

Jefferson County Board of County Commissioners
One Courthouse Circle
Monticello, Florida 32344

The Keystone County - Established 1827

Stephen G. Fulford District 1 850-509-7049	John Nelson, Sr District 2 850-241-2745	Hines F. Boyd District 3, Chair 850-570-8989	Betsy Barfield District 4 850-933-4055	Danny Monroe, III District 5 850-545-8026
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JEFFERSON COUNTY

One of Florida's Rural Areas of Critical Economic Concern
(RACEC)

\$32.8 Million Devastating Impact On Economy

\$12 Million More than DOC's Projected Savings
\$12 Million More than the County's Entire Budget
\$18 Million More than the School's Entire Budget
7 Times the Amount of AdValorem Revenue

Largest Local Employer Leaves The County

6% of Local Jobs Go Away (177-240 Jobs)
No Infrastructure To Bring In New Employers

\$8.2 Million Loss in Personal Income

Fewer Customers for Local Small Businesses
Decrease In Business Revenues
Forcing Local Businesses To Cut Staff

\$200 Thousand Loss to Public Schools

Teacher & Other Personnel Layoffs
Continued Drop in FTE Dollars
Loss of Valuable Parents Who Are Involved

10% of Population Disappears

Cuts for County Revenue Sharing
Impacts Redistricting Efforts

Lives Forever Changed

Forcing Lifelong Residents To Relocate
Children Torn Away from Schools & Friends
Parents Away From Home for 15 Hours
A Loss for Local Sports Programs & Civic Groups

01-23-2012 R1

Kirk Reams
Clerk of Courts 850/342-0218

Roy Schleicher
County Coordinator 850/342-0287

ECONOMIC IMPACT OF CLOSING JEFFERSON CORRECTIONAL INSTITUTION

- Population 14,700 (6th smallest in Florida).
 - Fiscally Constrained county.
 - Located in Rural Area of Critical Economic Concern.
 - Considered "priority assignment" for Rural Economic Development Initiative to review decisions impacting local economy (Section 288, Florida Statutes).
 - Per capita income \$30,000.
 - Average annual wage: \$28,900 (State average = \$40,500).
 - Millage: 1 mil = \$538,300. Total revenue generated from ad valorem tax = \$4.5 million.
 - JCI jobs represent 6% of all jobs available in county.
 - Per REMI analysis dated 1/13/12, JCI jobs and associated indirect jobs generate an average of \$8.2 million in personal income in Jefferson County.
 - Using multiplier of 4, this equates to a \$32.8 million impact – \$12 million more than DOC's projected savings in Jefferson County and \$12 million more than entire county budget.
 - Value of inmate labor to City and County in excess of \$250,000. County Recycling Program, run by inmates, produces \$40,000 in County revenue. County EMS provides ambulance service to JCI, in exchange for approximately \$25,000.
 - JCI is county's largest employer.
 - School District estimates loss of students will cost \$200,000.
 - Inmate population and JCI employees represent approximately 10% of total county population. Loss would affect redistricting and revenue sharing.
 - No other proposed closure will reduce county population (10%) or workforce (6%) as much as JCI.
 - The above "special attributes" were not given proper consideration. No definition/point value given for special attributes, which appear to be arbitrary.
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Prison Closure Process - Criteria, Rankings, and Special Attributes

DOC evaluated all public institutions and recommended closure of 11 facilities.

DOC used criteria and numeric scores to rank the institutions.

DOC used non-defined and non-weighted Special Attributes to deviate from the numeric rankings.

The DOC proposal recommends that the institutions ranked 1, 4, 8, 9, 10, 13, 20, 24, 25, 45, 47 were recommended for closure.

Jefferson CI received a score of 33 and ranked 20th on the Numeric Ranking

Issue -

1. The closure of Jefferson CI will have the greatest community impact of any of the closures proposed. It is the major employer in the county. It will reduce the population of the county by 10%. It will reduce the employment base by at least 5%. It will be a setback to a community that is already Fiscally Constrained and designated a rural area of critical economic concern. It will have the impact of closing DISNEY in Orlando.
2. The Scoring System, Numeric Rankings and Special Attributes –
 - The Criteria and Points - the point system did not take into consideration certain elements and Jefferson CI was not credited with points in certain criteria areas - inmate labor; types of prisoners; community impact; impact on employees -
 - Special Attributes – DOC's non-defined; non-scored factors called "Special Attributes" over-ruled the scores and ignored the Numeric Rankings.
 - Community Impact – DOC gave no consideration that the closure would have on the economy in Jefferson county. The closure of Jefferson CI will have the greatest community impact of any of the closures proposed.

DOC Criteria – Jefferson CI Score

Facility Mission - Jefferson CI – DOC score 5 out of 10

Cost Per Inmate - Jefferson CI – DOC score 8 out of 10 – More credit is warranted

Maintenance and Construction - Jefferson CI - DOC score 5 out of 5 – More credit is warranted

Community Impact - Jefferson CI - DOC score 1 out of 5 – More Credit is warranted

Inmate Labor - Jefferson CI – DOC score 0 out of 5 - More Credit is warranted

Employee Impact- Jefferson CI –DOC score 2 out of 5 – More Credit is warranted

Security - Jefferson CI - DOC score 5 out of 5

Education and Programs - Jefferson CI – DOC score 3 out of 6

Volunteers - Jefferson CI – DOC score 4 out of 6

Special Attributes

Jefferson CI – Major consideration should be given in this area.

Statement on Behalf of Jefferson County Closure

The closure of the Jefferson Correctional Institution located in Jefferson County, Florida will have a significant economic and community impact.

The Jefferson County community is particularly concerned that the proposal represents the closure of the largest employer in the county and the loss of 8% of our census qualified population. These facts underscore the broad scope and comprehensive impact that the closure will have on both the public and private sector of our community.

The closure will result in lost revenues; impact local businesses; create redistricting issues; reduce revenue sharing; reduce the school population; and, have numerous other "unidentified" impacts.

Jefferson CI is unique in population and provides important support to our community.

In addition, in reviewing the scoring criteria and related documents, we feel that Jefferson CI and the community of Jefferson County should be credited with higher scores and recognized for "Special Attributes" as were considered for other institutions being evaluated.

The concerns regarding the proposed closure of Jefferson CI rests in three areas -

1. Points – It is our belief that Jefferson CI should have received more points in the numeric process for certain variables and issues.
2. Special Attributes - It is our belief that there are special attributes relating to Jefferson CI that would impact the decision. type of population; success at cost saving; impact on the community.
3. Community Impact - The overall impact of the closure on Jefferson County is substantial and there is no comparison in terms of other proposed closures.
 - No other proposed closure on the list is located in such a small community.
 - No other proposed closure represents the closure of the largest employer in the county.
 - No other proposed closure on the list represent the loss of 8% of the local population.

For these and other reasons, the Jefferson County community respectfully requests that the State of Florida not close Jefferson CI and, as needed, transfer prisoners from other areas of the state to Jefferson CI.

Jefferson County

County Population - 14,761 -- Sixth smallest county in the Florida.

Average Annual Wage - \$28,646 - Statewide Average - \$41,570

Employment – 35% employed by Government – Statewide Average 15%

Land Mass – 598.10 square miles; primarily rural agricultural.

A Fiscally Constrained County –

1 mill of property tax generates \$538,338.

Per Capita 1 mill generates - \$36.47 - Statewide Average – \$68.49

Rural Area of Critical Economic Concern –

Economic conditions including low per capita income and taxable values, low weekly wages; and other factors, have resulted in chronic and severe economic distress and the Governor's designation as a "Rural Area of Critical Economic Concern".

Impact of Prison Closure

Jefferson CI is the largest employer in Jefferson County. JCI employment represents approximately 5.5% of total jobs available in Jefferson County. Direct JCI jobs, and the additional 28 indirect or induced jobs, represent over \$8 million in annual personal income.

Jefferson County and the City of Monticello rely on inmate labor in their recycling program and maintenance of public areas. The loss of inmate labor, valued at approximately \$250,000 per year, will result in a decrease in service levels since local governments cannot fund additional positions or overtime for existing employees.

JCI inmates represent approximately 8% of the total county population and their relocation will affect redistricting efforts as well as revenue sharing for Jefferson County. In addition, the displacement of families could impact school enrollment and cause loss of education funding.

Scoring And Special Attributes

No consideration was given to Jefferson County's status as a Rural Area of Critical Concern. The Department of Corrections is part of the "Rural Economic Development Initiative" 288.0656(6)(a) and as such must provide for an appropriate ranking based on proportionate impact on a rural area when compared with similar project impacts on an urban area.

The fact that the proposal will close the largest employer in the county should have been considered in the scoring or the special attributes relating to Community Impact.

Jefferson CI received no points for that 70% of inmates housed at JCI have mental health conditions requiring intense treatment, including psychotropic drugs and that others are wheelchair-bound or have conditions that render them otherwise physically disabled. As a result, only a small percentage of the inmates are eligible to perform inmate labor or to participate in other activities that provide a benefit to the local public works departments.

Jefferson CI and the K-9 Unit assists local law enforcement agencies in the apprehension of at-large suspects, as well as search and rescue operations. These agencies lack funding to maintain their own K-9 Units and rely on JCI for this valuable resource.

Other Concerns

Not only will the closure of Jefferson CI have a significant impact on the local workforce, the local economic and related community issues. Local elected officials and community leaders did not have any meaningful involvement or notice regarding the proposal or the closure announcement.

Important stakeholders such as the Workforce Development Board, North Florida Community College and other organizations tasked with workforce training and job placement, were unaware and, therefore, are unprepared for the consequences of the closure of Jefferson County's largest employer.

Statutes Governing Rural Area of Critical Economic Concern

288.0656 Rural Economic Development Initiative.—

(1)(a) Recognizing that rural communities and regions continue to face extraordinary challenges in their efforts to significantly improve their economies, specifically in terms of personal income, job creation, average wages, and strong tax bases, it is the intent of the Legislature to encourage and facilitate the location and expansion of major economic development projects of significant scale in such rural communities.

(b) The Rural Economic Development Initiative, known as "REDI," is created within the department, and the participation of state and regional agencies in this initiative is authorized.

(2) As used in this section, the term:

(a) "Catalyst project" means a business locating or expanding in a rural area of critical economic concern to serve as an economic generator of regional significance for the growth of a regional target industry cluster. The project must provide capital investment on a scale significant enough to affect the entire region and result in the development of high-wage and high-skill jobs.

(b) "Catalyst site" means a parcel or parcels of land within a rural area of critical economic concern that has been prioritized as a geographic site for economic development through partnerships with state, regional, and local organizations. The site must be reviewed by REDI and approved by the department for the purposes of locating a catalyst project.

(c) "Economic distress" means conditions affecting the fiscal and economic viability of a rural community, including such factors as low per capita income, low per capita taxable values, high unemployment, high underemployment, low weekly earned wages compared to the state average, low housing values compared to the state average, high percentages of the population receiving public assistance, high poverty levels compared to the state average, and a lack of year-round stable employment opportunities.

(d) "Rural area of critical economic concern" means a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.

(e) "Rural community" means:

1. A county with a population of 75,000 or fewer.

2. A county with a population of 125,000 or fewer which is contiguous to a county with a population of 75,000 or fewer.

3. A municipality within a county described in subparagraph 1. or subparagraph 2.

4. An unincorporated federal enterprise community or an incorporated rural city with a population of 25,000 or fewer and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified in paragraph (c) and verified by the department.

For purposes of this paragraph, population shall be determined in accordance with the most recent official estimate pursuant to s. 186.901.

(3) REDI shall be responsible for coordinating and focusing the efforts and resources of state and regional agencies on the problems which affect the fiscal, economic, and community viability of Florida's economically distressed rural communities, working with local governments, community-based organizations, and private organizations that have an interest in the growth and development of these communities to find ways to balance environmental and growth management issues with local needs.

(4) REDI shall review and evaluate the impact of statutes and rules on rural communities and shall work to minimize any adverse impact and undertake outreach and capacity-building efforts.

(5) REDI shall facilitate better access to state resources by promoting direct access and referrals to appropriate state and regional agencies and statewide organizations. REDI may undertake outreach, capacity-building, and other advocacy efforts to improve conditions in rural communities. These activities may include sponsorship of conferences and achievement awards.

(6)(a) By August 1 of each year, the head of each of the following agencies and organizations shall designate a deputy secretary or higher-level staff person from within the agency or organization to serve as the REDI representative for the agency or organization:

1. The Department of Transportation.

2. The Department of Environmental Protection.

3. The Department of Agriculture and Consumer Services.

4. The Department of State.

5. The Department of Health.

6. The Department of Children and Family Services.

7. The Department of Corrections.

8. The Department of Education.

9. The Department of Juvenile Justice.

10. The Fish and Wildlife Conservation Commission.

11. Each water management district.

12. Enterprise Florida, Inc.

13. Workforce Florida, Inc.

14. ViSiT Florida.

15. The Florida Regional Planning Council Association.

16. The Agency for Health Care Administration.

17. The Institute of Food and Agricultural Sciences (IFAS).

An alternate for each designee shall also be chosen, and the names of the designees and alternates shall be sent to the executive director of the department.

(b) Each REDI representative must have comprehensive knowledge of his or her agency's functions, both regulatory and service in nature, and of the state's economic goals, policies, and programs. This person shall be the primary point of contact for his or her agency with REDI on issues and projects relating to economically distressed rural communities and with regard to expediting project review, shall ensure a prompt effective response to problems arising with regard to rural issues, and shall work closely with the other REDI representatives in the identification of opportunities for preferential awards of program funds and allowances and waiver of program requirements when necessary to encourage and facilitate long-term private capital investment and job creation.

(c) The REDI representatives shall work with REDI in the review and evaluation of statutes and rules for adverse impact on rural

communities and the development of alternative proposals to mitigate that impact.

(d) Each REDI representative shall be responsible for ensuring that each district office or facility of his or her agency is informed about the Rural Economic Development Initiative and for providing assistance throughout the agency in the implementation of REDI activities.

(7)(a) REDI may recommend to the Governor up to three rural areas of critical economic concern. The Governor may by executive order designate up to three rural areas of critical economic concern which will establish these areas as priority assignments for REDI as well as to allow the Governor, acting through REDI, to waive criteria, requirements, or similar provisions of any economic development incentive. Such incentives shall include, but not be limited to: the Qualified Target Industry Tax Refund Program under s. 288.106, the Quick Response Training Program under s. 288.047, the Quick Response Training Program for participants in the welfare transition program under s. 288.047(8), transportation projects under s. 288.063, the brownfield redevelopment bonus refund under s. 288.107, and the rural job tax credit program under ss. 212.098 and 220.1895.

(b) Designation as a rural area of critical economic concern under this subsection shall be contingent upon the execution of a *memorandum of agreement* among the department; the governing body of the county; and the governing bodies of any municipalities to be included within a rural area of critical economic concern. Such agreement shall specify the terms and conditions of the designation, including, but not limited to, the duties and responsibilities of the county and any participating municipalities to take actions designed to facilitate the retention and expansion of existing businesses in the area, as well as the recruitment of new businesses to the area.

(c) Each rural area of critical economic concern may designate catalyst projects, provided that each catalyst project is specifically recommended by REDI, identified as a catalyst project by Enterprise Florida, Inc., and confirmed as a catalyst project by the department. All state agencies and departments shall use all available tools and resources to the extent permissible by law to promote the creation and development of each catalyst project and the development of catalyst sites.

(8) REDI shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives each year on or before September 1 on all REDI activities for the prior fiscal year. This report shall include a status report on all projects currently being coordinated through REDI, the number of preferential awards and allowances made pursuant to this section, the dollar amount of such awards, and the names of the recipients. The report shall also include a description of all waivers of program requirements granted. The report shall also include information as to the economic impact of the projects coordinated by REDI, and recommendations based on the review and evaluation of statutes and rules having an adverse impact on rural communities, and proposals to mitigate such adverse impacts.

