications; amending ss. 943.0435,
1147 944.606, and 944.607, F.S.; adding additional offenses
1148 to the list of sexual offender qualifying offenses;
1149 amending ss. 90.404, 772.102, 794.056, 895.02, and
1150 938.085, F.S.; conforming cross-references; amending
1151 s. 921.0022, F.S.; ranking offenses on the sentencing
1152 guidelines chart of the Criminal Punishment Code;
1153 providing an effective date.

By Senator Flores

38-01230A-12

20121880__

1 A bill to be entitled
 2 An act relating to human trafficking; amending s.
 3 16.56, F.S.; providing additional jurisdiction for the
 4 Office of Statewide Prosecution relating to human
 5 trafficking; repealing s. 787.05, F.S., relating to
 6 unlawfully obtaining labor or services; amending s.
 7 787.06, F.S.; prescribing additional legislative
 8 intent relating to human trafficking; redefining
 9 existing terms and defining additional terms;
 10 increasing the criminal penalty for a person who
 11 knowingly engages in human trafficking from a felony
 12 of the second degree to a felony of the first degree;
 13 providing that a person who, under specified
 14 circumstances, knowingly, or with reckless disregard,
 15 engages in human trafficking of an individual who is
 16 an unauthorized alien, an individual through transfer
 17 from outside the state to within the state, or a child
 18 younger than 18 years of age commits a felony of the
 19 first degree; providing that it is a life felony for a
 20 person to knowingly engage in human trafficking
 21 involving a child younger than 15 years of age;
 22 providing that it is a felony of the first degree for
 23 a parent, legal guardian, or other person having
 24 custody or control of a minor to sell or otherwise
 25 transfer the minor knowing that the minor will be
 26 subject to human trafficking; providing criminal
 27 penalties; authorizing the seizure and forfeiture of
 28 certain property used in human trafficking; amending
 29 s. 787.07, F.S.; increasing the criminal penalty for

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30 human smuggling from a misdemeanor of the first degree
 31 to a felony of the third degree; amending s. 796.035,
 32 F.S.; conforming terminology governing the offense of
 33 selling or buying a minor for prostitution; repealing
 34 s. 796.045, F.S., relating to penalties for sex
 35 trafficking; amending s. 905.34, F.S.; adding
 36 violations of human trafficking to the jurisdiction of
 37 a statewide grand jury; amending s. 934.07, F.S.;
 38 providing additional authorization for the
 39 interception of wire, oral, or electronic
 40 communications; amending ss. 90.404, 772.102, 794.056,
 41 895.02, and 938.085, F.S.; conforming cross-references
 42 to changes made by the act; providing an effective
 43 date.
 44

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

46
 47 Section 1. Paragraph (a) of subsection (1) of section
 48 16.56, Florida Statutes, is amended to read:
 49 16.56 Office of Statewide Prosecution.—
 50 (1) There is created in the Department of Legal Affairs an
 51 Office of Statewide Prosecution. The office shall be a separate
 52 “budget entity” as that term is defined in chapter 216. The
 53 office may:
 54 (a) Investigate and prosecute the offenses of:
 55 1. Bribery, burglary, criminal usury, extortion, gambling,
 56 kidnapping, larceny, murder, prostitution, perjury, robbery,
 57 carjacking, and home-invasion robbery;
 58 2. Any crime involving narcotic or other dangerous drugs;

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- 59 3. Any violation of ~~the provisions of~~ the Florida RICO
60 (Racketeer Influenced and Corrupt Organization) Act, including
61 any offense listed in the definition of racketeering activity in
62 s. 895.02(1)(a), providing such listed offense is investigated
63 in connection with a violation of s. 895.03 and is charged in a
64 separate count of an information or indictment containing a
65 count charging a violation of s. 895.03, the prosecution of
66 which listed offense may continue independently if the
67 prosecution of the violation of s. 895.03 is terminated for any
68 reason;
- 69 4. Any violation of the ~~provisions of the~~ Florida Anti-
70 Fencing Act;
- 71 5. Any violation of ~~the provisions of~~ the Florida Antitrust
72 Act of 1980, as amended;
- 73 6. Any crime involving, or resulting in, fraud or deceit
74 upon any person;
- 75 7. Any violation of s. 847.0135, relating to computer
76 pornography and child exploitation prevention, or any offense
77 related to a violation of s. 847.0135 or any violation of
78 chapter 827 where the crime is facilitated by or connected to
79 the use of the Internet or any device capable of electronic data
80 storage or transmission;
- 81 8. Any violation of ~~the provisions of~~ chapter 815;
- 82 9. Any criminal violation of part I of chapter 499;
- 83 10. Any violation of ~~the provisions of~~ the Florida Motor
84 Fuel Tax Relief Act of 2004;
- 85 11. Any criminal violation of s. 409.920 or s. 409.9201;
- 86 12. Any crime involving voter registration, voting, or
87 candidate or issue petition activities;