History.—s. 97, ch. 99-251; s. 79, ch. 2000-165; s. 12, ch. 2001-201; s. 13, ch. 2009-51; s. 51, ch. 2010-5; s. 143, ch. 2011-142.

288.019 Rural considerations in grant review and evaluation processes. —Notwithstanding any other law, and to the fullest extent possible, the member agencies and organizations of the Rural Economic Development Initiative (REDI) as defined in s. 288.0656(6)(a) shall review all grant and loan application evaluation criteria to ensure the fullest access for rural counties as defined in s. 288.0656(2) to resources available throughout the state.

(1) *Each REDI agency and organization shall review all evaluation and scoring procedures and develop modifications to those procedures which minimize the impact of a project within a rural area.*

(2) *Evaluation criteria and scoring procedures must provide for an appropriate ranking based on the proportionate impact that projects have on a rural area when compared with similar project impacts on an urban area.*

(3) *Evaluation criteria and scoring procedures must recognize the disparity of available fiscal resources for an equal level of financial support from an urban county and a rural county.*

(a) *The evaluation criteria should weight contribution in proportion to the amount of funding available at the local level.*

(b) *In-kind match should be allowed and applied as financial match when a county is experiencing financial distress through elevated unemployment at a rate in excess of the state's average by 5 percentage points or because of the loss of its ad valorem base.*

(4) *For existing programs, the modified evaluation criteria and scoring procedure must be delivered to the department for distribution to the REDI agencies and organizations. The REDI agencies and organizations shall review and make comments. Future rules, programs, evaluation criteria, and scoring processes must be brought before a REDI meeting for review, discussion, and recommendation to allow rural counties fuller access to the state's resources.*

History.—s. 10, ch. 2001-201; s. 22, ch. 2009-51; s. 133, ch. 2011-142.

STATE OF FLORIDA

OFFICE OF THE GOVERNOR EXECUTIVE ORDER NUMBER 08-132

WHEREAS, during the 1999 Session, the Florida Legislature passed, and the Governor signed into law, legislation supporting economic development in the rural areas of the State; and

WHEREAS, although economic progress has been made in many rural areas, the growth and prosperity enjoyed by many communities in the State during the past 45 years has not extended into Florida's rural areas; and

WHEREAS, these communities are stewards of the vast majority of Florida's land and natural resources, upon which the State's continued growth and prosperity depend; and

WHEREAS, successful rural communities are essential to the overall success of the State's economy and quality of life; and

WHEREAS, certain rural communities are struggling to maintain, support or enhance job creating activity or to generate revenues for education and other critical government services such as infrastructure, transportation and safety; and

WHEREAS, the challenges faced by these rural communities threaten their well-being and viability; and

WHEREAS, section 288.0656 (7), Florida Statutes, authorizes the Rural Economic Development Initiative to recommend to the Governor up to three areas for designation as rural areas of critical economic concern; and

WHEREAS, a rural area of critical economic concern is composed of rural communities adversely affected by an extraordinary economic event, or that is experiencing chronic or severe economic distress, or a natural disaster, or that presents a unique economic development opportunity of regional importance; and

WHEREAS, the Counties of Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union were designated on April 23, 2003 as a rural area of critical economic concern for a term of five years, and the Rural Economic Development Initiative was directed to review the designation annually and recommend whether the designation should be terminated or continued; and

WHEREAS, the designation expired on April 23, 2008; and

WHEREAS, representatives of the thirty-seven state and regional agencies and organizations comprising the Rural Economic Development Initiative met on April 18, 2008, and agreed to recommend to the Governor to continue the designation of the Counties of Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union as a rural area of critical economic concern.

NOW, THEREFORE, I, CHARLIE CRIST, as Governor of Florida, by virtue of the authority vested in me by article IV, section 1(a), Florida Constitution, and section 288.0656 (7), Florida Statutes, do hereby promulgate the following Executive Order, effective immediately:

Section 1. The area within the boundaries of the Counties of Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam,

Suwannee, Taylor, and Union is designated as a Rural Area of Critical Economic Concern.

Section 2. This area shall be a priority assignment for the Rural Economic Development Initiative.

Section 3. On a case-by-case basis, the criteria, requirements or provisions of economic development incentives may be waived. Such incentives include, but shall not be limited to, the Qualified Target Industry Tax Refund Program under section 288.106, Florida Statutes, the Quick Response Training Program under section 288.047, Florida Statutes, the Quick Response Training Program for participants in the welfare transition program under section 288.047(8), Florida Statutes, transportation projects under section 288.063, Florida Statutes, the brownfield redevelopment bonus refund under section 288.107, Florida Statutes, and the rural job tax credit program under sections 212.098 and 220.1895, Florida Statutes.

Section 4. Access to the assistance available under this Designation as a Rural Area of Critical Economic Concern shall be contingent upon the execution of memoranda of agreement between the Office of Tourism, Trade, and Economic Development, the governing bodies of the Counties, and the governing bodies of the Municipalities included within the area. Such memoranda of agreement shall specify the terms and conditions of the designation, including, but not limited to, the duties and responsibilities of the Counties and Municipalities to take actions designed to facilitate the retention and expansion of existing businesses in the area, as well as the recruitment of new businesses to the area.

Section 5. This designation shall be in effect for five years and will expire on June 11, 2013, but shall be reviewed by the Rural Economic Development Initiative annually. The Rural Economic Development Initiative may recommend the designation be terminated or continued based on economic development progress from current base lines or upon performance under the memoranda of agreement.



IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 11th day of June, 2008.


GOVERNOR

ATTEST:


SECRETARY OF STATE

FILED
2008 JUN 11 PM 3:11
TALLAHASSEE, FLORIDA

STATE OF FLORIDA

OFFICE OF THE GOVERNOR

EXECUTIVE ORDER NUMBER 03-74

WHEREAS, the 1999 Session of the Florida Legislature passed and the Governor signed into law legislation supporting economic development in the rural areas of the State; and

WHEREAS, the rapid growth and prosperity enjoyed by many communities in the State over the past 40 years has not been shared by Florida's rural areas; and

WHEREAS, these areas are stewards of the vast majority of Florida's land and natural resources, upon which the State's continued growth and prosperity depend; and

WHEREAS, successful rural communities are essential to the overall success of the State's economy; and

WHEREAS, the well being and viability of certain rural communities is becoming more difficult as they struggle to maintain their capacity to support or enhance job creating activity for their residents or to generate revenues for education and other critical government services such as infrastructure, transportation and safety; and

WHEREAS, Section 288.0656 (7), Florida Statutes, authorizes the Rural Economic Development Initiative to recommend to the Governor up to three areas for designation as rural areas of critical economic concern; and

WHEREAS, a rural area of critical economic concern must be a region composed of rural communities adversely affected by extraordinary economic events; and

WHEREAS, representatives of the twenty-one state and regional agencies comprising the Rural Economic Development Initiative met on February 13, 2003 and

agreed to recommend to the Governor the third of three rural areas for designation as a rural area of critical economic concern.

NOW, THEREFORE, I, JEB BUSH, as governor of Florida, by virtue of the authority vested in me by Article IV, Section 1(a), Florida Constitution, and Section 288.0656 (7), Florida Statutes, do hereby promulgate the following Executive Order, effective immediately:

Section 1. The area within the boundaries of the Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union Counties is designated as a Rural Area of Critical Economic Concern.

Section 2. This area shall be a priority assignment for the Rural Economic Development Initiative.

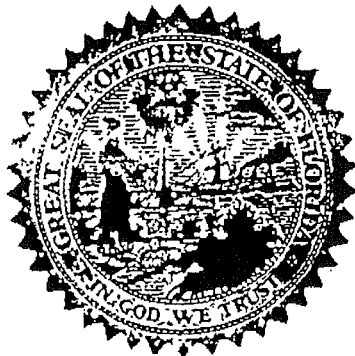
Section 3. On a case-by-case basis, the criteria, requirements or provisions of economic development incentives may be waived. Such incentives shall include but not be limited to the Qualified Target Industry Tax Refund Program under Section 288.106, Florida Statutes, the Quick Response Training Program under Section 288.047, Florida Statutes, the Quick Response Training Program for participants in the welfare transition program under Section 288.047(8), Florida Statutes, transportation projects under Section 288.063, Florida Statutes, the brownfield redevelopment bonus refund under Section 288.107, Florida Statutes, and the rural job tax credit program under Sections 212.098 and 220.1895, Florida Statutes.

Section 4. Access to the assistance available under this Designation as a Rural Area of Critical Economic Concern shall be contingent upon the execution of memoranda of agreement between the Office of Tourism, Trade, and Economic Development, the governing bodies of the Counties, and the governing bodies of the Municipalities included within the area. Such memoranda of agreement shall specify the terms and

conditions of the designation, including, but not limited to, the duties and responsibilities of the Counties and Municipalities to take actions designed to facilitate the retention and expansion of existing businesses in the area, as well as the recruitment of new businesses to the area.

Section 5. This designation shall be in effect for five years and will expire on April 23, 2008, but shall be reviewed by the Rural Economic Development Initiative annually. The Rural Economic Development Initiative may recommend the designation be terminated or continued based on economic development progress from current base lines or upon performance under the memoranda of agreement.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Florida to be affixed at Tallahassee, the Capitol, this 23rd day of April, 2003.



GOVERNOR

Jeb Bush

ATTEST:

Glenda E. Hood
SECRETARY OF STATE

FILED
2003 APR 23 PM 3:46
DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

RESOLUTION NO. 1-011912-03

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS
REGARDING THE CLOSURE OF
JEFFERSON CORRECTIONAL INSTITUTION

WHEREAS, Jefferson County is one of the smallest of Florida's counties, located east of Leon County;

WHEREAS, Jefferson County is one of Florida's oldest counties with a rich cultural history, beautiful natural assets, and friendly small communities of citizens that treat all people (even prisoners) with respect and dignity;

WHEREAS, being a small rural community, Jefferson County, like other rural areas in Florida, is challenged by significant economic factors, is considered by the Florida Department of Revenue as "fiscally constrained" and is designated as a "Rural Area of Critical Economic Concern";

WHEREAS, the Rural Area of Critical Economic Concern status affords Jefferson County special consideration in State Agency actions and requires state agencies to minimize the impact of their decisions on RACEC counties and provide support that will improve conditions in our community;

WHEREAS, the Florida Department of Corrections has announced its intention to close the Jefferson Correctional Institution by April 1, 2012;

WHEREAS, the Jefferson Correctional Institution is the largest employer in the county and the loss of jobs and the impact on the local economy and community will be substantial, estimated to have a \$19 million impact on local economic activity and uprooting longtime residents who must move elsewhere to find new jobs;

WHEREAS, the evaluation system used to determine the prison closure was developed without opportunity for public input;

WHEREAS, the Jefferson Correctional Institution has significant unrecognized "Special Attributes" in that (1) it is the state's largest "Psyche 3" unit and the "go to" unit for prisoners on psychotropic drugs, and (2) in spite of its high risk inmates, it is the only state prison facility to have never called out a rapid response team, a tribute to the unique staff culture at Jefferson Correctional;

WHEREAS, the evaluation of the Jefferson Correctional Institution did not credit or consider Rural Area of Critical Economic Concern status or provide for consideration of important "Special Attributes" that would have, as in other instances, modified the outcome;

WHEREAS, no state legislator, local elected official, economic development representative, community leaders, business owner, or citizens were afforded the opportunity to review, observe, or comment on the decision making process or the proposal;

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, FLORIDA THAT:

Because of the important attributes of Jefferson Corrections Institution and the significant impact that the closure of Jefferson Correctional Institution would have on our county, WE REQUEST THAT THE GOVERNOR AND THE DEPARTMENT OF CORRECTIONS REMOVE JEFFERSON CORRECTIONAL INSTITUTION FROM THE CLOSURE LIST.

RESOLVED this 19th day of January 2012.


ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF JEFFERSON COUNTY, FLORIDA

BY:


Kirk Reams, Clerk

BY:


Hines Boyd, Chairman
(As approved by the Board on January 19, 2012)

RESOLUTION NO. PC2012-011212-01

RESOLUTION OF THE JEFFERSON COUNTY PLANNING COMMISSION
REGARDING THE CLOSURE OF
JEFFERSON CORRECTIONAL INSTITUTION

WHEREAS, Jefferson County is one of the smallest of Florida's counties, located east of Leon County;

WHEREAS, Jefferson County is one of Florida's oldest counties with a rich cultural history, beautiful natural assets, and friendly small communities of citizens that treat all people (even prisoners) with respect and dignity;

WHEREAS, being a small rural community, Jefferson County, like other rural areas in Florida, is challenged by significant economic factors, is considered by the Florida Department of Revenue as "fiscally constrained" and is designated as a "Rural Area of Critical Economic Concern";

WHEREAS, the Rural Area of Critical Economic Concern status affords Jefferson County special consideration in State Agency actions and requires state agencies to minimize the impact of their decisions on RACEC counties and provide support that will improve conditions in our community;

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WHEREAS, the Jefferson Correctional Institution has significant unrecognized "Special Attributes" in that (1) it is the state's largest "Psyche 3" unit and the "go to" unit for prisoners on psychotropic drugs, and (2) in spite of its high risk inmates, it is the only state prison facility to have never called out a rapid response team, a tribute to the unique staff culture at Jefferson Correctional;

WHEREAS, the evaluation of the Jefferson Correctional Institution did not credit or consider Rural Area of Critical Economic Concern status or provide for consideration of important "Special Attributes" that would have, as in other instances, modified the outcome;

WHEREAS, no state legislator, local elected official, economic development representative, community leaders, business owner, or citizens were afforded the opportunity to review, observe, or comment on the decision making process or the proposal;

THEREFORE, BE IT RESOLVED BY THE PLANNING COMMISSION OF JEFFERSON COUNTY, FLORIDA IN FULL SUPPORT OF THE BOARD OF COUNTY COMMISSIONERS OF JEFFERSON COUNTY, FLORIDA THAT:

Because of the important attributes of Jefferson Corrections Institution and the significant impact that the closure of Jefferson Correctional Institution would have on our county, WE REQUEST THAT THE GOVERNOR AND THE DEPARTMENT OF CORRECTIONS REMOVE JEFFERSON CORRECTIONAL INSTITUTION FROM THE CLOSURE LIST.

RESOLVED this 12th day of January 2012.

ATTEST:

JEFFERSON COUNTY PLANNING COMMISSION

BY: 
Kirk Reams, Clerk

BY: 
Corwin Padget, Chairman (Signed 01/23/12)
(As approved by the Planning Commission on January 12, 2012)

RESOLUTION 11912

RESOLUTION OF THE SCHOOL BOARD OF JEFFERSON COUNTY
REGARDING THE CLOSURE OF
JEFFERSON CORRECTIONAL INSTITUTION

WHEREAS, Jefferson County is one of Florida's oldest, smallest counties located east of Leon County;

WHEREAS, Jefferson County acquired its first school in 1827 known as, Jefferson Academy;

WHEREAS, Jefferson County School District, like other small, rural areas in Florida is challenged by significant economic factors and its schools are designated as, "Title I" campuses;

WHEREAS, the Florida Department of Corrections has announced its intention to close the Jefferson Correctional Institution by April 1, 2012;

WHEREAS, the Jefferson Correctional Institution is the largest employer in the county and the loss of students in Jefferson County classrooms will result in a \$101,000.00 cut to the District's income; a district which is already bracing for a \$300,000.00 cut due to a decrease in FTE 3rd calculation funding; a District that has seen its yearly FEFP funding decrease by 61% from what it was in FY 2007/2008.

WHEREAS, a loss of students equals a loss of teacher positions, bus drivers, cafeteria workers etc., creating a domino effect which reaches the community as a whole.

WHEREAS, the evaluation of the Jefferson Correctional Institution did not credit or consider our county's "Rural Area of Critical Economic Concern" status or provide consideration of "Special Attributes" that would have modified the outcome;

WHEREAS, no School Board member or any other elected official, business owners, community leaders or citizens were afforded the opportunity to observe, review or comment on the proposal or decision making process;

THEREFORE, LET IT BE RESOLVED BY THE SCHOOL BOARD OF JEFFERSON COUNTY, FLORIDA THAT:

Because of the significant economic and emotional impact that the closure of Jefferson Correctional Institution would have on our county, **WE RESPECTFULLY REQUEST THAT THE GOVERNOR AND THE DEPARTMENT OF CORRECTIONS REMOVE JEFFERSON CORRECTIONAL INSTITUTION FROM THE CLOSURE LIST.**

RESOLVED this 20th day of January 2012.

ATTEST:

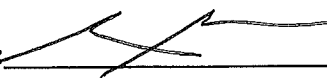
SCHOOL BOARD OF JEFFERSON COUNTY, FL

BY:



William E. Brumfield
Secretary/Superintendent

BY:



Marianne Arbulu, Chairperson

CourtSmart Tag Report

Room: LL 37

Case:

Caption: Budget Subcommittee on Criminal and Civil Justice Appropriations

Type:

Judge:

Started: 1/24/2012 1:01:22 PM

Ends: 1/24/2012 1:58:28 PM

Length: 00:57:07

1:01:24 PM	Meeting called to order
1:01:36 PM	Roll Call-Quorum
1:01:59 PM	486-Sen. Diaz de la Portilla-Jurisdiction of the Courts
1:03:19 PM	Roll call on SB 486-favorable
1:04:50 PM	SB 80-Senator Joyner on Human Trafficking
1:05:51 PM	Roll Call on SB 80-favorable
1:07:42 PM	CS/SB 92-Senator Joyner-Reducing or Suspending the sentence of a Juvenile Offender
1:09:51 PM	CS/SB 92-Senator Joyner-Reducing or Suspending the sentence of a Juvenile Offender
1:09:51 PM	Senator Bennett for a question regarding disciplinary actions
1:11:10 PM	Senator Thrasher for a question
1:12:10 PM	Eric Wesfall-wave in opposition
1:12:31 PM	Frank Messersmith-Florida's Sheriff's Assoc.-against bill
1:14:14 PM	Agnes Furry-Restorative Justice
1:16:17 PM	Paola Annino-FSU College of Law
1:18:29 PM	Bill Ceronone-Florida Prosecuting Atty. Association-against
1:21:47 PM	Senator Bennett for a series of questions
1:23:57 PM	Senator Thrasher for a series of questions
1:24:43 PM	Nancy Daniels-Florida Public Defender Association
1:28:10 PM	Janet Ferris-Second Chance for Children's Act-Retired Circuit Judge
1:31:06 PM	Senator Thrasher for a question
1:32:00 PM	Senator Smith with a question
1:33:34 PM	Bill is going to be TP
1:33:42 PM	SB 92 will not come back again this session according to Sen. Fasano
1:34:21 PM	SB 506-Senator Evers-Parole Interview Dates for Certain Inmates
1:35:59 PM	Roll Call SB 506-Favorable
1:36:55 PM	Jefferson County Prison Closure
1:38:23 PM	Wendy Bitner Jefferson County Lobbyist on closing of prison
1:43:43 PM	Kirk Reams Clerk of Courts Jefferson County
1:47:28 PM	Julie Connelly-Jefferson County Economic Development Council
1:51:32 PM	Commissioner Betsy Barfield
1:53:09 PM	Paul Henry representing himself
1:54:43 PM	Steve Mears-Blountstown
1:57:55 PM	Steve Mears-Blountstown
1:57:55 PM	Meeting Adjourn

SB 486 by **Diaz de la Portilla (CO-INTRODUCERS) Lynn**; (Identical to H 0917) Jurisdiction of the Courts

CS/SB 506 by **CJ, Evers**; (Similar to CS/CS/H 0329) Parole Interview Dates for Certain Inmates

CS/SB 92 by **CJ, Joyner (CO-INTRODUCERS) Sachs, Rich**; (Identical to H 0635) Reducing or Suspending the Sentence of a Juvenile Offender

SB 80 by **Joyner (CO-INTRODUCERS) Smith**; (Compare to H 7049) Human Trafficking

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

**BUDGET SUBCOMMITTEE ON CRIMINAL AND CIVIL
 JUSTICE APPROPRIATIONS**

**Senator Fasano, Chair
 Senator Joyner, Vice Chair**

MEETING DATE: Tuesday, January 24, 2012

TIME: 1:00 —2:00 p.m.

PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Fasano, Chair; Senator Joyner, Vice Chair; Senators Bennett, Evers, Smith, Storms, and Thrasher

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 486 Diaz de la Portilla (Identical H 917)	Jurisdiction of the Courts; Including as an additional basis for subjecting a person to the jurisdiction of the courts of this state provisions which state that a person submits to the jurisdiction of the courts of this state by entering into a contract that designates the law of this state as the law governing the contract and that contains a provision by which such person agrees to submit to the jurisdiction of the courts of this state; clarifying that an arbitral tribunal receiving a request for an interim measure to preserve evidence in a dispute governed by the Florida International Commercial Arbitration Act need consider only to the extent appropriate the potential harm that may occur if the measure is not awarded or the possibility that the requesting party will succeed on the merits of the claim; revising application dates of provisions relating to the jurisdiction of the courts, etc.	
		CM 12/07/2011 Favorable JU 01/12/2012 Favorable BJA 01/24/2012 BC	
2	CS/SB 506 Criminal Justice / Evers (Similar CS/CS/H 329)	Parole Interview Dates for Certain Inmates; Extending from 2 years to 7 years the period between parole interview dates for inmates convicted of committing certain specified crimes, etc.	
		CJ 11/17/2011 Temporarily Postponed CJ 12/07/2011 Fav/CS BJA 01/24/2012 BC	

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Criminal and Civil Justice Appropriations
Tuesday, January 24, 2012, 1:00 —2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 92 Criminal Justice / Joyner (Identical H 635)	Reducing or Suspending the Sentence of a Juvenile Offender; Citing this act as the "Second Chance for Children Act"; providing that a juvenile offender who was 17 years of age or younger at the time of committing one or more nonhomicide offenses and who was sentenced to 10 or more years of imprisonment may be eligible for a reduced or suspended sentence; providing that the juvenile offender may petition the court after a specified age for a hearing to reduce or suspend the sentence; setting forth the eligibility criteria to reduce or suspend a sentence; authorizing the juvenile offender to petition for subsequent sentencing hearings if the court does not reduce or suspend the juvenile offender's sentence, etc. CJ 11/03/2011 Fav/CS BJA 01/24/2012 BC	
4	SB 80 Joyner	Human Trafficking; Requiring operators of massage establishments to maintain valid work authorization documents on the premises for each employee who is not a United States citizen; requiring presentation of such documents upon request of a law enforcement officer; prohibiting the use of a massage establishment license for the purpose of lewdness, assignation, or prostitution; providing criminal penalties, etc. HR 11/03/2011 Favorable CJ 01/12/2012 Favorable BJA 01/24/2012 BC	
5	Review and Discussion of Fiscal Year 2012-13 Budget Issues relating to: Department of Legal Affairs Department of Corrections Department of Law Enforcement Florida Parole Commission Department of Juvenile Justice Supreme Court District Court of Appeal Trial Courts Judicial Qualifications Commission Justice Administrative Commission Guardian Ad Litem Clerk of Courts State Attorneys Public Defenders Appellate Public Defenders Capital Collateral Regional Counsels Regional Conflict Counsels		

COMMITTEE MEETING EXPANDED AGENDA

Budget Subcommittee on Criminal and Civil Justice Appropriations
Tuesday, January 24, 2012, 1:00 —2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	Other Related Meeting Documents		

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 486

INTRODUCER: Senator Diaz de la Portilla

SUBJECT: Jurisdiction of the Courts

DATE: January 13, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Juliachs	Hrdlicka	CM	Favorable
2.	White	Cibula	JU	Favorable
3.	Harkness	Sadberry	BJA	Pre-meeting
4.			BC	
5.				
6.				

I. Summary:

Senate Bill 486 amends Florida's long-arm, choice-of-law, and forum-selection statutes, as well as provisions of the Florida Enforcement of Foreign Judgment Act and Florida International Commercial Arbitration Act.

Specifically, the bill amends s. 48.193, F.S., commonly referred to as the long-arm statute, by including language that extends the court's jurisdiction to individuals entering into a contract that complies with Florida's forum-selection statute. The bill also amends s. 685.101, F.S., by removing statutory language that prevents the enforcement of choice-of-law provisions found in contracts where each party is a nonresident. As such, the bill expands the jurisdiction of the courts of this state to hear actions that do not bear a substantial or reasonable relation to this state or that do not involve a party who is resident of this state or incorporated in this state. The amendments to ss. 685.101 and 685.102, F.S., will apply to contracts entered into on or after July 1, 2012.

Additionally, the term "foreign judgment" found in s. 55.502, F.S., of the Florida Enforcement of Foreign Judgment Act is amended to mean "any judgment, decree, or order of a court which is entitled to full faith and credit in this state."

Lastly, provisions from the Florida International Commercial Arbitration Act, ch. 689, F.S., are amended to correct cross-references within the act in order to conform exactly to the UNCITRAL Model Law on Commercial Arbitration.

This bill substantially amends the following sections of the Florida Statutes: 48.193, 55.502, 684.0019, 684.0026, 685.101, and 685.102.

II. Present Situation:

Jurisdiction

The ability of a court to assert personal jurisdiction over a nonresident is subject to the constitutional requirements of the Due Process Clause of the Fourteenth Amendment.¹ The test for determining whether a court is able to assert personal jurisdiction over a nonresident is whether the nonresident has “minimum contacts” in the forum such that the commencement of a proceeding against that individual does “not offend traditional notions of fair play and justice.”² Foreseeability is key; thus, the principal inquiry is whether the nonresident’s conduct and connection with the forum state would lead him or her to believe that they could “reasonably anticipate being haled into court.”³

Florida Long-Arm Statute

The second limitation on a court’s ability to assert personal jurisdiction is derived from a state’s long-arm statute. Such statutes can be drafted broadly⁴ to reach the maximum bounds of the Due Process Clause or narrowly by enumerating specific acts or activities that would allow for a court to assume personal jurisdiction in a particular case. Florida’s statute falls in the latter category.

In *Venetian Salami Co. v. J.S. Parthenais*, the Florida Supreme Court described the interplay between Florida’s long-arm statute and the due process requirements of the Fourteenth Amendment as follows:

By enacting section 48.193, the legislature has determined the requisite basis for obtaining jurisdiction over nonresident defendants as far as Florida is concerned. It has not specifically addressed whether the federal constitutional requirement of minimum contacts has been met. As a practical matter, it could not do so because each case will depend upon the facts.⁵

Therefore, two inquiries must be satisfied. The first is whether there is a jurisdictional basis under the Florida long-arm statute to assert personal jurisdiction; and if so, whether the necessary minimum contacts exist.⁶

¹ U.S. Const. amend. XIV, s. 2 (“No state shall . . . deprive any person of life, liberty, or property without due process of law . . .”); *See International Shoe Co. v. Washington, Office of Unemployment Comp. and Placement*, 326 U.S. 310, 316 (1945).

² *International Shoe*, 326 U.S. at 316.

³ *Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 474 (1985) (quoting *World-Wide Volkswagen Co. v. Woodson*, 444 U.S. 286, 297 (1980)).

⁴ An example of a broad long-arm statute can be found in Cal. Civil Code s. 410.10 (2011), which states: “A court of this state may exercise jurisdiction on any basis not inconsistent with the Constitution of this state or of the United States.”

⁵ *Venetian Salami Co. v. J.S. Parthenais*, 554 So. 2d 499, 500 (Fla. 1989).

⁶ *Jetbroadband WV, LLC v. Mastec North America, Inc.*, 13 So. 3d 159, 161 (Fla. 3rd DCA 2009).

Florida' Choice-of-Law and Forum-Selection Statutes

Florida's choice-of-law and forum selection statutes, adopted in 1989, allow parties to a contract to choose Florida law to govern disputes relating to the contract and to select this state's courts as the forum for the resolution of any disputes. These statutes are based on a recommendation of the International Banking and Trade Study Commission which was created by the Legislature in 1988 to "advise on possible measures to reduce impediments to commerce in Florida."⁷ The House Staff Analysis for the legislation creating the statutes stated that the bill would "enhance Florida's attractiveness as an international commercial center."⁸

Choice-of-Law Statute

Florida's choice-of-law statute is drafted as a limitation on the power of persons to enter into contracts. However, the provision acts as a limitation on the power of a court to enforce a contractual provision designating Florida law as the law that will govern disputes relating to a contract.

Section 685.101(1), F.S., effectively grants broad authority to courts to enforce "to the extent permitted under the United States Constitution" a contractual provision designating Florida law as the law that will govern a contract valued at not less than \$250,000. Section 685.101(2), F.S., provides a list of exceptions to the broad grant of authority. Specifically, under s. 685.101(2)(a), F.S., the authority of a court to enforce a choice of law provision:

does not apply to any contract, agreement, or undertaking:

(a) Regarding any transaction which does not bear a substantial or reasonable relation to this state in which every party is either or a combination of:

1. A resident and citizen of the United States, but not of this state; or
2. Incorporated or organized under the laws of another state and does not maintain a place of business in this state

In interpreting s. 685.101, F.S., the court in *Jetbroadband WV, LLC v. MasTec North America, Inc.*, stated that the section only applies if: "1) the contract bears a substantial or reasonable relation to Florida, or 2) at least one of the parties is either a resident or citizen of Florida (if a person), or is incorporated or organized under the laws of Florida or maintains a place of business in Florida (if a business)."⁹

Additionally, the choice-of-law statute does not apply to contracts for labor, employment or relating to any transaction for personal, family, or household purposes.¹⁰

⁷ Fla. H. R. Comm. on Commerce, SB 109 (1989) Staff Analysis (June 27, 1989).

⁸ *Id.*

⁹ *Jetbroadband WV, LLC v. MasTec North America, Inc.*, 13 So. 3d 159, 162 (Fla. App. 3d DCA 2009) (quoting Edward M. Mullins & Douglas J. Giuliano, *Contractual Waiver of Personal Jurisdiction Under F.S. § 685.102: The Long-Arm Statute's Little-Known Cousin*, 80 FLA Bar J. 36, 37 (May 2006)).

¹⁰ Section 685.101(2)(b), and (c), F.S.

Forum-Selection Statute

The forum-selection statute, s. 685.102, F.S., was also adopted in 1989 along with its counterpart, the Florida choice-of-law statute. The forum-selection statute grants Florida courts jurisdiction to hear cases relating to any contracts that have been made consistent with s. 685.101, F.S., which with some exceptions, authorizes parties to choose Florida law to govern a contract.

Regarding enforceability, the United States Supreme Court has held that a forum-selection clause should be upheld, unless it can be shown that its enforcement would be unreasonable or unjust, or that the clause was invalid as a result of fraud or overreaching.¹¹ As it relates to personal jurisdiction and the minimum contacts analysis, the United States Supreme Court has also held that the minimum contacts standard is met if a forum-selection clause exists that is freely negotiated and is not unreasonable and unjust.

Interaction of the Choice-of-Law and Forum-Selection Statutes

Read together, the choice-of-law and forum-selection statutes:

stand for the proposition that, if certain requirements are met, parties may, by contract alone, confer personal jurisdiction on the courts of Florida. To satisfy the statutory requirements, the contract, agreement, or undertaking must (1) include a choice of law provision designating Florida Law as the governing law, (2) include a provision whereby the non-resident agrees to submit to the jurisdiction of the courts of Florida, (3) involve consideration of not less than \$250,000, (4) not violate the United States Constitution, and (5) either bear a substantial or reasonable relation to Florida or have at least one of the parties be a resident of Florida or incorporated under its laws. Thus, as long as one of the parties is a resident of Florida or incorporated under its laws, and the other statutory requirements are met, sections 685.101-.102 operate irrespective of whether the underlying contract bears any relation to Florida and notwithstanding any law to the contrary.¹²

Modern Trends Regarding Choice-of-Law Clauses

In an effort to promote predictability and certainty in commercial relation disputes, the use of choice-of-law provisions in contracts has increased significantly. As such, the judicial enforcement of choice-of-law clauses has now become the norm.¹³ As one writer comments, there is evidence that states do compete for law business by enforcing contractual choice-of-law.¹⁴ His findings are summarized below:

¹¹ *M/S Bremen v. Zapata Off-Shore Co.*, 407 U.S. 1, 15 (1972).