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- 88 13. Any criminal violation of the Florida Money Laundering
89 Act; ~~or~~
- 90 14. Any criminal violation of the Florida Securities and
91 Investor Protection Act; or
- 92 15. Any violation of chapter 787, as well as any offense
93 related to a violation of chapter 787;
94
- 95 or any attempt, solicitation, or conspiracy to commit any of the
96 crimes specifically enumerated above. The office shall have such
97 power only when any such offense is occurring, or has occurred,
98 in two or more judicial circuits as part of a related
99 transaction, or when any such offense is connected with an
100 organized criminal conspiracy affecting two or more judicial
101 circuits. Informations or indictments charging such offenses
102 shall contain general allegations stating the judicial circuits
103 and counties in which crimes are alleged to have occurred or the
104 judicial circuits and counties in which crimes affecting such
105 circuits or counties are alleged to have been connected with an
106 organized criminal conspiracy.
- 107 Section 2. Section 787.05, Florida Statutes, is repealed.
- 108 Section 3. Section 787.06, Florida Statutes, is amended to
109 read:
- 110 787.06 Human trafficking.—
- 111 (1)(a) The Legislature finds that human trafficking is a
112 form of modern-day slavery. Victims of human trafficking are
113 young children, teenagers, and adults. Thousands of victims are
114 trafficked annually across international borders worldwide. Many
115 of these victims are trafficked into this state. Victims of
116 human trafficking also include those persons trafficked

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 117 domestically within the borders of the United States. The
 118 Legislature finds that victims of human trafficking are
 119 subjected to force, fraud, or coercion for the purpose of sexual
 120 exploitation or forced labor.

121 (b) The Legislature finds that while many victims of human
 122 trafficking are forced to work in prostitution or the sexual
 123 entertainment industry, trafficking also occurs in forms of
 124 labor exploitation, such as domestic servitude, restaurant work,
 125 janitorial work, sweatshop factory work, and migrant
 126 agricultural work.

127 (c) The Legislature finds that traffickers use various
 128 techniques to instill fear in victims and to keep them enslaved.
 129 Some traffickers keep their victims under lock and key. However,
 130 the most frequently used practices are less obvious techniques
 131 that include isolating victims from the public and family
 132 members; confiscating passports, visas, or other identification
 133 documents; using or threatening to use violence toward victims
 134 or their families; telling victims that they will be imprisoned
 135 or deported for immigration violations if they contact
 136 authorities; and controlling the victims' funds by holding the
 137 money ostensibly for safekeeping.

138 (d) It is the intent of the Legislature that the
 139 perpetrators of human trafficking be penalized for their illegal
 140 conduct and that the victims of trafficking be protected and
 141 assisted by this state and its agencies. In furtherance of this
 142 policy, it is the intent of the Legislature that the state
 143 Supreme Court, The Florida Bar, and relevant state agencies
 144 prepare and implement training programs in order that judges,
 145 attorneys, law enforcement personnel, investigators, and others

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 146 are able to identify traffickers and victims of human
 147 trafficking and direct victims to appropriate agencies for
 148 assistance. It is the intent of the Legislature that the
 149 Department of Children and Family Services and other state
 150 agencies cooperate with other state and federal agencies to
 151 ensure that victims of human trafficking can access social
 152 services and benefits to alleviate their plight.

153 (2) As used in this section, the term:

154 ~~(a) "Financial harm" includes extortionate extension of~~
 155 ~~credit, loan sharking as defined in s. 687.071, or employment~~
 156 ~~contracts that violate the statute of frauds as provided in s.~~
 157 ~~725.01.~~

158 (a)(b) "Coercion forced labor or services" means labor or
 159 services obtained from a person by:

160 1. Using or threatening to use physical force against a
 161 ~~that person or another person;~~

162 2. Restraining, isolating, or confining or threatening to
 163 restrain, isolate, or confine a ~~that person or another person~~
 164 without lawful authority and against her or his will;

165 3. Using lending or other credit methods to establish a
 166 debt by a ~~that person or another person~~ when labor or services
 167 are pledged as a security for the debt, if the value of the
 168 labor or services as reasonably assessed is not applied toward
 169 the liquidation of the debt, the length and nature of the labor
 170 or services are not respectively limited and defined;

171 4. Destroying, concealing, removing, confiscating,
 172 withholding, or possessing any actual or purported passport,
 173 visa, or other immigration document, or any other actual or
 174 purported government identification document, of a ~~that~~ person