¹² *Jetbroadband*, at 162 (footnote omitted).

¹³ Larry E. Ribstein, *From Efficiency to Politics in Contractual Choice of Law*, 37 GA. L. REV. 363, 382 (Winter 2003).

¹⁴ *Id.* at 431.

First, there is evidence of the existence of a market for contractual choice. Many relatively large companies use choice-of-law clauses, thereby suggesting that there is a significant demand for enforcement. The University of Missouri's Contracting and Organizations Research Institute (CORI) has collected such contracts from publicly traded companies that disclose contracts in filings with the Securities and Exchange Commission A search of CORI's web database indicates that 4,507 of 8,583 contracts of various types had choice-of-law clauses. Second, a further indication of the existence of a choice-of-law market is that parties often contract for the law of one of a relatively small group of states, indicating that they are not choosing a party's domicile or the jurisdiction where the particular transaction is based. Eighty-nine percent of the contracts with choice-of-law clauses select the law of only ten states, seventy-two percent select the law of four states, and twenty-six percent select the law of Delaware, one of the smaller states.

....

Fourth, and most importantly for present purposes, the parties tend to choose states that have signaled their intent to compete in the choice-of-law market. The top five states, with a combined eighty percent market share -- Delaware, New York, California, Texas, and Illinois - all have adopted statutes providing for enforcement of contractual choice of law in relatively large contracts, with the remaining statute state, Florida, in eighth place¹⁵

In addition, the cited benefits enjoyed by jurisdictions that have adopted statutes to authorize the enforcement of choice-of-law provisions found in contracts include the attraction of business activity into the forum state, as well as increased tourism.^{16, 17} Moreover, some propose that choice-of-law clauses reduce parties' litigation costs seeing that fewer resources will be devoted to presenting conflict-of-law arguments before the courts in an effort to determine which state law is applicable in the absence of a choice-of-law provision that designates the governing law.¹⁸

The American Law Institute has promulgated the Restatement (2d) of Conflict of Laws.¹⁹ Section 187 begins with the presumption that a contract's choice-of-law provision will be enforced, but sets out two exceptions referred to as the "nexus test" and the "fundamental policy

¹⁵ *Id.* at 432-434.

¹⁶ Garrett L. Pendleton & Michael A. Tessitore, *Foreign Litigants Seek Forum to Litigate – Is Florida Open for Business?*, 79 FLA. BAR J., 20, 24 (Mar. 2005).

¹⁷ *But see*, Ribstein *supra* note 13, at 429. ("States have incentives not only to avoid repelling firms, but also to encourage them to establish significant local contacts, such as headquarters. The relevance of this factor depends on whether the rule regarding enforcement of contractual choice requires significant contacts in a state as a prerequisite to enforcing a contract applying that state's law. This depends on states' willingness not only to apply their own law where it is designated in the contract, but also to apply another state's law where it is designated and the state has contacts with the contracting parties, and to refuse to apply their own state's law where it is designated in the contract but where the state lacks significant contacts with the parties.").

¹⁸ *Id.* at 403.

¹⁹ Restatement Second of Conflict of Laws (1971).

test.”²⁰ Under the nexus test, choice-of-law clauses will not be enforced if the chosen jurisdiction bears “no substantial relationship” to the parties or transaction, and there is “no other reasonable basis” for the choice.²¹ Under the fundamental policy test, choice-of-law clauses will not be enforced if the application of the chosen law would offend “the fundamental policy of a state” with an interest in the transaction materially greater than that of the chosen jurisdiction and whose law would apply “in the absence of an effective choice-of-law by the parties.”²²

Although persuasive and instructive, it should be noted that a Restatement is not considered to be a primary source of law, but serves as general resource for understanding and researching a specific area of the law. As such, several jurisdictions, including New York, Delaware, California, and Illinois, have removed the substantial relationship requirement from their choice-of-law statutes.²³

Florida Enforcement of Foreign Judgments Act

Article IV, clause 1 of the United States Constitution provides that “Full Faith and Credit shall be given in each State to the public Acts, Records, and Judicial Proceedings of every other State.”²⁴ Accordingly, under the Florida Enforcement of Foreign Judgments Act (act), ss. 55.501-55.509, F.S., foreign judgments from sister jurisdictions may be enforced in Florida upon being recorded in the office of the clerk of the circuit court of any county.²⁵

In its current statutory form, the foreign judgments that may be enforced under the act include “any judgment, decree, or order of a court of any other State or of the United States if such judgment, decree, or order is entitled to full faith and credit in this State.”²⁶ Absent from this definition is any reference to territories or possessions of the United States that are also entitled to full faith and credit under federal law.²⁷

In *Rodriguez v. Nasrallah*,²⁸ a Florida court held that “[j]udgments of courts in Puerto Rico are entitled to full faith and credit in the same manner as judgments from courts of sister States.” As a result, the court permitted the enforcement of a Puerto Rican judgment in Florida. However, taken literally, a judgment from a Puerto Rican court would not qualify as a judgment from a *state court* under s. 55.502(1), F.S.

²⁰ Richard T. Franch, et. al., *Choice of law and choice of forum are both crucial: Parties to international agreement should give careful thought to each*, The Nat’l Law J., Feb. 2002.

²¹ Restatement Second of Conflict of Laws at s. 187(2)(a)

²² *Id.* at s. 187 (2)(b)

²³ N.Y. GEN OBLIG. LAW ss. 5-1401, 1402 (2011); DEL. CODE ANN. Tit. 6, s. 2708(a) (2011), CAL. CIVIL CODE s. 1646.5 (2011), 735 IL COMP. STAT. ANN. 105/5-5 (2011).

²⁴ U.S. CONST. art. IV, cl 1.

²⁵ Section 55.503, F.S.

²⁶ Section 55.502(1), F.S.

²⁷ See 28 U.S.C. s. 1738 (“The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.”).

²⁸ *Rodriguez v. Nasrallah*, 659 So. 2d 437, 439 (Fla. 1st DCA 1995).

Florida International Commercial Arbitration Act

Chapter 2010-60, L.O.F., repealed the then current law relating to international commercial arbitration and adopted instead the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration (UNCITRAL Model Law) as amended in 2006 by the General Assembly.

Chapter 684, F.S., in accordance with the UNCITRAL Model Law, applies to any international commercial arbitration subject to an agreement between the United States of America and any other country. The law provides definitions, principles under which the law is to be interpreted, procedural requirements, discovery and evidentiary requirements, as well as arbitral tribunal powers and immunity.

Presently, two of the statutes in the Florida Commercial Arbitration Act contain inadvertent clerical errors as they relate to cross-references. As such, in its current form, the statute does not conform exactly to the UNCITRAL Model Law.

III. Effect of Proposed Changes:

Jurisdiction (Sections 1, 5, and 6)

The bill amends s. 48.193, F.S., to provide an express jurisdictional basis for Florida courts to assert personal jurisdiction over a nonresident who enters into a contract that complies with s. 685.102, F.S.²⁹ As a result, courts may have personal jurisdiction in contracts cases involving only nonresidents if they enter into a contract where the parties agree to designate Florida law as governing the contract, and contractually agree to personal jurisdiction in this state.

The bill amends s. 685.101, F.S., by deleting the following italicized language from the choice-of-law statute:

- (2) This section does not apply to any contract, agreement, or undertaking:
 - (a) *Regarding any transaction which does not bear a substantial or reasonable relation to this state in which every party is either or a combination of:*
 - 1. *A resident and citizen of the United States, but not of this state; or*
 - 2. *Incorporated or organized under the laws of another state and does not maintain a place of business in this state;*³⁰

This language was interpreted in *Jetbroadband WV, LLC v. MasTec North America, Inc.*, to limit the jurisdiction of Florida courts to hear certain contractual disputes to those that “bear a substantial or reasonable relation to Florida or have at least one of the parties be a resident of

²⁹ Several other jurisdictions have similar language in their respective long-arm statutes. MICH. COMP. LAWS s. 600.705 (2011); MONT. CODE ANN. s. 25-20-4(b)(1)(E) (2011); S.D. CODIFIED LAWS s. 15-7-2(5) (2011); TENN CODE ANN. s. 20-2-214 (2011) (“Entering into a contract for services to be rendered or for materials to be furnished in [this state] by such person.”).

³⁰ Section 685.101(2)(a), F.S.

Florida or incorporated under its laws.”³¹ As such, the deletion of the limitation appears to expand the jurisdiction of the courts of this state accordingly.

The changes to the choice-of-law and forum-selection statutes apply to contracts entered into on or after July 1, 2012.

Florida Enforcement of Foreign Judgments Act (Section 2)

The bill amends s. 55.502, F.S., to define a foreign judgment as any “*judgment, decree, or order of a court which is entitled to full faith and credit.*” Accordingly, by removing from the definition of “foreign judgment” any reference to only those orders from the 50 states that comprise the Union, it will allow for the judgments, orders, and decrees from U.S. territories, such as Puerto Rico, to be recognized.

Florida International Commercial Arbitration Act (Sections 3 and 4)

The bill amends ss. 684.0019 and 684.0026, F.S., to correct cross-references to conform the Florida International Commercial Arbitration Act to the UNCITRAL Model Law on Commercial Arbitration.

Effective Date (Section 7)

The bill provides that it will take effect on 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 Issues³²

With respect to choice-of-law conflicts, the United States Supreme Court, in *Hague v. Allstate Insurance Company*, held that “for a State’s substantive law to be selected in a constitutionally permissible manner, the State must have significant contact or a significant aggregation of contacts, creating state interests, such that choice of its law is neither arbitrary nor fundamentally unfair.”³³ Accordingly, the removal of the

³¹ *Jetbroadband*, at 162.

³² The constitutional analysis was adapted, in part, from Pendleton, *supra* note 16.

³³ *Allstate Ins. Co. v. Hague*, 449 U.S. 302, 312-313 (1981).

requirement of “significant contacts” or “reasonable relationship” from a state’s choice-of-law statute could potentially trigger a due process challenge under the Fourteenth Amendment. However, it should be noted that when the Supreme Court rendered its holding in *Hague*, the facts presented in that case did not include a contract whereby the parties agreed to be governed by a specific state’s law. Instead, the question before the Court was which state law applied in the absence of an agreement that designated any state’s law as governing.

To date, committee staff is unaware of any constitutional challenges to the New York choice-of-law statute, which is the model for the amendments in SB 486. In any event, ss. 685.101 and 685.102, F.S., will continue to preserve existing language that limits the application of the statutes “*to the extent permitted under the United States Constitution.*”³⁴

Furthermore, it has been stated that the “choice of the law of an unrelated jurisdiction will often stand the best chance of being honored if it is reinforced with a forum-selection clause designating the same jurisdiction.”³⁵ Sections 685.101 and 685.102, F.S., as amended by this bill, under the statutes will have that effect, allowing them to stand on stronger constitutional ground.

Lastly, the United States Supreme Court has already stated that in the commercial context the minimum contacts standard is met if a forum-selection clause exists that is freely negotiated and is not unreasonable and unjust.³⁶

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The private sector impact of SB 486 cannot be accurately determined. According to The Florida Bar, International Law Section, the bill enhances the business climate in Florida by clarifying and streamlining existing legislation related to international law matters in order to increase Florida’s attractiveness as a business friendly state.³⁷

C. Government Sector Impact:

The government sector impact of SB 486 cannot be accurately determined. According to the Office of the State Courts Administrator’s 2012 Judicial Impact Statement, SB 486

³⁴ Sections 685.101 and 685.102, F.S.

³⁵ Franch, *supra*, note 20 (“This is especially true in jurisdictions such as New York where the courts give substantial recognition to the parties’ freedom to contract.”).

³⁶ *Burger King*, 471 U.S. at 473, n. 14; *See also, Elandia International, Inc. v. Koy, et al.*, 690 F. Supp. 2d 1317, 1340 (S.D. Fla. 2010).

³⁷ Eduardo Palmer, Summary of Proposed Legislation Submitted on Behalf of The Florida Bar International Law Section Addressing Legal Actions. (Nov. 2011) (on file with the Senate Committee on Judiciary).

could increase the number of contract actions filed in circuit court.³⁸ While the bill would likely impact workload, the office was unable to quantify to what extent.

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.

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

³⁸ Office of the State Court Administrator, 2012 Judicial Impact Statement for SB 486 (Oct. 17, 2011) (on file with the Senate Committee on Judiciary).

By Senator Diaz de la Portilla

36-00020A-12

2012486

1 A bill to be entitled
 2 An act relating to the jurisdiction of the courts;
 3 amending s. 48.193, F.S.; including as an additional
 4 basis for subjecting a person to the jurisdiction of
 5 the courts of this state provisions which state that a
 6 person submits to the jurisdiction of the courts of
 7 this state by entering into a contract that designates
 8 the law of this state as the law governing the
 9 contract and that contains a provision by which such
 10 person agrees to submit to the jurisdiction of the
 11 courts of this state; amending s. 55.502, F.S.;
 12 revising the definition of the term "foreign judgment"
 13 for purposes of the Florida Enforcement of Foreign
 14 Judgments Act; amending s. 684.0019, F.S.; clarifying
 15 that an arbitral tribunal receiving a request for an
 16 interim measure to preserve evidence in a dispute
 17 governed by the Florida International Commercial
 18 Arbitration Act need consider only to the extent
 19 appropriate the potential harm that may occur if the
 20 measure is not awarded or the possibility that the
 21 requesting party will succeed on the merits of the
 22 claim; amending s. 684.0026, F.S.; correcting a cross-
 23 reference in the Florida International Commercial
 24 Arbitration Act; amending s. 685.101, F.S.; deleting a
 25 restriction on the jurisdiction of the courts of this
 26 state to transactions bearing a substantial relation
 27 to this state; revising application dates of
 28 provisions relating to the jurisdiction of the courts;
 29 amending s. 685.102, F.S.; revising application dates

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

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30 of provisions relating to the jurisdiction of the
 31 courts; providing an effective date.
 32
 33 Be It Enacted by the Legislature of the State of Florida:
 34
 35 Section 1. Subsection (1) of section 48.193, Florida
 36 Statutes, is amended to read:
 37 48.193 Acts subjecting person to jurisdiction of courts of
 38 state.-
 39 (1) Any person, whether or not a citizen or resident of
 40 this state, who personally or through an agent does any of the
 41 acts enumerated in this subsection thereby submits himself or
 42 herself and, if he or she is a natural person, his or her
 43 personal representative to the jurisdiction of the courts of
 44 this state for any cause of action arising from ~~the doing of~~ any
 45 of the following acts:
 46 (a) Operating, conducting, engaging in, or carrying on a
 47 business or business venture in this state or having an office
 48 or agency in this state.
 49 (b) Committing a tortious act within this state.
 50 (c) Owning, using, possessing, or holding a mortgage or
 51 other lien on any real property within this state.
 52 (d) Contracting to insure any person, property, or risk
 53 located within this state at the time of contracting.
 54 (e) With respect to a proceeding for alimony, child
 55 support, or division of property in connection with an action to
 56 dissolve a marriage or with respect to an independent action for
 57 support of dependents, maintaining a matrimonial domicile in
 58 this state at the time of the commencement of this action or, if

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the defendant resided in this state preceding the commencement of the action, whether cohabiting during that time or not. This paragraph does not change the residency requirement for filing an action for dissolution of marriage.

(f) Causing injury to persons or property within this state arising out of an act or omission by the defendant outside this state, if, at or about the time of the injury, either:

1. The defendant was engaged in solicitation or service activities within this state; or

2. Products, materials, or things processed, serviced, or manufactured by the defendant anywhere were used or consumed within this state in the ordinary course of commerce, trade, or use.

(g) Breaching a contract in this state by failing to perform acts required by the contract to be performed in this state.

(h) With respect to a proceeding for paternity, engaging in the act of sexual intercourse within this state with respect to which a child may have been conceived.

(i) Entering into a contract that complies with s. 685.102.

Section 2. Subsection (1) of section 55.502, Florida Statutes, is amended to read:

55.502 Construction of act.—

(1) As used in ss. 55.501-55.509, the term "foreign judgment" means any judgment, decree, or order of a court which ~~of any other state or of the United States if such judgment, decree, or order~~ is entitled to full faith and credit in this state.

Section 3. Section 684.0019, Florida Statutes, is amended

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to read:

684.0019 Conditions for granting interim measures.—

(1) The party requesting an interim measure under s. 684.0018 must satisfy the arbitral tribunal that:

(a) Harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted; and

(b) A reasonable possibility exists that the requesting party will succeed on the merits of the claim. The determination on this possibility does not affect the discretion of the arbitral tribunal in making any subsequent determination.

(2) With regard to a request for an interim measure under s. 684.0018(4) ~~s. 684.0018~~, the requirements in subsection (1) apply only to the extent the arbitral tribunal considers appropriate.

Section 4. Section 684.0026, Florida Statutes, is amended to read:

684.0026 Recognition and enforcement.—

(1) An interim measure issued by an arbitral tribunal shall be recognized as binding and, unless otherwise provided by the arbitral tribunal, enforced upon application to the competent court, irrespective of the country in which it was issued, subject to s. 684.0027 ~~s. 684.0019(1)~~.

(2) The party who is seeking or has obtained recognition or enforcement of an interim measure shall promptly inform the court of the termination, suspension, or modification of the interim measure.

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(3) The court where recognition or enforcement is sought may, if it considers it proper, order the requesting party to provide appropriate security if the arbitral tribunal has not already made a determination with respect to security or if such a decision is necessary to protect the rights of third parties.

Section 5. Section 685.101, Florida Statutes, is amended to read:

685.101 Choice of law.—

(1) The parties to any contract, agreement, or undertaking, contingent or otherwise, in consideration of or relating to any obligation arising out of a transaction involving in the aggregate at least not less than \$250,000, the equivalent thereof in any foreign currency, or services or tangible or intangible property, or both, of equivalent value, including a transaction otherwise covered by s. 671.105(1), may, to the extent permitted under the United States Constitution, agree that the law of this state will govern such contract, agreement, or undertaking, the effect thereof and their rights and duties thereunder, in whole or in part, whether or not such contract, agreement, or undertaking bears any relation to this state.

(2) This section does not apply to any contract, agreement, or undertaking:

~~(a) Regarding any transaction which does not bear a substantial or reasonable relation to this state in which every party is either or a combination of:~~

~~1. A resident and citizen of the United States, but not of this state; or~~

~~2. Incorporated or organized under the laws of another state and does not maintain a place of business in this state;~~

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(a) ~~(b)~~ For labor or employment;

(b) ~~(c)~~ Relating to any transaction for personal, family, or household purposes, unless such contract, agreement, or undertaking concerns a trust at least one trustee of which resides or transacts business as a trustee in this state, in which case this section applies;

(c) ~~(d)~~ To the extent provided to the contrary in s. 671.105(2); or

(d) ~~(e)~~ To the extent such contract, agreement, or undertaking is otherwise covered or affected by s. 655.55.

(3) This section does not limit or deny the enforcement of any provision respecting choice of law in any other contract, agreement, or undertaking.

(4) This section applies to:

~~(a)~~ contracts entered into on or after July 1, 2012 ~~June 27, 1989~~; and

~~(b) Contracts entered into prior to June 27, 1989, if an action or proceeding relating to such contract is commenced on or after June 27, 1989.~~

Section 6. Section 685.102, Florida Statutes, is amended to read:

685.102 Jurisdiction.—

(1) Notwithstanding any law that limits the right of a person to maintain an action or proceeding, any person may, to the extent permitted under the United States Constitution, maintain in this state an action or proceeding against any person or other entity residing or located outside this state, if the action or proceeding arises out of or relates to any contract, agreement, or undertaking for which a choice of the

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law of this state, in whole or in part, has been made consistent
with ~~pursuant to~~ s. 685.101 and which contains a provision by
which such person or other entity residing or located outside
this state agrees to submit to the jurisdiction of the courts of
this state.

(2) This section does not affect the jurisdiction of the
courts of this state over any action or proceeding arising out
of or relating to any other contract, agreement, or undertaking.

(3) This section applies to:

~~(a)~~ contracts entered into on or after July 1, 2012 ~~June~~
~~27, 1989; and~~

~~(b) Contracts entered into prior to June 27, 1989, if an~~
~~action or proceeding relating to such contract is commenced on~~
~~or after June 27, 1989.~~

Section 7. This act shall take effect July 1, 2012.



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Summary of Proposed Legislation Submitted on Behalf of the Florida Bar International Law Section Addressing Legal Actions (SB 486)

**By: Eduardo Palmer, Chair, Legislative Committee,
The Florida Bar International Law Section**

This proposed legislation submitted by the International Law Section of the Florida Bar is part of our Section's continuing effort to bolster Florida's economy by adding jobs in the business and legal services sectors. The bill will enhance the business climate in Florida by clarifying and streamlining existing legislation related to international law matters in order to increase Florida's attractiveness as a business friendly state. The proposed legislation does not create or expand any substantive rights or obligations. Instead, this bill merely seeks to simplify existing language or correct inadvertent errors found in current legislation. Building on our success last year in passing the Florida International Commercial Arbitration Act, F.S. Ch. 684, the legislation seeks to enhance Florida's reputation as a desirable destination to conduct international business and as a world-wide leader in the area of international law. This proposal addresses technical requirements for legal actions and most of the provisions were previously submitted as HB 1537 during the 2006 session of the Florida Legislature and as SB 1878 during the 2011 session. This bill contains minor revisions to five (5) separate Florida Statutes: Sections 48.193, 55.502, 684.0019 & 684.0026, 685.101, and 685.102. Although there is no known opposition to this legislation as currently drafted and it has previously passed several committees, the bill was not enacted because of the inability to have it heard in the assigned committees due to other legislative priorities.

Many of the revisions are minor "glitch-fixes." These changes enhance the business climate in Florida because they clarify existing ambiguities, redundancies, and clerical errors in the legislation at issue and thus help to avoid needless litigation over said provisions and provide a more streamlined and readily understandable legal framework for businesses to operate. Accordingly, we anticipate that this legislation will have wide-spread support from the business community in Florida as was the case last year with the Florida International Commercial Arbitration Act. In fact, some of the largest and most powerful members of the business community in Florida - including Associated Industries of Florida, the Florida Chamber of Commerce, and the Florida International Bankers Association - have already announced their support for this legislation. Senator Miguel Diaz de la Portilla has agreed to serve as the lead sponsor in the Senate and we are currently seeking a sponsor in the House of Representatives. The essence of the proposed revisions is explained below as to each existing statute.

Section 48.193

1. This a long-arm statute that lists the specific circumstances under which a Florida court may assert personal jurisdiction over foreign defendant.



2. The current version of the statute lists eight (8) separate circumstances under which specific jurisdiction may be asserted. It appears to be exhaustive, but omits the jurisdiction already created by Chapter 685.

3. The proposed legislation adds another circumstance (subsection (i)) which states that any defendant who enters into a contract that complies with Section 685.102, Florida Statutes, is subject to specific jurisdiction.

4. This change, however, *merely confirms what is the current law*. Section 685.102, Florida Statutes, currently permits an action against a foreign defendant who enters into a contract and satisfies the other requirements of Sections 685.101 and 685.102.

5. Again, by adding subsection (i) to Section 48.193, the new bill simply points out that Florida law already permits specific personal jurisdiction over foreign defendants who enter into contracts pursuant to Section 685.102, Florida Statutes.

Section 55.502

1. This statute is part of the Florida Enforcement of Foreign Judgments Act which is based on the Uniform Foreign Judgments Act.

2. The current version of the statute permits Florida to recognize judgments issued by a United States federal court or another state court. It does *not* clearly apply or refer to judgments from Puerto Rico and other territories or possessions of the United States.

3. The new bill seeks to make clear that judgments from Puerto Rico and other territories or possessions of the United States are entitled to enforcement in the State of Florida and brings the Florida statute into conformity with the Uniform Act.

Sections 684.0019 & 684.0026

1. This statute is the Florida International Commercial Arbitration Act which was enacted last year at the behest of the International Law Section of the Florida Bar.

2. This statute is patterned after the UNCITRAL Model Law on Commercial Arbitration (“Model Law”) and the objective was to track the actual language of the Model Law as closely as possible.

3. The proposed amendment to Section 684.0019(2) corrects an inadvertent clerical error in that the citation in said provision to Section

684.0018 of the same law should have been to Section 684.0018(4) as provided for in the Model Law.

4. The proposed amendment to Section 684.0026(1) also corrects an inadvertent clerical error in that the citation in said provision to Section 684.0019(1) of the same law should have been to Section 684.0027 as provided for in the Model Law.

Section 685.101

1. This statute is a choice of law provision that allows the parties to a contract involving at least \$250,000 in value to agree that Florida law will govern the contract, even if the contract has no relation to Florida.

2. The statute, as currently written, is confusing and poorly worded. The confusing language may be a reason that this statute is rarely used. Making it clearer would encourage its use by more businesses, which would have many beneficial consequences, including, but not limited to, confirming that the State of Florida is an international center for business like the State of New York, which has a similar statute. Any minimal concerns about a possible impact that such additional cases could have on the court system are more than outweighed by the positive economic impact (such as increased employment and utilization of Florida businesses by foreign parties) that would be generated. Moreover, any additional costs to the court system would not only be offset by the positive economic impact of additional business in Florida, but could also be easily addressed through the use of a scaled filing fee payable by anyone bringing such an action.

3. The proposed legislation seeks to clear up the confusion by eliminating, in many cases, the redundant and confusing terminology. For example, the language detailing the requirements for jurisdiction which would be deleted is confusing and unnecessary because the statute already provides that jurisdiction may only be exercised as permitted by the United States Constitution and that standard is clearly set forth in current case law.

Section 685.102

1. This statute currently confers personal jurisdiction in Florida over those persons who: (i) pursuant to Section 685.101, elect to have Florida law govern their contract; and (ii) specifically agree to submit to the jurisdiction of a Florida court.

2. The new bill simply makes the statute clearer and easier to read. It does not create or expand any substantive rights.

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 Budget Subcommittee on Criminal and Civil Justice Appropriations

BILL: CS/SB 506

INTRODUCER: Criminal Justice Committee and Senator Evers

SUBJECT: Interview Dates for Certain Inmates

DATE: December 13, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Fav/CS
2.	Sneed	Sadberry	BJA	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input 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:

This bill amends ss. 947.16, 947.174, and 947.1745, .F.S, to permit the Florida Parole Commission to increase the interval between parole interviews to 7 years for those inmates whose interviews are currently every 2 years.

II. Present Situation:

Parole is a discretionary prison release mechanism administered by the Florida Parole Commission ("the commission"). The only inmates who are eligible for parole consideration are those who committed capital sexual battery prior to October 1, 1995, capital sexual murder prior to October 1, 1994, or another crime prior to October 1, 1983. Approximately 5,500 Florida inmates are still eligible for parole consideration because parole applied to their offense at the time it was committed.

An inmate who is granted parole is allowed to serve the remainder of his or her prison sentence outside of confinement according to terms and conditions established by the commission.

Parolees are supervised by Correctional Probation Officers of the Department of Corrections. As of June 30, 2011, 347 offenders were actively supervised on parole from Florida sentences.¹

The parole process begins with an initial interview that is the first step in setting the inmate's presumptive parole release date (PPRD). The date of the initial interview depends upon the length and character of the parole-eligible sentence. The PPRD is set by the commission after a parole examiner reviews the inmate's file, interviews the inmate, and makes an initial recommendation.

In many cases, the commission will establish a PPRD that does not result in release of the inmate within a short period of time. A release order by the commission may also be altered in two other ways before it is implemented: (1) it may be vacated pursuant to s. 947.16(4), F.S., by a sentencing court that has retained jurisdiction over the offender; or (2) it may be modified by the commission after considering the objections of a sentencing court that has not retained jurisdiction pursuant to s. 947.1745(6), F.S. In all three situations, the inmate is entitled to a subsequent reinterview. The time frame for holding a reinterview (and any further reinterviews) is determined by the inmate's criminal history:

- An inmate who was not convicted of murder or attempted murder, sexual battery or attempted sexual battery, or serving a 25-year minimum mandatory sentence under s. 775.082, F.S., must be reinterviewed within 2 years after the initial interview and every 2 years thereafter. Approximately 20% of inmates who are eligible for parole consideration fall into this category.
- An inmate who was convicted of one of the above offenses may have a reinterview scheduled within 7 years after the initial interview and every 7 years thereafter if the commission makes a written finding that it is not reasonable to expect that parole will be granted during the following years. Approximately 80% of inmates who are eligible for parole consideration fall into this category.

The commission considers the PPRD recommendation in a public hearing held after the initial interview and each reinterview. At this hearing, the commission considers the written recommendation of the parole examiner, documentary evidence, and any testimony presented on behalf of the victim or the inmate. Although the inmate is not entitled to appear at the hearing, he or she may be represented by an attorney. It is also common for the victim or victim's representative and law enforcement representatives to appear.

III. Effect of Proposed Changes:

The bill amends ss. 947.16, 947.174, and 947.1745, F.S., to extend the commission's authority to increase the interval between parole consideration re-interviews to include cases in which the offender was convicted of: (1) kidnapping or attempted kidnapping; or (2) a completed or attempted offense of robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, when a human being is present and a sexual act is completed or attempted. The interval may be increased from the standard 2 years to 7 years if the commission makes a written finding that it is unlikely to grant parole to the offender.

¹ Community Supervision Population Monthly Status Report, July 2011, Florida Department of Corrections, p. 2.

The groups that would be most affected by this bill are victims and their families, parole-eligible inmates and their families, and the commission itself. For victims, reduction of the frequency of an opportunity for parole can be expected to lessen the stress associated with potential release of the offender. Because victims and families often attend the parole hearings, there is also a potential financial savings. For offenders, the normally-scheduled interviews would be reduced if their record indicates that granting of parole is not likely. For the commission, there would be some reduction in workload and the opportunity to focus on the cases that are more frequently reviewed.

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:

Although parole is a matter of grace and is not a right, alteration of parole-consideration procedures must be considered in light of the constitutional prohibition against ex post facto punishment. In *California Department of Corrections v. Morales*, 514 U.S. 499, 115 S.Ct. 1597, 131 L.Ed.2d 588 (1995), the United States Supreme Court held that a California statute increasing the interval between parole interviews did not violate the ex post facto clause. Subsequent cases have relied on *Morales* to uphold the constitutionality of current s. 947.174(1)(b), F.S., which permitted an increase of the interview interval from 2 to 5 years. See *Tuff v. State*, 732 So.2d 461 (Fla. 3d Dist. 1999); *Pennoyer v. Briggs*, 206 Fed.Appx. 962 (11th Cir. 2006). Because there is no legal distinction between increasing the interval from 2 to 5 years and increasing it from 5 to 7 years, the bill's provisions do not violate the ex post facto clauses of the United States and Florida constitutions.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Holding parole hearings less frequently would reduce the costs incurred by persons who would attend the hearings. This could include victims and their families and

representatives, victims advocacy groups, law enforcement agencies, and the families and representatives of inmates. The amount of reduction cannot be quantified because a reduction of frequency would depend upon the individual merits of the inmate's case and the cost to attend hearings is variable depending upon individual circumstances.