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175 ~~or another person;~~
 176 5. Causing or threatening to cause financial harm to any
 177 person; ~~or~~
 178 6. Enticing or luring any person by fraud, deceit, or
 179 coercion; or
 180 7. Providing a controlled substance as outlined in Schedule
 181 I or Schedule II of s. 893.03 to a person for the purpose of
 182 exploitation of that person.
 183 (b) "Commercial sexual activity" means a violation of
 184 chapter 796 or an attempt to commit any such offense, and
 185 includes the production of pornography and sexually explicit
 186 performances.
 187 (c) "Financial harm" includes extortionate extension of
 188 credit, loan sharking as defined in s. 687.071, or employment
 189 contracts that violate the statute of frauds as provided in s.
 190 725.01.
 191 (d)(e) "Human trafficking" means transporting, soliciting,
 192 recruiting, harboring, providing, enticing, maintaining, or
 193 obtaining another person for the purpose of exploitation of that
 194 person for transport.
 195 (e) "Labor" means work of economic or financial value.
 196 (f)(d) "Maintain," means, when used in relation to labor
 197 services, means to secure or make possible continued performance
 198 thereof, regardless of any initial agreement on the part of the
 199 victim to perform such type service.
 200 (g) "Obtain" means, in relation to labor or services, to
 201 secure performance thereof.
 202 (h) "Services" means an act committed at the behest of,
 203 under the supervision of, or for the benefit of another. The

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204 term includes, but is not limited to, forced marriage,
 205 servitude, and the removal of organs.
 206 (i) "Sexually explicit performance" means an act or show,
 207 whether public or private, live, photographed, recorded, or
 208 videotaped, which is intended to arouse or satisfy the sexual
 209 desires or appeal to the prurient interest.
 210 (j) "Unauthorized alien" means an alien who is not
 211 authorized under federal law to be employed in the United
 212 States, as provided in 8 U.S.C. s. 1324a(h)(3). This term must
 213 be interpreted consistently with that section and any applicable
 214 federal rules or regulations.
 215 (k) "Venture" means any group of two or more individuals
 216 associated in fact, whether or not a legal entity.
 217 (3) A ~~Any~~ person who knowingly, or with reckless disregard
 218 for the facts, engages in, or attempts to engage in, or benefits
 219 financially by receiving anything of value from participation in
 220 a venture that has subjected a person to, human trafficking:
 221 (a) For engages, or attempts to engage, in human
 222 trafficking with the intent or knowledge that the trafficked
 223 person will be subjected to forced labor or services using
 224 coercion; ~~or~~
 225 ~~(b) Benefits financially by receiving anything of value~~
 226 ~~from participation in a venture that has subjected a person to~~
 227 ~~forced labor or services;~~
 228
 229 commits a felony of the first ~~second~~ degree, punishable as
 230 provided in s. 775.082, s. 775.083, or s. 775.084 and in Level 8
 231 of the Criminal Punishment Code provided in s. 921.0022(3).
 232 (b) For forced labor or services or commercial sexual

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 233 activity using coercion of any individual who is an unauthorized
 234 alien commits a felony of the first degree, punishable as
 235 provided in s. 775.082, s. 775.083, or s. 775.084 and in Level 9
 236 of the Criminal Punishment Code provided in s. 921.0022(3).

(c) For forced labor or services or for commercial sexual
 237 activity using coercion who does so by the transfer or transport
 238 of any individual from outside Florida to within the state
 239 commits a felony of the first degree, punishable as provided in
 240 s. 775.082, s. 775.083, or s. 775.084 and in Level 8 of the
 241 Criminal Punishment Code provided in s. 921.0022(3).

(d) In which any child younger than 18 years of age is
 244 involved commits a felony of the first degree, punishable by
 245 imprisonment for a term of years not exceeding life, or as
 246 provided in s. 775.082, s. 775.083, or s. 775.084 and in Level 9
 247 of the Criminal Punishment Code provided in s. 921.0022(3). In a
 248 prosecution under this paragraph in which the defendant had a
 249 reasonable opportunity to observe the person who was subject to
 250 human trafficking, the state need not prove that the defendant
 251 knew that the person had not attained the age of 18 years.

(e) In which a child younger than 15 years of age is
 253 involved commits a life felony, punishable as provided in s.
 254 775.082, s. 775.083, or s. 775.084 and in Level 10 of the
 255 Criminal Punishment Code provided in s. 921.0022(3). In a
 256 prosecution under this paragraph in which the defendant had a
 257 reasonable opportunity to observe the person who was subject to
 258 human trafficking, the state need not prove that the defendant
 259 knew that the person had not attained the age of 15 years.

260 For each instance of human trafficking of any individual under

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 262 this subsection, a separate crime is committed and a separate
 263 punishment is authorized.

(4) A parent, legal guardian, or other person having
 264 custody or control of a minor who sells or otherwise transfers
 265 custody or control of the minor, or who offers to sell or
 266 otherwise transfer custody of the minor, with knowledge or in
 267 reckless disregard to the fact that, as a consequence of the
 268 sale or transfer, the minor will be subject to human trafficking
 269 commits a felony of the first degree, punishable as provided in
 270 s. 775.082, s. 775.083, or s. 775.084 and in Level 9 of the
 271 Criminal Punishment Code provided in s. 921.0022(3).