C. Government Sector Impact:

Authorization to reduce the frequency of parole hearings has the potential to reduce the number of hearings conducted by the commission, which may result in cost savings or reallocation of resources to other cases. However, the amount of any savings cannot be determined until the commission considers individual cases and makes a decision on whether to apply its new authority to the case. This bill will have no effect on the current review dates that are presently set for parole eligible inmates. This bill would only affect those inmates whose review dates occur after the effective date of the bill. Therefore, the inmates' interview dates that fall between July 1, 2012 and June 30, 2014, would not be affected by the bill until after that interview when they are informed their next interview would be in seven years instead of two.

The commission staff reviewed the 842 initial, extraordinary, and subsequent interviews from commission dockets from July 1, 2010 through June 30, 2011. Of the total cases docketed, 534 cases have already been given a seven year subsequent interview date; 264 cases would not be affected because their review date is not addressed by the bill and will remain within two years; and 44 cases could be affected by the bill and could have their next interview date set for seven years after they are informed of the law change at their next two year review.

Therefore 44 cases may be affected by the bill in FY 2014-2015 and could have their next interview date set within seven years instead of within two years. This would equal a total savings to the Commission of 166 hours annually (44 x 3.78 hours per case) or approximately 1/12 of an FTE. It is reasonable to assume that in the subsequent years, the savings should compound as other eligible inmates review dates are changed from two to seven years, but the savings associated with the remaining eligible pool is expected to be minimal.

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 December 7, 2011:

Clarifies the offenses to which the extended interview schedule applies when a human being is present and a sexual act was completed or attempted during commission of the offense.

- B. **Amendments:**

None.

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

By the Committee on Criminal Justice; and Senator Evers

591-01568-12

2012506c1

A bill to be entitled

An act relating to parole interview dates for certain inmates; amending ss. 947.16, 947.174, and 947.1745, F.S.; extending from 2 years to 7 years the period between parole interview dates for inmates convicted of committing certain specified crimes; reenacting s. 947.165(1), F.S., relating to the development and implementation by the Parole Commission of objective parole guidelines to serve as the criteria upon which parole decisions are to be made, to incorporate the amendments made to s. 947.1745, F.S., in a reference thereto; providing an effective date.

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

Section 1. Paragraph (g) of subsection (4) of section 947.16, Florida Statutes, is amended to read:

947.16 Eligibility for parole; initial parole interviews; powers and duties of commission.—

(4) A person who has become eligible for an initial parole interview and who may, according to the objective parole guidelines of the commission, be granted parole shall be placed on parole in accordance with the provisions of this law; except that, in any case of a person convicted of murder, robbery, burglary of a dwelling or burglary of a structure or conveyance in which a human being is present, aggravated assault, aggravated battery, kidnapping, sexual battery or attempted sexual battery, incest or attempted incest, an unnatural and lascivious act or an attempted unnatural and lascivious act,

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lewd and lascivious behavior, assault or aggravated assault when a sexual act is completed or attempted, battery or aggravated battery when a sexual act is completed or attempted, arson, or any felony involving the use of a firearm or other deadly weapon or the use of intentional violence, at the time of sentencing the judge may enter an order retaining jurisdiction over the offender for review of a commission release order. This jurisdiction of the trial court judge is limited to the first one-third of the maximum sentence imposed. When any person is convicted of two or more felonies and concurrent sentences are imposed, then the jurisdiction of the trial court judge as provided herein applies to the first one-third of the maximum sentence imposed for the highest felony of which the person was convicted. When any person is convicted of two or more felonies and consecutive sentences are imposed, then the jurisdiction of the trial court judge as provided herein applies to one-third of the total consecutive sentences imposed.

(g) The decision of the original sentencing judge or, in her or his absence, the chief judge of the circuit to vacate any parole release order as provided in this section is not appealable. Each inmate whose parole release order has been vacated by the court shall be reinterviewed within 2 years after the date of receipt of the vacated release order and every 2 years thereafter, or earlier by order of the court retaining jurisdiction. However, each inmate whose parole release order has been vacated by the court and who has been:

1. Convicted of murder or attempted murder;
2. Convicted of sexual battery or attempted sexual battery;

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3. Convicted of kidnapping or attempted kidnapping;

4. Convicted of robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, or the attempt of any of these crimes, in which a human being is present and a sexual act is attempted or completed; or

~~5.3-~~ Sentenced to a 25-year minimum mandatory sentence previously provided in s. 775.082,

shall be reinterviewed once within 7 years after the date of receipt of the vacated release order and once every 7 years thereafter, if the commission finds that it is not reasonable to expect that parole would be granted during the following years and states the bases for the finding in writing. For an any inmate who is within 7 years of his or her tentative release date, the commission may establish a reinterview date before ~~prior to~~ the 7-year schedule.

Section 2. Paragraph (b) of subsection (1) of section 947.174, Florida Statutes, is amended to read:

947.174 Subsequent interviews.—

(1)

(b) For any inmate convicted of murder, attempted murder, sexual battery, ~~or~~ attempted sexual battery, kidnapping, or attempted kidnapping; or robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, or the attempt of any of these crimes, in which a human being is present and a sexual act is attempted or completed, or for any inmate who has been sentenced to a 25-year minimum mandatory sentence previously provided in s. 775.082, and whose presumptive parole release date is more than 7 years after the

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date of the initial interview, a hearing examiner shall schedule an interview for review of the presumptive parole release date.

The interview shall take place once within 7 years after the initial interview and once every 7 years thereafter if the commission finds that it is not reasonable to expect that parole will be granted at a hearing during the following years and states the bases for the finding in writing. For an any inmate who is within 7 years of his or her tentative release date, the commission may establish an interview date before the 7-year schedule.

Section 3. Subsection (6) of section 947.1745, Florida Statutes, is amended to read:

947.1745 Establishment of effective parole release date.—If the inmate's institutional conduct has been satisfactory, the presumptive parole release date shall become the effective parole release date as follows:

(6) Within 90 days before the effective parole release date interview, the commission shall send written notice to the sentencing judge of any inmate who has been scheduled for an effective parole release date interview. If the sentencing judge is no longer serving, the notice must be sent to the chief judge of the circuit in which the offender was sentenced. The chief judge may designate any circuit judge within the circuit to act in the place of the sentencing judge. Within 30 days after receipt of the commission's notice, the sentencing judge, or the designee, shall send to the commission notice of objection to parole release, if the judge objects to the such release. If there is objection by the judge, such objection may constitute good cause in exceptional circumstances as described in s.

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947.173, and the commission may schedule a subsequent review within 2 years, extending the presumptive parole release date beyond that time. However, for an inmate who has been:

(a) Convicted of murder or attempted murder;

(b) Convicted of sexual battery or attempted sexual battery; ~~or~~

(c) Convicted of kidnapping or attempted kidnapping;

(d) Convicted of robbery, burglary of a dwelling, burglary of a structure or conveyance, or breaking and entering, or the attempt of any of these crimes, in which a human being is present and a sexual act is attempted or completed; or

(e)~~(e)~~ Sentenced to a 25-year minimum mandatory sentence previously provided in s. 775.082,

the commission may schedule a subsequent review under this subsection once every 7 years, extending the presumptive parole release date beyond that time if the commission finds that it is not reasonable to expect that parole would be granted at a review during the following years and states the bases for the finding in writing. For an ~~any~~ inmate who is within 7 years of his or her release date, the commission may schedule a subsequent review ~~before~~ ~~prior to~~ the 7-year schedule. With any subsequent review the same procedure outlined above will be followed. If the judge remains silent with respect to parole release, the commission may authorize an effective parole release date. This subsection applies if the commission desires to consider the establishment of an effective release date without delivery of the effective parole release date interview. Notice of the effective release date must be sent to the

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sentencing judge, and either the judge's response to the notice must be received or the time period allowed for such response must elapse before the commission may authorize an effective release date.

Section 4. For the purpose of incorporating the amendment made by this act to section 947.1745, Florida Statutes, in a reference thereto, subsection (1) of section 947.165, Florida Statutes, is reenacted to read:

947.165 Objective parole guidelines.—

(1) The commission shall develop and implement objective parole guidelines which shall be the criteria upon which parole decisions are made. The objective parole guidelines shall be developed according to an acceptable research method and shall be based on the seriousness of offense and the likelihood of favorable parole outcome. The guidelines shall require the commission to aggravate or aggregate each consecutive sentence in establishing the presumptive parole release date. Factors used in arriving at the salient factor score and the severity of offense behavior category shall not be applied as aggravating circumstances. If the sentencing judge files a written objection to the parole release of an inmate as provided for in s. 947.1745(6), such objection may be used by the commission as a basis to extend the presumptive parole release date.

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

By the Committee on Criminal Justice; and Senator Joyner

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A bill to be entitled

An act relating to reducing or suspending the sentence of a juvenile offender; providing a short title; creating s. 921.167, F.S.; defining terms; providing that a juvenile offender who was 17 years of age or younger at the time of committing one or more nonhomicide offenses and who was sentenced to 10 or more years of imprisonment may be eligible for a reduced or suspended sentence; providing that the juvenile offender may petition the court after a specified age for a hearing to reduce or suspend the sentence; setting forth the eligibility criteria to reduce or suspend a sentence; authorizing the juvenile offender to petition for subsequent sentencing hearings if the court does not reduce or suspend the juvenile offender's sentence; providing an effective date.

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

Section 1. This act may be cited as the "Second Chance for Children Act."

Section 2. Section 921.167, Florida Statutes, is created to read:

921.167 Juvenile offender reduction or suspension of sentence.—

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

(a) "Department" means the Department of Corrections.

(b) "Juvenile offender" means an offender who was sentenced

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to a single or cumulative term of imprisonment of 10 or more years for one or more nonhomicide offenses committed while he or she was 17 years of age or younger.

(c) "Nonhomicide offense" means an offense that did not result in the death of a human being.

(d) "Reentry program" means a program that promotes effective reintegration of an offender back into the community upon release and provides one or more of the following activities:

1. Vocational training;

2. Placement services;

3. Transitional housing;

4. Mentoring; or

5. Drug rehabilitation.

(2) Notwithstanding any other law, a juvenile offender may be eligible for a reduced or suspended sentence under this section.

(a) A juvenile offender must have a sentencing hearing to determine whether she or he has been sufficiently rehabilitated while in the custody of the department before he or she can be eligible for a reduced or suspended sentence under this section.

(b) Upon reaching 25 years of age, a juvenile offender may petition the court to reduce or suspend his or her sentence. The petition shall be filed in the court that initially sentenced the juvenile offender. In order to be eligible for a reduced or suspended sentence, the petition must allege that the juvenile offender has:

1. Successfully completed the general education development (GED) program, if he or she does not have a high school diploma,

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59 unless this requirement has been waived because of the juvenile
 60 offender's disability as shown by the juvenile offender's
 61 previous individual education plan , 504 accommodation plan
 62 under s. 504 of the federal Rehabilitation Act of 1973, or by a
 63 psychological evaluation; and

64 2. Not received any disciplinary reports issued by the
 65 department for a period of at least 3 years immediately before
 66 filing the petition.

67 (c) The court shall schedule a sentencing hearing within 90
 68 days after the filing of the petition to determine whether the
 69 juvenile offender's sentence should be reduced or suspended.
 70 When determining whether the juvenile offender has been
 71 sufficiently rehabilitated, the court shall consider:

72 1. The juvenile offender's age, maturity, and psychological
 73 development at the time of the offense or offenses.

74 2. Any physical, sexual, or emotional abuse of the juvenile
 75 offender before the commission of the offense or offenses.

76 3. Any showing of insufficient adult support or supervision
 77 of the juvenile offender before the offense or offenses.

78 4. Whether the juvenile offender was a principal or an
 79 accomplice, was a relatively minor participant, or acted under
 80 extreme duress or domination by another person.

81 5. The wishes of the victim or the opinions of the victim's
 82 next of kin.

83 6. The results of any available psychological evaluation
 84 administered by a mental health professional as ordered by the
 85 court before the sentencing hearing.

86 7. Any showing of sincere and sustained remorse by the
 87 juvenile offender for the offense or offenses.

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88 8. The juvenile offender's behavior while in the custody of
 89 the department including disciplinary reports.

90 9. Whether the juvenile offender has successfully completed
 91 or participated in educational, technical, or vocational
 92 programs and any available self-rehabilitation programs while in
 93 the custody of the department.

94 10. Any showing by the juvenile offender of a post-release
 95 plan including, but not limited to, contacts made with
 96 transitional organizations, faith- and character-based
 97 organizations, or other reentry service programs.

98 11. Any other factor relevant to the juvenile offender's
 99 rehabilitation while in the custody of the department.

100 (3) A juvenile offender whose sentence is not reduced or
 101 suspended under this section may petition the court for a
 102 subsequent sentencing hearing 7 years after the date of the
 103 previous sentencing hearing and every 7 years thereafter.

104 (4) If the court determines that the petitioner's sentence
 105 should be reduced or suspended under this section, the juvenile
 106 offender shall participate in any available reentry program for
 107 2 years upon release.

108 (5) The court may appoint an attorney to represent the
 109 juvenile offender at the sentencing hearing.

110 Section 3. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 80

INTRODUCER: Senator Joyner

SUBJECT: Human Trafficking

DATE: January 13, 2012

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Davlantes	Stovall	HR	Favorable
2. Cellon	Cannon	CJ	Favorable
3. Sadberry	Sadberry	BJA	Pre-meeting
4. _____	_____	BC	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

I. Summary:

This bill requires operators of massage establishments to maintain valid work authorization documents on the premises for employees who are not U.S. citizens and present these documents to a law enforcement officer upon request. The bill makes it unlawful for a massage establishment operator to knowingly use a massage establishment for the purpose of lewdness, assignation, or prostitution. Criminal penalties are established for a violation of any of the provisions set forth in the bill.

The effective date of the bill is October 1, 2012.

This bill creates section 480.0535, Florida Statutes.

II. Present Situation:

Human Trafficking

Human trafficking is a form of modern-day slavery. Victims of human trafficking are young children, teenagers, men, and women. Victims are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor.¹

The International Labor Organization (ILO), the United Nations agency charged with addressing labor standards, employment, and social protection issues, estimates that there are at least

¹ U.S. Department of Health and Human Services, Administration for Children & Families, *About Human Trafficking*, available at <http://www.acf.hhs.gov/trafficking/about/index.html#> (Last visited on September 22, 2011).

12.3 million adults and children in forced labor, bonded labor, and commercial sexual servitude at any given time.² The federal government has estimated that the number of persons trafficked into the United States each year ranges from 14,500-17,500.³ Additionally, an estimated 200,000 American children are at risk for trafficking into the sex industry each year, according to the U.S. Department of Justice.⁴

After drug dealing, trafficking of humans is tied with arms dealing as the second largest criminal industry in the world and is also the fastest growing. Many victims of human trafficking are forced to work in prostitution or the sex entertainment industry. However, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, sweatshop factory work, and migrant agricultural work.⁵

Traffickers use various techniques to instill fear in victims and to keep them enslaved. Some traffickers keep their victims under lock and key. However, the more frequent practice is to use less obvious techniques including:

- Debt bondage - financial obligations, honor-bound to satisfy debt.
- Isolation from the public - limiting contact with outsiders and making sure that any contact is monitored or superficial in nature.
- Isolation from family members and members of victims' ethnic or religious community.
- Confiscation of passports, visas, or identification documents.
- Use or threat of violence toward victims or families of victims.
- The threat of shaming victims by exposing circumstances to family.
- Telling victims they will be imprisoned or deported for immigration violations if they contact authorities.
- Control of the victims' money and holding their money for "safe-keeping."⁶

Federal Trafficking Law

In 2000, Congress enacted the Trafficking Victims Protection Act (TVPA) to "combat trafficking in persons, a contemporary manifestation of slavery whose victims are predominantly women and children, to ensure just and effective punishment of traffickers, and to protect their victims."⁷ The TVPA not only criminalizes human trafficking, but it also requires that victims, who might otherwise be treated as criminals (e.g. engagement in prostitution), be treated as victims of crime and be provided with health and human services if they cooperate with prosecutions.

² See U.S. Department of State, *The 2009 Trafficking in Persons (TIP) Report*, June 2009, available at <http://www.state.gov/g/tip/rls/tiprpt/2009/> (Last visited on September 22, 2011).

³ Sonide Simon, *Human Trafficking and Florida Law Enforcement*, Florida Criminal Justice Executive Institute, pg. 2, March 2008, available at <http://www.fdle.state.fl.us/Content/getdoc/e77c75b7-e66b-40cd-ad6e-c7f21953b67a/Human-Trafficking.aspx> (Last visited on September 22, 2011).

⁴ *Id.* at 3.

⁵ *Supra* fn. 1.

⁶ *Id.*

⁷ Trafficking Victims Protection Act of 2000, Pub. L. No. 106-386, (2000).

The Trafficking Victims Protection Reauthorization Act of 2003 (TVPRA 2003), Pub. L. 108-193, reauthorized the TVPA and added responsibilities to the U.S. Government's anti-trafficking portfolio. In particular, the TVPRA 2003 mandated new information campaigns to combat sex tourism, added refinements to the federal criminal law provisions, and created a new civil action that allows victims to sue their traffickers in federal district court. In addition, the TVPRA 2003 required an annual report from the Attorney General to Congress.⁸

The Trafficking Victims Protection Reauthorization Act of 2005 (TVPRA 2005), Pub. L. 109-164, reauthorized the TVPA and authorized new anti-trafficking resources, including grant programs to assist state and local law enforcement efforts and expand victim assistance programs to U.S. citizens or resident aliens subjected to trafficking; authorized pilot programs to establish residential rehabilitative facilities for trafficking victims, including one program aimed at juveniles; and provided extraterritorial jurisdiction over trafficking offenses committed overseas by persons employed by or accompanying the federal government.⁹

The William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA 2008), Pub. L. 110-457, reauthorized the TVPA for 4 years and authorized new measures to combat human trafficking. The TVPRA 2008:

- Created new crimes imposing severe penalties on those who obstruct or attempt to obstruct the investigations and prosecutions of trafficking crimes;
- Changed the standard of proof for the crime of sex trafficking by force, fraud, or coercion by requiring that the government merely prove that the defendant acted in reckless disregard of the fact that such means would be used;
- Broadened the reach of the crime of sex trafficking of minors by eliminating the requirement to show that the defendant knew that the person engaged in commercial sex was a minor in cases where the defendant had a reasonable opportunity to observe the minor;
- Expanded the crime of forced labor by providing that “force” is a means of violating the law; imposed criminal liability on those who, knowingly and with intent to defraud, recruit workers from outside the U.S. for employment within the U.S. by making materially false or fraudulent representations;
- Enhanced the penalty for conspiring to commit trafficking-related crimes; and
- Penalized those who knowingly benefit financially from participating in a venture that engaged in trafficking crimes.¹⁰

Between Fiscal Years 2001-2009, the FBI's Civil Rights Division and U.S. Attorneys' Offices, under authority of the TVPA, prosecuted 645 defendants, secured 466 convictions and guilty pleas, and opened 1,187 new investigations.¹¹

⁸ Attorney General's Annual Report to Congress and Assessment of U.S. Government Activities to Combat Trafficking in Persons, pg. 2 (July 2010), available at <http://www.justice.gov/ag/annualreports/tr2009/agreporthumantrafficking2009.pdf> (Last visited on September 22, 2011).

⁹ *Id.* at 3

¹⁰ *Id.*

¹¹ *Id.* at 48.

Florida Statewide Task Force on Human Trafficking

The Florida Statewide Task Force on Human Trafficking was created in 2009¹² with the express purpose of examining the problem of human trafficking and recommending strategies and actions for reducing or eliminating the unlawful trafficking of men, women, and children into Florida. The Florida State University Center for the Advancement of Human Rights (CAHR) was directed to submit a statewide strategic plan to the task force by November 1, 2009.¹³ The strategic plan was required to address the following five subjects:

- A description of available data on human trafficking in Florida;
- Identification of available victim programs and services;
- Evaluation of public awareness strategies;
- Assessment of current laws; and
- A list of recommendations produced in consultation with governmental and non-governmental organizations.¹⁴

The CAHR's strategic plan is broken up into five goals or objectives to meet the five subjects required to be addressed by the CAHR under ch. 2009-95, Laws of Florida. In summary, the strategic plan provided the following:

- Labor trafficking is the most prevalent type of human trafficking in Florida, while domestic minor sex trafficking is also prevalent and is the most under-reported and under-prosecuted human trafficking offense in Florida.
- There is a need to have and maintain an up-to-date resource directory of all persons and organizations that assist victims of trafficking in Florida.
- Public awareness is at the heart of Florida being able to successfully assist victims of human trafficking statewide. Public awareness campaigns must have broad support, involve diverse activities, and have an accurate and concise message, while also being culturally sensitive.
- Although Florida has made progress in its human trafficking laws, more training is needed to carry out enforcement of such laws, and further reforms should be considered.
- There is a need for state government training and awareness of human trafficking so that government employees and contractors may learn how they might encounter human trafficking and how they should respond; Florida needs to provide effective and safe services for victims; and law enforcement needs more training for more effective responses and needs to develop and sustain partnerships within communities.¹⁵

The task force was required to propose a plan of implementation of the strategic plan by October 1, 2010. Published in July 2011, the Statewide Human Trafficking Task Force

¹² See ch. 2009-95, Laws of Florida.

¹³ Florida State University, Center for the Advancement of Human Rights, *Florida Strategic Plan on Human Trafficking*, available at <http://www.dcf.state.fl.us/initiatives/humantrafficking/docs/FSUStrategicPlan2010.pdf> (Last visited on September 22, 2011).

¹⁴ *Id.*

¹⁵ *Id.*

Implementation Report details the state's progress towards addressing each of the five goals addressed in the strategic plan.¹⁶

- Goal one: Collect comprehensive data on victims and prosecutions of human trafficking. The report consolidates available data from the numerous federal and state entities which deal with such victims, including from medical screenings, the Florida Abuse Hotline, the Department of Health, and the National Human Trafficking Resource Center. Further efforts are being made to amend federal and state crime reporting systems to capture trafficking cases.
- Goal two: Create and maintain a state resource guide of services to victims of trafficking. That guide has been developed and is available online.¹⁷
- Goal three: Develop strategies for public awareness and collaboration between entities active in combating human trafficking. The report reviews efforts that have been made to use existing materials available through the United States Department of Health and Human Services (HHS) awareness campaign and inter-agency efforts at the state and local level.
- Goal four: Enact changes to substantive law and provide sufficient funding to address trafficking in Florida. The Implementation Report identifies the number of laws that have already been enacted to combat trafficking and new provisions proposed during the 2011 Legislative Session.
- Goal five: Establish strong and effective social services, criminal justice systems, and community responses. The report highlights agency activities and plans to implement goals related to training, awareness, collaboration, and services.

Human Trafficking in Florida

The exact number of persons trafficked in Florida is difficult to determine. Little data is available due to the reluctance of victims to report trafficking, the ease with which traffickers can move and operate, and until recently, little historical experience by law enforcement and prosecutors in cases of human trafficking. However, Florida is the third most popular American destination for human traffickers, with immigrants and non-English speaking persons especially vulnerable as victims.^{18,19}

The CAHR has found that Asian massage parlors are often used to disguise sex trafficking. Women are trafficked in from Korea, Vietnam, Thailand, or China using tourist visas. The women are then forced to work off their debt of being smuggled in, which is typically \$50,000 to \$100,000.²⁰ Officials in Florida have discovered a very pronounced pattern of “moving targets” with some massage establishments operating a “taxi service,” transporting women to other

¹⁶ Florida Department of Children and Families, *Statewide Human Trafficking Task Force Implementation Report*, available at <http://www.dcf.state.fl.us/initiatives/humantrafficking/docs/2011ImplementationPlan.pdf> (Last visited on September 22, 2011).

¹⁷ Florida State University, Center for the Advancement of Human Rights, *Resource Directory of Florida Organizations that Assist Human Trafficking Survivors*, available at http://www.cahr.fsu.edu/sub_category/resourcedirectory.pdf (Last visited on September 22, 2011).

¹⁸ Terry S. Coonan, *Human Rights in the Sunshine State: A proposed Florida Law on Human Trafficking*, 31 FLA. ST. U. L. REV. 289 (Winter 2004).

¹⁹ *Supra* fn. 16.

²⁰ Email received from Terry Coonan, Executive Director of the FSU Center for the Advancement of Human Rights (CAHR), on February 1, 2011. A copy of the email is on file with the Senate Health Regulation Committee.

massage establishments throughout the country as often as every 7 to 14 days.²¹ Massage establishments engaged in trafficking will also often close and re-open frequently to avoid having to hold trafficked women in a single location.²²

Currently in Florida, all law enforcement recruits receive mandatory training in recognizing and investigating human trafficking cases. Also, the U.S. Justice Department currently operates human trafficking task forces in Miami, Homestead, Naples, Fort Myers, and Tampa-Clearwater.²³

Florida Laws on Human Trafficking, Sex Trafficking, and Prostitution

“Human trafficking” is defined under s. 787.06(2)(c), F.S., to mean transporting, soliciting, recruiting, harboring, providing, or obtaining another person for transport.

Section 787.06(3), F.S., provides that it is a second-degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., (maximum imprisonment of 15 years, maximum fine of \$10,000, or penalties applicable for a habitual offender) for any person 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
- Benefit financially by receiving anything of value from participation in a venture that has subjected a person to forced labor or services.

“Sex trafficking” is regulated under ch. 796, F.S., relating to prostitution. Section 796.045, F.S., provides that any person who knowingly recruits, entices, harbors, transports, provides, or obtains by any means a person, knowing that force, fraud, or coercion will be used to cause that person to engage in prostitution, commits the offense of sex trafficking, a second-degree felony. A person commits a first-degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., (maximum imprisonment of 30 years, maximum fine of \$10,000, or penalties applicable for a habitual offender) if the offense of sex trafficking is committed against a person who is under the age of 14 or if such offense results in death.

Section 796.07, F.S., makes it unlawful to, among other things, own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution. A person who commits this offense is guilty of:

- A misdemeanor of the second-degree for the first violation, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., (maximum imprisonment of 60 days and maximum fine of \$500);

²¹ Terry Coonan, CAHR, *Rationale for the Proposed Revisions*. Document on file with the Senate Health Regulation Committee.

²² *Supra* fn. 20.

²³ United States Department of Justice, *BJA/OVC Human Trafficking Task Forces*, available at <http://www.ojp.usdoj.gov/BJA/grant/40HTTF.pdf> (Last visited on October 25, 2011).

- A misdemeanor of the first-degree for the second violation, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., (maximum imprisonment of 1 year and maximum fine of \$1,000); or
- A felony of the third degree for the third or subsequent violation, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S., (maximum imprisonment of 5 years and maximum fine of \$5,000, or penalties applicable for a habitual offender).

“Prostitution” is defined under s. 796.07, F.S., to mean the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses. “Lewdness” means any indecent or obscene act, and “assignation” means the making of any appointment or engagement for prostitution or lewdness or any act in furtherance of such appointment or engagement.

Florida Regulation of Massage Therapists and Massage Establishments

Massage therapists and massage establishments in Florida are regulated by the Board of Massage Therapy (the board) in the DOH under the Massage Practice Act, ch. 480, F.S., and Chapter 64B7, F.A.C. A person must be licensed as a massage therapist to practice massage for compensation, unless otherwise specifically exempted under the Massage Practice Act.²⁴ In order to be licensed as a massage therapist, an applicant must:

- Be at least 18 years old or have received a high school diploma or graduate equivalency diploma;
- Complete a course of study at a board-approved massage school or apprenticeship program; and
- Pass an examination,²⁵ which is currently offered in English and in Spanish.²⁶

Licensed massage therapists may practice in a licensed massage establishment, at a client’s residence or office, or at a sports event, convention, or trade show.²⁷ Sexual misconduct in the practice of massage therapy is defined as violation of the massage therapist-patient relationship through which the massage therapist attempts to seduce the patient or engage him or her in sexual activity outside the scope of generally accepted examination or treatment. Any sexual misconduct is strictly prohibited.²⁸

A person may be approved by the board to become an apprentice to study massage under the instruction of a licensed massage therapist if the person meets the qualifications stated in Rule 64B7-29.002, F.A.C. To qualify for an apprenticeship, the applicant must be sponsored by a licensed massage therapist, complete a DOH application, pay a \$100 fee, and must not be enrolled simultaneously as a student in a board-approved massage school.²⁹

²⁴ Section 480.047(1)(a), F.S. *See also* s. 480.033(4), F.S.

²⁵ Section 480.042, F.S.

²⁶ Rule 64B7-25.001(3), F.A.C.

²⁷ Section 480.046(1)(n), F.S.

²⁸ Section 480.0485, F.S. *See also* Rule 64B7-26.010, F.A.C.

²⁹ *See* Rule 64B7-27.005, for the apprentice fee amount.

Section 480.43, F.S., provides that a massage establishment license is required at any facility where massage therapy services are offered by a licensed massage therapist and directs the board to adopt application criteria. It also provides that massage establishment licenses may not be transferred to a new owner, but they may be transferred to a new location if the new location is inspected and approved by the board and an application and inspection fee is paid. A license may be transferred from one business name to another if approved by the board and if an application fee has been paid.

The board's rules include requirements concerning insurance, compliance with building codes, safety and sanitation, and the on-site presence of a licensed massage therapist any time a client is receiving massage services.³⁰ Upon receiving an application, the DOH inspects the establishment to ensure it meets the licensure requirements.³¹ Once licensed, the DOH inspects the establishment at least annually.³²

An application for a massage establishment license may be denied if an applicant has been convicted of crimes related to the practice of massage. Applications must be denied for convictions of enumerated crimes within 15 years of application³³ and for past sexual misconduct.³⁴

It is a misdemeanor of the first degree to operate an unlicensed massage establishment.³⁵ Currently, upon receiving a complaint that unlicensed activity is occurring, the DOH's Medical Quality Assurance inspectors coordinate with local law enforcement. Unlicensed practice of massage therapy is punishable as a third-degree felony.³⁶ The DOH may issue cease and desist notices, enforceable by filing for an injunction or writ of mandamus, and seek civil penalties against the unlicensed party in circuit court.³⁷ The DOH may also impose, by citation, an administrative penalty up to \$5,000. While the DOH has investigative authority, it does not have arrest authority or sworn law enforcement personnel.

I-551 Permanent Residence Card, Employment Authorization Document

The U.S. Citizen and Immigration Service (USCIS) within the Department of Homeland Security (DHS) is the federal department responsible for granting lawful permanent residence.³⁸ A permanent resident is someone who has been granted authorization to live and work in the U.S. on a permanent basis. As proof of that status, a person is granted a Permanent Resident Card or Alien Registration Receipt Card. A Permanent Resident Card is officially called "Form I-551" and commonly called a "green card."³⁹

³⁰ Rule 64B7-26.003, F.A.C.

³¹ Rule 64B7-26.004, F.A.C.

³² Rule 64B7-26.005, F.A.C.

³³ Section 456.0635, F.S.

³⁴ Section 456.063, F.S.

³⁵ Section 480.047, F.S.

³⁶ Section 456.065, F.S.

³⁷ *Id.*

³⁸ U.S. Immigration Support, *USCIS*, available at <http://www.usimmigrationsupport.org/uscis.html> (Last visited on September 22, 2011).

³⁹ U.S. Immigration Support, *Form I-551 (Green Card)*, available at <http://www.usimmigrationsupport.org/form-i-551-greencard.html> (Last visited on September 22, 2011).

Individuals who are temporarily in the U.S. and eligible⁴⁰ for employment authorization may file a Form I-765, Application for Employment Authorization, to request an Employment Authorization Document (EAD).⁴¹ An EAD card, commonly called a “work permit,” provides its holder the legal right to work in the U.S.