(5)(4) The Criminal Justice Standards and Training
 274 Commission shall establish standards for basic and advanced
 275 training programs for law enforcement officers in the subjects
 276 of investigating and preventing human trafficking crimes. ~~After~~
 277 January 1, 2007, Every basic skills course required for law
 278 enforcement officers to obtain initial certification must
 279 include training on human trafficking crime prevention and
 280 investigation.

(6)(5) Each state attorney shall develop standards of
 282 instruction for prosecutors to receive training on the
 283 investigation and prosecution of human trafficking crimes and
 284 shall provide for periodic and timely instruction.

(7) Any real property or personal property that was used,
 286 was attempted to be used, or was intended to be used in
 287 violation of this section may be seized and shall be forfeited
 288 subject to the provisions of the Florida Contraband Forfeiture
 289 Act.

290 Section 4. Section 787.07, Florida Statutes, is amended to

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291 read:

292 787.07 Human smuggling.—

293 (1) A person who transports into this state an individual
 294 who the person knows, or should know, is illegally entering the
 295 United States from another country commits a ~~felony misdemeanor~~
 296 of the ~~third first~~ degree, punishable as provided in s. 775.082,
 297 ~~or s. 775.083, or s. 775.084~~ and in Level 4 of the Criminal
 298 Punishment Code provided in s. 921.0022(3).

299 (2) A person commits a separate offense for each individual
 300 he or she transports into this state in violation of this
 301 section.

302 Section 5. Section 796.035, Florida Statutes, is amended to
 303 read:

304 796.035 Selling or buying of minors into ~~sex trafficking or~~
 305 prostitution; penalties.—Any parent, legal guardian, or other
 306 person having custody or control of a minor who sells or
 307 otherwise transfers custody or control of such minor, or offers
 308 to sell or otherwise transfer custody of such minor, with
 309 knowledge that, as a consequence of the sale or transfer, the
 310 minor will engage in prostitution, ~~perform naked for~~
 311 ~~compensation, or otherwise participate in the trade of sex~~
 312 ~~trafficking~~, commits a felony of the first degree, punishable as
 313 provided in s. 775.082, s. 775.083, or s. 775.084 and in Level 9
 314 of the Criminal Punishment Code provided in s. 921.0022(3).

315 Section 6. Section 796.045, Florida Statutes, is repealed.

316 Section 7. Section 905.34, Florida Statutes, is amended, to
 317 read:

318 905.34 Powers and duties; law applicable.—The jurisdiction
 319 of a statewide grand jury impaneled under this chapter shall

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320 extend throughout the state. The subject matter jurisdiction of
 321 the statewide grand jury shall be limited to the offenses of:

322 (1) Bribery, burglary, carjacking, home-invasion robbery,
 323 criminal usury, extortion, gambling, kidnapping, larceny,
 324 murder, prostitution, perjury, and robbery;

325 (2) Crimes involving narcotic or other dangerous drugs;

326 (3) Any violation of the provisions of the Florida RICO
 327 (Racketeer Influenced and Corrupt Organization) Act, including
 328 any offense listed in the definition of racketeering activity in
 329 s. 895.02(1)(a), providing such listed offense is investigated
 330 in connection with a violation of s. 895.03 and is charged in a
 331 separate count of an information or indictment containing a
 332 count charging a violation of s. 895.03, the prosecution of
 333 which listed offense may continue independently if the
 334 prosecution of the violation of s. 895.03 is terminated for any
 335 reason;

336 (4) Any violation of the provisions of the Florida Anti-
 337 Fencing Act;

338 (5) Any violation of the provisions of the Florida
 339 Antitrust Act of 1980, as amended;

340 (6) Any violation of the provisions of chapter 815;

341 (7) Any crime involving, or resulting in, fraud or deceit
 342 upon any person;

343 (8) Any violation of s. 847.0135, s. 847.0137, or s.
 344 847.0138 relating to computer pornography and child exploitation
 345 prevention, or any offense related to a violation of s.
 346 847.0135, s. 847.0137, or s. 847.0138 or any violation of
 347 chapter 827 where the crime is facilitated by or connected to
 348 the use of the Internet or any device capable of electronic data

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349 storage or transmission;

350 (9) Any criminal violation of part I of chapter 499;

351 (10) Any criminal violation of s. 409.920 or s. 409.9201;

352 (11) Any criminal violation of the Florida Money Laundering

353 Act; ~~or~~

354 (12) Any criminal violation of the Florida Securities and

355 Investor Protection Act; or

356 (13) Any violation of the provisions of chapter 787, as

357 well as any offense related to a violation of the provisions of

358 chapter 787;

359

360 or any attempt, solicitation, or conspiracy to commit any

361 violation of the crimes specifically enumerated above, when any

362 such offense is occurring, or has occurred, in two or more

363 judicial circuits as part of a related transaction or when any

364 such offense is connected with an organized criminal conspiracy

365 affecting two or more judicial circuits. The statewide grand

366 jury may return indictments and presentments irrespective of the

367 county or judicial circuit where the offense is committed or

368 triable. If an indictment is returned, it shall be certified and

369 transferred for trial to the county where the offense was

370 committed. The powers and duties of, and law applicable to,

371 county grand juries shall apply to a statewide grand jury except

372 when such powers, duties, and law are inconsistent with the

373 provisions of ss. 905.31-905.40.

374 Section 8. Paragraph (a) of subsection (1) of section

375 934.07, Florida Statutes, is amended to read:

376 934.07 Authorization for interception of wire, oral, or

377 electronic communications.-

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378 (1) The Governor, the Attorney General, the statewide

379 prosecutor, or any state attorney may authorize an application

380 to a judge of competent jurisdiction for, and such judge may

381 grant in conformity with ss. 934.03-934.09 an order authorizing

382 or approving the interception of, wire, oral, or electronic

383 communications by:

384 (a) The Department of Law Enforcement or any law

385 enforcement agency as defined in s. 934.02 having responsibility

386 for the investigation of the offense as to which the application

387 is made when such interception may provide or has provided

388 evidence of the commission of the offense of murder, kidnapping,

389 aircraft piracy, arson, gambling, robbery, burglary, theft,

390 dealing in stolen property, criminal usury, bribery, or

391 extortion; any felony violation of ss. 790.161-790.166,

392 inclusive; any violation of s. 787.06; any violation of chapter

393 893; any violation of the provisions of the Florida Anti-Fencing

394 Act; any violation of chapter 895; any violation of chapter 896;

395 any violation of chapter 815; any violation of chapter 847; any

396 violation of s. 827.071; any violation of s. 944.40; or any

397 conspiracy or solicitation to commit any violation of the laws

398 of this state relating to the crimes specifically enumerated in

399 this paragraph.

400 Section 9. Paragraphs (b) and (c) of subsection (2) of

401 section 90.404, Florida Statutes, are amended to read:

402 90.404 Character evidence; when admissible.-

403 (2) OTHER CRIMES, WRONGS, OR ACTS.-

404 (b)1. In a criminal case in which the defendant is charged

405 with a crime involving child molestation, evidence of the

406 defendant's commission of other crimes, wrongs, or acts of child

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407 molestation is admissible and may be considered for its bearing
408 on any matter to which it is relevant.

409 2. For the purposes of this paragraph, the term "child
410 molestation" means conduct proscribed by s. 787.025(2)(c), s.
411 794.011, excluding s. 794.011(10), s. 794.05, s. 796.03, s.
412 796.035, ~~s. 796.045~~, s. 800.04, s. 827.071, s. 847.0135(5), s.
413 847.0145, or s. 985.701(1) when committed against a person 16
414 years of age or younger.

415 (c)1. In a criminal case in which the defendant is charged
416 with a sexual offense, evidence of the defendant's commission of
417 other crimes, wrongs, or acts involving a sexual offense is
418 admissible and may be considered for its bearing on any matter
419 to which it is relevant.

420 2. For the purposes of this paragraph, the term "sexual
421 offense" means conduct proscribed by s. 787.025(2)(c), s.
422 794.011, excluding s. 794.011(10), s. 794.05, s. 796.03, s.
423 796.035, ~~s. 796.045~~, s. 825.1025(2)(b), s. 827.071, s.
424 847.0135(5), s. 847.0145, or s. 985.701(1).

425 Section 10. Paragraph (a) of subsection (1) of section
426 772.102, Florida Statutes, is amended to read:

427 772.102 Definitions.—As used in this chapter, the term:

428 (1) "Criminal activity" means to commit, to attempt to
429 commit, to conspire to commit, or to solicit, coerce, or
430 intimidate another person to commit:

431 (a) Any crime that is chargeable by indictment or
432 information under the following provisions:

433 1. Section 210.18, relating to evasion of payment of
434 cigarette taxes.

435 2. Section 414.39, relating to public assistance fraud.

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436 3. Section 440.105 or s. 440.106, relating to workers'
437 compensation.

438 4. Part IV of chapter 501, relating to telemarketing.

439 5. Chapter 517, relating to securities transactions.

440 6. Section 550.235 or s. 550.3551, relating to dogracing
441 and horseracing.

442 7. Chapter 550, relating to jai alai frontons.

443 8. Chapter 552, relating to the manufacture, distribution,
444 and use of explosives.

445 9. Chapter 562, relating to beverage law enforcement.

446 10. Section 624.401, relating to transacting insurance
447 without a certificate of authority, s. 624.437(4)(c)1., relating
448 to operating an unauthorized multiple-employer welfare
449 arrangement, or s. 626.902(1)(b), relating to representing or
450 aiding an unauthorized insurer.

451 11. Chapter 687, relating to interest and usurious
452 practices.

453 12. Section 721.08, s. 721.09, or s. 721.13, relating to
454 real estate timeshare plans.

455 13. Chapter 782, relating to homicide.

456 14. Chapter 784, relating to assault and battery.

457 15. Chapter 787, relating to kidnapping or human
458 trafficking.

459 16. Chapter 790, relating to weapons and firearms.

460 17. Section 796.03, s. 796.04, ~~s. 796.045~~, s. 796.05, or s.
461 796.07, relating to prostitution.

462 18. Chapter 806, relating to arson.

463 19. Section 810.02(2)(c), relating to specified burglary of
464 a dwelling or structure.

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465 20. Chapter 812, relating to theft, robbery, and related
466 crimes.

467 21. Chapter 815, relating to computer-related crimes.

468 22. Chapter 817, relating to fraudulent practices, false
469 pretenses, fraud generally, and credit card crimes.

470 23. Section 827.071, relating to commercial sexual
471 exploitation of children.

472 24. Chapter 831, relating to forgery and counterfeiting.

473 25. Chapter 832, relating to issuance of worthless checks
474 and drafts.

475 26. Section 836.05, relating to extortion.

476 27. Chapter 837, relating to perjury.

477 28. Chapter 838, relating to bribery and misuse of public
478 office.

479 29. Chapter 843, relating to obstruction of justice.

480 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
481 s. 847.07, relating to obscene literature and profanity.

482 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
483 849.25, relating to gambling.

484 32. Chapter 893, relating to drug abuse prevention and
485 control.

486 33. Section 914.22 or s. 914.23, relating to witnesses,
487 victims, or informants.

488 34. Section 918.12 or s. 918.13, relating to tampering with
489 jurors and evidence.

490 Section 11. Subsection (1) of section 794.056, Florida
491 Statutes, is amended to read:

492 794.056 Rape Crisis Program Trust Fund.—
493 (1) The Rape Crisis Program Trust Fund is created within

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494 the Department of Health for the purpose of providing funds for
495 rape crisis centers in this state. Trust fund moneys shall be
496 used exclusively for the purpose of providing services for
497 victims of sexual assault. Funds credited to the trust fund
498 consist of those funds collected as an additional court
499 assessment in each case in which a defendant pleads guilty or
500 nolo contendere to, or is found guilty of, regardless of
501 adjudication, an offense provided in s. 775.21(6) and (10) (a),
502 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
503 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
504 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
505 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
506 s. 796.03; s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s.
507 796.06; s. 796.07(2) (a)-(d) and (i); s. 800.03; s. 800.04; s.
508 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
509 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
510 847.0137; s. 847.0145; s. 943.0435(4) (c), (7), (8), (9) (a),
511 (13), and (14) (c); or s. 985.701(1). Funds credited to the trust
512 fund also shall include revenues provided by law, moneys
513 appropriated by the Legislature, and grants from public or
514 private entities.

515 Section 12. Paragraph (a) of subsection (1) of section
516 895.02, Florida Statutes, is amended to read:

517 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

518 (1) "Racketeering activity" means to commit, to attempt to
519 commit, to conspire to commit, or to solicit, coerce, or
520 intimidate another person to commit:

521 (a) Any crime that is chargeable by petition, indictment,
522 or information under the following provisions of the Florida

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523 Statutes:

524 1. Section 210.18, relating to evasion of payment of

525 cigarette taxes.

526 2. Section 316.1935, relating to fleeing or attempting to

527 elude a law enforcement officer and aggravated fleeing or

528 eluding.

529 3. Section 403.727(3)(b), relating to environmental

530 control.

531 4. Section 409.920 or s. 409.9201, relating to Medicaid

532 fraud.

533 5. Section 414.39, relating to public assistance fraud.

534 6. Section 440.105 or s. 440.106, relating to workers'

535 compensation.

536 7. Section 443.071(4), relating to creation of a fictitious

537 employer scheme to commit unemployment compensation fraud.

538 8. Section 465.0161, relating to distribution of medicinal

539 drugs without a permit as an Internet pharmacy.

540 9. Section 499.0051, relating to crimes involving

541 contraband and adulterated drugs.

542 10. Part IV of chapter 501, relating to telemarketing.

543 11. Chapter 517, relating to sale of securities and

544 investor protection.

545 12. Section 550.235 or s. 550.3551, relating to dogracing

546 and horseracing.

547 13. Chapter 550, relating to jai alai frontons.

548 14. Section 551.109, relating to slot machine gaming.

549 15. Chapter 552, relating to the manufacture, distribution,

550 and use of explosives.

551 16. Chapter 560, relating to money transmitters, if the

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552 violation is punishable as a felony.

553 17. Chapter 562, relating to beverage law enforcement.

554 18. Section 624.401, relating to transacting insurance

555 without a certificate of authority, s. 624.437(4)(c)1., relating

556 to operating an unauthorized multiple-employer welfare

557 arrangement, or s. 626.902(1)(b), relating to representing or

558 aiding an unauthorized insurer.

559 19. Section 655.50, relating to reports of currency

560 transactions, when such violation is punishable as a felony.

561 20. Chapter 687, relating to interest and usurious

562 practices.

563 21. Section 721.08, s. 721.09, or s. 721.13, relating to

564 real estate timeshare plans.

565 22. Section 775.13(5)(b), relating to registration of

566 persons found to have committed any offense for the purpose of

567 benefiting, promoting, or furthering the interests of a criminal

568 gang.

569 23. Section 777.03, relating to commission of crimes by

570 accessories after the fact.

571 24. Chapter 782, relating to homicide.

572 25. Chapter 784, relating to assault and battery.

573 26. Chapter 787, relating to kidnapping or human

574 trafficking.

575 27. Chapter 790, relating to weapons and firearms.

576 28. Chapter 794, relating to sexual battery, but only if

577 such crime was committed with the intent to benefit, promote, or

578 further the interests of a criminal gang, or for the purpose of

579 increasing a criminal gang member's own standing or position

580 within a criminal gang.

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581 29. Section 796.03, s. 796.035, s. 796.04, ~~s. 796.045~~, s.
582 796.05, or s. 796.07, relating to prostitution and sex
583 trafficking.
584 30. Chapter 806, relating to arson and criminal mischief.
585 31. Chapter 810, relating to burglary and trespass.
586 32. Chapter 812, relating to theft, robbery, and related
587 crimes.
588 33. Chapter 815, relating to computer-related crimes.
589 34. Chapter 817, relating to fraudulent practices, false
590 pretenses, fraud generally, and credit card crimes.
591 35. Chapter 825, relating to abuse, neglect, or
592 exploitation of an elderly person or disabled adult.
593 36. Section 827.071, relating to commercial sexual
594 exploitation of children.
595 37. Chapter 831, relating to forgery and counterfeiting.
596 38. Chapter 832, relating to issuance of worthless checks
597 and drafts.
598 39. Section 836.05, relating to extortion.
599 40. Chapter 837, relating to perjury.
600 41. Chapter 838, relating to bribery and misuse of public
601 office.
602 42. Chapter 843, relating to obstruction of justice.
603 43. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
604 s. 847.07, relating to obscene literature and profanity.
605 44. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
606 849.25, relating to gambling.
607 45. Chapter 874, relating to criminal gangs.
608 46. Chapter 893, relating to drug abuse prevention and
609 control.

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610 47. Chapter 896, relating to offenses related to financial
611 transactions.
612 48. Sections 914.22 and 914.23, relating to tampering with
613 or harassing a witness, victim, or informant, and retaliation
614 against a witness, victim, or informant.
615 49. Sections 918.12 and 918.13, relating to tampering with
616 jurors and evidence.
617 Section 13. Section 938.085, Florida Statutes, is amended
618 to read:
619 938.085 Additional cost to fund rape crisis centers.—In
620 addition to any sanction imposed when a person pleads guilty or
621 nolo contendere to, or is found guilty of, regardless of
622 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
623 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
624 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
625 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
626 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; s. 796.03;
627 s. 796.035; s. 796.04; ~~s. 796.045~~; s. 796.05; s. 796.06; s.
628 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
629 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
630 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
631 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and
632 (14)(c); or s. 985.701(1), the court shall impose a surcharge of
633 \$151. Payment of the surcharge shall be a condition of
634 probation, community control, or any other court-ordered
635 supervision. The sum of \$150 of the surcharge shall be deposited
636 into the Rape Crisis Program Trust Fund established within the
637 Department of Health by chapter 2003-140, Laws of Florida. The
638 clerk of the court shall retain \$1 of each surcharge that the

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639 clerk of the court collects as a service charge of the clerk's
640 office.

641 Section 14. This act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12
Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES

Majority Whip
38th District

January 18, 2012

The Honorable Greg Evers
Chair of Committee on Criminal Justice
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Evers:

I respectfully request that you place SB 1880, regarding human trafficking, on the next Committee on Criminal Justice. This proposed legislation provides additional jurisdiction for the Office of Statewide Prosecution relating to human trafficking.

I look forward to presenting this bill before your committee.

Please do not hesitate to contact me should you have any questions. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Anitere Flores".

Anitere Flores

CC: Ms. Amanda Cannon Committee on Criminal Justice, 510 Knott Building

REPLY TO:

- 10691 North Kendall Drive, Suite 309, Miami, Florida 33176 (305) 270-6550
- 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5130

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/31/12

Meeting Date

Topic _____

Bill Number SB 1880 -
(if applicable)

Name RON BOOK

Amendment Barcode _____
(if applicable)

Job Title _____

Address 104 W. Jefferson St

Phone _____

Street

TEL

E-mail _____

City

State

Zip

Speaking: For Against Information

Representing hansen's kids | Fla Council Against Sexual Violence

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

1-31-12

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

Meeting Date

Topic Human Trafficking

Bill Number SB 1880
(if applicable)

Name Kim Case

Amendment Barcode _____
(if applicable)

Job Title Legislative Director

Address PL-01 Cap

Phone (850) 245-0155

Street

Tallahassee FL 32399

City

State

Zip

E-mail kimberly.case@myfloridalegal.com

Speaking: For Against Information

Representing Attorney General

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)

1-31-12
Meeting Date

Topic Human Trafficking

Bill Number SB 1880
(if applicable)

Name Nick Cox

Amendment Barcode _____
(if applicable)

Job Title Statewide Prosecutor

Address PL-01 Cap

Phone (850) 245-0155

Tallahassee FL 32349
City State Zip

E-mail nick.cox@myflorida
legal.com

Speaking: For Against Information

Representing Office of Statewide Prosecution

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)

1/3/12

Meeting Date

Topic Human Trafficking

Bill Number 1880
(if applicable)

Name Louis Betz

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 274108

Phone 813-873-1573

Street

Tampa FL 33688

E-mail LBetz@verizon.com

City

State

Zip

Speaking: For Against Information

Representing Crisis Center of Tampa Bay

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/31/12

Meeting Date

Topic Human Trafficking

Bill Number 1880
(if applicable)

Name Terril Poore

Amendment Barcode _____
(if applicable)

Job Title Director of Public Affairs

Address 1820 E. Park Avenue, Suite 100

Phone (850) 229-2000

Street

Tallahassee FL 32301

City

State

Zip

E-mail tpoore@fcsr.org

Speaking: For Against Information

Representing Florida Council Against Sexual Violence

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/21/12
Meeting Date

Topic Human Trafficking

Bill Number 1880
(if applicable)

Name Commissioner Jose "Pepe" Diaz

Amendment Barcode _____
(if applicable)

Job Title County Commissioner

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Miami-Dade County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-31-12

Meeting Date

Topic SB 1880

Bill Number SB-1880
(if applicable)

Name Mary Faraldo

Amendment Barcode _____
(if applicable)

Job Title Development Officer

Address 1265 NW 12 Ave

Phone 786 218 9748

Street
Miami, FL 33136
City State Zip

E-mail mfaraldo@kristihouse.org

Speaking: For Against Information

Representing Kristi House

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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WAVE IN SUPPORT
THE FLORIDA SENATE

APPEARANCE RECORD

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

JAN 31 2012

Meeting Date

Topic HUMAN TRAFFICKING

Bill Number 1880
(if applicable)

Name BILL BUNKLEY

Amendment Barcode _____
(if applicable)

Job Title PRESIDENT

Address PO BOX 34028A

Phone 813-264-2977

Street

TAMPA FL 33694

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing FLORIDA ETHICS AND RELIGIOUS LIBERTY COMMISSION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/31/12

Meeting Date

Topic Human Trafficking

Bill Number 1880
(if applicable)

Name Sheila Hopkins

Amendment Barcode _____
(if applicable)

Job Title Associate Director

Address 201 W. Park

Phone 205-6826

Street

Tallahassee

E-mail shopkins@flacath
conf.org

City

State

Zip

Speaking: For Against Information

Representing Fl. Catholic Conference

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

CourtSmart Tag Report

Room: LL 37

Caption: Criminal Justice Committee

Case:

Judge:

Type:

Started: 1/31/2012 3:56:39 PM

Ends: 1/31/2012 5:58:28 PM

Length: 02:01:50

3:56:41 PM Meeting to order
3:57:07 PM Roll Call
3:57:24 PM Presentation by Mark Zadra, Asst. Commissioner, FDLE (Officer Misconduct)
4:36:37 PM Tab 7-SB 1816 Senator Benacquisto
4:43:41 PM Jennifer Dritt, Florida Council Against Sexual Violence
4:44:42 PM Ron Book, Lauren's Kids and Florida Council Against Sexual Violence
4:56:41 PM Roll Call
4:57:00 PM Tab 8 - SB 1880 Senator Flores (Representative Snyder)
5:01:05 PM Commissioner Jose "Pepe" Diaz, Miami-Dade County
5:04:41 PM Roll Call
5:05:13 PM Tab 3 - CS/CS/SB 540 Senator Smith
5:11:52 PM Cari Roth, Sarasota County
5:12:52 PM Keyna Cory, AIF
5:15:25 PM Roll Call
5:15:47 PM Tab 5 - SB 1200 Senator Bogdanoff
5:18:54 PM Roll Call
5:19:20 PM Tab 6 SB1502 Senator Evers (Senator Dean takes the Chair)
5:23:52 PM Roll Call
5:24:11 PM Senator Evers takes the Chair
5:24:48 PM SPB 7180 Community Correction Reentry Programs (Scott Clodfelter speaks on bill)
5:29:05 PM Frank Messersmith, Florida Sheriff's Association
5:32:45 PM Tab 4 - SB 732 Senator Bogdanoff
5:36:27 PM Brad King, Florida Prosecuting Attorneys Association
5:45:11 PM Brad King, State Attorney speaking on the bill.
5:49:36 PM Bob Dillinger, Public Defender - 6th Circuit
5:53:15 PM James Purdy, Public Defender, 7th Judicial Circuit
5:57:34 PM Roll Call
5:57:48 PM Meeting adjourned