III. Effect of Proposed Changes:

Section 1 creates s. 480.0535, F.S., to require a person who operates a massage establishment pursuant to s. 480.043, F.S., to maintain valid work authorization documents on the premises for *each* employee who is not a U.S. citizen and to present to a law enforcement officer, upon request, the work authorization documents for each employee who is not a U.S. citizen. Valid work authorization documents include:

- A valid I-551 permanent residence card; or
- A valid government-issued employment authorization document.

The bill prohibits a person operating a massage establishment from knowingly using a massage establishment licensed pursuant to s. 480.043, F.S., including any location, structure, trailer, conveyance or any other part thereof, for the purpose of lewdness, assignation, or prostitution.

The bill provides a cross-reference to s. 796.07, F.S., to define the terms lewdness, assignation, and prostitution.

A person who violates any provisions of the bill commits:

- A misdemeanor of the second degree for the first violation, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., (maximum imprisonment of 60 days and maximum fine of \$500);
- A misdemeanor of the first-degree for the second violation, punishable as provided in s. 775.082, F.S., or s. 775.083, F.S., (maximum imprisonment of 1 year and maximum fine of \$1,000); or
- A felony of the third-degree for the third or subsequent violation, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S., (maximum imprisonment of 5 years and maximum fine of \$5,000, or penalties applicable for a habitual offender).

Section 2 provides an effective date of October 1, 2012.

⁴⁰ Employment authorization eligibility is codified in Federal Regulations at 8 C.F.R. §274a.12, available at <http://law.justia.com/us/cfr/title08/8-1.0.1.2.54.2.1.1.html> (Last visited on September 22, 2011).

⁴¹ U.S. Citizen and Immigration Service, *I-765, Application for Employment Authorization*, available at <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=73ddd59cb7a5d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=db029c7755cb9010VgnVCM10000045f3d6a1RCRD> (Last visited on September 22, 2011).

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

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of this bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

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

None.

B. Private Sector Impact:

Operators or owners of massage establishments may incur nominal administrative costs to comply with the requirements set forth in the bill. The provisions of the bill might prevent or deter human trafficking in massage establishments.

C. Government Sector Impact:

The Criminal Justice Impact Conference considered this bill during its meeting on December 14, 2011. If the bill passes it is expected to have an insignificant fiscal impact and an insignificant effect on the prison population.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill designates a new felony of the third degree for individuals who thrice violate the bill's prohibition on using a licensed massage establishment for purposes of lewdness, assignation, or prostitution. The bill does not list this new offense in the Offense Severity Ranking Chart under s. 921.0022, F.S.

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.

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

By Senator Joyner

18-00037-12

201280__

A bill to be entitled

An act relating to human trafficking; creating s. 480.0535, F.S.; requiring operators of massage establishments to maintain valid work authorization documents on the premises for each employee who is not a United States citizen; requiring presentation of such documents upon request of a law enforcement officer; prohibiting the use of a massage establishment license for the purpose of lewdness, assignation, or prostitution; providing criminal penalties; providing an effective date.

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

Section 1. Section 480.0535, Florida Statutes, is created to read:

480.0535 Documents required while offering or providing massage services.—

(1) In order to provide law enforcement agencies the means to more effectively identify, investigate, and arrest persons engaging in human trafficking as defined in s. 787.06:

(a) A person operating a massage establishment pursuant to s. 480.043 shall maintain, and it is unlawful to operate a massage establishment without, a valid work authorization document on the premises for each employee who is not a United States citizen. Valid work authorization documents for an employee who is not a United States citizen include:

1. A valid I-551 permanent resident card; or
2. A valid government-issued employment authorization

18-00037-12

201280__

document.

(b) Upon request by a law enforcement officer, any person operating a massage establishment must present one of the documents specified in paragraph (a) for each employee who is not a United States citizen.

(2) A person operating a massage establishment may not knowingly use a license for operation of a massage establishment issued under s. 480.043 for the purpose of lewdness, assignation, or prostitution, as these terms are defined in s. 796.07, at any massage establishment location or structure, or any part thereof, including any trailer or other conveyance.

(3) A person who violates any provision of this section commits:

(a) A misdemeanor of the second degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

(b) A misdemeanor of the first degree for a second violation, punishable as provided in s. 775.082 or s. 775.083.

(c) A felony of the third degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect October 1, 2012.

No documents
available.

No documents
available.

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/24

Meeting Date

Topic Jurisdiction of CourtsBill Number 5486
(if applicable)Name Tom KocourekAmendment Barcode _____
(if applicable)Job Title Past Chair

Address _____

Phone _____

Street

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ InformationRepresenting International Law Section, FL BarAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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)

1/24/12

Meeting Date

Topic Jurisdiction of CourtsBill Number SB 486
(if applicable)Name Tammy PerdueAmendment Barcode _____
(if applicable)Job Title General CounselAddress 516 N. Adams StPhone 850 224 7173

Street

City

State

Zip

E-mail tperdue@aif.comSpeaking: ☒ For ☐ Against ☐ InformationRepresenting Associated Industries of FloridaAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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)

1/24/12
Meeting Date

Topic Human Trafficking Bill Number 80 (if applicable)
Name Sheila Hopkins Amendment Barcode _____ (if applicable)
Job Title Associate Director
Address 201 W. Park Ave. Phone 205-6826
Tallahassee FL 32301
City State Zip
Speaking: ☒ For ☐ Against ☐ Information
Representing Florida Catholic Conference

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)

January 24, 2012
Meeting Date

Topic EARLY RELEASE OF JUVENILE OFFENDERS

Bill Number SB 92
(if applicable)

Name ERIC WESTRAU

Amendment Barcode _____
(if applicable)

Job Title LIEUTENANT

Address 123 W. Indiana Ave

Phone _____

Deland FL 32721
City State Zip

E-mail EWESTRAU@VCD.US

Speaking: ☐ For ☒ Against ☐ Information

Representing Volusia County Sheriff Ben F. Johnson / FSA

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)

1-24-12
Meeting Date

Topic Reducing Juvenile Sentences

Bill Number 92
(if applicable)

Name Frank Meneessmith

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2901 St Bradford

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

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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 1/24/12

Topic Reducing Juvenile Sentence

Bill Number 92
(if applicable)

Name Sheila Hopkins

Amendment Barcode _____
(if applicable)

Job Title Associate Director

Address 201 W. Park Ave

Phone 205-6826

Street Tallahassee FL
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Catholic Conference

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 1/24

Topic RESTORATIVE JUSTICE

Bill Number SB 92
(if applicable)

Name Agnes Furey

Amendment Barcode _____
(if applicable)

Job Title RETIRED

Address 3053 RAIN Valley Circle

Phone 850 942 6354

Street TALLAHASSEE 32308
City State Zip

E-mail agnes.furey@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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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)

1/24/12
Meeting DateTopic Reducing or Suspending the sentence of Juvenile Bill Number SB 0092
(if applicable)Name Jim GABARD Amendment Barcode _____
(if applicable)

Job Title _____

Address 924 N. GADSDEN ST Phone 850-219-3631Street Tallahassee State FL Zip 32303
City State Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ InformationRepresenting Florida Police Chiefs Assn.Appearing at request of Chair: ☐ Yes ☐ NoLobbyist 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)

1/24/12
Meeting DateTopic Reducing Juvenile Sentences Bill Number 92
(if applicable)Name Paolo Annino Amendment Barcode _____
(if applicable)Job Title Professor - FSU College of LawAddress _____ Phone 644-9928Street Tall. State _____ Zip 32306
City State ZipE-mail p.annino@law.fsu.eduSpeaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ NoLobbyist 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)

1-24-12
Meeting Date

Topic JUVENILE SENTENCING

Bill Number CS/SB 92
(if applicable)

Name B. U. Cervone Cervone

Amendment Barcode _____
(if applicable)

Job Title State Attorney - 8 Cir

Address 120 W UNIVERSITY AVE

Phone 352-374-3686

Street

Gainesville

FL

32601

City

State

Zip

E-mail cervoneu@sao8.org

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Prosecuting Atty Association

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)

1/24/12
Meeting Date

Topic Juvenile Sentences

Bill Number 92
(if applicable)

Name Nancy Daniels

Amendment Barcode _____
(if applicable)

Job Title Public Defender

Address Leon County Courthouse

Phone 850 606-7010

Street

301 S Monroe #401

City

Tallahassee, FL

State

Zip

E-mail nancy.daniels@

flpd2.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Public Defender Association

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)

1/24/12
Meeting Date

Topic Second Chance for Children Act Bill Number SB 92
(if applicable)

Name Janet E. Ferris Amendment Barcode _____
(if applicable)

Job Title _____

Address 525 Bobbin Brook Lane Phone 850 893-8585

Street

Tallahassee

FL

32312

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

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)

1-24-12

Meeting Date

Topic Parole Interview

Bill Number 506
(if applicable)

Name Frank S. Jensen

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2901 Jk Brad

Phone 576 5858

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

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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)

1/24/12

Meeting Date

Topic Parole Interview

Bill Number SB0506
(if applicable)

Name Jim GABBARO

Amendment Barcode _____
(if applicable)

Job Title _____

Address 924 N. GARDEN ST

Phone 850 219-3631

Street

Tallahassee

FL

32303

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Police Chiefs Assn

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)

Jan. 24, 2012

Meeting Date

Topic Parole Interview Dates for Certain Inmates Bill Number 506
(if applicable)

Name Tena Pate Amendment Barcode _____
(if applicable)

Job Title Commission Chair

Address 4070 Esplanade Way Phone 488-1980
Street
Tallahassee FL 32399
City State Zip
E-mail TenaPate@fpc.state.fl.us

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Parole Commission

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)

01-24-12

Meeting Date

Topic PAROLE INTERVIEW DATES Bill Number 506
(if applicable)

Name BRIAN NARDIELLO Amendment Barcode _____
(if applicable)

Job Title LIEUTENANT

Address 123 WEST INDIANA AVENUE Phone 386-822-5050
Street
DELAND, FLORIDA 32720
City State Zip
E-mail BNARDIELLO@VCSO.US

Speaking: ☒ For ☐ Against ☐ Information

Representing VOLUSTA COUNTY SHERIFF BEN F. JOHNSON & F.S.A.

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)

1-24-12

Meeting Date

Topic PAROLE REVIEWBill Number CS/SB 506
(if applicable)Name GLENN HESSAmendment Barcode _____
(if applicable)Job Title STATE ATTORNEY / FPAAAddress PO BOX 1040Phone 850 872-7680Street PANAMA CITY State FL Zip 32402
CityE-mail judgehess@gmail.comSpeaking: ☒ For ☐ Against ☐ InformationRepresenting FLORIDA PROSECUTING ATTORNEYS ASSNAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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)

1.24.12

Meeting Date

Topic Parole DateBill Number 506
(if applicable)Name Ken KOPCZYNSKIAmendment Barcode _____
(if applicable)Job Title lobbyistAddress 300 East Brevard StPhone 227-3329Street Tallah State FL Zip 32308
City

E-mail _____

Speaking: ☒ For ☐ Against ☐ InformationRepresenting FLA PBAAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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 Public Interview Dates Bill Number 506
(if applicable)

Name LISA Henning Amendment Barcode _____
(if applicable)

Job Title Director Legislative Affairs

Address 242 Office Plaza Dr Phone 766-8808
Street

City

State

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing F.O.P.

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

1-24-12
Meeting Date

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

Topic Jefferson Correctional Information

Bill Number _____
(if applicable)

Name Wendy Bitner

Amendment Barcode _____
(if applicable)

Job Title Resident / Govt Cons

Address 1168 Boston Hwy

Phone 850-264-6270

Monticello FL 32344
City State Zip

E-mail Wendy@bitnerandassociates.com

Speaking: ☐ For ☐ Against ☒ Information

Representing Jefferson 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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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

②

1/24/12
Meeting Date

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

Topic Jefferson Prison Closure

Bill Number _____
(if applicable)

Name Kirk Reams

Amendment Barcode _____
(if applicable)

Job Title Clerk of Court & CFO

Address 1102 S Salt

Phone 933 3424

Lamont FL 32336
City State Zip

E-mail Kreams@jeffersonclerk.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Jefferson 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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S-001 (10/20/11)

(3)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-24-12

Meeting Date

Topic JCI closure

Bill Number _____
(if applicable)

Name Julie Conley

Amendment Barcode _____
(if applicable)

Job Title Executive Director, Jeff. Co. Econ. Develop. Council

Address 492 W. Walnut St

Phone 850-997-7999

Monticello FL 32344
City State Zip

E-mail jcedceemborgmail.com

Speaking: ☐ For ☐ Against ☒ Information

Representing Jefferson 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)

(4)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/24/12

Meeting Date

Topic Jefferson C.I. closure

Bill Number N/A
(if applicable)

Name Commissioner Betsy Bartfield - Jefferson Co.

Amendment Barcode _____
(if applicable)

Job Title _____

Address 387 de Sercey Lane

Phone 850.933.4055

Monticello, FL
City State Zip

E-mail bbarfield@JeffersonCountyFL.gov

Speaking: ☐ For ☐ Against ☐ Information

Representing _____

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)

Meeting Date _____

Topic PRIVATIZATION Bill Number _____ (if applicable)

Name STEVE MEARS Amendment Barcode _____ (if applicable)

Job Title CITIZEN

Address P.O. Box 961 Phone 813 956 3875

City Blountstown State FL Zip 32424 E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

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)

Meeting Date 1/24/12

Topic DEFERRED C.I. CLOSURE Bill Number _____ (if applicable)

Name PAUL HENRY Amendment Barcode _____ (if applicable)

Job Title TAXPAYER

Address PO BOX 698 Phone 850-629-9550

City MONTICELLO State FL Zip 32348 E-mail REPUBLICANLIBERTY@2010.ORG

Speaking: ☐ For ☒ Against ☐ Information

Representing SELF

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)

1/24/12
Meeting DateTopic PRISON PRIVATIZATIONBill Number _____
(if applicable)Name DAN OLIVERAmendment Barcode _____
(if applicable)Job Title MAINTENANCE TECHAddress 15137 WILLOWOOD LANEPhone 352-263-9842

Street

BROOKSVILLEFL39604E-mail DANUNION65@Gmail

City

State

Zip

Speaking: ☐ For ☒ Against ☐ InformationRepresenting TEAMSTERS LOCAL 79Appearing at request of Chair: ☐ Yes ☐ NoLobbyist 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)

1-24-12
Meeting DateTopic PRISON PRIVATIZATIONBill Number _____
(if applicable)Name RON SILVERAmendment Barcode _____
(if applicable)

Job Title _____

Address 2031 NE 209 ST

Phone _____

Street

MIAMIFL33179

E-mail _____

City

State

Zip

Speaking: ☐ For ☐ Against ☒ InformationRepresenting TEAMSTERSAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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

Tallahassee, Florida 32399-1100

COMMITTEES:

Criminal Justice, *Chair*
Transportation, *Vice Chair*
Budget - Subcommittee on Criminal and Civil Justice
Appropriations
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Communications, Energy, and Public Utilities
Reapportionment
Rules - Subcommittee on Ethics and Elections

SELECT COMMITTEE:

Protecting Florida's Children

SENATOR GREG EVERS

2nd District

January 26, 2012

The Honorable Mike Fasano
Chairman, Criminal and Civil Justice
Appropriations Subcommittee
406 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chairman Fasano,

I respectfully request my absence from the scheduled January 24, 2012, meeting of the Criminal and Civil Justice Appropriations Subcommittee. I appreciate your favorable consideration on this request.

Sincerely,

A handwritten signature in cursive script that reads "Greg Evers".

Greg Evers

Cc: Tim Sadberry, Staff Director

REPLY TO:

- ☐ 598 North Ferdon Boulevard, Crestview, Florida 32536 (850) 689-0556
- ☐ 24 North Tarragona, Pensacola, Florida 32502 (850) 595-0213
- ☐ 308 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5000

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MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore