<table>
<thead>
<tr>
<th>Tab 1</th>
<th>SB 118 by Gruters; (Similar to H 00131) Security in Trial Court Facilities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tab 2</td>
<td>CS/SB 556 by CJ, Brandes (CO-INTRODUCERS) Perry, Bracy; (Compare to H 00837) Inmate Conditional Medical Release</td>
</tr>
<tr>
<td>Tab 3</td>
<td>SB 560 by Brandes (CO-INTRODUCERS) Perry; Sentencing</td>
</tr>
<tr>
<td>Tab 4</td>
<td>CS/SB 574 by CJ, Brandes (CO-INTRODUCERS) Perry; (Compare to H 00837) Conditional Aging Inmate Release</td>
</tr>
<tr>
<td>TAB</td>
<td>BILL NO. and INTRODUCER</td>
</tr>
<tr>
<td>-----</td>
<td>------------------------</td>
</tr>
<tr>
<td>1</td>
<td>SB 118&lt;br&gt;Gruters (Similar H 131)</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>CS/SB 556&lt;br&gt;Criminal Justice / Brandes (Compare H 837, Linked S 1728)</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>SB 560&lt;br&gt;Brandes</td>
</tr>
<tr>
<td></td>
<td></td>
</tr>
<tr>
<td>TAB</td>
<td>BILL NO. and INTRODUCER</td>
</tr>
<tr>
<td>-----</td>
<td>------------------------</td>
</tr>
<tr>
<td>4</td>
<td>CS/SB 574</td>
</tr>
</tbody>
</table>

Other Related Meeting Documents
I. Summary:

SB 118 addresses the decision-making authority and responsibilities of two constitutional officers, the chief judge of a circuit court and the county sheriff, in providing court security. In a recent case before the Second District Court of Appeal, the court resolved the competing claims of authority and responsibility at issue in the case by holding that a chief circuit judge may require a sheriff in the circuit, because the sheriff is an officer of the court, to comply with the judge’s order requiring the sheriff to provide security at court facilities.

The bill reiterates that sheriffs are officers of the court, and requires each sheriff to coordinate with his or her local chief judge and county commissioners in developing a court security plan. However, the bill provides that sheriffs retain authority to implement and provide law enforcement services associated with the plan. Finally, the bill provides that the chief judge retains decision-making authority to carry out his or her administrative functions concerning the protection of due process rights and the scheduling and conduct of trials and other judicial proceedings.

The bill has an indeterminate fiscal impact. See Section V.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Context: A 2017 District Court of Appeal Opinion

In 2017, a controversy arose regarding the authority of the Chief Judge of the Twelfth Circuit to require the Sarasota County Sheriff to provide security at certain court facilities.¹ This

¹ See generally Knight v. Chief Judge of Florida’s Twelfth Judicial Circuit, 235 So. 3d 996 (Fla. 2d DCA 2017).
culminated in a District Court of Appeal Opinion in which the Court held that a chief circuit judge may compel the sheriffs of his or her circuit to provide security at all court facilities, including those at which no sessions of court (such as trials or hearings) are held.\textsuperscript{2}

**Florida’s Court System**

The Florida Constitution vests all judicial power in:
- The supreme court;
- The district courts of appeal;
- The circuit courts; and
- The county courts.\textsuperscript{3}

The Constitution provides that “[n]o other courts may be established by the state, any political subdivision or any municipality.”\textsuperscript{4}

**Court System Administration**

The Constitution vests the Florida Supreme Court with broad authority to administer the state courts system and establish court rules of procedure.\textsuperscript{5} The chief justice of the Florida Supreme Court is constitutionally designated as the “chief administrative officer of the judicial system.”\textsuperscript{6}

The Constitution also directs that a chief judge be chosen for each district court of appeal and each circuit court.\textsuperscript{7}

**Chief Judge of the Circuit Court**

The chief judge of the circuit court has administrative supervision responsibility for the circuit court, as well as the county courts within his or her circuit.\textsuperscript{8} Currently, there are 20 judicial circuits and 67 county courts, one in each of Florida’s 67 counties,\textsuperscript{9} as constitutionally required.\textsuperscript{10}

The following maps illustrate the territorial jurisdictions of the circuit and county courts. Note, some circuits contain multiple counties, particularly in North Florida; whereas, some circuits contain only one county, particularly in the larger metropolitan areas in Central and South Florida.\textsuperscript{11}

\begin{itemize}
  \item \textsuperscript{2} Id.
  \item \textsuperscript{3} FLA. CONST. art. V, s. 1.
  \item \textsuperscript{4} Id. (although the Constitution permits the Legislature to establish quasi-judicial, administrative courts and a civil traffic infraction hearing officer system).
  \item \textsuperscript{5} FLA. CONST. art. V, s. 2(a).
  \item \textsuperscript{6} FLA. CONST. art. V, s. 2(b).
  \item \textsuperscript{7} FLA. CONST. art. V, s. 2(c), (d).
  \item \textsuperscript{8} FLA. CONST. art. V, s. 2(d). Additionally, the chief judge is constitutionally chosen “as provided by supreme court rule.” Id.
  \item \textsuperscript{10} FLA. CONST. art. V, s. 6(a) (“There shall be a county court in each county.”).
\end{itemize}
The chief judge exercises “administrative supervision over all the trial courts within the judicial circuit and over the judges and other officers of such courts.” In exercising his or her responsibility, the chief judge has the power to:

- Assign judges to court divisions and determine the length of the assignment.
- Regulate the use of courtrooms.
- Supervise dockets and calendars.
- Require attendance of all other officers of the court.
- Do everything necessary to promote the prompt and efficient administration of justice in the courts.
- Delegate to the trial court administrator, by administrative order, the authority to bind the circuit in contract.
- Manage, operate, and oversee the jury system.
- Report data to the Chief Justice of the Supreme Court concerning the circuit’s caseload, status of dockets, disposition of cases, and other relevant information.
- Consult with the clerk of court to determine the priority of services provided by the clerk to the trial courts.

### County Responsibilities for Funding Court-Related Functions

Under Article V, s. 14 of the Florida Constitution, the state is responsible for most of the costs of the state courts system. However, the Constitution requires counties to:

> [F]und the cost of communications services, existing radio systems, existing multi-agency criminal justice information systems, and the cost of construction or lease, maintenance, utilities, and security of facilities for the trial courts, public defenders’ offices, state attorneys’ offices, and the offices of the clerks of the circuit and county courts performing court-related functions.

---

12 Section 43.26, F.S.
13 Id.
14 Emphasis added.
The constitutional responsibility for counties to fund court-related functions is implemented in s. 29.008, F.S., which also defines many of the key terms from the constitutional provision above. Among these terms, s. 29.008(1)(a), F.S. defines “facility” as follows:

“Facility” means reasonable and necessary buildings and office space and appurtenant equipment and furnishings, structures, real estate, easements, and related interests in real estate, including, but not limited to, those for the purpose of housing legal materials for use by the general public and personnel, equipment, or functions of the circuit or county courts, public defenders’ offices, state attorneys’ offices, and court-related functions of the office of the clerks of the circuit and county courts and all storage. The term “facility” includes all wiring necessary for court reporting services. The term also includes access to parking for such facilities in connection with such court-related functions that may be available free or from a private provider or a local government for a fee. . . .

1. As of July 1, 2005, equipment and furnishings shall be limited to that appropriate and customary for courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, public defenders, guardians ad litem, and criminal conflict and civil regional counsel. Court reporting equipment in these areas or facilities is not a responsibility of the county.

2. Equipment and furnishings under this paragraph in existence and owned by counties on July 1, 2005, except for that in the possession of the clerks, for areas other than courtrooms, hearing rooms, jury facilities, and other public areas in courthouses and any other facility occupied by the courts, state attorneys, and public defenders, shall be transferred to the state at no charge. This provision does not apply to any communications services as defined in paragraph (f).

Additionally, s. 29.008(1)(e), F.S. defines “security” as follows:

“Security” includes but is not limited to, all reasonable and necessary costs of services of law enforcement officers or licensed security guards and all electronic, cellular, or digital monitoring and screening devices necessary to ensure the safety and security of all persons visiting or working in a facility; to provide for security of the facility, including protection of property owned by the county or the state; and for security of prisoners brought to any facility. This includes bailiffs while providing courtroom and other security for each judge and other quasi-judicial officers.¹⁵

Sheriffs

Sheriffs are constitutional county officers.¹⁶ As a constitutional officer, a sheriff exercises independent authority and discretion in carrying out his or her various duties and in appointing

¹⁵ Emphasis added.
¹⁶ FLA. CONST. art. VIII, s. (d).
and disciplining deputies. The sheriff’s duties include, among other things, conserving the county peace by suppressing riots and making arrests as necessary; and executing process on behalf of the Florida Supreme Court, circuit courts, county courts, and board of county commissioners in the sheriff’s county.

**Sheriffs’ Courtroom Duties**

The sheriff is “the executive officer of the circuit court of the county.” Accordingly, the sheriff or his or her deputies must execute all service of court process in both civil and criminal matters and attend all sessions of court. In attending all sessions of court, the sheriff or his or her deputies serve as bailiffs and take charge of the jury, carry out service of process, keep order, and so forth. And it is the sheriff, not the chief judge, who appoints any deputy to serve as a bailiff in a courtroom.

**Beyond the Courtroom: Security in other Court Facilities**

Although sheriffs and their deputies are required to serve as bailiffs in the courtrooms around the state, unless contracted to do so with the county government, the sheriffs are not constitutionally or statutorily required to take responsibility for the security of all court facilities. Rather, county governments are responsible to provide for and fund security for court facilities and, as set out in s. 29.008(1)(e), F.S., security may be provided by “law enforcement officers” such as municipal police officers, or “licensed security guards.”

**III. Effect of Proposed Changes:**

This bill addresses the decision-making authority and responsibilities of two constitutional officers, the chief judge of a circuit court and the county sheriff, in providing court security. In a recent case before the Second District Court of Appeal, the court resolved the competing claims of authority and responsibility at issue in the case by holding that a chief circuit judge may require a sheriff in the circuit, because the sheriff is an officer of the court, to comply with the judge’s order requiring the sheriff to provide security at court facilities.

The bill reiterates that sheriffs are officers of the court, and requires each sheriff to coordinate with his or her local chief judge and county commissioners in developing a court security plan. However, the bill provides that sheriffs retain authority to implement and provide law enforcement services associated with the plan. Finally, the bill provides that the chief judge retains decision-making authority to carry out his or her administrative functions concerning the protection of due process rights and the scheduling and conduct of trials and other judicial proceedings.

17 See generally Demings v. Orange County Citizens Review Bd., 15 So. 3d 604, 610–11 (Fla. 5th DCA 2009).
18 See generally s. 30.15, F.S.
19 Section 26.49, F.S. See also s. 34.07, F.S. (sheriff is executive officer of county courts).
20 Section 30.15(1)(a)-(c), F.S.
22 Section 943.10(1), F.S. (“Law enforcement officer means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state”).
The bill is effective July 1, 2020.

IV. **Constitutional Issues:**

A. **Municipality/County Mandates Restrictions:**

This bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Art. VII, s. 18 of the Florida Constitution.

B. **Public Records/Open Meetings Issues:**

None.

C. **Trust Funds Restrictions:**

None.

D. **State Tax or Fee Increases:**

None.

E. **Other Constitutional Issues:**

None identified.

V. **Fiscal Impact Statement:**

A. **Tax/Fee Issues:**

None.

B. **Private Sector Impact:**

None.

C. **Government Sector Impact:**

The bill’s “Government Sector” fiscal impact is indeterminate. As the primary funding source for the sheriffs, the county commissioners are required to assist in the development of the comprehensive security plan.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.
VIII. **Statutes Affected:**

This bill substantially amends section 30.15 of the Florida Statutes.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Changes:**

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

None.

B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
By Senator Gruters

A bill to be entitled
An act relating to security in trial court facilities;
amending s. 30.15, F.S.; requiring sheriffs to
coordinate with certain boards of county commissioners
and chief judges to develop a comprehensive plan for
security of trial court facilities; specifying that
sheriffs and chief judges retain certain authorities;
specifying that sheriffs and their deputies,
employees, and contractors are officers of the court
under specified circumstances; providing an effective
date.

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

Section 1. Subsection (4) is added to section 30.15,
Florida Statutes, to read:

30.15 Powers, duties, and obligations.—
(4)(a) In accordance with each county’s obligation under s.
14, Art. V of the State Constitution and s. 29.008 to fund
security for trial court facilities, the sheriff of each county
shall coordinate with the board of county commissioners of that
county and the chief judge of the circuit in which that county
is located on the development of a comprehensive plan for the
 provision of security for trial court facilities. Each sheriff
shall retain authority over the implementation and provision of
law enforcement services associated with the plan. The chief
judge of the circuit shall retain decision-making authority to
ensure the protection of due process rights, including, but not
limited to, the scheduling and conduct of trials and other

CODING: Words stricken are deletions; words underlined are additions.
judicial proceedings as part of his or her responsibility for 
the administrative supervision of trial courts under s. 43.26.  
(b) Sheriffs and their deputies, employees, and contractors 
are officers of the court when providing security for trial 
court facilities under this subsection.
Section 2. This act shall take effect July 1, 2020.
THE FLORIDA SENATE

APPEARANCE RECORD

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

1/22/2020

Meeting Date

118

Bill Number (if applicable)

Topic Security in Trial Court Facilities

Name Matt Dunagan

Job Title Deputy Director

Address 2617 Mahan Drive

Phone (850) 877-2165

Street

Email

City Tallahassee

State FL

Zip 32

Speaking: ☐ For ☐ Against ☐ Information Waive Speaking: ☑ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Florida Sheriffs Association

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

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

This form is part of the public record for this meeting.
Security in Trial Court Facilities

Tonnette [tone-net] Graham
Associate Director of Public Policy

100 S. Monroe Street
Tallahassee, FL 32301

850.922.4300

Email: graham@fl-counites.com

For

In Support

Florida Association of Counties

No

Yes

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

This form is part of the public record for this meeting.
The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT
(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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

BILL: CS/SB 556
INTRODUCER: Criminal Justice Committee; and Senators Brandes, Perry, and Bracy
SUBJECT: Inmate Conditional Medical Release
DATE: January 21, 2020

ANALYST STAFF DIRECTOR REFERENCE ACTION
1. Cox Jones CJ Fav/CS
2. Forbes Jameson ACJ Pre-meeting
3. AP

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 556 repeals section 947.149, Florida Statutes, which establishes the conditional medical release (CMR) program within the Florida Commission on Offender Review (FCOR) and creates section 945.0911, Florida Statutes, to establish a CMR program within the Department of Corrections (DOC) with the purpose of determining whether release is appropriate for eligible inmates, supervising the released inmates, and conducting revocation hearings.

The bill provides that an inmate is eligible for consideration for release under the CMR program when the inmate, because of an existing medical or physical condition, is determined by the DOC to be an:

- “Inmate with a debilitating illness,” which is defined to mean an inmate who is determined to be suffering from a significant terminal or nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively impaired, debilitated, or incapacitated as to create a reasonable probability that the inmate does not constitute a danger to herself or himself or to others.
- “Permanently incapacitated inmate,” which is defined to mean an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or to others.
- “Terminal illness inmate,” which is defined to mean an inmate who has a condition caused by injury, disease, or illness that, to a reasonable degree of medical certainty, renders the inmate
terminally ill to the extent that there can be no recovery, death is expected within 12 months, and the inmate does not constitute a danger to herself or himself or to others.

As with current law, the bill requires the DOC to identify inmates who may be eligible for CMR based upon available medical information. However, rather than referring the case to the FCOR upon identification, the bill requires the DOC to conduct the entire determination process by referring the inmate to a three-member panel established in the new program for review and determination of release.

As is required in current law, the bill requires notice to be provided to certain victims immediately upon identification of the inmate as potentially eligible for release on CMR and the inmate’s referral to the panel.

The bill requires the director of inmate health services to review specified evidence and provide a recommendation to the three-member panel, who must conduct a hearing within 45 days of the referral to determine whether CMR is appropriate for the inmate. A majority of the panel members must agree that release on CMR is appropriate for the inmate. An inmate who is approved for release on CMR must be released by the DOC to the community within a reasonable amount of time and is considered to be a medical releasee upon release to the community.

The bill creates a process for an inmate who is denied CMR by the three-member panel to have the decision reviewed. The secretary has the final decision about the appropriateness of the release on CMR. Additionally, an inmate who is denied CMR may be subsequently reconsidered for such release in a manner prescribed by rule.

The bill requires that an inmate granted release on CMR be released for a period equal to the length of time remaining on his or her term of imprisonment on the date the release is granted and the medical releasee is required to comply with all reasonable conditions of release the DOC imposes.

The bill provides that a medical releasee is considered to be in the care, custody, supervision, and control of the DOC and remains eligible to earn or lose gain-time in accordance with section 944.275, Florida Statutes, and department rule. However, the bill clarifies that the medical releasee may not be counted in the prison system population and the medical releasee’s approved community-based housing location may not be counted in the capacity figures for the prison system.

The bill establishes a specific process for the revocation of CMR which closely parallels the current process provided for in section 947.141, Florida Statutes, and provides that revocation may be based on certain circumstances. The bill authorizes a medical releasee whose release is revoked to have the revocation decision reviewed and sets forth a specified process for such review.

The bill also requires the DOC to notify the family of an inmate who is diagnosed with a terminal condition within 72 hours and allow the family to visit the inmate within 7 days of such diagnosis.
The bill authorizes the DOC to adopt rules as necessary to implement the act.

The Criminal Justice Impact Conference (CJIC) has not reviewed the bill at this time. However, in part, the bill expands CMR by creating a new CMR designation and modifying a current designation. To the extent that the bill increases the number of inmates released on CMR, the bill will likely result in a negative indeterminate prison bed impact (i.e., an unquantifiable decrease in prison beds) and a reduction in the associated inmate healthcare costs.

The bill removes certain functions related to CMR from the FCOR and reestablishes the comparable duties within the DOC. As a result, the bill will likely result in a workload and cost shift from the FCOR to the DOC. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2020.

II. Present Situation:

Conditional Medical Release

Conditional Medical Release (CMR), outlined in s. 947.149, F.S., was created by the Florida Legislature in 1992, as a discretionary release of inmates who are “terminally ill” or “permanently incapacitated” and who are not a danger to themselves or others. The Florida Commission on Offender Review (FCOR), which consists of three members, reviews eligible inmates for release under the CMR program pursuant to the powers established in s. 947.13, F.S. In part, s. 947.149, F.S., authorizes the FCOR to determine what persons will be released on CMR, establish the conditions of CMR, and determine whether a person has violated the conditions of CMR and take actions with respect to such a violation.

Eligibility Criteria

Eligible inmates include inmates designated by the DOC as a:

- “Permanently incapacitated inmate,” which is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or others; or
- “Terminally ill inmate,” which is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and death is imminent, so that the inmate does not constitute a danger to herself or himself or others.

Inmates sentenced to death are ineligible for CMR.
Referral Process for Eligible Inmates

The DOC is required to identify inmates who may be eligible for CMR in accordance with the above-mentioned designations. The DOC uses available medical information as a basis for identifying eligible inmates and refers such inmates to the FCOR for consideration. In considering an inmate, the FCOR may require that additional medical evidence be produced or that additional medical examinations be conducted and may require other investigations to be made as it deems necessary.\(^6\)

An inmate does not have a right to CMR or to a medical evaluation to determine eligibility for such release.\(^7\) Additionally, the authority and whether or not to grant CMR and establish additional conditions of release rests solely within the discretion of the FCOR, together with the authority to approve the release plan to include necessary medical care and attention.\(^8\)

Certain information must be provided to the FCOR from the DOC to be considered a referral, including:
- Clinical Report, including complete medical information justifying classification of the inmate as “permanently incapacitated” or “terminally ill;”\(^9\)
- Verifiable release plan, to include necessary medical care and attention.\(^9\)

The referral must be directed to the Office of the Commission Clerk who may docket the case before the FCOR. A decision will be made by a majority of the quorum present and voting.\(^10\) The FCOR is required to approve or disapprove CMR based upon information submitted in support of the recommendation and review of the DOC file. If additional information is needed, the FCOR must continue the case for verification of the release plan, additional medical examinations, and other investigations as directed. The FCOR is required to instruct staff to conduct the appropriate investigation, which must include a written statement setting forth the specific information being requested.\(^11\)

Victim Input

If a victim or his or her personal representative requests to be notified, the FCOR must provide victim notification of any hearing where the release of the inmate on CMR is considered prior to the inmate’s release.\(^12\) Section 16 of the Florida Constitution provides specific rights to victims upon request:
- The right to be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.
- The right to be informed of all post-conviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be

---

\(^6\) Section 947.149(3), F.S.  
\(^7\) Section 947.149(2), F.S.  
\(^8\) Section 947.149(3), F.S.  
\(^9\) Rule 23-24.020(1), F.A.C.  
\(^10\) Rule 23-24.020(2), F.A.C.  
\(^12\) Rule 23-24.020(4), F.A.C., further qualifies that this notification occurs when the name and address of such victim or representative of the victim is known by the FCOR.
considered before any release decision is made, and to be notified of any release decision regarding the offender. The parole or early release authority shall extend the right to be heard to any person harmed by the offender. Additionally, Rule 23-24.025 of the Florida Administrative Code provides that a victim, relative of a minor who is a victim, relative of a homicide victim, or victim representative or victim advocate must receive advance notification any time a CMR case is placed on the docket for determination by the FCOR. Notification must be made to the address found in the police report or other criminal report or at a more current address if such has been provided to the FCOR.

A victim of the crime committed by the inmate, or a victim’s representative, must be permitted a reasonable time to make an oral statement or submit a written statement regarding whether the victim supports the granting, denying, or revoking of CMR. Additionally, other interested parties may also speak on behalf of victims since the FCOR meetings are public meetings. A victim can also request that the FCOR provide notification of the action taken if he or she does not choose to appear at meetings or make a written statement.

In 2018, the Florida voters approved Amendment 6 on the ballot, which provided certain rights to victims in the Florida Constitution. In part, Art. 1, s. 16, of the Florida Constitution, provides that a victim must have the following rights upon request:

- Reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or adjudication, even if the victim will be a witness at the proceeding, notwithstanding any rule to the contrary.
- To be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.
- To be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.
- To be informed of all postconviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender.

**Release Conditions**

The release of an inmate on CMR is for the remainder of the inmate’s sentence and requires periodic medical evaluations at intervals determined by the FCOR at the time of release.

---

13 The FCOR, CS/SB Agency Analysis, at p. 2 (January 17, 2020).
14 Rule 23-24.025(1), F.A.C.
15 Rule 23-24.025(2) and (3), F.A.C. See Rule 23-24.025(4), F.A.C., regarding specifics about what is allowed to be submitted or utilized during oral testimony. Rule 23-24.025(7), F.A.C., provides that victims who appear and speak must be advised that any information submitted at FCOR meetings becomes public record.
16 Rule 23-24.025(3), F.A.C.
17 Rule 23-24.025(5), F.A.C.
18 Art. 1, s. 16(b6)a., b., f., and g., FLA. CONST.
19 Section 947.149(4), F.S.
inmate who has been approved for release on CMR is considered a medical releasee when released.

Each medical releasee must be placed on CMR supervision and is subject to the standard conditions of CMR, which include:

- Promptly proceeding to the residence upon being released and immediately reporting by mail, telephone, or personal visit as instructed by the CMR officer or within 72 hours of release if no specific report date and time are given.
- Securing the permission of the CMR officer before:
  - Changing residences;
  - Leaving the county or the state; and
  - Posting bail or accepting pretrial release if arrested for a felony.
- Submitting a full and truthful report to the CMR officer each month in writing and as directed by the CMR supervisor.
- Refraining from:
  - Owing, carrying, possessing, or having in his or her constructive possession a firearm or ammunition;
  - Using or possessing alcohol or intoxicants of any kind;
  - Using or possessing narcotics, drugs, or marijuana unless prescribed by a physician;
  - Entering any business establishment whose primary purpose is the sale or consumption of alcoholic beverages; and
  - Knowingly associating with any person engaging in criminal activity, a criminal gang member, or person associated with criminal gang members.
- Securing the permission of the CMR officer before owning, carrying, or having in his or her constructive possession a knife or any other weapon.
- Obeying all laws, ordinances, and statutory conditions of CMR.
- Submitting to a reasonable search of the medical releasee’s person, residence, or automobile by a CMR officer.
- Waiving extradition back to Florida if the medical releasee is alleged to have violated CMR.
- Permitting the CMR officer to visit the medical releasee’s residence, employment, or elsewhere.
- Promptly and truthfully answering all questions and following all instructions asked or given by the CMR officer or the FCOR.
- Remaining on CMR for the remainder of the sentence without diminution of such sentence for good behavior.
- Agreeing to submit to random drug or alcohol testing, to be paid for and submitted by the medical releasee, as directed by the CMR officer or the professional staff of any treatment center where treatment is being received.
- Executing and providing authorizations to release records to the CMR supervisor and the FCOR for the purpose of monitoring and documenting the medical releasee’s progress.
- Agreeing that, in the event there is an improvement in the medical releasee’s medical condition to the extent that he or she is no longer “permanently incapacitated,” or “terminally ill,” that he or she will, if directed to do so, report for a CMR revocation hearing.\(^{20}\)

\(^{20}\) Rule 23-24.030(1), F.A.C.
Additionally, the FCOR can impose special conditions of conditional medical release.\(^{21}\)

**Revocation and Recomitment**

In part, s. 947.141, F.S., provides for the revocation and recommitment of a medical releasee who appears to be subject to CMR revocation proceedings, including establishing a hearing process and determining whether a medical releasee must be recommitted to the DOC. CMR supervision can be revoked and the offender returned to prison if the FCOR determines:

- That a violation of any condition of the release has occurred; or
- His or her medical or physical condition improves to the point that the offender no longer meets the CMR criteria.\(^{22}\)

**Revocation Due to Improved Medical or Physical Condition**

If it is discovered during the CMR release that the medical or physical condition of the medical releasee has improved to the extent that she or he would no longer be eligible for such release, the FCOR may order that the medical releasee be returned to the custody of the DOC for a revocation hearing, in accordance with s. 947.141, F.S. A medical releasee who has his or her CMR revoked due to improvement in medical or physical condition must serve the balance of the sentence with credit for the time served on CMR, but does not forfeit any gain-time accrued prior to release on CMR.\(^{23}\)

**Revocation Due to Violation of CMR Conditions**

When there are reasonable grounds to believe that a medical releasee who is on CMR has violated the conditions of the release in a material respect the FCOR is authorized to have a warrant issued for the arrest of the medical releasee. A warrant must be issued if the medical releasee was found to be a sexual predator.\(^{24}\) Further, if a law enforcement officer has probable cause to believe that a medical releasee who is on CMR supervision has violated the terms and conditions of his or her release by committing a felony offense then the officer must arrest the medical releasee without a warrant and a warrant need not be issued in the case.\(^{25}\)

A medical releasee who is arrested for a felony must be detained without bond until the initial appearance of the medical releasee at which a judicial determination of probable cause is made. The medical releasee may be released if the trial court judge does not find probable cause existed for the arrest. However, if the court makes a finding of probable cause, such determination also constitutes reasonable grounds to believe that the medical releasee violated the conditions of the CMR release and the chief county correctional officer must notify the FCOR and the DOC of the finding within 24 hours.\(^{26}\) The medical releasee must continue to be detained without bond for a

\(^{21}\) Rule 23-24.030(2), F.A.C.

\(^{22}\) Section 947.149(5), F.S.

\(^{23}\) Section 947.149(5)(a), F.S. Additionally, if the person whose CMR is revoked due to an improvement in medical or physical condition would otherwise be eligible for parole or any other release program, the person may be considered for such release program pursuant to law.

\(^{24}\) Section 947.141(1), F.S.

\(^{25}\) Section 947.141(7), F.S.

\(^{26}\) Section 947.141(2), F.S., further states that the chief county detention officer must transmit to the FCOR and the DOC a facsimile copy of the probable cause affidavit or the sworn offense report upon which the trial court judge’s probable cause determination is based.
period not more than 72 hours excluding weekends and holidays after the date of the probable cause determination, pending a decision by the FCOR whether to issue a warrant charging the medical releasee with violation of the conditions of CMR. If the FCOR issues such warrant, the medical releasee must continue to be held in custody pending a revocation hearing.\(^{27}\)

**Revocation Hearing**

The medical releasee must be afforded a hearing which is conducted by a commissioner or a duly authorized representative within 45 days after notice to the FCOR of the arrest of a medical releasee charged with a violation of the terms and conditions of CMR. If the medical releasee elects to proceed with a hearing, the medical releasee must be informed orally and in writing of certain rights, including the medical releasee’s:

- Alleged violation; and
- Right to:
  - Be represented by counsel.
  - Be heard in person.
  - Secure, present, and compel the attendance of witnesses relevant to the proceeding.
  - Produce documents on his or her own behalf.
  - Access all evidence used against the releasee and confront and cross-examine adverse witnesses.
  - Waive the hearing.\(^{28}\)

The commissioner who conducts the hearing is required to make findings of fact in regard to the alleged violation within a reasonable time following the hearing and at least two commissioners must enter an order determining whether the charge of violation of CMR has been sustained based upon the findings of fact presented by the hearing commissioner or authorized representative. The panel may revoke CMR, thereby returning the medical releasee to prison to serve the sentence imposed; reinstate the original order granting the release; or enter such other order as it considers proper.\(^{29}\)

If CMR is revoked and the medical releasee is ordered to be returned to prison, the medical releasee is deemed to have forfeited all gain-time or commutation of time for good conduct earned up to the date of release. However, if CMR is revoked due to the improved medical or physical condition of the medical releasee, the medical releasee does not forfeit gain-time accrued before the date of CMR.\(^{30}\) Gain-time or commutation of time for good conduct may be earned from the date of return to prison.

**Statistics**

The FCOR has approved and released 73 inmates for CMR in the last three fiscal years, including:

- 38 in FY 2018-19;
- 21 in FY 2017-2018; and

\(^{27}\) *Id.*  
\(^{28}\) Section 947.141(3), F.S.  
\(^{29}\) Section 947.141(4), F.S.  
\(^{30}\) Section 947.141(6), F.S.
• 14 in FY 2016-2017.\textsuperscript{31}

The DOC has recommended 149 inmates for release in the past three fiscal years, including:
• 76 in FY 2018-19;
• 39 in FY 2017-2018; and
• 34 in FY 2016-2017.\textsuperscript{32}

Currently, the DOC’s only role in the CMR process is to make the initial designation of medical eligibility and to refer the inmate’s case to the FCOR for an investigation and final decision.

**Gain-time**

Gain-time awards, which result in deductions to the court-ordered sentences of specified eligible inmates, are used to encourage satisfactory prisoner behavior or to provide incentives for prisoners to participate in productive activities while incarcerated.\textsuperscript{33} An inmate is not eligible to earn or receive gain-time in an amount that results in his or her release prior to serving a minimum of 85 percent of the sentence imposed.\textsuperscript{34}

Basic gain-time, which automatically reduced an inmate’s sentence by a designated amount each month, was eliminated for offenses committed on or after January 1, 1994.\textsuperscript{35} The only forms of gain-time that can currently be earned are:

• Incentive gain-time;\textsuperscript{36}
• Meritorious gain-time;\textsuperscript{37} and
• Educational achievement gain-time.\textsuperscript{38}

\textsuperscript{31} Emails from Alexander Yarger, Legislative Affairs Director, Florida Commission on Offender Review, RE: Conditional Medical Release Data and RE: Updated Conditional Medical Release Numbers (attachments on file with the Senate Committee on Criminal Justice) (December 15, 2017 and November 1, 2019, respectively). See also FCOR Annual Report FY 2017-18, p. 8, available at [https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202018%20WEB.pdf](https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202018%20WEB.pdf) (last visited November 6, 2019).

\textsuperscript{32} Id.

\textsuperscript{33} Section 944.275(1), F.S. Section 944.275(4)(f), F.S., further provides that an inmate serving a life sentence is not able to earn gain-time. Additionally, an inmate serving the portion of his or her sentence that is included in an imposed mandatory minimum sentence or whose tentative release date is the same date as he or she achieves service of 85 percent of the sentence are not eligible to earn gain-time. Section 944.275(4)(e), F.S., also prohibits inmates committed to the DOC for specified sexual offenses committed on or after October 1, 2014, from earning incentive gain-time.

\textsuperscript{34} Section 944.275(4)(f), F.S.

\textsuperscript{35} Chapter 93-406, L.O.F.

\textsuperscript{36} Section 944.275(4)(b), F.S, provides that incentive gain-time is a total of up to ten days per month that may be awarded to inmates for institutional adjustment, performing work in a diligent manner, and actively participating in training and programs. The amount an inmate can earn is stable throughout the term of imprisonment and is based upon the date an offense was committed.

\textsuperscript{37} Section 944.275(4)(c), F.S, provides that meritorious gain-time is awarded to an inmate who commits an outstanding deed or whose performance warrants additional credit, such as saving a life or assisting in recapturing an escaped inmate. The award may range from one day to 60 days and the statute does not prohibit an inmate from earning meritorious gain-time on multiple occasions if warranted.

\textsuperscript{38} Section 944.275(4)(d), F.S., provides that educational gain-time is a one-time award of 60 days that is granted to an inmate who receives a General Education Development (GED) diploma or a certificate for completion of a vocational program.
The procedure for applying gain-time awards to an inmate’s sentence is dependent upon the calculation of a “maximum sentence expiration date” and a “tentative release date.” The tentative release date may not be later than the maximum sentence expiration date.\textsuperscript{39} The maximum sentence expiration date represents the date when the sentence or combined sentences imposed on a prisoner will expire. To calculate the maximum sentence expiration date, the DOC reduces the total time to be served by any time lawfully credited.\textsuperscript{40}

The tentative release is the date projected for the prisoner’s release from custody after gain-time is granted or forfeited in accordance with s. 944.275, F.S.\textsuperscript{41} Gain-time is applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, are applied to make the tentative release date proportionately later.\textsuperscript{42}

The DOC is authorized in certain circumstances, including when a medical releasee has his or her CMR release revoked, to declare all gain-time earned by an inmate forfeited.\textsuperscript{43}

**Federal First Step Act**

In December, 2018, the United States Congress passed, and President Trump signed into law, the “Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act” or the “FIRST STEP Act” (First Step Act).\textsuperscript{44} The law makes a number of changes to the federal criminal justice system and procedures applicable to inmates in the Federal Bureau of Prisons (BOP), including, in part, modifying provisions related to compassionate release to:

- Require inmates be informed of reduction in sentence availability and process;
- Modify the definition of “terminally ill;”
- Require notice and assistance for terminally ill offenders;
- Require requests from terminally ill offenders to be processed within 14 days.\textsuperscript{45}

Specifically, in the case of a diagnosis of a terminal illness, the BOP is required to, subject to confidentiality requirements:

- Notify the defendant’s attorney, partner, and family members, not later than 72 hours after the diagnosis, of the defendant’s diagnosis of a terminal condition and inform the defendant’s attorney, partner, and family members that they may prepare and submit on the defendant’s behalf a request for a sentence reduction;
- Provide the defendant’s partner and family members, including extended family, with an opportunity to visit the defendant in person not later than 7 days after the date of the diagnosis;

\textsuperscript{39} Section 944.275(3)(c), F.S.
\textsuperscript{40} Section 944.275(2)(a), F.S.
\textsuperscript{41} Section 944.275(3)(a), F.S.
\textsuperscript{42} Id. See also s. 944.275(4)(b), F.S.
\textsuperscript{43} Section 944.28(1), F.S.
• Upon request from the defendant or his attorney, partner, or a family member, ensure that BOP employees assist the defendant in the preparation, drafting, and submission of a request for a sentence reduction; and
• Process a request for sentence reduction submitted on the defendant’s behalf by the defendant or the defendant’s attorney, partner, or family member not later than 14 days from receipt of a request.\textsuperscript{46}

The statutory time frames mentioned above begin once the Clinical Director of an institution makes a terminal diagnosis. Once the diagnosis is made, the Clinical Director will inform the Warden and the appropriate Unit Manager as soon as possible so as to ensure requirements are met.\textsuperscript{47}

III. \textbf{Effect of Proposed Changes:}

The bill repeals s. 947.149, F.S., which establishes the CMR program within the FCOR and creates s. 945.0911, F.S., to establish a CMR program within the DOC with the purpose of:
• Determining whether release is appropriate for eligible inmates;
• Supervising the released inmates; and
• Conducting revocation hearings.

The CMR program established within the DOC retains similarities to the program currently in existence within the FCOR, including that the CMR program must include a panel of at least three people. The members of the panel are appointed by the secretary or his or her designee for the purpose of determining the appropriateness of CMR and conducting revocation hearings on the inmate releases.

\textbf{Eligibility Criteria}

The bill provides that an inmate is eligible for consideration for release under the CMR program when the inmate, because of an existing medical or physical condition, is determined by the DOC to be an inmate with a debilitating illness, a permanently incapacitated inmate, or a terminally ill inmate. The bill provides definitions for such terms, including:
• “Inmate with a debilitating illness,” which means an inmate who is determined to be suffering from a significant terminal or nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively impaired, debilitated, or incapacitated as to create a reasonable probability that the inmate does not constitute a danger to herself or himself or to others.
• “Permanently incapacitated inmate,” which means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself or himself or to others.
• “Terminally ill inmate,” which means an inmate who has a condition caused by injury, disease, or illness that, to a reasonable degree of medical certainty, renders the inmate

\textsuperscript{46} \textit{Id.}
\textsuperscript{47} \textit{Id.}
terminally ill to the extent that there can be no recovery, death is expected within 12 months, and the inmate does not constitute a danger to herself or himself or to others.

**Referral Process**

The bill requires that any inmate in the custody of the DOC who meets one or more of the eligibility requirements must be considered for CMR. However, the authority to grant CMR rests solely with the DOC, as it currently does with the FCOR. Additionally, the bill provides that an inmate does not have a right to release or to a medical evaluation to determine eligibility for release on CMR pursuant to s. 945.0911, F.S.

The bill requires the DOC to identify inmates who may be eligible for CMR based upon available medical information and authorizes the DOC to require additional medical evidence, including examinations of the inmate, or any other additional investigations it deems necessary for determining the appropriateness of the eligible inmate’s release.

Upon an inmate’s identification as potentially eligible for release on CMR, the DOC must refer such inmate to the three-member panel described above for review and determination of release.

The bill requires the DOC to provide notice to a victim of the inmate’s referral to the panel immediately upon identification of the inmate as potentially eligible for release on CMR if the case that resulted in the inmate’s commitment to the DOC involved a victim and such victim specifically requested notification pursuant to Art. 1, s. 16, of the Florida Constitution. Additionally, the victim must be afforded the right to be heard regarding the release of the inmate.

**Determination of Release**

The bill requires the three-member panel established in s. 945.0911(1), F.S., to conduct a hearing within 45 days after receiving the referral to determine whether CMR is appropriate for the inmate. Before the hearing, the director of inmate health services or his or her designee must review any relevant information, including, but not limited to, medical evidence, and provide the panel with a recommendation regarding the appropriateness of releasing the inmate on CMR. A majority of the panel members must agree that release on CMR is appropriate for the inmate. If CMR is approved, the inmate must be released by the DOC to the community within a reasonable amount of time with necessary release conditions imposed.

The bill provides that an inmate who is granted CMR is considered a medical releasee upon release to the community.

An inmate who is denied CMR by the three-member panel is able to have the decision reviewed. The bill provides that the DOC’s general counsel and chief medical officer must review the decision of the three-member panel and make a recommendation to the secretary. The secretary must review all relevant information and make a final decision about the appropriateness of the release on CMR. The bill provides that the appeal decision of the secretary is a final administrative decision not subject to appeal.
Additionally, an inmate who is denied CMR may be subsequently reconsidered for such release in a manner prescribed by department rule.

Release Conditions

The bill requires that an inmate granted release on CMR be released for a period equal to the length of time remaining on his or her term of imprisonment on the date the release is granted. The medical releasee is required to comply with all reasonable conditions of release the DOC imposes, which must include, at a minimum:

- Periodic medical evaluations at intervals determined by the DOC at the time of release.
- Supervision by an officer trained to handle special offender caseloads.
- Active electronic monitoring, if such monitoring is determined to be necessary to ensure the safety of the public and the releasee’s compliance with release conditions.
- Any conditions of community control provided for in s. 948.101, F.S.\textsuperscript{48}
- Any other conditions the DOC deems appropriate to ensure the safety of the community and compliance by the medical releasee.

The bill provides that a medical releasee is considered to be in the care, custody, supervision, and control of the DOC and remains eligible to earn or lose gain-time in accordance with s. 944.275, F.S., and department rule. However, the bill clarifies that the medical releasee may not be counted in the prison system population, and the medical releasee’s approved community-based housing location may not be counted in the capacity figures for the prison system.

Revocation of CMR Release and Recommitment to the DOC

The bill establishes a process for the revocation of CMR that very closely parallels current law and for which may be based on two circumstances, including the:

- Discovery that the medical or physical condition of the medical releasee has improved to the extent that she or he would no longer be eligible for release on CMR; or
- Violation of any release conditions the DOC establishes, including, but not limited to, a new violation of law.

Revocation Based on Medical or Physical Improvement

When the basis of the revocation proceedings are based on an improved medical or physical condition of the medical releasee, the bill authorizes the DOC to:

- Order that the medical releasee be returned to the custody of the DOC for a CMR revocation hearing, as prescribed by rule; or
- Allow the medical releasee to remain in the community pending the revocation hearing.

The revocation hearing must be conducted by the three-member panel discussed above and a majority of the panel members must agree that revocation is appropriate for the medical releasee’s conditional medical release to be revoked. The bill requires the director of inmate

\textsuperscript{48} Some examples on community control conditions required under s. 948.101, F.S., include to maintain specified contact with the parole and probation officer; confinement to an agreed-upon residence during hours away from employment and public service activities; mandatory public service; and supervision by the DOC by means of an electronic monitoring device or system.
health services or his or her designee to review any medical evidence pertaining to the medical releasee and provide the panel with a recommendation regarding the medical releasee’s improvement and current medical or physical condition.

A medical releasee whose CMR was revoked due to improvement in his or her medical or physical condition must be recommitted to the DOC to serve the balance of his or her sentence with credit for the time served on CMR and without forfeiture of any gain-time accrued before recommitment. If the medical releasee whose CMR is revoked due to an improvement in her or his medical or physical condition would otherwise be eligible for parole or any other release program, the medical releasee may be considered for such release program pursuant to law.

**Revocation Based on Violation of Conditions**

The bill provides that CMR may also be revoked for violation of any release conditions the DOC establishes, including, but not limited to, a new violation of law. In contrast to when a revocation is based on improved medical or physical condition, if the basis of the violation of release conditions is related to a new violation of law, the medical releasee must be detained without bond until his or her initial appearance at which a judicial determination of probable cause is made.

If the judge determines that there was no probable cause for the arrest, the medical releasee may be released. If the judge determines that there was probable cause for the arrest, the judge’s probable cause determination also constitutes reasonable grounds to believe that the medical releasee violated the conditions of the CMR release.

The bill requires the DOC to order that the medical releasee subject to revocation for a violation of conditions be returned to the custody of the DOC for a CMR revocation hearing as prescribed by rule. A majority of the panel members must agree that revocation is appropriate for the medical releasee’s CMR to be revoked.

The bill provides that a medical releasee who has his or her CMR revoked due to a violation of conditions must serve the balance of his or her sentence with credit for the actual time served on CMR. Additionally, the medical releasee’s gain-time accrued before recommitment may be forfeited pursuant to s. 944.28(1), F.S. If the medical releasee whose CMR is revoked would otherwise be eligible for parole or any other release program, he or she may be considered for such release program pursuant to law.

**Revocation Hearing Process**

If the medical releasee subject to revocation for either basis elects to proceed with a hearing, the medical releasee must be informed orally and in writing of certain rights, including the releasee’s:

- Alleged basis for the pending revocation proceeding against the releasee.
- Right to:
  - Be represented by counsel.\(^49\)
  - Be heard in person.

\(^49\) However, this bill explicitly provides that this does not create a right to publicly funded legal counsel.
Secure, present, and compel the attendance of witnesses relevant to the proceeding. 
Produce documents on his or her own behalf. 
Access all evidence used to support the revocation proceeding against the releasee and confront and cross-examine adverse witnesses. 
Waive the hearing.

**Review Process of Revocation Determination**

The bill authorizes a medical releasee whose release is revoked based on either basis to have the revocation decision reviewed. The bill requires the DOC’s general counsel to review the revocation decision and make a recommendation to the secretary. The secretary must review all relevant information and make a final decision about the appropriateness of the revocation of CMR. In addition to the review by the general counsel, the chief medical officer must also review the revocation decision and make a recommendation to the secretary when the basis is due to an improved medical or physical condition.

The bill provides that any decision of the secretary related to a revocation decision is a final administrative decision not subject to appeal.

**Special Requirements of the DOC Related to Terminal Inmate’s**

The bill also implements provisions similar to those provided for in federal law related to compassionate release of inmate’s that have been diagnosed with a terminal illness. The bill requires the DOC to, subject to confidentiality requirements, follow the following procedures related to an inmate who is diagnosed with a terminal medical condition that makes him or her eligible for consideration for release under the “terminally ill” definition discussed above while in the custody of the DOC:

- Notify the inmate’s family or next of kin, and attorney, if applicable, of such diagnosis within 72 hours of the diagnosis.
- Provide the inmate’s family, including extended family, with an opportunity to visit the inmate in person within seven days upon such diagnosis.
- Initiate a review for CMR immediately upon such diagnosis.

Additionally, the bill provides that an inmate who has mental and physical capacity must consent to release of confidential information for the DOC to comply with these notification requirements.

The bill authorizes the DOC to adopt rules as necessary to implement the act.

The bill amends ss. 316.1935, 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605, 944.70, 947.13, and 947.141, F.S., conforming these provisions to changes made by the act.

The bill is effective October 1, 2020.
IV. Constitutional Issues:
   A. Municipality/County Mandates Restrictions:
      None.
   B. Public Records/Open Meetings Issues:
      None.
   C. Trust Funds Restrictions:
      None.
   D. State Tax or Fee Increases:
      None.
   E. Other Constitutional Issues:
      None Identified.

V. Fiscal Impact Statement:
   A. Tax/Fee Issues:
      None.
   B. Private Sector Impact:
      None.
   C. Government Sector Impact:
      The Criminal Justice Impact Conference (CJIC) has not reviewed the bill at this time. However, the CJIC heard SB 1334 (2019), which expanded the definitions of CMR eligibility in a manner similar to the bill and the CJIC found that this expansion would result in a negative significant prison bed impact (i.e. a decrease of more than 25 prison beds). Additionally, the bill will likely result in a reduction in the associated inmate healthcare costs.

      The bill removes any role of determining the appropriateness of an inmate’s release on CMR from the FCOR and places such comparable duties within the DOC. In Fiscal Year

---

51 According to the DOC via telephone call on January 16, 2020, when an inmate is released from prison, the department no longer has any liability for their health care. However, they did note in their bill analysis that, “If by considering an inmate to be in the “care” of the Department their healthcare is fiscally provided by FDC, contractual arrangements and funding would be required.” The DOC CS/SB 556 Analysis, p.3 (January 17, 2020).
2018-2019, FCOR conducted 84 CMR determinations. They report that they spent 804 hours on the investigation/determination, 64 hours on victim assistance, and 433 hours on revocations for CMR. The FCOR reports that this equates to less than 1 FTE.\textsuperscript{52} The DOC anticipates there will be a fiscal impact associated with the establishment of positions for the hearing panel and administrative staff, but was unable to specify the amount.\textsuperscript{53}

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates section 945.0911 of the Florida Statutes.

The bill repeals section 947.149 of the Florida Statutes.

The bill amends the following sections of the Florida Statutes: 316.1935, 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605, 944.70, 947.13, and 947.141.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

\textbf{CS by Criminal Justice on November 12, 2019:}

The committee substitute:

\begin{itemize}
  \item Requires the DOC to:
    \begin{itemize}
      \item Notify the family of an inmate who has been diagnosed with a terminal condition of such diagnosis within 72 hours;
      \item Allow the family of an inmate who has been diagnosed with a terminal condition to have a visit with the inmate within 7 days of such diagnosis; and
      \item Immediately begin the referral process for the conditional medical release review upon an inmate’s diagnosis of a terminal condition.
    \end{itemize}
  \item Ensures that the rights provided to medical releasee’s during revocation hearing proceedings are afforded to a medical releasee regardless of the basis for the revocation hearing.
  \item Makes technical changes, including, in part, ensuring consistency with the terms used to describe an inmate who has been approved for conditional medical release and released into the community.
\end{itemize}

\textsuperscript{52} The FCOR, CS/SB 556 Agency Bill Analysis, p. 5 (October 24, 2019).

\textsuperscript{53} The DOC, CS/SB 556 Agency Bill Analysis, p. 5 (January 17, 2020).
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 Senators Brandes, Perry, and Bracy

A bill to be entitled
An act relating to inmate conditional medical release; creating s. 945.0911, F.S.; establishing the conditional medical release program within the Department of Corrections; establishing a panel to consider specified matters; defining terms; providing for program eligibility; requiring any inmate who meets certain criteria to be considered for conditional medical release; providing that the inmate does not have a right to release or to a certain medical evaluation; requiring the department to identify eligible inmates; requiring the department to refer an inmate to the panel for consideration; providing for victim notification in certain circumstances; requiring the panel to conduct a hearing within a specified timeframe; specifying requirements for the hearing; providing a review process for an inmate who is denied release; providing conditions for release; providing that an inmate who is approved for conditional medical release must be released from the department in a reasonable amount of time; providing that an inmate is considered a medical releasee upon release from the department into the community; providing that a medical releasee remains in the care, custody, supervision, and control of the department and is eligible to earn or lose gain-time; prohibiting a medical releasee or his or her community-based housing from being counted in the prison system population and the prison capacity.
figures, respectively; providing for the revocation of
a medical releasee’s conditional medical release;
authorizing the medical releasee to be returned to the
department’s custody if his or her medical or physical
condition improves; requiring a majority of the panel
members to agree on the appropriateness of revocation;
providing that gain-time is not forfeited for
revocation based on improvement in the medical
releasee’s condition; providing a review process for a
medical releasee who has his or her release revoked;
authorizing the medical releasee to be recommitted if
he or she violates any conditions of the release;
requiring that the medical releasee be detained if a
violation is based on certain circumstances; requiring
that a majority of the panel members agree on the
appropriateness of revocation; requiring specified
medical releasees to be recommitted to the department
upon the revocation of the conditional medical
release; authorizing the forfeiture of gain-time if
the revocation is based on certain violations;
providing a review process for a medical releasee who
has his or her release revoked; requiring that the
medical releasee be given specified information in
certain instances; requiring the department to notify
certain persons within a specified time frame of an
inmate’s diagnosis of a terminal medical condition;
requiring the department to allow a visit between an
inmate and certain persons within 7 days of a
diagnosis of a terminal medical condition; requiring
the department to initiate the conditional medical release review process immediately upon an inmate’s diagnosis of a terminal medical condition; requiring the inmate to consent to release of information in certain circumstances; providing rulemaking authority; repealing s. 947.149, F.S., relating to conditional medical release; amending ss. 316.1935, 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605, 944.70, 947.13, and 947.141, F.S.; conforming cross-references to changes made by the act; providing an effective date.

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

Section 1. Section 945.0911, Florida Statutes, is created to read:

945.0911 Conditional medical release.—
(1) CREATION.—There is established a conditional medical release program within the department for the purpose of determining whether release is appropriate for eligible inmates, supervising the released inmates, and conducting revocation hearings as provided for in this section. The establishment of the conditional medical release program must include a panel of at least three people appointed by the secretary or his or her designee for the purpose of determining the appropriateness of conditional medical release and conducting revocation hearings on the inmate releases.

(2) DEFINITIONS.—As used in this section, the term:
(a) "Inmate with a debilitating illness" means an inmate
who is determined to be suffering from a significant terminal or nonterminal condition, disease, or syndrome that has rendered the inmate so physically or cognitively impaired, debilitated, or incapacitated as to create a reasonable probability that the inmate does not constitute a danger to himself or herself to others.

(b) “Permanently incapacitated inmate” means an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to himself or herself or to others.

(c) “Terminally ill inmate” means an inmate who has a condition caused by injury, disease, or illness that, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery, death is expected within 12 months, and the inmate does not constitute a danger to himself or herself or to others.

(3) ELIGIBILITY.—An inmate is eligible for consideration for release under the conditional medical release program when the inmate, because of an existing medical or physical condition, is determined by the department to be an inmate with a debilitating illness, a permanently incapacitated inmate, or a terminally ill inmate.

(4) REFERRAL FOR CONSIDERATION.—

(a)1. Notwithstanding any provision to the contrary, any inmate in the custody of the department who meets one or more of the eligibility requirements under subsection (3) must be considered for conditional medical release.
2. The authority to grant conditional medical release rests solely with the department. An inmate does not have a right to release or to a medical evaluation to determine eligibility for release pursuant to this section.

(b) The department must identify inmates who may be eligible for conditional medical release based upon available medical information. In considering an inmate for conditional medical release, the department may require additional medical evidence, including examinations of the inmate, or any other additional investigations the department deems necessary for determining the appropriateness of the eligible inmate’s release.

(c) The department must refer an inmate to the panel established under subsection (1) for review and determination of conditional medical release upon his or her identification as potentially eligible for release pursuant to this section.

(d) If the case that resulted in the inmate’s commitment to the department involved a victim, and the victim specifically requested notification pursuant to s. 16, Art. I of the State Constitution, the department must notify the victim of the inmate’s referral to the panel immediately upon identification of the inmate as potentially eligible for release under this section. Additionally, the victim must be afforded the right to be heard regarding the release of the inmate.

(5) DETERMINATION OF RELEASE.—

(a) Within 45 days after receiving the referral, the panel established in subsection (1) must conduct a hearing to determine whether conditional medical release is appropriate for the inmate. Before the hearing, the director of inmate health
services or his or her designee must review any relevant information, including, but not limited to, medical evidence, and provide the panel with a recommendation regarding the appropriateness of releasing the inmate pursuant to this section.

(b) A majority of the panel members must agree that release pursuant to this section is appropriate for the inmate. If conditional medical release is approved, the inmate must be released by the department to the community within a reasonable amount of time with necessary release conditions imposed pursuant to subsection (6). An inmate who is granted conditional medical release is considered a medical releasee upon release to the community.

(c) An inmate who is denied conditional medical release by the panel may have the decision reviewed by the department’s general counsel and chief medical officer, who must make a recommendation to the secretary. The secretary must review all relevant information and make a final decision about the appropriateness of conditional medical release pursuant to this section. The decision of the secretary is a final administrative decision not subject to appeal. An inmate who is denied conditional medical release may be subsequently reconsidered for such release in a manner prescribed by department rule.

(6) RELEASE CONDITIONS.—

(a) An inmate granted release pursuant to this section is released for a period equal to the length of time remaining on his or her term of imprisonment on the date the release is granted. Such inmate is considered a medical releasee upon release from the department into the community. The medical
releasee must comply with all reasonable conditions of release
that the department imposes, which must include, at a minimum:
1. Periodic medical evaluations at intervals determined by
the department at the time of release.
2. Supervision by an officer trained to handle special
offender caseloads.
3. Active electronic monitoring, if such monitoring is
determined to be necessary to ensure the safety of the public
and the medical releasee’s compliance with release conditions.
4. Any conditions of community control provided for in s.
948.101.
5. Any other conditions the department deems appropriate to
ensure the safety of the community and compliance by the medical
releasee.

(b) A medical releasee is considered to be in the care,
custody, supervision, and control of the department and remains
eligible to earn or lose gain-time in accordance with s. 944.275
and department rule. The medical releasee may not be counted in
the prison system population, and the medical releasee’s
approved community-based housing location may not be counted in
the capacity figures for the prison system.

(7) REVOCATION HEARING AND RECOMMITMENT.—
(a)1. If the medical releasee’s supervision officer
discovers that the medical or physical condition of the medical
releasee has improved to the extent that she or he would no
longer be eligible for release under this section, then the
conditional medical release may be revoked. The department may
order, as prescribed by department rule, that the medical
releasee be returned to the custody of the department for a
conditional medical release revocation hearing or may allow the medical releasee to remain in the community pending the revocation hearing.

2. The revocation hearing must be conducted by the panel established in subsection (1). Before a revocation hearing pursuant to this paragraph, the director of inmate health services or his or her designee must review any medical evidence pertaining to the medical releasee and provide the panel with a recommendation regarding the medical releasee’s improvement and current medical or physical condition.

3. A majority of the panel members must agree that revocation is appropriate for the medical releasee’s conditional medical release to be revoked. If conditional medical release is revoked due to improvement in his or her medical or physical condition, the medical releasee must be recommitted to the department to serve the balance of his or her sentence with credit for the time served on conditional medical release and without forfeiture of any gain-time accrued before recommitment. If the medical releasee whose conditional medical release is revoked due to an improvement in her or his medical or physical condition would otherwise be eligible for parole or any other release program, he or she may be considered for such release program pursuant to law.

4. A medical releasee whose conditional medical release is revoked pursuant to this paragraph may have the decision reviewed by the department’s general counsel and chief medical officer, who must make a recommendation to the secretary. The secretary must review all relevant information and make a final decision about the appropriateness of the revocation of
conditional medical release pursuant to this paragraph. The
decision of the secretary is a final administrative decision not
subject to appeal.

(b)1. The medical releasee’s conditional medical release
may also be revoked for violation of any release conditions the
department establishes, including, but not limited to, a new
violation of law.

2. If the basis of the violation of release conditions is
related to a new violation of law, the medical releasee must be
detained without bond until his or her initial appearance at
which a judicial determination of probable cause is made. If the
judge determines that there was no probable cause for the
arrest, the medical releasee may be released. If the judge
determines that there was probable cause for the arrest, the
judge’s determination also constitutes reasonable grounds to
believe that the medical releasee violated the conditions of the
conditional medical release.

3. The department must order that the medical releasee
subject to revocation under this paragraph be returned to
department custody for a conditional medical release revocation
hearing.

4. A majority of the panel members must agree that
revocation is appropriate for the medical releasee’s conditional
medical release to be revoked. If conditional medical release is
revoked pursuant to this paragraph, the medical releasee must
serve the balance of his or her sentence with credit for the
actual time served on conditional medical release. The
releasee’s gain-time accrued before recommitment may be
forfeited pursuant to s. 944.28(1). If the medical releasee
whose conditional medical release is revoked subject to this paragraph would otherwise be eligible for parole or any other release program, he or she may be considered for such release program pursuant to law.

5. A medical releasee whose conditional medical release has been revoked pursuant to this paragraph may have the revocation reviewed by the department’s general counsel, who must make a recommendation to the secretary. The secretary must review all relevant information and make a final decision about the appropriateness of the revocation of conditional medical release pursuant to this paragraph. The decision of the secretary is a final administrative decision not subject to appeal.

(c) If the medical releasee subject to revocation under paragraph (a) or paragraph (b) elects to proceed with a hearing, the medical releasee must be informed orally and in writing of the following:

1. The alleged basis for the pending revocation proceeding against the releasee.

2. The releasee’s right to be represented by counsel. However, this subparagraph does not create a right to publicly funded legal counsel.

3. The releasee’s right to be heard in person.

4. The releasee’s right to secure, present, and compel the attendance of witnesses relevant to the proceeding.

5. The releasee’s right to produce documents on his or her own behalf.

6. The releasee’s right of access to all evidence used to support the revocation proceeding against the releasee and to confront and cross-examine adverse witnesses.
7. The releasee’s right to waive the hearing.

(8) SPECIAL REQUIREMENTS UPON AN INMATE’S DIAGNOSIS OF A TERMINAL CONDITION.—

(a) If an inmate is diagnosed with a terminal medical condition that makes him or her eligible for consideration for release under paragraph (2)(c) while in the custody of the department, subject to confidentiality requirements, the department must:

1. Notify the inmate’s family or next of kin, and attorney, if applicable, of such diagnosis within 72 hours of the diagnosis.

2. Provide the inmate’s family, including extended family, with an opportunity to visit the inmate in person within 7 days upon such diagnosis.

3. Initiate a review for conditional medical release as provided for in this section immediately upon such diagnosis.

(b) If the inmate has mental and physical capacity, he or she must consent to release of confidential information for the department to comply with the notification requirements required in this subsection.

(9) RULEMAKING AUTHORITY.—The department may adopt rules as necessary to implement this section.

Section 2. Section 947.149, Florida Statutes, is repealed.

Section 3. Subsection (6) of section 316.1935, Florida Statutes, is amended to read:

316.1935 Fleeing or attempting to elude a law enforcement officer; aggravated fleeing or eluding.—

(6) Notwithstanding s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for
any violation of this section. A person convicted and sentenced
to a mandatory minimum term of incarceration under paragraph
(3)(b) or paragraph (4)(b) is not eligible for statutory gain-
time under s. 944.275 or any form of discretionary early
release, other than pardon or executive clemency or conditional
medical release under s. 945.0911 s. 947.149, prior to serving
the mandatory minimum sentence.

Section 4. Paragraph (k) of subsection (4) of section
775.084, Florida Statutes, is amended to read:

775.084 Violent career criminals; habitual felony offenders
and habitual violent felony offenders; three-time violent felony
offenders; definitions; procedure; enhanced penalties or
mandatory minimum prison terms.—

(4)

(k)1. A defendant sentenced under this section as a
habitual felony offender, a habitual violent felony offender, or
a violent career criminal is eligible for gain-time granted by
the Department of Corrections as provided in s. 944.275(4)(b).

2. For an offense committed on or after October 1, 1995, a
defendant sentenced under this section as a violent career
criminal is not eligible for any form of discretionary early
release, other than pardon or executive clemency, or conditional
medical release granted pursuant to s. 945.0911 s. 947.149.

3. For an offense committed on or after July 1, 1999, a
defendant sentenced under this section as a three-time violent
felony offender shall be released only by expiration of sentence
and shall not be eligible for parole, control release, or any
form of early release.

Section 5. Paragraph (b) of subsection (2) and paragraph
(b) of subsection (3) of section 775.087, Florida Statutes, are amended to read:

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

(2)

(b) Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not prevent a court from imposing a longer sentence of incarceration as authorized by law in addition to the minimum mandatory sentence, or from imposing a sentence of death pursuant to other applicable law. Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not authorize a court to impose a lesser sentence than otherwise required by law.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 945.0911 or s. 947.149, prior to serving the minimum sentence.

(3)

(b) Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not prevent a court from imposing a longer sentence of incarceration as authorized by law in addition to the minimum mandatory sentence, or from imposing a sentence of death pursuant to other applicable law. Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not authorize a court to impose a lesser sentence than otherwise required by law.
law.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 945.0911 or s. 947.149, prior to serving the minimum sentence.

Section 6. Subsection (3) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.—

(3) Any person who is convicted of a battery under paragraph (2)(b) and, during the commission of the offense, such person possessed:

(a) A “firearm” or “destructive device” as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 3 years.

(b) A semiautomatic firearm and its high-capacity detachable box magazine, as defined in s. 775.087(3), or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 8 years.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s.
944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 945.0911 s. 947.149, prior to serving the minimum sentence.

Section 7. Subsection (1) of section 790.235, Florida Statutes, is amended to read:

790.235 Possession of firearm or ammunition by violent career criminal unlawful; penalty.—

(1) Any person who meets the violent career criminal criteria under s. 775.084(1)(d), regardless of whether such person is or has previously been sentenced as a violent career criminal, who owns or has in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or carries a concealed weapon, including a tear gas gun or chemical weapon or device, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person convicted of a violation of this section shall be sentenced to a mandatory minimum of 15 years' imprisonment; however, if the person would be sentenced to a longer term of imprisonment under s. 775.084(4)(d), the person must be sentenced under that provision. A person convicted of a violation of this section is not eligible for any form of discretionary early release, other than pardon, executive clemency, or conditional medical release under s. 945.0911 s. 947.149.

Section 8. Subsection (7) of section 794.0115, Florida Statutes, is amended to read:

794.0115 Dangerous sexual felony offender; mandatory sentencing.—
(7) A defendant sentenced to a mandatory minimum term of imprisonment under this section is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 945.0911 s. 947.149, before serving the minimum sentence.

Section 9. Paragraphs (b), (c), and (g) of subsection (1) and subsection (3) of section 893.135, Florida Statutes, are amended to read:

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

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

(b)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine, as described in s. 893.03(2)(a)4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first degree, which felony shall be known as “trafficking in cocaine,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

If the quantity involved:

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

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

c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine. A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 945.0911 and s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

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

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

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

3. Any person who knowingly brings into this state 300
kilograms or more of cocaine, as described in s. 893.03(2)(a)4.,
and who knows that the probable result of such importation would
be the death of any person, commits capital importation of
cocaine, a capital felony punishable as provided in ss. 775.082
and 921.142. Any person sentenced for a capital felony under
this paragraph shall also be sentenced to pay the maximum fine
provided under subparagraph 1.

c)(1) A person who knowingly sells, purchases,
manufactures, delivers, or brings into this state, or who is
knowingly in actual or constructive possession of, 4 grams or
more of any morphine, opium, hydromorphone, or any salt,
derivative, isomer, or salt of an isomer thereof, including
heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
(3)(c)4., or 4 grams or more of any mixture containing any such
substance, but less than 30 kilograms of such substance or
mixture, commits a felony of the first degree, which felony
shall be known as “trafficking in illegal drugs,” punishable as
provided in s. 775.082, s. 775.083, or s. 775.084. If the
quantity involved:

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

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

c. Is 28 grams or more, but less than 30 kilograms, such
person shall be sentenced to a mandatory minimum term of
imprisonment of 25 years and shall be ordered to pay a fine of
$500,000.
2. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as described in s. 893.03(2)(a)1.g., or any salt thereof, or 28 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as “trafficking in hydrocodone,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 28 grams or more, but less than 50 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.

b. Is 50 grams or more, but less than 100 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of $100,000.

c. Is 100 grams or more, but less than 300 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $500,000.

d. Is 300 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $750,000.

3. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 7 grams or more of oxycodone, as described in s. 893.03(2)(a)1.q., or any salt thereof, or 7 grams or more of any mixture containing any such substance,
substance, commits a felony of the first degree, which felony shall be known as “trafficking in oxycodone,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

a. Is 7 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.
b. Is 14 grams or more, but less than 25 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of $100,000.
c. Is 25 grams or more, but less than 100 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $500,000.
d. Is 100 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $750,000.

4.a. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of:

(I) Alfentanil, as described in s. 893.03(2)(b)1.;
(II) Carfentanil, as described in s. 893.03(2)(b)6.;
(III) Fentanyl, as described in s. 893.03(2)(b)9.;
(IV) Sufentanil, as described in s. 893.03(2)(b)30.;
(V) A fentanyl derivative, as described in s. 893.03(1)(a)62.;
(VI) A controlled substance analog, as described in s. 893.0356, of any substance described in sub-sub-subparagraphs
591-01355A-20
(I)-(V); or
(VII) A mixture containing any substance described in sub-subparagraphs (I)-(VI),
commits a felony of the first degree, which felony shall be known as “trafficking in fentanyl,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. If the quantity involved under sub-subparagraph a.:
   (I) Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and shall be ordered to pay a fine of $50,000.
   (II) Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years, and shall be ordered to pay a fine of $100,000.
   (III) Is 28 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years, and shall be ordered to pay a fine of $500,000.

5. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more of any morphine, opium, oxycodone, hydrocodone, codeine, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by
life imprisonment and is ineligible for any form of
discretionary early release except pardon or executive clemency
or conditional medical release under s. 945.0911 s. 947.149.
However, if the court determines that, in addition to committing
any act specified in this paragraph:

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

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

such person commits the capital felony of trafficking in illegal
drugs, punishable as provided in ss. 775.082 and 921.142. A
person sentenced for a capital felony under this paragraph shall
also be sentenced to pay the maximum fine provided under
subparagraph 1.

6. A person who knowingly brings into this state 60
kilograms or more of any morphine, opium, oxycodone,
hydrocodone, codeine, hydromorphone, or any salt, derivative,
isomer, or salt of an isomer thereof, including heroin, as
described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
60 kilograms or more of any mixture containing any such
substance, and who knows that the probable result of such
importation would be the death of a person, commits capital
importation of illegal drugs, a capital felony punishable as
provided in ss. 775.082 and 921.142. A person sentenced for a
capital felony under this paragraph shall also be sentenced to
pay the maximum fine provided under subparagraph 1.
(g)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits a felony of the first degree, which felony shall be known as “trafficking in flunitrazepam,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

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

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

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state or who is knowingly in actual or constructive possession of 30 kilograms or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits the first degree felony of trafficking in flunitrazepam. A person who has been convicted of the first degree felony of trafficking in flunitrazepam under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release.
under s. 945.0911 s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

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

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

   (3) Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum term of imprisonment prescribed by this section. A person sentenced to a mandatory minimum term of imprisonment under this section is not eligible for any form of discretionary early release, except pardon or executive clemency or conditional medical release under s. 945.0911 s. 947.149, prior to serving the mandatory minimum term of imprisonment.

Section 10. Subsection (2) of section 921.0024, Florida Statutes, is amended to read:

   921.0024 Criminal Punishment Code; worksheet computations;

Page 24 of 32
CODING: Words stricken are deletions; words underlined are additions.
The lowest permissible sentence is the minimum sentence that may be imposed by the trial court, absent a valid reason for departure. The lowest permissible sentence is any nonstate prison sanction in which the total sentence points equals or is less than 44 points, unless the court determines within its discretion that a prison sentence, which may be up to the statutory maximums for the offenses committed, is appropriate. When the total sentence points exceed 44 points, the lowest permissible sentence in prison months shall be calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent. The total sentence points shall be calculated only as a means of determining the lowest permissible sentence. The permissible range for sentencing shall be the lowest permissible sentence up to and including the statutory maximum, as defined in s. 775.082, for the primary offense and any additional offenses before the court for sentencing. The sentencing court may impose such sentences concurrently or consecutively. However, any sentence to state prison must exceed 1 year. If the lowest permissible sentence under the code exceeds the statutory maximum sentence as provided in s. 775.082, the sentence required by the code must be imposed. If the total sentence points are greater than or equal to 363, the court may sentence the offender to life imprisonment. An offender sentenced to life imprisonment under this section is not eligible for any form of discretionary early release, except executive clemency or conditional medical release under s. 945.0911 or s. 947.149.
944.605, Florida Statutes, is amended to read:

944.605 Inmate release; notification; identification card.—

(7)

(b) Paragraph (a) does not apply to inmates who:

1. The department determines have a valid driver license or state identification card, except that the department shall provide these inmates with a replacement state identification card or replacement driver license, if necessary.

2. Have an active detainer, unless the department determines that cancellation of the detainer is likely or that the incarceration for which the detainer was issued will be less than 12 months in duration.

3. Are released due to an emergency release or a conditional medical release under s. 945.0911 s. 947.149.

4. Are not in the physical custody of the department at or within 180 days before release.

5. Are subject to sex offender residency restrictions, and who, upon release under such restrictions, do not have a qualifying address.

Section 12. Subsection (1) of section 944.70, Florida Statutes, is amended to read:

944.70 Conditions for release from incarceration.—

(1)(a) A person who is convicted of a crime committed on or after October 1, 1983, but before January 1, 1994, may be released from incarceration only:

1. Upon expiration of the person’s sentence;

2. Upon expiration of the person’s sentence as reduced by accumulated gain-time;

3. As directed by an executive order granting clemency;
4. Upon attaining the provisional release date;
5. Upon placement in a conditional release program pursuant to s. 947.1405; or
6. Upon the granting of control release pursuant to s. 947.146.

(b) A person who is convicted of a crime committed on or after January 1, 1994, may be released from incarceration only:
1. Upon expiration of the person’s sentence;
2. Upon expiration of the person’s sentence as reduced by accumulated meritorious or incentive gain-time;
3. As directed by an executive order granting clemency;
4. Upon placement in a conditional release program pursuant to s. 947.1405 or a conditional medical release program pursuant to s. 945.0911 or s. 947.149; or
5. Upon the granting of control release, including emergency control release, pursuant to s. 947.146.

Section 13. Paragraph (h) of subsection (1) of section 947.13, Florida Statutes, is amended to read:

947.13 Powers and duties of commission.—
(1) The commission shall have the powers and perform the duties of:
   (h) Determining what persons will be released on conditional medical release under s. 947.149, establishing the conditions of conditional medical release, and determining whether a person has violated the conditions of conditional medical release and taking action with respect to such a violation.

Section 14. Section 947.141, Florida Statutes, is amended to read:
947.141 Violations of conditional release, control release, or conditional medical release or addiction-recovery supervision.—

(1) If a member of the commission or a duly authorized representative of the commission has reasonable grounds to believe that an offender who is on release supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated the terms and conditions of the release in a material respect, such member or representative may cause a warrant to be issued for the arrest of the releasee; if the offender was found to be a sexual predator, the warrant must be issued.

(2) Upon the arrest on a felony charge of an offender who is on release supervision under s. 947.1405, s. 947.146, s. 947.149, or s. 944.4731, the offender must be detained without bond until the initial appearance of the offender at which a judicial determination of probable cause is made. If the trial court judge determines that there was no probable cause for the arrest, the offender may be released. If the trial court judge determines that there was probable cause for the arrest, such determination also constitutes reasonable grounds to believe that the offender violated the conditions of the release. Within 24 hours after the trial court judge’s finding of probable cause, the detention facility administrator or designee shall notify the commission and the department of the finding and transmit to each a facsimile copy of the probable cause affidavit or the sworn offense report upon which the trial court judge’s probable cause determination is based. The offender must continue to be detained without bond for a period not exceeding 72 hours excluding weekends and holidays after the date of the arrest.
probable cause determination, pending a decision by the
commission whether to issue a warrant charging the offender with
violation of the conditions of release. Upon the issuance of the
commission’s warrant, the offender must continue to be held in
custody pending a revocation hearing held in accordance with
this section.

(3) Within 45 days after notice to the Florida Commission
on Offender Review of the arrest of a releasee charged with a
violation of the terms and conditions of conditional release,
control release, conditional medical release, or addiction-
recovery supervision, the releasee must be afforded a hearing
conducted by a commissioner or a duly authorized representative
thereof. If the releasee elects to proceed with a hearing, the
releasee must be informed orally and in writing of the
following:

(a) The alleged violation with which the releasee is
charged.

(b) The releasee’s right to be represented by counsel.

(c) The releasee’s right to be heard in person.

(d) The releasee’s right to secure, present, and compel the
attendance of witnesses relevant to the proceeding.

(e) The releasee’s right to produce documents on the
releasee’s own behalf.

(f) The releasee’s right of access to all evidence used
against the releasee and to confront and cross-examine adverse
witnesses.

(g) The releasee’s right to waive the hearing.

(4) Within a reasonable time following the hearing, the
commissioner or the commissioner’s duly authorized
representative who conducted the hearing shall make findings of
fact in regard to the alleged violation. A panel of no fewer
than two commissioners shall enter an order determining whether
the charge of violation of conditional release, control release,
conditional medical release, or addiction-recovery supervision
has been sustained based upon the findings of fact presented by
the hearing commissioner or authorized representative. By such
order, the panel may revoke conditional release, control
release, conditional medical release, or addiction-recovery
supervision and thereby return the releasee to prison to serve
the sentence imposed, reinstate the original order granting the
release, or enter such other order as it considers proper.

Effective for inmates whose offenses were committed on or after
July 1, 1995, the panel may order the placement of a releasee,
upon a finding of violation pursuant to this subsection, into a
local detention facility as a condition of supervision.

(5) Effective for inmates whose offenses were committed on
or after July 1, 1995, notwithstanding the provisions of ss.
775.08, former 921.001, 921.002, 921.187, 921.188, 944.02, and
951.23, or any other law to the contrary, by such order as
provided in subsection (4), the panel, upon a finding of guilt,
may, as a condition of continued supervision, place the releasee
in a local detention facility for a period of incarceration not
to exceed 22 months. Prior to the expiration of the term of
incarceration, or upon recommendation of the chief correctional
officer of that county, the commission shall cause inquiry into
the inmate’s release plan and custody status in the detention
facility and consider whether to restore the inmate to
supervision, modify the conditions of supervision, or enter an

CODING: Words struck out are deletions; words underlined are additions.
order of revocation, thereby causing the return of the inmate to prison to serve the sentence imposed. The provisions of this section do not prohibit the panel from entering such other order or conducting any investigation that it deems proper. The commission may only place a person in a local detention facility pursuant to this section if there is a contractual agreement between the chief correctional officer of that county and the Department of Corrections. The agreement must provide for a per diem reimbursement for each person placed under this section, which is payable by the Department of Corrections for the duration of the offender’s placement in the facility. This section does not limit the commission’s ability to place a person in a local detention facility for less than 1 year.

(6) Whenever a conditional release, control release, conditional medical release, or addiction-recovery supervision is revoked by a panel of no fewer than two commissioners and the releasee is ordered to be returned to prison, the releasee, by reason of the misconduct, shall be deemed to have forfeited all gain-time or commutation of time for good conduct, as provided for by law, earned up to the date of release. However, if a conditional medical release is revoked due to the improved medical or physical condition of the releasee, the releasee shall not forfeit gain-time accrued before the date of conditional medical release. This subsection does not deprive the prisoner of the right to gain-time or commutation of time for good conduct, as provided by law, from the date of return to prison.

(7) If a law enforcement officer has probable cause to believe that an offender who is on release supervision under s.
900 947.1405, s. 947.146, s. 947.149, or s. 944.4731 has violated
901 the terms and conditions of his or her release by committing a
902 felony offense, the officer shall arrest the offender without a
903 warrant, and a warrant need not be issued in the case.
904
    Section 15. This act shall take effect October 1, 2020.
I. **Summary:**

SB 560 revises the name and primary purpose of the Criminal Punishment Code, Florida’s primary sentencing policy for noncapital felonies. Under current law, the primary purpose of the Criminal Punishment Code is to punish the offender. The bill renames the Criminal Punishment Code as the Public Safety Code and provides that the primary purpose of the Public Safety Code is public safety.

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

The effective date of the bill is July 1, 2020.

II. **Present Situation:**

In 1997, the Legislature enacted the Criminal Punishment Code\(^1\) (Code) as Florida’s “primary sentencing policy.”\(^2\) The primary purpose of the Code is to “punish the offender.”\(^3\) Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).\(^4\) Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses.\(^5\) Sentence points escalate as the level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain drug trafficking offenses. The lowest permissible sentence is any nonstate prison sanction

---

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

\(^2\) See chs. 97-194 and 98-204, L.O.F.

\(^3\) Section 921.002(1)(b), F.S.

\(^4\) Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

\(^5\) Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.
in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.

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

III. Effect of Proposed Changes:

The bill amends s. 921.002, F.S., to revise the name and primary purpose of the Criminal Punishment Code, Florida’s primary sentencing policy for noncapital felonies. Under current law, the primary purpose of the Criminal Punishment Code is to punish the offender. The bill renames the Criminal Punishment Code as the Public Safety Code and provides that the primary purpose of the Public Safety Code is public safety.

Conforming changes are made to numerous other statutes consistent with these described changes.

The effective date of the bill is July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

---

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

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

8 Fla. R. Crim. P. 3.704(d)(26).

9 See e.g., s. 775.082(10), F.S. (diversion for an offender whose offense is a nonviolent third degree felony and whose total sentence points are 22 points or fewer); s. 921.00241, F.S. (diversion into a Department of Corrections’ prison diversion program for certain nonviolent third degree felony offenders); and s. 948.01, F.S. (diversion into a postadjudicatory treatment-based drug court program for certain nonviolent felony offenders).
C. Trust Funds Restrictions:
None.

D. State Tax or Fee Increases:
None.

E. Other Constitutional Issues:
None identified.

V. Fiscal Impact Statement:
A. Tax/Fee Issues:
None.

B. Private Sector Impact:
None.

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

VI. Technical Deficiencies:
None.

VII. Related Issues:
None.

VIII. Statutes Affected:
This bill substantially amends the following sections of the Florida Statutes: 775.082, 775.087, 782.051, 817.568, 893.13, 893.20, 910.035, 921.002, 921.0022, 921.0023, 921.0024, 921.0025, 921.0026, 921.0027, 924.06, 924.07, 944.17, 946.01, 948.015, 948.01, 948.016, 948.20, 948.51, 958.04, and 985.465.

IX. Additional Information:
A. Committee Substitute – Statement of Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.
B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
A bill to be entitled
An act relating to sentencing; amending s. 921.002, F.S.; renaming the Criminal Punishment Code as the Public Safety Code; revising the primary purpose of sentencing under the Public Safety Code from punishing an offender to public safety; conforming provisions to changes made by the act; amending ss. 775.082, 775.087, 782.051, 817.568, 893.13, 893.20, 910.035, 921.0022, 921.0023, 921.0024, 921.0025, 921.0026, 921.0027, 924.06, 924.07, 944.17, 948.01, 948.015, 948.06, 948.20, 948.51, 958.04, and 985.465, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 921.002, Florida Statutes, is amended to read:


(1) The provision of criminal penalties and of limitations upon the application of such penalties is a matter of predominantly substantive law and, as such, is a matter properly addressed by the Legislature. The Legislature, in the exercise of its authority and responsibility to establish sentencing criteria, to provide for the imposition of criminal penalties, and to make the best use of state prisons so that violent
criminal offenders are appropriately incarcerated, has
determined that it is in the best interest of the state to
develop, implement, and revise a sentencing policy. The Public
Safety Criminal Punishment Code embodies the principles that:

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

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

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

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

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

(f) Departures below the lowest permissible sentence
established by the code must be articulated in writing by the
trial court judge and made only when circumstances or factors
reasonably justify the mitigation of the sentence. The level of
proof necessary to establish facts that support a departure from
the lowest permissible sentence is a preponderance of the
(g) The trial court judge may impose a sentence up to and including the statutory maximum for any offense, including an offense that is before the court due to a violation of probation or community control.

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

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

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

(3) A court may impose a departure below the lowest permissible sentence based upon circumstances or factors that reasonably justify the mitigation of the sentence in accordance with s. 921.0026. The level of proof necessary to establish facts supporting the mitigation of a sentence is a preponderance of the evidence. When multiple reasons exist to support the mitigation, the mitigation shall be upheld when at least one circumstance or factor justifies the mitigation regardless of the presence of other circumstances or factors found not to
justify mitigation. Any sentence imposed below the lowest permissible sentence must be explained in writing by the trial court judge.

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

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

(c) In order to produce projects that are either required by law or requested by the Legislature to assist the Legislature in making modifications to the Public Safety Criminal Punishment Code, the Department of Corrections is authorized to collect and evaluate Public Safety Criminal Punishment Code scoresheets from each of the judicial circuits after sentencing. Beginning in 1999, by October 1 of each year, the Department of Corrections shall provide an annual report to the Legislature that shows the rate of compliance of each judicial circuit in providing
scoresheets to the department.

Section 2. Paragraphs (d) and (e) of subsection (8) of section 775.082, Florida Statutes, are amended to read:

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

(8)

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

(e) Felonies, except capital felonies, with continuing dates of enterprise shall be sentenced under the sentencing guidelines or the Public Safety Criminal Punishment Code in effect on the beginning date of the criminal activity.

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

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

(2)

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

(3) If the minimum mandatory terms of imprisonment imposed pursuant to this section exceed the maximum sentences authorized by s. 775.082, s. 775.084, or the Public Safety Criminal Punishment Code under chapter 921, then the mandatory minimum sentence must be imposed. If the mandatory minimum terms of imprisonment pursuant to this section are less than the sentences that could be imposed as authorized by s. 775.082, s. 775.084, or the Public Safety Criminal Punishment Code under chapter 921, then the sentence imposed by the court must include the mandatory minimum term of imprisonment as required in this section.

Section 4. Section 782.051, Florida Statutes, is amended to read:

782.051 Attempted felony murder.—
(1) Any person who perpetrates or attempts to perpetrate any felony enumerated in s. 782.04(3) and who commits, aids, or abets an intentional act that is not an essential element of the felony and that could, but does not, cause the death of another commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life, or as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level 9 of the Public Safety Criminal Punishment Code. Victim injury points shall be scored under this subsection.
(2) Any person who perpetrates or attempts to perpetrate any felony other than a felony enumerated in s. 782.04(3) and who commits, aids, or abets an intentional act that is not an essential element of the felony and that could, but does not, cause the death of another commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level 8 of the Public Safety Criminal Punishment Code. Victim injury points shall be scored under this subsection.

(3) When a person is injured during the perpetration of or the attempt to perpetrate any felony enumerated in s. 782.04(3) by a person other than the person engaged in the perpetration of or the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level 7 of the Public Safety Criminal Punishment Code. Victim injury points shall be scored under this subsection.

Section 5. Subsection (3) of section 817.568, Florida Statutes, is amended to read:

817.568 Criminal use of personal identification information.—

(3) Neither paragraph (2)(b) nor paragraph (2)(c) prevents a court from imposing a greater sentence of incarceration as authorized by law. If the minimum mandatory terms of imprisonment imposed under paragraph (2)(b) or paragraph (2)(c) exceed the maximum sentences authorized under s. 775.082, s. 775.084, or the Public Safety Criminal Punishment Code under chapter 921, the mandatory minimum sentence must be imposed. If
the mandatory minimum terms of imprisonment under paragraph (2)(b) or paragraph (2)(c) are less than the sentence that could be imposed under s. 775.082, s. 775.084, or the Public Safety Criminal Punishment Code under chapter 921, the sentence imposed by the court must include the mandatory minimum term of imprisonment as required by paragraph (2)(b) or paragraph (2)(c).

Section 6. Paragraph (d) of subsection (8) of section 893.13, Florida Statutes, is amended to read:

893.13 Prohibited acts; penalties.—

(8)

(d) Notwithstanding paragraph (c), if a prescribing practitioner has violated paragraph (a) and received $1,000 or more in payment for writing one or more prescriptions or, in the case of a prescription written for a controlled substance described in s. 893.135, has written one or more prescriptions for a quantity of a controlled substance which, individually or in the aggregate, meets the threshold for the offense of trafficking in a controlled substance under s. 893.135, the violation is reclassified as a felony of the second degree and ranked in level 4 of the Public Safety Criminal Punishment Code.

Section 7. Subsection (2) of section 893.20, Florida Statutes, is amended to read:

893.20 Continuing criminal enterprise.—

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

Section 8. Paragraph (f) of subsection (5) of section 893.857, Florida Statutes, is amended to read:

893.857 Controlled substance punishment.—

(f) A person who violates the provisions of subsection (c) shall be guilty of a violation of a third degree felony, punishable pursuant to the Public Safety Criminal Punishment Code and by a fine of $500,000.
910.035, Florida Statutes, is amended to read:

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

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

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

Section 9. Section 921.0022, Florida Statutes, is amended to read:

921.0022 Public Safety Criminal Punishment Code; offense severity ranking chart.—

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

(2) The offense severity ranking chart has 10 offense levels, ranked from least severe, which are level 1 offenses, to most severe, which are level 10 offenses, and each felony offense is assigned to a level according to the severity of the offense. For purposes of determining which felony offenses are specifically listed in the offense severity ranking chart and which severity level has been assigned to each of these offenses, the numerical statutory references in the left column of the chart and the felony degree designations in the middle column of the chart are controlling; the language in the right
Reclassification of the degree of the felony through the application of s. 775.0845, s. 775.085, s. 775.0861, s. 775.0862, s. 775.0863, s. 775.087, s. 775.0875, s. 794.023, or any other law that provides an enhanced penalty for a felony offense, to any offense listed in the offense severity ranking chart in this section shall not cause the offense to become unlisted and is not subject to the provisions of s. 921.0023.

(3) OFFENSE SEVERITY RANKING CHART

<table>
<thead>
<tr>
<th>Florida Statute</th>
<th>Felony Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>24.118(3)(a)</td>
<td>3rd</td>
<td>Counterfeit or altered state lottery ticket.</td>
</tr>
<tr>
<td>212.054(2)(b)</td>
<td>3rd</td>
<td>Discretionary sales surtax; limitations, administration, and collection.</td>
</tr>
<tr>
<td>212.15(2)(b)</td>
<td>3rd</td>
<td>Failure to remit sales taxes, amount $1,000 or more but less than $20,000.</td>
</tr>
<tr>
<td>316.1935(1)</td>
<td>3rd</td>
<td>Fleeing or attempting to elude law enforcement officer.</td>
</tr>
<tr>
<td>24-00766-20</td>
<td>2020560__</td>
<td></td>
</tr>
<tr>
<td>-------------</td>
<td>-----------</td>
<td></td>
</tr>
<tr>
<td>319.30(5)</td>
<td>3rd</td>
<td></td>
</tr>
<tr>
<td>Sell, exchange, give away certificate of title or identification number plate.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>319.35(1)(a)</td>
<td>3rd</td>
<td></td>
</tr>
<tr>
<td>Tamper, adjust, change, etc., an odometer.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>320.26(1)(a)</td>
<td>3rd</td>
<td></td>
</tr>
<tr>
<td>Counterfeit, manufacture, or sell registration license plates or validation stickers.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>322.212</td>
<td>3rd</td>
<td></td>
</tr>
<tr>
<td>Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>(1)(a)-(c)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>322.212(4)</td>
<td>3rd</td>
<td></td>
</tr>
<tr>
<td>Supply or aid in supplying unauthorized driver license or identification card.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>322.212(5)(a)</td>
<td>3rd</td>
<td></td>
</tr>
<tr>
<td>False application for driver license or identification card.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>414.39(3)(a)</td>
<td>3rd</td>
<td></td>
</tr>
<tr>
<td>Fraudulent misappropriation of public assistance funds by employee/official, value</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Statute Reference</td>
<td>Degree</td>
<td>Description</td>
</tr>
<tr>
<td>-------------------</td>
<td>--------</td>
<td>-------------</td>
</tr>
<tr>
<td>443.071(1)</td>
<td>3rd</td>
<td>False statement or representation to obtain or increase reemployment assistance benefits.</td>
</tr>
<tr>
<td>509.151(1)</td>
<td>3rd</td>
<td>Defraud an innkeeper, food or lodging value $1,000 or more.</td>
</tr>
<tr>
<td>517.302(1)</td>
<td>3rd</td>
<td>Violation of the Florida Securities and Investor Protection Act.</td>
</tr>
<tr>
<td>713.69</td>
<td>3rd</td>
<td>Tenant removes property upon which lien has accrued, value $1,000 or more.</td>
</tr>
<tr>
<td>812.014(3)(c)</td>
<td>3rd</td>
<td>Petit theft (3rd conviction); theft of any property not specified in subsection (2).</td>
</tr>
<tr>
<td>812.081(2)</td>
<td>3rd</td>
<td>Unlawfully makes or causes to be made a reproduction of a trade secret.</td>
</tr>
</tbody>
</table>
| 815.04(5)(a)      | 3rd    | Offense against intellectual
property (i.e., computer programs, data).

817.52(2)  3rd  Hiring with intent to defraud, motor vehicle services.

817.569(2)  3rd  Use of public record or public records information or providing false information to facilitate commission of a felony.

826.01  3rd  Bigamy.

828.122(3)  3rd  Fighting or baiting animals.

831.04(1)  3rd  Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.

831.31(1)(a)  3rd  Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.

832.041(1)  3rd  Stopping payment with intent to defraud $150 or more.

CODING: Words struck out are deletions; words underlined are additions.
<table>
<thead>
<tr>
<th>Section</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>832.05(2)(b) &amp; (4)(c)</td>
<td>3rd</td>
<td>Knowing, making, issuing worthless checks $150 or more or obtaining property in return for worthless check $150 or more.</td>
</tr>
<tr>
<td>838.15(2)</td>
<td>3rd</td>
<td>Commercial bribe receiving.</td>
</tr>
<tr>
<td>838.16</td>
<td>3rd</td>
<td>Commercial bribery.</td>
</tr>
<tr>
<td>843.18</td>
<td>3rd</td>
<td>Fleeing by boat to elude a law enforcement officer.</td>
</tr>
<tr>
<td>847.011(1)(a)</td>
<td>3rd</td>
<td>Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).</td>
</tr>
<tr>
<td>849.09(1)(a)-(d)</td>
<td>3rd</td>
<td>Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.</td>
</tr>
<tr>
<td>849.23</td>
<td>3rd</td>
<td>Gambling-related machines; “common offender” as to property rights.</td>
</tr>
<tr>
<td>Statute</td>
<td>Degree</td>
<td>Description</td>
</tr>
<tr>
<td>---------------</td>
<td>--------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>849.25(2)</td>
<td>3rd</td>
<td>Engaging in bookmaking.</td>
</tr>
<tr>
<td>860.08</td>
<td>3rd</td>
<td>Interfere with a railroad signal.</td>
</tr>
<tr>
<td>860.13(1)(a)</td>
<td>3rd</td>
<td>Operate aircraft while under the influence.</td>
</tr>
<tr>
<td>893.13(2)(a)2.</td>
<td>3rd</td>
<td>Purchase of cannabis.</td>
</tr>
<tr>
<td>893.13(6)(a)</td>
<td>3rd</td>
<td>Possession of cannabis (more than 20 grams).</td>
</tr>
<tr>
<td>934.03(1)(a)</td>
<td>3rd</td>
<td>Intercepts, or procures any other person to intercept, any wire or oral</td>
</tr>
<tr>
<td></td>
<td></td>
<td>communication.</td>
</tr>
</tbody>
</table>

(b) LEVEL 2

<table>
<thead>
<tr>
<th>Statute</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>379.2431(1)(e)3.</td>
<td>3rd</td>
<td>Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.</td>
</tr>
<tr>
<td>Section</td>
<td>Codename</td>
<td>Violation</td>
</tr>
<tr>
<td>---------</td>
<td>----------</td>
<td>-----------</td>
</tr>
<tr>
<td>379.2431</td>
<td>1(e)4</td>
<td>Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.</td>
</tr>
<tr>
<td>403.413(6)(c)</td>
<td></td>
<td>Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.</td>
</tr>
<tr>
<td>517.07(2)</td>
<td></td>
<td>Failure to furnish a prospectus meeting requirements.</td>
</tr>
<tr>
<td>590.28(1)</td>
<td></td>
<td>Intentional burning of lands.</td>
</tr>
<tr>
<td>784.05(3)</td>
<td></td>
<td>Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.</td>
</tr>
<tr>
<td>787.04(1)</td>
<td></td>
<td>In violation of court order, take, entice, etc., minor beyond state</td>
</tr>
<tr>
<td>24-00766-20</td>
<td>2020560__</td>
<td></td>
</tr>
<tr>
<td>-------------</td>
<td>-----------</td>
<td></td>
</tr>
<tr>
<td>321</td>
<td>806.13(1)(b)3.</td>
<td>3rd</td>
</tr>
<tr>
<td>322</td>
<td>810.061(2)</td>
<td>3rd</td>
</tr>
<tr>
<td>323</td>
<td>810.09(2)(e)</td>
<td>3rd</td>
</tr>
<tr>
<td>324</td>
<td>812.014(2)(c)1.</td>
<td>3rd</td>
</tr>
<tr>
<td>325</td>
<td>812.014(2)(d)</td>
<td>3rd</td>
</tr>
<tr>
<td>326</td>
<td>812.015(7)</td>
<td>3rd</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>817.234(1)(a)2.</td>
<td>False statement in support of insurance claim.</td>
<td></td>
</tr>
<tr>
<td>817.481(3)(a)</td>
<td>Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.</td>
<td></td>
</tr>
<tr>
<td>817.52(3)</td>
<td>Failure to redeliver hired vehicle.</td>
<td></td>
</tr>
<tr>
<td>817.54</td>
<td>With intent to defraud, obtain mortgage note, etc., by false representation.</td>
<td></td>
</tr>
<tr>
<td>817.60(5)</td>
<td>Dealing in credit cards of another.</td>
<td></td>
</tr>
<tr>
<td>817.60(6)(a)</td>
<td>Forgery; purchase goods, services with false card.</td>
<td></td>
</tr>
<tr>
<td>Section</td>
<td>Type</td>
<td>Description</td>
</tr>
<tr>
<td>-------------</td>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>817.61</td>
<td>3rd</td>
<td>Fraudulent use of credit cards over $100 or more within 6 months.</td>
</tr>
<tr>
<td>826.04</td>
<td>3rd</td>
<td>Knowingly marries or has sexual intercourse with person to whom related.</td>
</tr>
<tr>
<td>831.01</td>
<td>3rd</td>
<td>Forgery.</td>
</tr>
<tr>
<td>831.02</td>
<td>3rd</td>
<td>Uttering forged instrument; utters or publishes alteration with intent to defraud.</td>
</tr>
<tr>
<td>831.07</td>
<td>3rd</td>
<td>Forging bank bills, checks, drafts, or promissory notes.</td>
</tr>
<tr>
<td>831.08</td>
<td>3rd</td>
<td>Possessing 10 or more forged notes, bills, checks, or drafts.</td>
</tr>
<tr>
<td>831.09</td>
<td>3rd</td>
<td>Uttering forged notes, bills, checks, drafts, or promissory notes.</td>
</tr>
<tr>
<td>831.11</td>
<td>3rd</td>
<td>Bringing into the state forged bank bills,</td>
</tr>
<tr>
<td>Florida Statute</td>
<td>Felony</td>
<td>Degree</td>
</tr>
<tr>
<td>----------------</td>
<td>--------</td>
<td>--------</td>
</tr>
<tr>
<td>832.05(3)(a)</td>
<td>3rd</td>
<td>Cashing or depositing item with intent to defraud.</td>
</tr>
<tr>
<td>843.08</td>
<td>3rd</td>
<td>False personation.</td>
</tr>
<tr>
<td>893.13(2)(a)2.</td>
<td>3rd</td>
<td>Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs other than cannabis.</td>
</tr>
<tr>
<td>893.147(2)</td>
<td>3rd</td>
<td>Manufacture or delivery of drug paraphernalia.</td>
</tr>
<tr>
<td>119.10(2)(b)</td>
<td>3rd</td>
<td>Unlawful use of confidential information from police reports.</td>
</tr>
<tr>
<td>Section</td>
<td>Grade</td>
<td>Description</td>
</tr>
<tr>
<td>-----------------</td>
<td>-------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>316.066</td>
<td>3rd</td>
<td>Unlawfully obtaining or using confidential crash reports.</td>
</tr>
<tr>
<td>(3)(b)-(d)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>316.193(2)(b)</td>
<td>3rd</td>
<td>Felony DUI, 3rd conviction.</td>
</tr>
<tr>
<td>316.1935(2)</td>
<td>3rd</td>
<td>Fleeing or attempting to elude law enforcement officer in patrol vehicle</td>
</tr>
<tr>
<td></td>
<td></td>
<td>with siren and lights activated.</td>
</tr>
<tr>
<td>319.30(4)</td>
<td>3rd</td>
<td>Possession by junkyard of motor vehicle with identification number plate</td>
</tr>
<tr>
<td></td>
<td></td>
<td>removed.</td>
</tr>
<tr>
<td>319.33(1)(a)</td>
<td>3rd</td>
<td>Alter or forge any certificate of title to a motor vehicle or mobile home.</td>
</tr>
<tr>
<td>319.33(1)(c)</td>
<td>3rd</td>
<td>Procure or pass title on stolen vehicle.</td>
</tr>
<tr>
<td>319.33(4)</td>
<td>3rd</td>
<td>With intent to defraud, possess, sell, etc., a blank, forged, or</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
unlawfully obtained title or registration.

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

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

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

376.302(5) 3rd Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.

379.2431(1)(e) 3rd Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine
<table>
<thead>
<tr>
<th>Section</th>
<th>3rd</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>379.2431 (1)(e)6.</td>
<td>Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.</td>
<td></td>
</tr>
<tr>
<td>379.2431 (1)(e)7.</td>
<td>Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.</td>
<td></td>
</tr>
<tr>
<td>400.9935(4)(a) or (b)</td>
<td>Operating a clinic, or offering services requiring licensure, without a license.</td>
<td></td>
</tr>
<tr>
<td>400.9935(4)(e)</td>
<td>Filing a false license application or other required information or failing to report information.</td>
<td></td>
</tr>
<tr>
<td>440.1051(3)</td>
<td>False report of workers’...</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>24-00766-20</td>
<td>compensation fraud or retaliation for making such a report.</td>
<td></td>
</tr>
<tr>
<td>366</td>
<td>501.001(2)(b)</td>
<td>2nd Tampers with a consumer product or the container using materially false/misleading information.</td>
</tr>
<tr>
<td>367</td>
<td>624.401(4)(a)</td>
<td>3rd Transacting insurance without a certificate of authority.</td>
</tr>
<tr>
<td>368</td>
<td>624.401(4)(b)1.</td>
<td>3rd Transacting insurance without a certificate of authority; premium collected less than $20,000.</td>
</tr>
<tr>
<td>369</td>
<td>626.902(1)(a) &amp; (b)</td>
<td>3rd Representing an unauthorized insurer.</td>
</tr>
<tr>
<td>370</td>
<td>697.08</td>
<td>3rd Equity skimming.</td>
</tr>
<tr>
<td>371</td>
<td>790.15(3)</td>
<td>3rd Person directs another to discharge firearm from a vehicle.</td>
</tr>
</tbody>
</table>

CODING: Words stricken are deletions; words underlined are additions.
<table>
<thead>
<tr>
<th>Code</th>
<th>Section</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>806.10(1)</td>
<td></td>
<td>3rd</td>
<td>Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.</td>
</tr>
<tr>
<td>806.10(2)</td>
<td></td>
<td>3rd</td>
<td>Interferes with or assaults firefighter in performance of duty.</td>
</tr>
<tr>
<td>810.09(2)(c)</td>
<td></td>
<td>3rd</td>
<td>Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.</td>
</tr>
<tr>
<td>812.014(2)(c)2.</td>
<td></td>
<td>3rd</td>
<td>Grand theft; $5,000 or more but less than $10,000.</td>
</tr>
<tr>
<td>812.0145(2)(c)</td>
<td></td>
<td>3rd</td>
<td>Theft from person 65 years of age or older; $300 or more but less than $10,000.</td>
</tr>
<tr>
<td>812.015(8)(b)</td>
<td></td>
<td>3rd</td>
<td>Retail theft with intent to sell; conspires with others.</td>
</tr>
<tr>
<td>815.04(5)(b)</td>
<td></td>
<td>2nd</td>
<td>Computer offense devised to defraud or obtain property.</td>
</tr>
</tbody>
</table>

CODING: Words stricken are deletions; words underlined are additions.
<table>
<thead>
<tr>
<th>Section</th>
<th>Rule</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>817.034(4)(a)3.</td>
<td>3rd</td>
<td>Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.</td>
</tr>
<tr>
<td>817.233</td>
<td>3rd</td>
<td>Burning to defraud insurer.</td>
</tr>
<tr>
<td>817.234</td>
<td>3rd</td>
<td>Unlawful solicitation of persons involved in motor vehicle accidents.</td>
</tr>
<tr>
<td>817.234(11)(a)</td>
<td>3rd</td>
<td>Insurance fraud; property value less than $20,000.</td>
</tr>
<tr>
<td>817.236</td>
<td>3rd</td>
<td>Filing a false motor vehicle insurance application.</td>
</tr>
<tr>
<td>817.2361</td>
<td>3rd</td>
<td>Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.</td>
</tr>
<tr>
<td>817.413(2)</td>
<td>3rd</td>
<td>Sale of used goods of $1,000 or more as new.</td>
</tr>
<tr>
<td>831.28(2)(a)</td>
<td>3rd</td>
<td>Counterfeiting a payment instrument with intent to</td>
</tr>
</tbody>
</table>
defraud or possessing a counterfeit payment instrument with intent to defraud.

831.29  2nd Possession of instruments for counterfeiting driver licenses or identification cards.

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

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

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

870.01(2)  3rd Riot; inciting or encouraging.

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

893.13(1)(d)2. 2nd Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.

893.13(1)(f)2. 2nd Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of public housing facility.

893.13(4)(c) 3rd Use or hire of minor; deliver to minor other controlled substances.

893.13(6)(a) 3rd Possession of any controlled substance other than felony possession of substances.
<table>
<thead>
<tr>
<th>Line</th>
<th>893.13(7)(a)</th>
<th>893.13(7)(a)9.</th>
<th>893.13(7)(a)10.</th>
<th>893.13(7)(a)11.</th>
</tr>
</thead>
<tbody>
<tr>
<td>397</td>
<td>Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>398</td>
<td>Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>399</td>
<td>Affix false or forged label to package of controlled substance.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>400</td>
<td>Furnish false or fraudulent material information on any document or record required by chapter 893.</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| 401  | Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or

CODING: Words stricken are deletions; words underlined are additions.
<table>
<thead>
<tr>
<th>Code</th>
<th>Section</th>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>893.13(8)(a)2.</td>
<td>3rd</td>
<td>Employ a trick or scheme in the practitioner’s practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.</td>
<td></td>
</tr>
<tr>
<td>893.13(8)(a)3.</td>
<td>3rd</td>
<td>Knowingly write a prescription for a controlled substance for a fictitious person.</td>
<td></td>
</tr>
<tr>
<td>893.13(8)(a)4.</td>
<td>3rd</td>
<td>Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.</td>
<td></td>
</tr>
<tr>
<td>918.13(1)(a)</td>
<td>3rd</td>
<td>Alter, destroy, or conceal investigation evidence.</td>
<td></td>
</tr>
<tr>
<td>944.47 (1)(a)1. &amp; 2.</td>
<td>3rd</td>
<td>Introduce contraband to correctional facility.</td>
<td></td>
</tr>
</tbody>
</table>

CODING: Words *stricken* are deletions; words *underlined* are additions.
<table>
<thead>
<tr>
<th>Florida Statute</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>944.47(1)(c)</td>
<td>2nd</td>
<td>Possess contraband while upon the grounds of a correctional institution.</td>
</tr>
<tr>
<td>985.721</td>
<td>3rd</td>
<td>Escapes from a juvenile facility (secure detention or residential commitment facility).</td>
</tr>
<tr>
<td>(d) LEVEL 4</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Florida Felony</td>
<td>Description</td>
<td></td>
</tr>
</tbody>
</table>

<p>| 316.1935(3)(a) | 2nd    | Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated. |
| 499.0051(1)    | 3rd    | Failure to maintain or deliver transaction history, transaction information, or transaction statements. |</p>
<table>
<thead>
<tr>
<th>Section</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>499.0051(5)</td>
<td>2nd</td>
<td>Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.</td>
</tr>
<tr>
<td>517.07(1)</td>
<td>3rd</td>
<td>Failure to register securities.</td>
</tr>
<tr>
<td>517.12(1)</td>
<td>3rd</td>
<td>Failure of dealer, associated person, or issuer of securities to register.</td>
</tr>
<tr>
<td>784.07(2)(b)</td>
<td>3rd</td>
<td>Battery of law enforcement officer, firefighter, etc.</td>
</tr>
<tr>
<td>784.074(1)(c)</td>
<td>3rd</td>
<td>Battery of sexually violent predators facility staff.</td>
</tr>
<tr>
<td>784.075</td>
<td>3rd</td>
<td>Battery on detention or commitment facility staff.</td>
</tr>
<tr>
<td>784.078</td>
<td>3rd</td>
<td>Battery of facility employee by throwing,</td>
</tr>
</tbody>
</table>
tossing, or expelling certain fluids or materials.

421
784.08(2)(c) 3rd Battery on a person 65 years of age or older.

422
784.081(3) 3rd Battery on specified official or employee.

423
784.082(3) 3rd Battery by detained person on visitor or other detainee.

424
784.083(3) 3rd Battery on code inspector.

425
784.085 3rd Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.

426
787.03(1) 3rd Interference with custody; wrongly takes minor from appointed guardian.

427
787.04(2) 3rd Take, entice, or remove
Carrying child beyond state limits with criminal intent pending custody proceedings.

787.04(3)  3rd  Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

787.07  3rd  Human smuggling.

790.115(1)  3rd  Exhibiting firearm or weapon within 1,000 feet of a school.

790.115(2)(b)  3rd  Possessing electric weapon or device, destructive device, or other weapon on school property.

790.115(2)(c)  3rd  Possessing firearm on school property.

800.04(7)(c)  3rd  Lewd or lascivious
exhibition; offender less than 18 years.

810.02(4)(a) 3rd Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.

810.02(4)(b) 3rd Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

810.06 3rd Burglary; possession of tools.

810.08(2)(c) 3rd Trespass on property, armed with firearm or dangerous weapon.

812.014(2)(c)3. 3rd Grand theft, 3rd degree $10,000 or more but less than $20,000.

812.014 (2)(c)4.-10. 3rd Grand theft, 3rd degree; specified items.
<table>
<thead>
<tr>
<th>24-00766-20</th>
<th>2020560__</th>
</tr>
</thead>
<tbody>
<tr>
<td>812.0195(2)</td>
<td>3rd</td>
</tr>
<tr>
<td>817.505(4)(a)</td>
<td>3rd</td>
</tr>
<tr>
<td>817.563(1)</td>
<td>3rd</td>
</tr>
<tr>
<td>817.568(2)(a)</td>
<td>3rd</td>
</tr>
<tr>
<td>817.625(2)(a)</td>
<td>3rd</td>
</tr>
<tr>
<td>817.625(2)(c)</td>
<td>3rd</td>
</tr>
<tr>
<td>828.125(1)</td>
<td>2nd</td>
</tr>
</tbody>
</table>
registered horse or cattle.

837.02(1) 3rd Perjury in official proceedings.

837.021(1) 3rd Make contradictory statements in official proceedings.

838.022 3rd Official misconduct.

839.13(2)(a) 3rd Falsifying records of an individual in the care and custody of a state agency.

839.13(2)(c) 3rd Falsifying records of the Department of Children and Families.

843.021 3rd Possession of a concealed handcuff key by a person in custody.

843.025 3rd Deprive law enforcement, correctional, or correctional probation officer of means of
<table>
<thead>
<tr>
<th>Section</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>843.15(1)(a)</td>
<td>3rd</td>
<td>Failure to appear while on bail for felony (bond estreature or bond jumping).</td>
</tr>
<tr>
<td>847.0135(5)(c)</td>
<td>3rd</td>
<td>Lewd or lascivious exhibition using computer; offender less than 18 years.</td>
</tr>
<tr>
<td>874.05(1)(a)</td>
<td>3rd</td>
<td>Encouraging or recruiting another to join a criminal gang.</td>
</tr>
<tr>
<td>893.13(2)(a)1.</td>
<td>2nd</td>
<td>Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).</td>
</tr>
<tr>
<td>914.14(2)</td>
<td>3rd</td>
<td>Witnesses accepting bribes.</td>
</tr>
<tr>
<td>914.22(1)</td>
<td>3rd</td>
<td>Force, threaten, etc., witness, victim, or informant.</td>
</tr>
<tr>
<td>24-00766-20</td>
<td>2020560__</td>
<td></td>
</tr>
<tr>
<td>-------------</td>
<td>-----------</td>
<td></td>
</tr>
<tr>
<td>914.23(2)</td>
<td>3rd</td>
<td>Retaliation against a witness, victim, or informant, no bodily injury.</td>
</tr>
<tr>
<td>918.12</td>
<td>3rd</td>
<td>Tampering with jurors.</td>
</tr>
<tr>
<td>934.215</td>
<td>3rd</td>
<td>Use of two-way communications device to facilitate commission of a crime.</td>
</tr>
<tr>
<td>944.47(1)(a)6.</td>
<td>3rd</td>
<td>Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.</td>
</tr>
<tr>
<td>951.22(1)(h), (j) &amp; (k)</td>
<td>3rd</td>
<td>Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.</td>
</tr>
<tr>
<td>Florida Statute</td>
<td>Felony Degree</td>
<td>Description</td>
</tr>
<tr>
<td>----------------</td>
<td>---------------</td>
<td>-------------</td>
</tr>
<tr>
<td>316.027(2)(a)</td>
<td>3rd</td>
<td>Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.</td>
</tr>
<tr>
<td>316.1935(4)(a)</td>
<td>2nd</td>
<td>Aggravated fleeing or eluding.</td>
</tr>
<tr>
<td>316.80(2)</td>
<td>2nd</td>
<td>Unlawful conveyance of fuel; obtaining fuel fraudulently.</td>
</tr>
<tr>
<td>322.34(6)</td>
<td>3rd</td>
<td>Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.</td>
</tr>
<tr>
<td>327.30(5)</td>
<td>3rd</td>
<td>Vessel accidents involving personal injury; leaving scene.</td>
</tr>
</tbody>
</table>
379.365(2)(c)1. 3rd Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.

379.367(4) 3rd Willful molestation of a commercial harvester’s...
spiny lobster trap, line, or buoy.

Possession of 100 or more undersized spiny lobsters.

Donate blood, plasma, or organs knowing HIV positive.

Failure to obtain workers’ compensation coverage.

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

Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers’ compensation premiums.

Transacting insurance
CODING: Words struck are deletions; words underlined are additions.

<table>
<thead>
<tr>
<th>Code</th>
<th>2nd</th>
<th>3rd</th>
</tr>
</thead>
<tbody>
<tr>
<td>626.902(1)(c)</td>
<td>Representing an unauthorized insurer; repeat offender.</td>
<td></td>
</tr>
<tr>
<td>790.01(2)</td>
<td>Carrying a concealed firearm.</td>
<td></td>
</tr>
<tr>
<td>790.162</td>
<td>Threat to throw or discharge destructive device.</td>
<td></td>
</tr>
<tr>
<td>790.163(1)</td>
<td>False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.</td>
<td></td>
</tr>
<tr>
<td>790.221(1)</td>
<td>Possession of short-barreled shotgun or machine gun.</td>
<td></td>
</tr>
<tr>
<td>790.23</td>
<td>Felons in possession of firearms, ammunition, or</td>
<td></td>
</tr>
</tbody>
</table>
electronic weapons or devices.

796.05(1)  2nd  Live on earnings of a prostitute; 1st offense.

800.04(6)(c)  3rd  Lewd or lascivious conduct; offender less than 18 years of age.

800.04(7)(b)  2nd  Lewd or lascivious exhibition; offender 18 years of age or older.

806.111(1)  3rd  Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

812.0145(2)(b)  2nd  Theft from person 65 years of age or older; $10,000 or more but less than $50,000.

812.015  3rd  Retail theft; property stolen is valued at $750 or more and one or more specified acts.
<table>
<thead>
<tr>
<th>Statute Reference</th>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>812.019(1)</td>
<td>2nd</td>
<td>Stolen property; dealing in or trafficking in.</td>
</tr>
<tr>
<td>812.131(2)(b)</td>
<td>3rd</td>
<td>Robbery by sudden snatching.</td>
</tr>
<tr>
<td>812.16(2)</td>
<td>3rd</td>
<td>Owning, operating, or conducting a chop shop.</td>
</tr>
<tr>
<td>817.034(4)(a)2.</td>
<td>2nd</td>
<td>Communications fraud, value $20,000 to $50,000.</td>
</tr>
<tr>
<td>817.234(11)(b)</td>
<td>2nd</td>
<td>Insurance fraud; property value $20,000 or more but less than $100,000.</td>
</tr>
<tr>
<td>817.2341(1), (2)(a) &amp; (3)(a)</td>
<td>3rd</td>
<td>Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.</td>
</tr>
<tr>
<td>817.568(2)(b)</td>
<td>2nd</td>
<td>Fraudulent use of personal identification</td>
</tr>
</tbody>
</table>
information; value of benefit, services received, payment avoided, or amount of injury or fraud, $5,000 or more or use of personal identification information of 10 or more persons.

817.611(2)(a)  2nd  Traffic in or possess 5 to 14 counterfeit credit cards or related documents.

817.625(2)(b)  2nd  Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.

825.1025(4)  3rd  Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

827.071(4)  2nd  Possess with intent to promote any photographic...
material, motion picture, etc., which includes sexual conduct by a child.

827.071(5) 3rd Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.

828.12(2) 3rd Tortures any animal with intent to inflict intense pain, serious physical injury, or death.

839.13(2)(b) 2nd Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

843.01 3rd Resist officer with violence to person; resist arrest with violence.
<table>
<thead>
<tr>
<th>Statute</th>
<th>Section</th>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>847.0135(5)(b)</td>
<td>2nd</td>
<td></td>
<td>Lewd or lascivious exhibition using computer; offender 18 years or older.</td>
</tr>
<tr>
<td>847.0137</td>
<td>3rd</td>
<td>(2) &amp; (3)</td>
<td>Transmission of pornography by electronic device or equipment.</td>
</tr>
<tr>
<td>847.0138</td>
<td>3rd</td>
<td>(2) &amp; (3)</td>
<td>Transmission of material harmful to minors to a minor by electronic device or equipment.</td>
</tr>
<tr>
<td>874.05(1)(b)</td>
<td>2nd</td>
<td></td>
<td>Encouraging or recruiting another to join a criminal gang; second or subsequent offense.</td>
</tr>
<tr>
<td>874.05(2)(a)</td>
<td>2nd</td>
<td></td>
<td>Encouraging or recruiting person under 13 years of age to join a criminal gang.</td>
</tr>
<tr>
<td>893.13(1)(a)1.</td>
<td>2nd</td>
<td></td>
<td>Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a),</td>
</tr>
</tbody>
</table>
(1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs).

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

893.13(1)(d)1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of university.

893.13(1)(e)2. 2nd Sell, manufacture, or
deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

893.13(1)(f)1.  1st  Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of public housing facility.

893.13(4)(b)  2nd  Use or hire of minor; deliver to minor other controlled substance.

893.1351(1)  3rd  Ownership, lease, or rental for trafficking in or manufacturing of
<table>
<thead>
<tr>
<th>Florida Statute</th>
<th>Felony Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>316.027(2)(b)</td>
<td>2nd</td>
<td>Leaving the scene of a crash involving serious bodily injury.</td>
</tr>
<tr>
<td>316.193(2)(b)</td>
<td>3rd</td>
<td>Felony DUI, 4th or subsequent conviction.</td>
</tr>
<tr>
<td>400.9935(4)(c)</td>
<td>2nd</td>
<td>Operating a clinic, or offering services requiring licensure, without a license.</td>
</tr>
<tr>
<td>499.0051(2)</td>
<td>2nd</td>
<td>Knowing forgery of transaction history, transaction information, or transaction statement.</td>
</tr>
<tr>
<td>499.0051(3)</td>
<td>2nd</td>
<td>Knowing purchase or receipt of prescription drug from unauthorized person.</td>
</tr>
<tr>
<td>Section</td>
<td>Degree</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>--------</td>
<td>-------------</td>
</tr>
<tr>
<td>499.0051(4)</td>
<td>2nd</td>
<td>Knowing sale or transfer of prescription drug to unauthorized person.</td>
</tr>
<tr>
<td>775.0875(1)</td>
<td>3rd</td>
<td>Taking firearm from law enforcement officer.</td>
</tr>
<tr>
<td>784.021(1)(a)</td>
<td>3rd</td>
<td>Aggravated assault; deadly weapon without intent to kill.</td>
</tr>
<tr>
<td>784.021(1)(b)</td>
<td>3rd</td>
<td>Aggravated assault; intent to commit felony.</td>
</tr>
<tr>
<td>784.041</td>
<td>3rd</td>
<td>Felony battery; domestic battery by strangulation.</td>
</tr>
<tr>
<td>784.048(3)</td>
<td>3rd</td>
<td>Aggravated stalking; credible threat.</td>
</tr>
<tr>
<td>784.048(5)</td>
<td>3rd</td>
<td>Aggravated stalking of person under 16.</td>
</tr>
<tr>
<td>784.07(2)(c)</td>
<td>2nd</td>
<td>Aggravated assault on law enforcement officer.</td>
</tr>
<tr>
<td>784.074(1)(b)</td>
<td>2nd</td>
<td>Aggravated assault on</td>
</tr>
<tr>
<td>Section</td>
<td>Nature</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>--------</td>
<td>-------------</td>
</tr>
<tr>
<td>784.08(2)(b)</td>
<td>2nd</td>
<td>Aggravated assault on a person 65 years of age or older.</td>
</tr>
<tr>
<td>784.081(2)</td>
<td>2nd</td>
<td>Aggravated assault on specified official or employee.</td>
</tr>
<tr>
<td>784.082(2)</td>
<td>2nd</td>
<td>Aggravated assault by detained person on visitor or other detainee.</td>
</tr>
<tr>
<td>784.083(2)</td>
<td>2nd</td>
<td>Aggravated assault on code inspector.</td>
</tr>
<tr>
<td>787.02(2)</td>
<td>3rd</td>
<td>False imprisonment; restraining with purpose other than those in s. 787.01.</td>
</tr>
<tr>
<td>790.115(2)(d)</td>
<td>2nd</td>
<td>Discharging firearm or weapon on school property.</td>
</tr>
</tbody>
</table>
790.161(2)  2nd  Make, possess, or throw destructive device with intent to do bodily harm or damage property.

790.164(1)  2nd  False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.

790.19  2nd  Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.

794.011(8)(a)  3rd  Solicitation of minor to participate in sexual activity by custodial adult.

794.05(1)  2nd  Unlawful sexual activity with specified minor.

800.04(5)(d)  3rd  Lewd or lascivious molestation; victim 12 years of age or older
but less than 16 years of age; offender less than 18 years.

800.04(6)(b) 2nd Lewd or lascivious conduct; offender 18 years of age or older.

806.031(2) 2nd Arson resulting in great bodily harm to firefighter or any other person.

810.02(3)(c) 2nd Burglary of occupied structure; unarmed; no assault or battery.

810.145(8)(b) 2nd Video voyeurism; certain minor victims; 2nd or subsequent offense.

812.014(2)(b)1. 2nd Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.

812.014(6) 2nd Theft; property stolen $3,000 or more; coordination of others.
812.015(9)(a)  2nd  Retail theft; property stolen $750 or more; second or subsequent conviction.

812.015(9)(b)  2nd  Retail theft; aggregated property stolen within 30 days is $3,000 or more; coordination of others.

812.13(2)(c)  2nd  Robbery, no firearm or other weapon (strong-arm robbery).

817.4821(5)  2nd  Possess cloning paraphernalia with intent to create cloned cellular telephones.

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

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

825.102(3)(c)  3rd  Neglect of an elderly person or disabled adult.
<table>
<thead>
<tr>
<th>Section</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>825.1025(3)</td>
<td>3rd</td>
<td>Lewd or lascivious molestation of an elderly person or disabled adult.</td>
</tr>
<tr>
<td>825.103(3)(c)</td>
<td>3rd</td>
<td>Exploiting an elderly person or disabled adult and property is valued at less than $10,000.</td>
</tr>
<tr>
<td>827.03(2)(c)</td>
<td>3rd</td>
<td>Abuse of a child.</td>
</tr>
<tr>
<td>827.03(2)(d)</td>
<td>3rd</td>
<td>Neglect of a child.</td>
</tr>
<tr>
<td>827.071(2) &amp; (3)</td>
<td>2nd</td>
<td>Use or induce a child in a sexual performance, or promote or direct such performance.</td>
</tr>
<tr>
<td>836.05</td>
<td>2nd</td>
<td>Threats; extortion.</td>
</tr>
<tr>
<td>836.10</td>
<td>2nd</td>
<td>Written threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.</td>
</tr>
<tr>
<td>Section</td>
<td>Code</td>
<td>Grade</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
<td>-------</td>
</tr>
<tr>
<td>843.12</td>
<td>3rd</td>
<td>Aids or assists person to escape.</td>
</tr>
<tr>
<td>847.011</td>
<td>3rd</td>
<td>Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.</td>
</tr>
<tr>
<td>847.012</td>
<td>3rd</td>
<td>Knowingly using a minor in the production of materials harmful to minors.</td>
</tr>
<tr>
<td>847.0135(2)</td>
<td>3rd</td>
<td>Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.</td>
</tr>
<tr>
<td>914.23</td>
<td>2nd</td>
<td>Retaliation against a witness, victim, or informant, with bodily injury.</td>
</tr>
<tr>
<td>944.35(3)(a)2.</td>
<td>3rd</td>
<td>Committing malicious battery upon or inflicting cruel or</td>
</tr>
</tbody>
</table>
inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.

944.40 2nd Escapes.

944.46 3rd Harboring, concealing, aiding escaped prisoners.

944.47(1)(a)5. 2nd Introduction of contraband (firearm, weapon, or explosive) into correctional facility.

951.22(1)(i) 3rd Firearm or weapon introduced into county detention facility.

(g) LEVEL 7

<table>
<thead>
<tr>
<th>Florida Statute</th>
<th>Felony Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>316.027(2)(c)</td>
<td>1st</td>
<td>Accident involving death, failure to stop; leaving</td>
</tr>
</tbody>
</table>
316.193(3)(c)2. 3rd DUI resulting in serious bodily injury.

316.1935(3)(b) 1st Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

327.35(3)(c)2. 3rd Vessel BUI resulting in serious bodily injury.

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

409.920 (2)(b)1.a. 3rd Medicaid provider fraud; $10,000 or less.
409.920
(2)(b)1.b. 2nd Medicaid provider fraud; more than $10,000, but less than $50,000.

456.065(2) 3rd Practicing a health care profession without a license.

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

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

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

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

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

462.17 3rd Practicing naturopathy
Practicing optometry without a license.

Practicing nursing without a license.

Practicing pharmacy without a license.

Practicing dentistry or dental hygiene without a license.

Practicing midwifery without a license.

Delivering respiratory care services without a license.

Practicing as clinical laboratory personnel without a license.

Practicing medical physics without a license.
<table>
<thead>
<tr>
<th>Reference</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>484.013(1)(c)</td>
<td>3rd</td>
<td>Preparing or dispensing optical devices without a prescription.</td>
</tr>
<tr>
<td>484.053</td>
<td>3rd</td>
<td>Dispensing hearing aids without a license.</td>
</tr>
<tr>
<td>494.0018(2)</td>
<td>1st</td>
<td>Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.</td>
</tr>
<tr>
<td>560.123(8)(b)1.</td>
<td>3rd</td>
<td>Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.</td>
</tr>
<tr>
<td>560.125(5)(a)</td>
<td>3rd</td>
<td>Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.</td>
</tr>
<tr>
<td>655.50(10)(b)1.</td>
<td>3rd</td>
<td>Failure to report financial transactions</td>
</tr>
<tr>
<td>Section</td>
<td>Level</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>-------</td>
<td>-------------</td>
</tr>
<tr>
<td>775.21(10)(a)</td>
<td>3rd</td>
<td>Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.</td>
</tr>
<tr>
<td>775.21(10)(b)</td>
<td>3rd</td>
<td>Sexual predator working where children regularly congregate.</td>
</tr>
<tr>
<td>775.21(10)(g)</td>
<td>3rd</td>
<td>Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.</td>
</tr>
<tr>
<td>782.051(3)</td>
<td>2nd</td>
<td>Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.</td>
</tr>
</tbody>
</table>
| 782.07(1) | 2nd | Killing of a human being by the act, procurement, or culpable negligence of
<table>
<thead>
<tr>
<th>Section</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>782.071</td>
<td>2nd</td>
<td>Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).</td>
</tr>
<tr>
<td>782.072</td>
<td>2nd</td>
<td>Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).</td>
</tr>
<tr>
<td>784.045(1)(a)1</td>
<td>2nd</td>
<td>Aggravated battery; intentionally causing great bodily harm or disfigurement.</td>
</tr>
<tr>
<td>784.045(1)(a)2</td>
<td>2nd</td>
<td>Aggravated battery; using deadly weapon.</td>
</tr>
<tr>
<td>784.045(1)(b)</td>
<td>2nd</td>
<td>Aggravated battery; perpetrator aware victim pregnant.</td>
</tr>
<tr>
<td>784.048(4)</td>
<td>3rd</td>
<td>Aggravated stalking; violation of injunction or court order.</td>
</tr>
<tr>
<td>Section</td>
<td>Degree</td>
<td>Description</td>
</tr>
<tr>
<td>--------------</td>
<td>--------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>784.048(7)</td>
<td>3rd</td>
<td>Aggravated stalking; violation of court order.</td>
</tr>
<tr>
<td>784.07(2)(d)</td>
<td>1st</td>
<td>Aggravated battery on law enforcement officer.</td>
</tr>
<tr>
<td>784.074(1)(a)</td>
<td>1st</td>
<td>Aggravated battery on sexually violent predators facility staff.</td>
</tr>
<tr>
<td>784.08(2)(a)</td>
<td>1st</td>
<td>Aggravated battery on a person 65 years of age or older.</td>
</tr>
<tr>
<td>784.081(1)</td>
<td>1st</td>
<td>Aggravated battery on specified official or employee.</td>
</tr>
<tr>
<td>784.082(1)</td>
<td>1st</td>
<td>Aggravated battery by detained person on visitor or other detainee.</td>
</tr>
<tr>
<td>784.083(1)</td>
<td>1st</td>
<td>Aggravated battery on code inspector.</td>
</tr>
<tr>
<td>787.06(3)(a)</td>
<td>1st</td>
<td>Human trafficking using coercion for labor and services of an adult.</td>
</tr>
</tbody>
</table>

**CODING:** Words **stricken** are deletions; words **underlined** are additions.
787.06(3)(e)2. 1st  Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.

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

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

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

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

790.166(3) 2nd  Possessing, selling, using, or attempting to
<table>
<thead>
<tr>
<th>Section</th>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>790.166(4)</td>
<td>2nd</td>
<td>Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.</td>
</tr>
<tr>
<td>790.23</td>
<td>1st,PBL</td>
<td>Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.</td>
</tr>
<tr>
<td>794.08(4)</td>
<td>3rd</td>
<td>Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.</td>
</tr>
<tr>
<td>796.05(1)</td>
<td>1st</td>
<td>Live on earnings of a prostitute; 2nd offense.</td>
</tr>
<tr>
<td>796.05(1)</td>
<td>1st</td>
<td>Live on earnings of a prostitute; 3rd and subsequent offense.</td>
</tr>
</tbody>
</table>
24-00766-20  

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
<th>Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>800.04(5)(c)1.</td>
<td>Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.</td>
<td>2nd</td>
</tr>
<tr>
<td>800.04(5)(c)2.</td>
<td>Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.</td>
<td>2nd</td>
</tr>
<tr>
<td>800.04(5)(e)</td>
<td>Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.</td>
<td>1st</td>
</tr>
<tr>
<td>806.01(2)</td>
<td>Maliciously damage structure by fire or explosive.</td>
<td>2nd</td>
</tr>
<tr>
<td>810.02(3)(a)</td>
<td>Burglary of occupied dwelling; unarmed; no assault or battery.</td>
<td>2nd</td>
</tr>
</tbody>
</table>

CODING: Words stricken are deletions; words underlined are additions.
<table>
<thead>
<tr>
<th>Section</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>810.02(3)(b)</td>
<td>2nd</td>
<td>Burglary of unoccupied dwelling; unarmed; no assault or battery.</td>
</tr>
<tr>
<td>810.02(3)(d)</td>
<td>2nd</td>
<td>Burglary of occupied conveyance; unarmed; no assault or battery.</td>
</tr>
<tr>
<td>810.02(3)(e)</td>
<td>2nd</td>
<td>Burglary of authorized emergency vehicle.</td>
</tr>
<tr>
<td>812.014(2)(a)1.</td>
<td>1st</td>
<td>Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.</td>
</tr>
<tr>
<td>812.014(2)(b)2.</td>
<td>2nd</td>
<td>Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.</td>
</tr>
<tr>
<td>812.014(2)(b)3.</td>
<td>2nd</td>
<td>Property stolen, emergency medical equipment; 2nd degree grand theft.</td>
</tr>
<tr>
<td>24-00766-20</td>
<td>2020560__</td>
<td></td>
</tr>
<tr>
<td>-------------</td>
<td>-----------</td>
<td></td>
</tr>
<tr>
<td>812.014(2)(b) 4.</td>
<td>2nd</td>
<td>Property stolen, law enforcement equipment from authorized emergency vehicle.</td>
</tr>
<tr>
<td>812.0145(2)(a)</td>
<td>1st</td>
<td>Theft from person 65 years of age or older; $50,000 or more.</td>
</tr>
<tr>
<td>812.019(2)</td>
<td>1st</td>
<td>Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.</td>
</tr>
<tr>
<td>812.131(2)(a)</td>
<td>2nd</td>
<td>Robbery by sudden snatching.</td>
</tr>
<tr>
<td>812.133(2)(b)</td>
<td>1st</td>
<td>Carjacking; no firearm, deadly weapon, or other weapon.</td>
</tr>
<tr>
<td>817.034(4)(a) 1.</td>
<td>1st</td>
<td>Communications fraud, value greater than $50,000.</td>
</tr>
<tr>
<td>817.234(8)(a)</td>
<td>2nd</td>
<td>Solicitation of motor vehicle accident victims with intent to defraud.</td>
</tr>
</tbody>
</table>
817.234(9)  2nd  Organizing, planning, or participating in an intentional motor vehicle collision.

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

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

817.535(2)(a)  3rd  Filing false lien or other unauthorized document.

817.611(2)(b)  2nd  Traffic in or possess 15 to 49 counterfeit credit cards or related documents.

825.102(3)(b)  2nd  Neglecting an elderly person or disabled adult causing great bodily harm,
Exploiting an elderly person or disabled adult and property is valued at $10,000 or more, but less than $50,000.

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

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

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

Bribery.

Unlawful compensation or reward for official behavior.
<table>
<thead>
<tr>
<th>Section</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>838.021(3)(a)</td>
<td>2nd</td>
<td>Unlawful harm to a public servant.</td>
</tr>
<tr>
<td>838.22</td>
<td>2nd</td>
<td>Bid tampering.</td>
</tr>
<tr>
<td>843.0855(2)</td>
<td>3rd</td>
<td>Impersonation of a public officer or employee.</td>
</tr>
<tr>
<td>843.0855(3)</td>
<td>3rd</td>
<td>Unlawful simulation of legal process.</td>
</tr>
<tr>
<td>843.0855(4)</td>
<td>3rd</td>
<td>Intimidation of a public officer or employee.</td>
</tr>
<tr>
<td>847.0135(3)</td>
<td>3rd</td>
<td>Solicitation of a child, via a computer service, to commit an unlawful sex act.</td>
</tr>
<tr>
<td>847.0135(4)</td>
<td>2nd</td>
<td>Traveling to meet a minor to commit an unlawful sex act.</td>
</tr>
<tr>
<td>872.06</td>
<td>2nd</td>
<td>Abuse of a dead human body.</td>
</tr>
<tr>
<td>874.05(2)(b)</td>
<td>1st</td>
<td>Encouraging or recruiting person under 13 to join a</td>
</tr>
<tr>
<td>Section</td>
<td>1st, PBL</td>
<td>1st</td>
</tr>
<tr>
<td>---------</td>
<td>---------</td>
<td>-----</td>
</tr>
<tr>
<td>874.10</td>
<td>Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.</td>
<td></td>
</tr>
<tr>
<td>893.13(1)(c)1</td>
<td>Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.</td>
<td></td>
</tr>
<tr>
<td>893.13(1)(e)1</td>
<td>Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5.</td>
<td></td>
</tr>
</tbody>
</table>
(2)(c)5., within 1,000 feet of property used for religious services or a specified business site.

<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>893.13(4)(a)</td>
<td>1st Use or hire of minor; deliver to minor other controlled substance.</td>
</tr>
<tr>
<td>893.135(1)(a)1.</td>
<td>1st Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.</td>
</tr>
<tr>
<td>893.135</td>
<td>1st Trafficking in cocaine, more than 28 grams, less than 200 grams.</td>
</tr>
<tr>
<td>893.135(1)(c)1.a.</td>
<td>1st Trafficking in illegal drugs, more than 4 grams, less than 14 grams.</td>
</tr>
<tr>
<td>893.135(1)(c)2.a.</td>
<td>1st Trafficking in hydrocodone, 28 grams or more, less than 50 grams.</td>
</tr>
<tr>
<td>893.135(1)(c)2.b.</td>
<td>1st Trafficking in hydrocodone, 50 grams or more, less than 100 grams.</td>
</tr>
<tr>
<td>Section</td>
<td>Code</td>
</tr>
<tr>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>893.135</td>
<td>(1)(c)3.a.</td>
</tr>
<tr>
<td>893.135</td>
<td>(1)(c)3.b.</td>
</tr>
<tr>
<td>893.135</td>
<td>(1)(c)4.b.(I)</td>
</tr>
<tr>
<td>893.135</td>
<td>(1)(d)1.a.</td>
</tr>
<tr>
<td>893.135</td>
<td>(1)(e)1.</td>
</tr>
<tr>
<td>893.135</td>
<td>(1)(f)1.</td>
</tr>
<tr>
<td>893.135</td>
<td>(1)(g)1.a.</td>
</tr>
</tbody>
</table>
893.135 1st Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.

(1)(h)1.a.

893.135 1st Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

(1)(j)1.a.

893.135 1st Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.

(1)(k)2.a.

893.135 1st Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.

(1)(m)2.a.

893.135 1st Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.

(1)(m)2.b.

893.135 1st Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.

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

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

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

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

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

943.0435(9)(a) 3rd Sexual offender; failure
<p>| | | | | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>24-00766-20</td>
<td>2020560_</td>
<td>to comply with reporting requirements.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>707</td>
<td>943.0435(13)</td>
<td>3rd</td>
<td>Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>708</td>
<td>943.0435(14)</td>
<td>3rd</td>
<td>Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>709</td>
<td>944.607(9)</td>
<td>3rd</td>
<td>Sexual offender; failure to comply with reporting requirements.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>710</td>
<td>944.607(10)(a)</td>
<td>3rd</td>
<td>Sexual offender; failure to submit to the taking of a digitized photograph.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>711</td>
<td>944.607(12)</td>
<td>3rd</td>
<td>Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
712 944.607(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

713 985.4815(10) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.

714 985.4815(12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

715 985.4815(13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

716 (h) LEVEL 8

717 Florida Statute  
718 Felony  
719 Statute Degree Description  

CODING: Words stricken are deletions; words underlined are additions.
<table>
<thead>
<tr>
<th>Statute</th>
<th>Degree</th>
<th>Offense Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>316.193(3)(c)3.a.</td>
<td>2nd</td>
<td>DUI manslaughter.</td>
</tr>
<tr>
<td>316.1935(4)(b)</td>
<td>1st</td>
<td>Aggravated fleeing or attempted eluding with serious bodily injury or death.</td>
</tr>
<tr>
<td>327.35(3)(c)3.</td>
<td>2nd</td>
<td>Vessel BUI manslaughter.</td>
</tr>
<tr>
<td>499.0051(6)</td>
<td>1st</td>
<td>Knowing trafficking in contraband prescription drugs.</td>
</tr>
<tr>
<td>499.0051(7)</td>
<td>1st</td>
<td>Knowing forgery of prescription labels or prescription drug labels.</td>
</tr>
<tr>
<td>560.123(8)(b)2.</td>
<td>2nd</td>
<td>Failure to report currency or payment instruments totaling or exceeding $20,000, but less than $100,000 by money transmitter.</td>
</tr>
<tr>
<td>560.125(5)(b)</td>
<td>2nd</td>
<td>Money transmitter business by unauthorized person, currency or</td>
</tr>
<tr>
<td>Line</td>
<td>Section</td>
<td>Type</td>
</tr>
<tr>
<td>------</td>
<td>---------</td>
<td>------</td>
</tr>
<tr>
<td>726</td>
<td>655.50(10)(b)2.</td>
<td>2nd</td>
</tr>
<tr>
<td>727</td>
<td>777.03(2)(a)</td>
<td>1st</td>
</tr>
<tr>
<td>728</td>
<td>782.04(4)</td>
<td>2nd</td>
</tr>
<tr>
<td>729</td>
<td>782.051(2)</td>
<td>1st</td>
</tr>
</tbody>
</table>

**CODING**: Words **stricken** are deletions; words **underlined** are additions.
while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).

782.071(1)(b)  1st  Committing vehicular homicide and failing to render aid or give information.

782.072(2)  1st  Committing vessel homicide and failing to render aid or give information.

787.06(3)(a)1.  1st  Human trafficking for labor and services of a child.

787.06(3)(b)  1st  Human trafficking using coercion for commercial sexual activity of an adult.

787.06(3)(c)2.  1st  Human trafficking using coercion for labor and services of an unauthorized alien adult.
<table>
<thead>
<tr>
<th>Code</th>
<th>1st/2nd</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>787.06(3)(e)1.</td>
<td>1st</td>
<td>Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.</td>
</tr>
<tr>
<td>787.06(3)(f)2.</td>
<td>1st</td>
<td>Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state.</td>
</tr>
<tr>
<td>790.161(3)</td>
<td>1st</td>
<td>Discharging a destructive device which results in bodily harm or property damage.</td>
</tr>
<tr>
<td>794.011(5)(a)</td>
<td>1st</td>
<td>Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.</td>
</tr>
<tr>
<td>794.011(5)(b)</td>
<td>2nd</td>
<td>Sexual battery; victim</td>
</tr>
</tbody>
</table>

**CODING:** Words **stricken** are deletions; words **underlined** are additions.
and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.

794.011(5)(c) 2nd Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.

794.011(5)(d) 1st Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.

794.08(3) 2nd Female genital mutilation, removal of a victim younger than 18 years of age from this state.

800.04(4)(b) 2nd Lewd or lascivious battery.
<table>
<thead>
<tr>
<th>Section</th>
<th>Code</th>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>800.04(4)(c)</td>
<td>1st</td>
<td></td>
<td>Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.</td>
</tr>
<tr>
<td>806.01(1)</td>
<td>1st</td>
<td></td>
<td>Maliciously damage dwelling or structure by fire or explosive, believing person in structure.</td>
</tr>
<tr>
<td>810.02(2)(a)</td>
<td>1st,PBL</td>
<td></td>
<td>Burglary with assault or battery.</td>
</tr>
<tr>
<td>810.02(2)(b)</td>
<td>1st,PBL</td>
<td></td>
<td>Burglary; armed with explosives or dangerous weapon.</td>
</tr>
<tr>
<td>810.02(2)(c)</td>
<td>1st</td>
<td></td>
<td>Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.</td>
</tr>
<tr>
<td>812.014(2)(a)2.</td>
<td>1st</td>
<td></td>
<td>Property stolen; cargo valued at $50,000 or more, grand theft in 1st</td>
</tr>
<tr>
<td>24-00766-20</td>
<td>2020560__</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td></td>
<td></td>
</tr>
<tr>
<td>750</td>
<td>812.13(2)(b)</td>
<td>1st</td>
<td>Robbery with a weapon.</td>
</tr>
<tr>
<td>751</td>
<td>812.135(2)(c)</td>
<td>1st</td>
<td>Home-invasion robbery, no firearm, deadly weapon, or other weapon.</td>
</tr>
<tr>
<td>752</td>
<td>817.505(4)(c)</td>
<td>1st</td>
<td>Patient brokering; 20 or more patients.</td>
</tr>
<tr>
<td>753</td>
<td>817.535(2)(b)</td>
<td>2nd</td>
<td>Filing false lien or other unauthorized document; second or subsequent offense.</td>
</tr>
<tr>
<td>754</td>
<td>817.535(3)(a)</td>
<td>2nd</td>
<td>Filing false lien or other unauthorized document; property owner is a public officer or employee.</td>
</tr>
<tr>
<td>755</td>
<td>817.535(4)(a)1.</td>
<td>2nd</td>
<td>Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.</td>
</tr>
<tr>
<td>756</td>
<td>817.535(5)(a)</td>
<td>2nd</td>
<td>Filing false lien or</td>
</tr>
<tr>
<td>Line</td>
<td>Code</td>
<td>Section</td>
<td>Amendments</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
<td>---------</td>
<td>------------</td>
</tr>
<tr>
<td>757</td>
<td></td>
<td>817.568(6)</td>
<td>2nd Fraudulent use of personal identification information of an individual under the age of 18.</td>
</tr>
<tr>
<td>758</td>
<td></td>
<td>817.611(2)(c)</td>
<td>1st Traffic in or possess 50 or more counterfeit credit cards or related documents.</td>
</tr>
<tr>
<td>759</td>
<td></td>
<td>825.102(2)</td>
<td>1st Aggravated abuse of an elderly person or disabled adult.</td>
</tr>
<tr>
<td>760</td>
<td></td>
<td>825.1025(2)</td>
<td>2nd Lewd or lascivious battery upon an elderly person or disabled adult.</td>
</tr>
<tr>
<td>761</td>
<td></td>
<td>825.103(3)(a)</td>
<td>1st Exploiting an elderly person or disabled adult and property is valued at $50,000 or more.</td>
</tr>
<tr>
<td>Statute</td>
<td>Offense Description</td>
<td></td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>---------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>837.02(2)</td>
<td>2nd Perjury in official proceedings relating to prosecution of a capital felony.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>837.021(2)</td>
<td>2nd Making contradictory statements in official proceedings relating to prosecution of a capital felony.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>860.121(2)(c)</td>
<td>1st Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>860.16</td>
<td>1st Aircraft piracy.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>893.13(1)(b)</td>
<td>1st Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>893.13(2)(b)</td>
<td>1st Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
893.13(6)(c) 1st Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).

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

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

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

893.135 (1)(c)2.c. 1st Trafficking in hydrocodone, 100 grams or more, less than 300 grams.

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

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

893.135 1st Trafficking in phencyclidine, 200 grams or more, less than 400 grams.

893.135 1st Trafficking in methaqualone, 5 kilograms or more, less than 25 kilograms.

893.135 1st Trafficking in amphetamine, 28 grams or more, less than 200 grams.

893.135 1st Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.

893.135 1st Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
893.135  1st Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.

893.135  1st Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.

893.135  1st Trafficking in synthetic cannabinoids, 1,000 grams or more, less than 30 kilograms.

893.135  1st Trafficking in n-benzyl phenethylamines, 100 grams or more, less than 200 grams.

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

895.03(1)  1st Use or invest proceeds derived from pattern of racketeering activity.
<table>
<thead>
<tr>
<th>Section</th>
<th>Level</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>895.03(2)</td>
<td>1st</td>
<td>Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.</td>
</tr>
<tr>
<td>895.03(3)</td>
<td>1st</td>
<td>Conduct or participate in any enterprise through pattern of racketeering activity.</td>
</tr>
<tr>
<td>896.101(5)(b)</td>
<td>2nd</td>
<td>Money laundering, financial transactions totaling or exceeding $20,000, but less than $100,000.</td>
</tr>
<tr>
<td>896.104(4)(a)2.</td>
<td>2nd</td>
<td>Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding $20,000 but less than $100,000.</td>
</tr>
<tr>
<td>Statute</td>
<td>Degree</td>
<td>Description</td>
</tr>
<tr>
<td>--------------</td>
<td>--------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>316.193</td>
<td>1st</td>
<td>DUI manslaughter; failing to render aid or give information.</td>
</tr>
<tr>
<td>(3)(c)3.b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>327.35</td>
<td>1st</td>
<td>BUI manslaughter; failing to render aid or give information.</td>
</tr>
<tr>
<td>(3)(c)3.b.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>409.920</td>
<td>1st</td>
<td>Medicaid provider fraud; $50,000 or more.</td>
</tr>
<tr>
<td>(2)(b)1.c.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>499.0051(8)</td>
<td>1st</td>
<td>Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.</td>
</tr>
<tr>
<td>560.123(8)(b)3.</td>
<td>1st</td>
<td>Failure to report currency or payment instruments totaling or exceeding $100,000 by money transmitter.</td>
</tr>
<tr>
<td>560.125(5)(c)</td>
<td>1st</td>
<td>Money transmitter business by unauthorized person, currency, or</td>
</tr>
<tr>
<td>Section</td>
<td>Description</td>
<td></td>
</tr>
<tr>
<td>---------</td>
<td>-------------</td>
<td></td>
</tr>
<tr>
<td>655.50(10)(b)3.</td>
<td>Failure to report financial transactions totaling or exceeding $100,000 by financial institution.</td>
<td></td>
</tr>
<tr>
<td>775.0844</td>
<td>Aggravated white collar crime.</td>
<td></td>
</tr>
<tr>
<td>782.04(1)</td>
<td>Attempt, conspire, or solicit to commit premeditated murder.</td>
<td></td>
</tr>
<tr>
<td>782.04(3)</td>
<td>Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified felonies.</td>
<td></td>
</tr>
<tr>
<td>782.051(1)</td>
<td>Attempted felony murder while perpetrating or attempting to perpetrate</td>
<td></td>
</tr>
</tbody>
</table>

CODING: Words **stricken** are deletions; words _underlined_ are additions.
<table>
<thead>
<tr>
<th>Section</th>
<th>Type</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>782.07(2)</td>
<td>1st</td>
<td>Aggravated manslaughter of an elderly person or disabled adult.</td>
</tr>
<tr>
<td>787.01(1)(a)1.</td>
<td>1st, PBL</td>
<td>Kidnapping; hold for ransom or reward or as a shield or hostage.</td>
</tr>
<tr>
<td>787.01(1)(a)2.</td>
<td>1st, PBL</td>
<td>Kidnapping with intent to commit or facilitate commission of any felony.</td>
</tr>
<tr>
<td>787.01(1)(a)4.</td>
<td>1st, PBL</td>
<td>Kidnapping with intent to interfere with performance of any governmental or political function.</td>
</tr>
<tr>
<td>787.02(3)(a)</td>
<td>1st, PBL</td>
<td>False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.</td>
</tr>
<tr>
<td>Section</td>
<td>Type</td>
<td>Description</td>
</tr>
<tr>
<td>---------</td>
<td>--------</td>
<td>-------------</td>
</tr>
<tr>
<td>787.06(3)(c)1</td>
<td>1st</td>
<td>Human trafficking for labor and services of an unauthorized alien child.</td>
</tr>
<tr>
<td>787.06(3)(d)</td>
<td>1st</td>
<td>Human trafficking using coercion for commercial sexual activity of an unauthorized adult alien.</td>
</tr>
<tr>
<td>787.06(3)(f)1</td>
<td>1st, PBL</td>
<td>Human trafficking for commercial sexual activity by the transfer or transport of any child from outside Florida to within the state.</td>
</tr>
<tr>
<td>790.161</td>
<td>1st</td>
<td>Attempted capital destructive device offense.</td>
</tr>
<tr>
<td>790.166(2)</td>
<td>1st, PBL</td>
<td>Possessing, selling, using, or attempting to use a weapon of mass destruction.</td>
</tr>
<tr>
<td>794.011(2)</td>
<td>1st</td>
<td>Attempted sexual battery; victim less than 12 years of age.</td>
</tr>
<tr>
<td>Line</td>
<td>Code</td>
<td>Description</td>
</tr>
<tr>
<td>------</td>
<td>------</td>
<td>-------------</td>
</tr>
<tr>
<td>794.011(2)</td>
<td>Life</td>
<td>Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.</td>
</tr>
<tr>
<td>794.011(4)(a)</td>
<td>1st, PBL</td>
<td>Sexual battery, certain circumstances; victim 12 years of age or older but younger than 18 years; offender 18 years or older.</td>
</tr>
<tr>
<td>794.011(4)(b)</td>
<td>1st</td>
<td>Sexual battery, certain circumstances; victim and offender 18 years of age or older.</td>
</tr>
<tr>
<td>794.011(4)(c)</td>
<td>1st</td>
<td>Sexual battery, certain circumstances; victim 12 years of age or older; offender younger than 18 years.</td>
</tr>
<tr>
<td>794.011(4)(d)</td>
<td>1st, PBL</td>
<td>Sexual battery, certain circumstances; victim 12 years of age or older; prior conviction for</td>
</tr>
<tr>
<td>Section</td>
<td>Statute</td>
<td>Level</td>
</tr>
<tr>
<td>---------</td>
<td>---------</td>
<td>-------</td>
</tr>
<tr>
<td>794.011(8)(b)</td>
<td>1st,PBL</td>
<td>Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.</td>
</tr>
<tr>
<td>794.08(2)</td>
<td>1st</td>
<td>Female genital mutilation; victim younger than 18 years of age.</td>
</tr>
<tr>
<td>800.04(5)(b)</td>
<td>Life</td>
<td>Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.</td>
</tr>
<tr>
<td>812.13(2)(a)</td>
<td>1st,PBL</td>
<td>Robbery with fiream or other deadly weapon.</td>
</tr>
<tr>
<td>812.133(2)(a)</td>
<td>1st,PBL</td>
<td>Carjacking; fiream or other deadly weapon.</td>
</tr>
<tr>
<td>812.135(2)(b)</td>
<td>1st</td>
<td>Home-invasion robbery with weapon.</td>
</tr>
<tr>
<td>817.535(3)(b)</td>
<td>1st</td>
<td>Filing false lien or other unauthorized specified sex offenses.</td>
</tr>
<tr>
<td>Line</td>
<td>Section</td>
<td>Offense Description</td>
</tr>
<tr>
<td>------</td>
<td>---------</td>
<td>---------------------</td>
</tr>
<tr>
<td>827</td>
<td>817.535(4)(a)2.</td>
<td>1st offense filing false claim or other unauthorized document; defendant is incarcerated or under supervision.</td>
</tr>
<tr>
<td>828</td>
<td>817.535(5)(b)</td>
<td>1st offense filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a result of the false instrument.</td>
</tr>
<tr>
<td>829</td>
<td>817.568(7)</td>
<td>2nd, PBL fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.</td>
</tr>
<tr>
<td>Code</td>
<td>Statute</td>
<td>1st</td>
</tr>
<tr>
<td>------------</td>
<td>---------</td>
<td>-----</td>
</tr>
<tr>
<td>827.03(2)(a)</td>
<td>827.03(2)(a)</td>
<td>1st</td>
</tr>
<tr>
<td>847.0145(1)</td>
<td>847.0145(1)</td>
<td>1st</td>
</tr>
<tr>
<td>847.0145(2)</td>
<td>847.0145(2)</td>
<td>1st</td>
</tr>
<tr>
<td>859.01</td>
<td>859.01</td>
<td>1st</td>
</tr>
<tr>
<td>893.135</td>
<td>893.135</td>
<td>1st</td>
</tr>
<tr>
<td>893.135(1)(a)3.</td>
<td>893.135(1)(a)3.</td>
<td>1st</td>
</tr>
<tr>
<td>893.135(1)(b)1.c.</td>
<td>893.135(1)(b)1.c.</td>
<td>1st</td>
</tr>
</tbody>
</table>
893.135 (1)(c)1.c. 1st Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.

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

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

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

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

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

893.135 (1)(f)1.c. 1st Trafficking in amphetamine, 200 grams or more.
<table>
<thead>
<tr>
<th>Code</th>
<th>1st Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>893.135 (1)(h)1.c.</td>
<td>Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.</td>
</tr>
<tr>
<td>893.135 (1)(j)1.c.</td>
<td>Trafficking in 1,4-Butanediol, 10 kilograms or more.</td>
</tr>
<tr>
<td>893.135 (1)(k)2.c.</td>
<td>Trafficking in Phenethylamines, 400 grams or more.</td>
</tr>
<tr>
<td>893.135 (1)(m)2.d.</td>
<td>Trafficking in synthetic cannabinoids, 30 kilograms or more.</td>
</tr>
<tr>
<td>893.135 (1)(n)2.c.</td>
<td>Trafficking in n-benzyl phenethylamines, 200 grams or more.</td>
</tr>
<tr>
<td>896.101(5)(c)</td>
<td>Money laundering, financial instruments totaling or exceeding $100,000.</td>
</tr>
<tr>
<td>896.104(4)(a)3.</td>
<td>Structuring transactions to evade reporting or registration.</td>
</tr>
</tbody>
</table>
requirements, financial transactions totaling or exceeding $100,000.

(j) LEVEL 10

<table>
<thead>
<tr>
<th>Florida Statute</th>
<th>Felony Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>499.0051(9)</td>
<td>1st</td>
<td>Knowing sale or purchase of contraband prescription drugs resulting in death.</td>
</tr>
<tr>
<td>782.04(2)</td>
<td>1st, PBL</td>
<td>Unlawful killing of human; act is homicide, unpremeditated.</td>
</tr>
<tr>
<td>782.07(3)</td>
<td>1st</td>
<td>Aggravated manslaughter of a child.</td>
</tr>
<tr>
<td>787.01(1)(a)3.</td>
<td>1st, PBL</td>
<td>Kidnapping; inflict bodily harm upon or terrorize victim.</td>
</tr>
<tr>
<td>787.01(3)(a)</td>
<td>Life</td>
<td>Kidnapping; child under age 13, perpetrator also commits aggravated child abuse, sexual battery,</td>
</tr>
</tbody>
</table>
or lewd or lascivious battery, molestation, conduct, or exhibition.

787.06(3)(g) Life Human trafficking for commercial sexual activity of a child under the age of 18 or mentally defective or incapacitated person.

787.06(4)(a) Life Selling or buying of minors into human trafficking.

794.011(3) Life Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.

812.135(2)(a) 1st, PBL Home-invasion robbery with firearm or other deadly weapon.

876.32 1st Treason against the state.
Section 10. Section 921.0023, Florida Statutes, is amended to read:

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

(1) A felony of the third degree within offense level 1.
(2) A felony of the second degree within offense level 4.
(3) A felony of the first degree within offense level 7.
(4) A felony of the first degree punishable by life within offense level 9.
(5) A life felony within offense level 10.

Section 11. Section 921.0024, Florida Statutes, is amended to read:

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

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

**FLORIDA PUBLIC SAFETY CRIMINAL PUNISHMENT CODE**

**WORKSHEET**

**OFFENSE SCORE**

CODING: Words stricken are deletions; words underlined are additions.
<table>
<thead>
<tr>
<th>Level</th>
<th>Sentence Points</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>116</td>
<td>...</td>
</tr>
<tr>
<td>9</td>
<td>92</td>
<td>...</td>
</tr>
<tr>
<td>8</td>
<td>74</td>
<td>...</td>
</tr>
<tr>
<td>7</td>
<td>56</td>
<td>...</td>
</tr>
<tr>
<td>6</td>
<td>36</td>
<td>...</td>
</tr>
<tr>
<td>5</td>
<td>28</td>
<td>...</td>
</tr>
<tr>
<td>4</td>
<td>22</td>
<td>...</td>
</tr>
<tr>
<td>3</td>
<td>16</td>
<td>...</td>
</tr>
<tr>
<td>2</td>
<td>10</td>
<td>...</td>
</tr>
<tr>
<td>1</td>
<td>4</td>
<td>...</td>
</tr>
</tbody>
</table>

Total
### Additional Offenses

<table>
<thead>
<tr>
<th>Level</th>
<th>Sentence Points</th>
<th>Counts</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>58 x</td>
<td>....</td>
<td>=</td>
</tr>
<tr>
<td>9</td>
<td>46 x</td>
<td>....</td>
<td>=</td>
</tr>
<tr>
<td>8</td>
<td>37 x</td>
<td>....</td>
<td>=</td>
</tr>
<tr>
<td>7</td>
<td>28 x</td>
<td>....</td>
<td>=</td>
</tr>
<tr>
<td>6</td>
<td>18 x</td>
<td>....</td>
<td>=</td>
</tr>
<tr>
<td>5</td>
<td>5.4 x</td>
<td>....</td>
<td>=</td>
</tr>
<tr>
<td>4</td>
<td>3.6 x</td>
<td>....</td>
<td>=</td>
</tr>
<tr>
<td>3</td>
<td>2.4 x</td>
<td>....</td>
<td>=</td>
</tr>
<tr>
<td>2</td>
<td>1.2 x</td>
<td>....</td>
<td>=</td>
</tr>
<tr>
<td>1</td>
<td>0.7 x</td>
<td>....</td>
<td>=</td>
</tr>
<tr>
<td>M</td>
<td>0.2 x</td>
<td>....</td>
<td>=</td>
</tr>
</tbody>
</table>

**CODING:** Words struck through are deletions; words underlined are additions.
<table>
<thead>
<tr>
<th>Level</th>
<th>Sentence Points</th>
<th>Number</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>2nd degree murder-death</td>
<td>240 x ...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Death</td>
<td>120 x ...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Severe</td>
<td>40 x ...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Moderate</td>
<td>18 x ...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Slight</td>
<td>4 x ...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Sexual penetration</td>
<td>80 x ...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Sexual contact</td>
<td>40 x ...</td>
<td>...</td>
<td>...</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Primary Offense + Additional Offenses + Victim Injury = 
TOTAL OFFENSE SCORE

PRIOR RECORD SCORE

<table>
<thead>
<tr>
<th>Level</th>
<th>Sentence Points</th>
<th>Number</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>29</td>
<td>x</td>
<td>....</td>
</tr>
<tr>
<td>9</td>
<td>23</td>
<td>x</td>
<td>....</td>
</tr>
<tr>
<td>8</td>
<td>19</td>
<td>x</td>
<td>....</td>
</tr>
<tr>
<td>7</td>
<td>14</td>
<td>x</td>
<td>....</td>
</tr>
<tr>
<td>6</td>
<td>9</td>
<td>x</td>
<td>....</td>
</tr>
<tr>
<td>5</td>
<td>3.6</td>
<td>x</td>
<td>....</td>
</tr>
<tr>
<td>4</td>
<td>2.4</td>
<td>x</td>
<td>....</td>
</tr>
<tr>
<td>3</td>
<td>1.6</td>
<td>x</td>
<td>....</td>
</tr>
<tr>
<td>2</td>
<td>0.8</td>
<td>x</td>
<td>....</td>
</tr>
<tr>
<td>1</td>
<td>0.5</td>
<td>x</td>
<td>....</td>
</tr>
<tr>
<td>Code</td>
<td>Description</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>------------------------------------------------------------------------------</td>
<td></td>
<td></td>
</tr>
<tr>
<td>M</td>
<td>0.2 x .... = ....</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>Total</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL OFFENSE SCORE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>TOTAL PRIOR RECORD SCORE</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>LEGAL STATUS</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>COMMUNITY SANCTION VIOLATION</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>PRIOR SERIOUS FELONY</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>PRIOR CAPITAL FELONY</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>FIREARM OR SEMIAUTOMATIC WEAPON</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>SUBTOTAL</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>PRISON RELEASEE REOFFENDER</strong> (no)(yes)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>VIOLENT CAREER CRIMINAL</strong> (no)(yes)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>HABITUAL VIOLENT OFFENDER</strong> (no)(yes)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>HABITUAL OFFENDER</strong> (no)(yes)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>DRUG TRAFFICKER</strong> (no)(yes) (x multiplier)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>LAW ENF. PROTECT.</strong> (no)(yes) (x multiplier)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>MOTOR VEHICLE THEFT</strong> (no)(yes) (x multiplier)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>CRIMINAL GANG OFFENSE</strong> (no)(yes) (x multiplier)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD</strong> (no)(yes) (x multiplier)</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td><strong>ADULT-ON-MINOR SEX OFFENSE</strong> (no)(yes) (x multiplier)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
(b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender’s legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation and each successive community sanction violation, unless any of the following apply:

1. If the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for the violation, and for each successive community sanction violation involving a new felony conviction.

2. If the community sanction violation is committed by a violent felony offender of special concern as defined in s. 948.06:
   a. Twelve (12) community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where:
      I. The violation does not include a new felony conviction; and
      II. The community sanction violation is not based solely on the probationer or offender’s failure to pay costs or fines or
make restitution payments.

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

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

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

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

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

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

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

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

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

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

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

(2) The lowest permissible sentence is the minimum sentence that may be imposed by the trial court, absent a valid reason for departure. The lowest permissible sentence is any nonstate prison sanction in which the total sentence points equals or is less than 44 points, unless the court determines within its discretion that a prison sentence, which may be up to the statutory maximums for the offenses committed, is appropriate. When the total sentence points exceeds 44 points, the lowest permissible sentence in prison months shall be calculated by
subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent. The total sentence points shall be calculated only as a means of determining the lowest permissible sentence. The permissible range for sentencing shall be the lowest permissible sentence up to and including the statutory maximum, as defined in s. 775.082, for the primary offense and any additional offenses before the court for sentencing. The sentencing court may impose such sentences concurrently or consecutively. However, any sentence to state prison must exceed 1 year. If the lowest permissible sentence under the code exceeds the statutory maximum sentence as provided in s. 775.082, the sentence required by the code must be imposed. If the total sentence points are greater than or equal to 363, the court may sentence the offender to life imprisonment. An offender sentenced to life imprisonment under this section is not eligible for any form of discretionary early release, except executive clemency or conditional medical release under s. 947.149.

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

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

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

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

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

Section 12. Section 921.0025, Florida Statutes, is amended to read:

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

Section 13. Paragraph (m) of subsection (2) of section 921.0026, Florida Statutes, is amended to read:

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

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

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

Section 14. Section 921.0027, Florida Statutes, is amended to read:

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

Section 15. Subsection (1) of section 924.06, Florida Statutes, is amended to read:

924.06 Appeal by defendant.—
(1) A defendant may appeal from:
   (a) A final judgment of conviction when probation has not been granted under chapter 948, except as provided in subsection (3);
   (b) An order granting probation under chapter 948;
   (c) An order revoking probation under chapter 948;
   (d) A sentence, on the ground that it is illegal; or
   (e) A sentence imposed under s. 921.0024 of the Public Safety Criminal Punishment Code which exceeds the statutory maximum penalty provided in s. 775.082 for an offense at
conviction, or the consecutive statutory maximums for offenses at conviction, unless otherwise provided by law.

Section 16. Paragraph (i) of subsection (1) of section 924.07, Florida Statutes, is amended to read:

*924.07 Appeal by state.*—

(1) The state may appeal from:

(i) A sentence imposed below the lowest permissible sentence established by the [Public Safety Criminal Punishment Code](#) under chapter 921.

Section 17. Paragraph (c) of subsection (3) and paragraph (e) of subsection (5) of section 944.17, Florida Statutes, are amended to read:

*944.17 Commitments and classification; transfers.*—

(3)

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

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

(5) The department shall also refuse to accept a person into the state correctional system unless the following documents are presented in a completed form by the sheriff or chief correctional officer, or a designated representative, to the officer in charge of the reception process. The department may, at its discretion, receive such documents electronically:

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

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

Section 18. Paragraph (a) of subsection (7) of section 948.01, Florida Statutes, is amended to read:

948.01 When court may place defendant on probation or into community control.—

(7)(a) Notwithstanding s. 921.0024 and effective for offenses committed on or after July 1, 2009, the sentencing court may place the defendant into a postadjudicatory treatment-based drug court program if the defendant’s Public Safety Criminal Punishment Code scoresheet total sentence points under s. 921.0024 are 60 points or fewer, the offense is a nonviolent felony, the defendant is amenable to substance abuse treatment,
and the defendant otherwise qualifies under s. 397.334(3). The satisfactory completion of the program shall be a condition of the defendant’s probation or community control. As used in this subsection, the term “nonviolent felony” means a third degree felony violation under chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08.

Section 19. Section 948.015, Florida Statutes, is amended to read:

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

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

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

(3) The offender’s prior record of arrests and convictions.
(4) The offender’s educational background.
(5) The offender’s employment background, including any military record, present employment status, and occupational capabilities.
(6) The offender’s financial status, including total monthly income and estimated total debts.
(7) The social history of the offender, including his or her family relationships, marital status, interests, and activities.
(8) The residence history of the offender.
(9) The offender’s medical history and, as appropriate, a psychological or psychiatric evaluation.
(10) Information about the environments to which the offender might return or to which the offender could be sent should a sentence of nonincarceration or community supervision be imposed by the court, and consideration of the offender’s plan concerning employment supervision and treatment.
(11) Information about any resources available to assist the offender, such as:
   (a) Treatment centers.
   (b) Residential facilities.
   (c) Career training programs.
   (d) Special education programs.
   (e) Services that may preclude or supplement commitment to the department.
(12) The views of the person preparing the report as to the offender’s motivations and ambitions and an assessment of the offender’s explanations for his or her criminal activity.
(13) An explanation of the offender’s criminal record, if
any, including his or her version and explanation of any previous offenses.

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

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

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

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

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

Section 20. Paragraph (j) of subsection (2) of section 948.06, Florida Statutes, is amended to read:

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

(2)

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

a. The court finds or the offender admits that the offender
b. The offender’s Public Safety Criminal Punishment Code scoresheet total sentence points under s. 921.0024 are 60 points or fewer after including points for the violation;

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

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

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

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

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

Section 21. Subsection (1) of section 948.20, Florida Statutes, is amended to read:

948.20 Drug offender probation.—

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

Section 22. Paragraph (c) of subsection (2) of section 948.51, Florida Statutes, is amended to read:

948.51 Community corrections assistance to counties or county consortiums.—

(2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.—A county, or a consortium of two or more counties, may contract with the Department of Corrections for community corrections funds as provided in this section. In order to enter into a community corrections partnership contract, a county or county consortium must have a public safety coordinating council established under s. 951.26 and must designate a county officer or agency to be responsible for administering community corrections funds received from the state. The public safety coordinating council shall prepare, develop, and implement a comprehensive public safety plan for the county, or the geographic area represented by the county consortium, and shall submit an annual report to the Department of Corrections.
concerning the status of the program. In preparing the comprehensive public safety plan, the public safety coordinating council shall cooperate with the juvenile justice circuit advisory board established under s. 985.664 in order to include programs and services for juveniles in the plan. To be eligible for community corrections funds under the contract, the initial public safety plan must be approved by the governing board of the county, or the governing board of each county within the consortium, and the Secretary of Corrections based on the requirements of this section. If one or more other counties develop a unified public safety plan, the public safety coordinating council shall submit a single application to the department for funding. Continued contract funding shall be pursuant to subsection (5). The plan for a county or county consortium must cover at least a 5-year period and must include:

(c) Specific goals and objectives for reducing the projected percentage of commitments to the state prison system of persons with low total sentencing scores pursuant to the __Public Safety Criminal Punishment Code.\

Section 23. Subsection (3) of section 958.04, Florida Statutes, is amended to read:

958.04 Judicial disposition of youthful offenders.—

(3) The provisions of this section shall not be used to impose a greater sentence than the permissible sentence range as established by the __Public Safety Criminal Punishment Code pursuant to chapter 921 unless reasons are explained in writing by the trial court judge which reasonably justify departure. A sentence imposed outside of the code is subject to appeal pursuant to s. 924.06 or s. 924.07.
Section 24. Subsection (4) of section 985.465, Florida Statutes, is amended to read:

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

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

Section 25. This act shall take effect July 1, 2020.
THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date: 1/22/20

Bill Number (if applicable): 560

Amendment Barcode (if applicable):

Topic: 

Name: Sal Nuzzo

Job Title: Vice President of Policy

Address: 100 N Duval Street

Street: 

Tallahassee, FL 32301

City: Tallahassee

State: FL

Zip: 32301

Phone: 850-322-9941

Email: snuzzo@jamesmadison.org

Speaking: [ ] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing: The James Madison Institute

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 (10/14/14)
1/22/2020

Meeting Date

Topic Sentencing

Name Starla Brown

Job Title Deputy State Director

Address

Street Delray Beach

City State Zip

Phone

Email

Speaking: X For □ Against □ Information

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

Representing Americans for Prosperity

Appearing at request of Chair: □ Yes X No

Lobbyist registered with Legislature: X Yes □ No

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

This form is part of the public record for this meeting.
1/22/20

Meeting Date

560

Bill Number (if applicable)

Sentencing Code

Topic

Carey Haughwout

Name

Public Defender, 15th Circuit

Job Title

421 3d St.

Address

West Palm Beach, FL 33401

City State Zip

561-355-7657

Phone

careyfd@fd15.org

Email

Speaking: 

For Against Information

Waive Speaking: 

☑️ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: 

☐ Yes ❑ No

☐ Yes ☐ No

Lobbyist registered with Legislature:

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 (10/14/14)
THE FLORIDA SENATE

APPEARANCE RECORD

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

1/23/20

Meeting Date

560

Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic  Criminal Justice Reform - Sentencing

Name  Kara Gross

Job Title  Legislative Director

Address  4343 West Flagler St

Street

Miami  FL

City  State  Zip

Phone  786-363-4436

Email  kgross@aclufl.org

Speaking:  □ For  □ Against  □ Information

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

Representing  American Civil Liberties Union of Florida

Appearing at request of Chair:  □ Yes  ✔ No

Lobbyist registered with Legislature:  ✔ Yes  □ No

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

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

APPEARANCE RECORD

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

1/21/20
Meeting Date

Bill Number (if applicable)

Select Committee on the Integrity of Res. Int.
Topic

Greg Found
Name

Amendment Barcode (if applicable)

Job Title

Phone

9166 Sunrise Dr.
Address

Largo
City

33773
Zip

Email

Speaking: [ ] For [ ] Against [ ] Information

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

Representing

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

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

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

S-001 (10/14/14)
The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT
(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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

BILL:           CS/SB 574
INTRODUCER:     Criminal Justice Committee; and Senators Brandes and Perry
SUBJECT:        Conditional Aging Inmate Release
DATE:           January 22, 2020

1. Cox            Jones     CJ     Fav/CS
2. Forbes        Jameson   ACJ     Pre-meeting
3.               AP

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 574 creates section 945.0912, Florida Statutes, to establish a conditional aging inmate release (CAIR) program within the Department of Corrections (DOC) with the purpose of determining whether such release is appropriate for eligible inmates, supervising the released inmates, and conducting revocation hearings.

The bill provides that an inmate is eligible for consideration for release under the CAIR program when the inmate has reached 70 years of age and has served at least 10 years on his or her term of imprisonment. The bill prohibits an inmate from being considered for release through the CAIR program if he or she has ever been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent for committing specified offenses.

The DOC must identify inmates who may be eligible for CAIR and, upon such identification, the DOC must refer such inmate to a panel, appointed by the Secretary for review and determination of release.

The panel must conduct a hearing to determine, by a majority, whether CAIR is appropriate for the inmate within 45 days after receiving the referral. The bill creates a process for an inmate who is denied CAIR by the panel to have the decision reviewed. The Secretary has the final decision about the appropriateness of the release on CAIR. If CAIR is approved, the inmate must
be released by the DOC to the community within a reasonable amount of time and is considered
an aging releasee upon release to the community.

The bill requires that an inmate granted CAIR be released for a period equal to the length of time
remaining on his or her term of imprisonment on the date the release is granted and to comply
with all conditions of release the DOC imposes.

The bill establishes a specific process for the revocation of an aging releasee and provides that
revocation may be based on the violation of any release conditions the DOC establishes,
including, but not limited to, a new violation of law. Additionally, the bill authorizes the aging
releasee to be detained when it is alleged that he or she has violated the conditions of the release,
specifies a hearing process if the aging releasee elects to proceed with a revocation hearing,
provides for the recommitment of an aging releasee whose CAIR has been revoked, and permits
forfeiture of gain-time in certain instances.

As is provided for with the initial determination, the bill authorizes an aging releasee whose
CAIR is revoked to have the revocation decision reviewed.

The bill authorizes the DOC to adopt rules as necessary to implement the act.

The Criminal Justice Impact Conference (CJIC) has not reviewed the bill at this time. However,
the Office of Economic and Demographic Research has prepared a preliminary estimate of the
bill, which determined that the bill will have a negative indeterminate prison bed impact (i.e. an
unquantifiable decrease in prison beds).

The bill is effective October 1, 2020.

II. **Present Situation:**

**Aging Population Statistics**

In 2016, 49 million adults in the United States, or 15 percent of the population, were 65 or older.\(^1\)
It is estimated that the number will rise to approximately 98 million by 2060, which corresponds
to approximately 25 percent of residents of the United States. The “baby boomers” generation\(^2\)
and post baby-boom generations will all be of advanced age by 2029, which is often defined as
55 years of age or older. A report published by the Institutes of Medicine in 2012 asserted that,
by 2030, the population of adults over the age of 65 will reach 72.1 million. The report also
estimated that approximately one in five persons in the elder population has a mental health or
substance abuse disorder, such as depression, dementia, or related psychiatric and behavioral
symptoms. Incarcerated men and women typically have physiological and mental health
conditions that are associated with people at least a decade older, a phenomenon known as

---

\(^1\) The Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion,
*Promoting Health for Older Adults*, September 13, 2019, available at

\(^2\) The “baby boomer” generation is generally defined as persons born from 1946 through 1964. See Senior Living, *The Baby
“accelerated aging.” Therefore, an incarcerated person who is 50 or 55 years of age would exhibit health conditions comparable to a person who is 60 or 65 in the community. The occurrence of accelerated aging in the prison system is a result of many factors, including inadequate access to medical care before incarceration, substance abuse, the stress of incarceration, and a lack of appropriate health care during incarceration.\(^3\)

**Special Health Considerations for Aging Inmates**

Similarly to aging persons in the community, aging inmates are more likely to experience certain medical and health conditions, including, in part, dementia, impaired mobility, loss of hearing and vision, cardiovascular disease, cancer, osteoporosis, and other chronic conditions.\(^4\) However, such ailments present special challenges within a prison environment and may result in the need for increased staffing levels and enhanced officer training.\(^5\) Such aging inmates can also require structural accessibility adaptions, such as special housing and wheelchair ramps. For example, in Florida, four facilities serve relatively large populations of older inmates, which help meet special needs such as palliative and long-term care.\(^6\)

**Aging Inmate Statistics in Florida**

The DOC reports that the elderly inmate\(^7\) population has increased by 353 inmates or 1.5 percent from June 30, 2017 to June 30, 2018 and that this trend has been steadily increasing over the last five years for an overall increase of 2,585 inmates or 12.5 percent.\(^8\)

The DOC further reports that during Fiscal Year 2017-18, there were 3,594 aging inmates admitted to Florida prisons, which was a 2.8 percent decrease from Fiscal Year 2017-18. The majority of such inmates were admitted for violent offenses, property crimes, and drug offenses. The oldest male inmate admitted was 92 years of age with a conviction of manslaughter and the oldest female inmate admitted was 77 years of age with a conviction of drug trafficking.\(^9\)

---


\(^5\) The PEW Charitable Trusts Older Prisoners Report.

\(^6\) Id.

\(^7\) Section 944.02(4), F.S., defines “elderly offender” to mean prisoners age 50 or older in a state correctional institution or facility operated by the DOC or the Department of Management Services.


\(^9\) Id., at p. 20.
As the population of aging inmates continues to increase, the cost to house and treat such inmates also substantially increases. The DOC reports that the episodes of outside care for aging inmates increased from 10,553 in Fiscal Year 2008-09 to 21,469 in Fiscal Year 2017-18 and further provided that outside care is generally more expensive than treatment provided within a prison facility.\(^{10}\) The DOC reports that the cost of health care for the aging inmate population is very high compared to other inmates for many reasons, including, in part that aging inmates:

- Account for a majority of inpatient hospital days; and
- Have a longer length for an inpatient hospital stay than seen with younger inmate patients.\(^ {11}\)

Constitutional Requirement to Provide Healthcare to Inmates

The United States Supreme Court has established that prisoners have a constitutional right to adequate medical care. The Court determined that it is a violation of the Eighth Amendment prohibition against cruel and unusual punishment for the state to deny a prisoner necessary medical care, or to display “deliberate indifference” to an inmate’s serious medical needs.\(^ {12}\)

Before the 1970s, prison health care operated without “standards of decency” and was frequently delivered by unqualified or overwhelmed providers, resulting in negligence and poor quality.\(^ {13}\) By January 1996, only three states had never been involved in major litigation challenging conditions in their prisons. A majority were under court order or consent decree to make improvements in some or all facilities.\(^ {14}\) The development of the correctional health care in Florida has been influenced by a class action lawsuit filed by inmates in 1972. The plaintiffs in *Costello v. Wainwright*\(^ {15}\) alleged that prison overcrowding and inadequate medical care were so severe that the resulting conditions amounted to cruel and unusual punishment. The overcrowding aspect of the case was settled in 1979, but the medical care issue continued to be litigated for years.\(^ {16}\)

The legal standard today for inmate medical care must be at “a level reasonably commensurate with modern medical science and of a quality acceptable within prudent professional standards” and “designed to meet routine and emergency medical, dental, and psychological or psychiatric care.”\(^ {17}\) Prisoners are entitled to access to care for diagnosis and treatment, a professional medical opinion, and administration of the prescribed treatment and such obligation persists even if some or all of the medical services are provided through the use of contractors. This is also the

\(^{10}\) Id., at p. 21.

\(^{11}\) Id.


\(^{15}\) 430 U.S. 325 (1977).

\(^{16}\) Id. The Correctional Medical Authority, FY 2017-18 Annual Report and Update on the Status of Elderly Offender’s in Florida’s Prisons, p. 1 (on file with the Senate Criminal Justice Committee). The Correctional Medical Authority was created in response to such federal litigation.

\(^{17}\) The PEW Trusts Prison Health Care Cost Report, p. 4.
standard for state prisoners who are under the custody of private prisons or local jails. Recent cases have reinforced states’ constitutional obligations.\textsuperscript{18}

\textbf{The DOC’s Duty to Provide Health Care}

The DOC is responsible for the inmates of the state correctional system and has supervisory and protective care, custody, and control of the inmates within its facilities.\textsuperscript{19} The DOC has the constitutional and statutory imperative to provide adequate health services to state prison inmates directly related to this responsibility.\textsuperscript{20} This medical care includes comprehensive medical, mental health, and dental services, and all associated ancillary services.\textsuperscript{21} The DOC’s Office of Health Service (OHS) oversees the delivery of health care services and handles statewide functions for such delivery. The OHS is led by the Director of Health Services, who reports to the Secretary.\textsuperscript{22}

The DOC contracts with the Centurion of Florida, LLC (Centurion) to provide comprehensive statewide medical, mental health, dental services, and operates the department’s reception medical center. The care provided is under a cost plus model. All inmates are screened at a DOC reception center upon arrival from the county jail. The purpose of this intake process is to determine the inmate’s current medical, dental, and mental health care needs, which is achieved through assessments, in part, for auditory, mobility and vision disabilities, and the need for specialized mental health treatment.\textsuperscript{23}

After the intake process is completed, inmates are assigned to an institution based on their medical and mental health needs and security requirements. The Centurion provides primary care using a staff of clinicians, nurses, mental health, and dental professionals and administrators within each major correctional institution. The health services team provides health care services in the dorms for inmates who are in confinement.\textsuperscript{24}

\textbf{Aging Inmate Discretionary Release}

Many states, the District of Columbia, and the federal government authorize discretionary release programs for certain inmates that are based on an inmate’s age without regard to the medical condition of the inmate.\textsuperscript{25} The National Conference of State Legislatures (NCSL) reports such

\begin{footnotesize}
\begin{enumerate}
\item \textit{Id.}
\item Sections 945.04(1) and 945.025(1), F.S.
\item \textit{Crews v. Florida Public Employers Council} 79, AFSCME, 113 So. 3d 1063 (Fla. 1st DCA 2013); \textit{See also} s. 945.025(2), F.S.
\item The DOC, Office of Health Services, available at \url{http://www.dc.state.fl.us/org/health.html} (last visited December 5, 2019).
\item \textit{Id.}
\item \textit{Id. See also} The DOC Annual Report, p. 19.
\item \textit{Id.}
\end{enumerate}
\end{footnotesize}
discretionary release based on age has been legislatively authorized in 17 states. The NCSL also reports that such statutes typically require an inmate to be of a certain age and to have served either a specified number of years or a specified percentage of his or her sentence. The NCSL reports that Alabama has the lowest age for aging inmate discretionary release, which is 55 years of age, whereas most other states set the limit somewhere between 60 and 65. Additionally, some states do not set a specific age.  

Most states require a minimum of 10 years of an inmate’s sentence to be served before being eligible for consideration for aging inmate discretionary release, but some states, such as California, set the minimum length of time served at 25 years. Other states, such as Mississippi and Oklahoma, provide a term of years or a certain percentage of the sentence to be served.  

Inmates who are sentenced to death or serving a life sentence are typically ineligible for release. Some states specify that inmates must be sentenced for a non-violent offense or specify offenses which are not eligible for release consideration.

Florida does not currently address discretionary release based on an inmate’s age alone.

**Federal First Step Act**

In December, 2018, the United States Congress passed, and President Trump signed into law, the “Formerly Incarcerated Reenter Society Transformed Safely Transitioning Every Person Act” or the “FIRST STEP Act.” The law makes a number of changes to the federal criminal justice system and procedures applicable to inmates in the Federal Bureau of Prisons, including, in part, modifying provisions related to compassionate release, which applies to the conditional release of medical inmates and aging inmates, to require inmates be informed of reduction in sentence availability and process.  

**Gain-time**

Gain-time awards, which result in deductions to the court-ordered sentences of specified eligible inmates, are used to encourage satisfactory prisoner behavior or to provide incentives for prisoners to participate in productive activities while incarcerated. An inmate is not eligible to

---

26 The NCSL Aging Inmate Statistics. Also, the NCSL states that at least 16 states have established both medical and aging inmate discretionary release programs legislatively and that Virginia is the only state that has aging inmate discretionary release but not medical discretionary release.

27 Id.

28 Id.

29 The NCSL Aging Inmate Statistics.


32 Section 944.275(1), F.S. Section 944.275(4)(f), F.S., further provides that an inmate serving a life sentence is not able to earn gain-time. Additionally, an inmate serving the portion of his or her sentence that is included in an imposed mandatory minimum sentence or whose tentative release date is the same date as he or she achieves service of 85 percent of the sentence are not eligible to earn gain-time. Section 944.275(4)(e), F.S., also prohibits inmates committed to the DOC for specified sexual offenses committed on or after October 1, 2014, from earning incentive gain-time.
earn or receive gain-time in an amount that results in his or her release prior to serving a minimum of 85 percent of the sentence imposed.\textsuperscript{33}

Basic gain-time, which automatically reduced an inmate’s sentence by a designated amount each month, was eliminated for offenses committed on or after January 1, 1994.\textsuperscript{34} The only forms of gain-time that can currently be earned are:

- Incentive gain-time;\textsuperscript{35}
- Meritorious gain-time;\textsuperscript{36} and
- Educational achievement gain-time.\textsuperscript{37}

The procedure for applying gain-time awards to an inmate’s sentence is dependent upon the calculation of a “maximum sentence expiration date” and a “tentative release date.” The tentative release date may not be later than the maximum sentence expiration date.\textsuperscript{38} The maximum sentence expiration date represents the date when the sentence or combined sentences imposed on a prisoner will expire. To calculate the maximum sentence expiration date, the DOC reduces the total time to be served by any time lawfully credited.\textsuperscript{39}

The tentative release is the date projected for the prisoner’s release from custody after gain-time is granted or forfeited in accordance with s. 944.275, F.S.\textsuperscript{40} Gain-time is applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, are applied to make the tentative release date proportionately later.\textsuperscript{41}

The DOC is authorized in certain circumstances to declare all gain-time earned by an inmate forfeited.\textsuperscript{42}

**Victim Input**

In 2018, the Florida voters approved Amendment 6 on the ballot, which provided certain rights to victims in the Florida Constitution. In part, Art. 1, s. 16, of the Florida Constitution, provides that a victim must have the following rights upon request:

- Reasonable, accurate, and timely notice of, and to be present at, all public proceedings involving the criminal conduct, including, but not limited to, trial, plea, sentencing, or

\textsuperscript{33} Section 944.275(4)(f), F.S.
\textsuperscript{34} Chapter 93-406, L.O.F.
\textsuperscript{35} Section 944.275(4)(b), F.S. provides that incentive gain-time is a total of up to ten days per month that may be awarded to inmates for institutional adjustment, performing work in a diligent manner, and actively participating in training and programs. The amount an inmate can earn is stable throughout the term of imprisonment and is based upon the date an offense was committed.
\textsuperscript{36} Section 944.275(4)(c), F.S. provides that meritorious gain-time is awarded to an inmate who commits an outstanding deed or whose performance warrants additional credit, such as saving a life or assisting in recapturing an escaped inmate. The award may range from one day to 60 days and the statute does not prohibit an inmate from earning meritorious gain-time on multiple occasions if warranted.
\textsuperscript{37} Section 944.275(4)(d), F.S. provides that educational gain-time is a one-time award of 60 days that is granted to an inmate who receives a General Education Development (GED) diploma or a certificate for completion of a vocational program.
\textsuperscript{38} Section 944.275(3)(c), F.S.
\textsuperscript{39} Section 944.275(2)(a), F.S.
\textsuperscript{40} Section 944.275(3)(a), F.S.
\textsuperscript{41} Id. See also s. 944.275(4)(b), F.S.
\textsuperscript{42} Section 944.28(1), F.S.
adjudication, even if the victim will be a witness at the proceeding, notwithstanding any rule to the contrary.

- To be heard in any public proceeding involving pretrial or other release from any form of legal constraint, plea, sentencing, adjudication, or parole, and any proceeding during which a right of the victim is implicated.
- To be informed of the conviction, sentence, adjudication, place and time of incarceration, or other disposition of the convicted offender, any scheduled release date of the offender, and the release of or the escape of the offender from custody.
- To be informed of all postconviction processes and procedures, to participate in such processes and procedures, to provide information to the release authority to be considered before any release decision is made, and to be notified of any release decision regarding the offender.\footnote{\textsuperscript{43}}

\section*{III. Effect of Proposed Changes:}

The bill creates s. 945.0912, F.S., which establishes a conditional aging inmate release (CAIR) program within the DOC for the purpose of:

- Determining whether release is appropriate for eligible inmates;
- Supervising the released inmates; and
- Conducting revocation hearings.

The CAIR program must include a panel of at least three people appointed by the Secretary for the purpose of determining the appropriateness of CAIR and conducting revocation hearings on the inmate releases.

\subsubsection*{Eligibility Criteria}

An inmate is eligible for consideration for release under the CAIR program when the inmate has reached 70 years of age and has served at least 10 years on his or her term of imprisonment.

An inmate may not be considered for release through the CAIR program if he or she has ever been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent for committing:

- A violation of any of certain offenses which result in the actual killing of a human being:
  - A violation of s. 775.33(4), F.S. (providing material support or resources for terrorism or to terrorist organizations that results in death);
  - A violation of s. 782.04(1) or (2), F.S. (murder in the first degree and murder in the second degree mentioned above, excluding felony murder in the second degree); or
  - A violation of s. 782.09, F.S. (killing of an unborn child by injury to the mother);
- An offense that requires registration as a sexual offender on the sexual offender registry in accordance with s. 943.0435, F.S.; or
- Any similar offense committed in another jurisdiction which would be an offense included in this list if it had been committed in violation of the laws of Florida.

\footnote{\textsuperscript{43} Art. 1, s. 16(b)(6)a., b., f., and g., FLA. CONST.}
Referral Process

The bill requires that any inmate in the custody of the DOC who is eligible must be considered for the CAIR program. However, the authority to grant CAIR rests solely with the DOC and an inmate does not have a right to release on CAIR pursuant to s. 945.0912, F.S.

The DOC must identify inmates who may be eligible for CAIR. In considering an inmate for the CAIR program, the DOC may require the production of additional evidence or any other additional investigations that the DOC deems necessary for determining the appropriateness of the eligible inmate’s release.

Upon an inmate’s identification as potentially eligible for release on CAIR, the DOC must refer such inmate to the panel described above for review and determination of release.

The bill requires the DOC to provide notice to a victim of the inmate’s referral to the panel immediately upon identification of the inmate as potentially eligible for release on CAIR if the case that resulted in the inmate’s commitment to the DOC involved a victim and such victim specifically requested notification pursuant to Art. 1, s. 16, of the Florida Constitution. Additionally, the victim must be afforded the right to be heard regarding the release of the inmate.

Determination of Release

The bill requires the panel to conduct a hearing within 45 days after receiving the referral to determine whether CAIR is appropriate for the inmate. A majority of the panel members must agree that release on CAIR is appropriate for the inmate. If CAIR is approved, the inmate must be released by the DOC to the community within a reasonable amount of time with necessary release conditions imposed.

The bill provides that an inmate who is granted CAIR is considered an aging releasee upon release to the community.

An inmate who is denied CAIR by the panel may have the decision reviewed by the DOC’s general counsel, who must make a recommendation to the Secretary. The Secretary must review all relevant information and make a final decision about the appropriateness of release on CAIR. The decision of the Secretary is a final administrative decision not subject to appeal.

Additionally, an inmate who is denied CAIR may be subsequently reconsidered for such release in a manner prescribed by department rule.

Release Conditions

The bill requires that an inmate granted release on CAIR must be released for a period equal to the length of time remaining on his or her term of imprisonment on the date the release is granted. The aging releasee must comply with all reasonable conditions of release the DOC imposes, which must include, at a minimum:

- Supervision by an officer trained to handle special offender caseloads.
• Active electronic monitoring, if such monitoring is determined to be necessary to ensure the safety of the public and the releasee’s compliance with release conditions.

• Any conditions of community control provided for in s. 948.101, F.S.

• Any other conditions the DOC deems appropriate to ensure the safety of the community and compliance by the aging releasee.

The bill provides that an aging releasee is considered to be in the care, custody, supervision, and control of the DOC and remains eligible to earn or lose gain-time in accordance with s. 944.275, F.S., and department rule. The aging releasee may not be counted in the prison system population, and the aging releasee’s approved community-based housing location may not be counted in the capacity figures for the prison system.

**Revocation Based on Violation of Conditions**

The bill provides that CAIR may be revoked for a violation of any release conditions the DOC establishes, including, but not limited to, a new violation of law. If the basis of the violation of release conditions is related to a new violation of law, the aging releasee must be detained without bond until his or her initial appearance at which a judicial determination of probable cause is made.

If the judge determines that there was no probable cause for the arrest, the aging releasee may be released. If the judge determines that there was probable cause for the arrest, the judge’s probable cause determination constitutes reasonable grounds to believe that the aging releasee violated the conditions of the CAIR.

The bill requires the DOC to order that the aging releasee subject to revocation for a violation of conditions be returned to the custody of the DOC for a CAIR revocation hearing as prescribed by rule. A majority of the panel must agree that revocation is appropriate for the aging releasee’s CAIR to be revoked.

The bill provides that an aging releasee who has his or her CAIR revoked due to a violation of conditions must serve the balance of his or her sentence with credit for the actual time served on CAIR. Additionally, any gain-time accrued before recommitment may be forfeited pursuant to s. 944.28(1), F.S. If the aging releasee whose CAIR is revoked would otherwise be eligible for parole or any other release program, he or she may be considered for such release program pursuant to law.

**Review Process of Revocation Determination**

The bill authorizes an aging releasee whose CAIR is revoked based on either basis to have the revocation decision reviewed. The bill requires the DOC’s general counsel to review the revocation decision and make a recommendation to the Secretary. The Secretary must review all relevant information and make a final decision about the appropriateness of the revocation of CAIR.

The bill provides that any decision of the Secretary related to a revocation decision is a final administrative decision not subject to appeal.
Revocation Hearing Process

If the aging releasee is subject to revocation and elects to proceed with a hearing, the aging releasee must be informed orally and in writing of certain rights, including the releasee's:

- Alleged violation with which he or she is charged.
- Right to:
  - Be represented by counsel.\(^{44}\)
  - Be heard in person.
  - Secure, present, and compel the attendance of witnesses relevant to the proceeding.
  - Produce documents on his or her own behalf.
  - Access all evidence used against the releasee and confront and cross-examine adverse witnesses.
  - Waive the hearing.

The bill authorizes the DOC to adopt rules as necessary to implement the act.

The bill amends ss. 316.1935, 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605, and 944.70, F.S., conforming these provisions to changes made by the Act.

The bill is effective October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

   None.

B. Public Records/Open Meetings Issues:

   None.

C. Trust Funds Restrictions:

   None.

D. State Tax or Fee Increases:

   None.

E. Other Constitutional Issues:

   None Identified.

\(^{44}\) However, this bill explicitly provides that this does not create a right to publicly funded legal counsel.
V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) has not reviewed the bill at this time. However, the Office of Economic and Demographic Research (EDR) has prepared a preliminary estimate of the bill, which determined that the bill will have a negative indeterminate prison bed impact (i.e. an unquantifiable decrease in prison beds).

The DOC reports that as of October 18, 2019, there are a total of 1,849 inmates age 70 or older in its custody and, based on the criteria set forth in the bill, only 168 of these inmates would currently meet eligibility criteria for consideration for CAIR. The DOC reports that an additional 291 inmates are projected to become eligible over the next five years. In addition, the DOC reports that the overall fiscal impact of the bill is indeterminate because release will be at the discretion of the DOC.

Further, the DOC reports that when the inmate population is impacted in small increments statewide, the inmate variable per diem of $20.04 is the most appropriate to use to determine the fiscal impact. The variable per diem includes costs more directly aligned with individual inmate care such as medical, food, inmate clothing, personal care items, etc. The DOC’s FY 17-18 average per diem for community supervision was $5.47.

The DOC also reports that it will need 2 additional staff for the Bureau of Classification Management to oversee, provide guidance, and coordinate the implementation and administration of the CAIR program as follows:

- Correctional Program Consultant: $64,277 (salary and benefits)
- Correctional Services Asst Consultant: $53,779 (salary and benefits), $6,756 (recurring travel), $8,858 (non-recurring travel), $658 (human resources)

45 The Office of Economic and Demographic Research, SB 574 Preliminary Estimate (on file with the Senate Committee on Criminal Justice).
46 The five highest occurring offenses of incarceration for these inmates are first or second degree murder (s. 782.04, F.S.), sexual battery on a victim under 12 (s. 794.011, F.S.), lewd or lascivious molestation on a victim under 12 (s. 800.04, F.S.), and robbery with a gun or deadly weapon (s. 812.13, F.S.). The DOC, SB 574 Agency Analysis, p. 1 and 4 (December 6, 2019) (on file with the Senate Committee on Criminal Justice) [hereinafter cited as “The DOC SB 574 Analysis”].
47 The DOC SB 574 Analysis, p. 5.
This equates to $125,470 recurring and $8,858 non-recurring General Revenue.\textsuperscript{48} Lastly, the DOC reports it will have a technology impact of $17,400, which is related to programming needed for the Offender Based Information System and Criminal Punishment Code impact.\textsuperscript{49}

**Technical Deficiencies:**

None.

**VI. Related Issues:**

The bill creates a panel with decision-making authority, which may require the panel to comply with the statutory requirements of ch. 286, F.S. (relating to public meetings). Chapter 286, F.S., requires certain meetings to be open to the public unless specifically exempted. Additionally, the DOC is a covered entity for purposes of the Health Insurance Portability and Protection Act (HIPPA)\textsuperscript{50} and it is possible that such information could be discussed at a CAIR hearing or revocation hearing. The bill is silent as to whether the panel is subject to the public meetings requirements of ch. 286, F.S., or how HIPPA information would be handled in such hearings.

**VII. Statutes Affected:**

This bill creates section 945.0912 of the Florida Statutes.

This bill substantially amends the following sections of the Florida Statutes: 316.1935, 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605, and 944.70.

**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 10, 2019:**

The committee substitute:

- Ensures that an inmate granted CAIR is released into the community within a reasonable amount of time;
- Makes some technical changes, including, in part, ensuring consistency with the terms used to describe an inmate who has been approved for CAIR and released into the community;

\textsuperscript{48} Department of Corrections Fiscal Impact Worksheet, January 17, 2020 (on file with the Committee).
\textsuperscript{49} The DOC SB 574 Analysis, p. 5.
\textsuperscript{50} The HIPAA and the Privacy Rule provide uniform federal protection for the privacy rights of individuals over their health information. HIPAA and the Privacy Rule protect the privacy rights of individuals over their health information, grant individuals access to their health information, and allow individuals to amend their health information under specified circumstances. The U.S. Department of Health and Human Services, Health Information Privacy, available at https://www.hhs.gov/hipaa/for-individuals/index.html (last visited December 9, 2019). See also 45 C.F.R. Parts 160 and 164. Additionally, the U.S. Supreme Court has recognized a limited constitutional protection of personal health information and recognized an individual’s interest in avoiding the disclosure of personal matters within the context of medical information. See Whalen v. Roe, 429 U.S. 589 (1977).
• Amends a number of relevant sections to ensure the changes made by the act are incorporated; and
• Makes the effective date October 1, 2020.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
A bill to be entitled
An act relating to conditional aging inmate release; creating s. 945.0912, F.S.; establishing the conditional aging inmate release program within the Department of Corrections; establishing a panel to consider specified matters; providing for program eligibility; requiring that an inmate who meets certain criteria be considered for conditional aging inmate release; providing that the inmate does not have a right to release; requiring the department to identify eligible inmates; requiring the department to refer an inmate to the panel for consideration; providing victim notification requirements under certain circumstances; requiring the panel to conduct a hearing within a specified timeframe; providing requirements for the hearing; providing that an inmate who is approved for conditional aging inmate release must be released from the department’s custody within a reasonable amount of time; providing that an inmate is considered an aging releasee upon release from the department into the community; providing a review process for an inmate who is denied release; providing conditions for release; prohibiting an aging releasee or his or her community-based housing from being counted in the prison system population and the prison capacity figures, respectively; providing for the revocation of conditional aging inmate release; requiring the aging releasee to be detained if a violation is based on certain circumstances;
authorizing the aging releasee to be returned to the department if he or she violates any conditions of the release; requiring a majority of the panel to agree on the appropriateness of revocation; authorizing the forfeiture of gain-time if the revocation is based on certain violations; providing a review process for an aging releasee who has his or her released revoked; requiring the aging releasee to be given specified information in certain instances; providing rulemaking authority; amending ss. 316.1935, 775.084, 775.087, 784.07, 790.235, 794.0115, 893.135, 921.0024, 944.605, and 944.70, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 945.0912, Florida Statutes, is created to read:

945.0912 Conditional aging inmate release.—
(1) CREATION.—There is established a conditional aging inmate release program within the department for the purpose of determining eligible inmates who are appropriate for such release, supervising the released inmates, and conducting revocation hearings as provided for in this section. The program must include a panel of at least three people appointed by the secretary or his or her designee for the purpose of determining the appropriateness of conditional aging inmate release and conducting revocation hearings on the inmate releases.
(2) ELIGIBILITY.—
(a) An inmate is eligible for consideration for release under the conditional aging inmate release program when the inmate has reached 70 years of age and has served at least 10 years on his or her term of imprisonment.

(b) An inmate may not be considered for release through the program if he or she has ever been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent for committing:

1. A violation of any of the following sections which results in the actual killing of a human being:
   a. Section 775.33(4).
   b. Section 782.04(1) or (2).
   c. Section 782.09.

2. Any felony offense that serves as a predicate to registration as a sexual offender in accordance with s. 943.0435; or

3. Any similar offense committed in another jurisdiction which would be an offense listed in this paragraph if it had been committed in violation of the laws of this state.

(3) REFERRAL FOR CONSIDERATION.—

(a)1. Notwithstanding any provision to the contrary, an inmate in the custody of the department who is eligible for consideration pursuant to subsection (2) must be considered for the conditional aging inmate release program.

2. The authority to grant conditional aging inmate release rests solely with the department. An inmate does not have a right to such release.

(b) The department must identify inmates who may be eligible for the conditional aging inmate release program. In
considering an inmate for conditional aging inmate release, the department may require the production of additional evidence or any other additional investigations that the department deems necessary for determining the appropriateness of the eligible inmate’s release.

(c) The department must refer an inmate to the panel established under subsection (1) for review and determination of conditional aging inmate release upon his or her identification as potentially eligible for release pursuant to this section.

(d) If the case that resulted in the inmate’s commitment to the department involved a victim, and the victim specifically requested notification pursuant to s. 16, Art. I of the State Constitution, the department must notify the victim of the inmate’s referral to the panel immediately upon identification of the inmate as potentially eligible for release under this section. Additionally, the victim must be afforded the right to be heard regarding the release of the inmate.

(4) DETERMINATION OF RELEASE.—

(a) Within 45 days after receiving the referral, the panel established in subsection (1) must conduct a hearing to determine whether the inmate is appropriate for conditional aging inmate release.

(b) A majority of the panel members must agree that the inmate is appropriate for release pursuant to this section. If conditional aging inmate release is approved, the inmate must be released by the department to the community within a reasonable amount of time with necessary release conditions imposed pursuant to subsection (5). An inmate who is granted conditional aging inmate release is considered an aging releasee upon
release to the community.

(c) An inmate who is denied conditional aging inmate release by the panel may have the decision reviewed by the department’s general counsel, who must make a recommendation to the secretary. The secretary must review all relevant information and make a final decision about the appropriateness of conditional aging inmate release pursuant to this section. The decision of the secretary is a final administrative decision not subject to appeal. An inmate who is denied conditional aging inmate release may be subsequently reconsidered for such release in a manner prescribed by rule.

(5) RELEASE CONDITIONS.—

(a) An inmate granted release pursuant to this section is released for a period equal to the length of time remaining on his or her term of imprisonment on the date the release is granted. Such inmate is considered an aging releasee upon release from the department into the community. The aging releasee must comply with all reasonable conditions of release the department imposes, which must include, at a minimum:

1. Supervision by an officer trained to handle special offender caseloads.

2. Active electronic monitoring, if such monitoring is determined to be necessary to ensure the safety of the public and the aging releasee’s compliance with release conditions.

3. Any conditions of community control provided for in s. 948.101.

4. Any other conditions the department deems appropriate to ensure the safety of the community and compliance by the aging releasee.
(b) An aging releasee is considered to be in the care, custody, supervision, and control of the department and remains eligible to earn or lose gain-time in accordance with s. 944.275 and department rule. The aging releasee may not be counted in the prison system population, and the aging releasee’s approved community-based housing location may not be counted in the capacity figures for the prison system.

(6) REVOCATION HEARING AND RECOMMITMENT.—

(a) 1. An aging releasee’s conditional aging inmate release may be revoked for a violation of any condition of the release established by the department, including, but not limited to, a new violation of law.

2. If the basis of the violation of release conditions is related to a new violation of law, the aging releasee must be detained without bond until his or her initial appearance, at which a judicial determination of probable cause is made. If the judge determines that there was no probable cause for the arrest, the aging releasee may be released. If the judge determines that there was probable cause for the arrest, the judge’s determination also constitutes reasonable grounds to believe that the aging releasee violated the conditions of the release.

3. The department must order that the aging releasee subject to revocation under this paragraph be returned to department custody for a conditional aging inmate release revocation hearing as prescribed by rule.

4. A majority of the panel members must agree that revocation is appropriate for the aging releasee’s conditional aging inmate release to be revoked. If conditional aging inmate
release is revoked pursuant to this paragraph, the aging
releasee must serve the balance of his or her sentence with
credit for the actual time served on conditional aging inmate
release. The aging releasee’s gain-time accrued before
recommitment may be forfeited pursuant to s. 944.28(1). If the
aging releasee whose conditional aging inmate release is revoked
subject to this paragraph would otherwise be eligible for parole
or any other release program, he or she may be considered for
such release program pursuant to law.

5. An aging releasee whose release has been revoked
pursuant to this paragraph may have the revocation reviewed by
the department’s general counsel, who must make a recommendation
to the secretary. The secretary must review all relevant
information and make a final decision about the appropriateness
of the revocation of conditional aging inmate release pursuant
to this paragraph. The decision of the secretary is a final
administrative decision not subject to appeal.

(b) If the aging releasee subject to revocation under
paragraph (a) elects to proceed with a hearing, the aging
releasee must be informed orally and in writing of the
following:

1. The alleged violation with which the releasee is
charged.

2. The releasee’s right to be represented by counsel.

However, this subparagraph does not create a right to publicly
funded legal counsel.

3. The releasee’s right to be heard in person.

4. The releasee’s right to secure, present, and compel the
attendance of witnesses relevant to the proceeding.
5. The releasee’s right to produce documents on his or her own behalf.

6. The releasee’s right of access to all evidence used against the releasee and to confront and cross-examine adverse witnesses.

7. The releasee’s right to waive the hearing.

(7) RULEMAKING AUTHORITY.—The department may adopt rules as necessary to implement this section.

Section 2. Subsection (6) of section 316.1935, Florida Statutes, is amended to read:

316.1935 Fleeing or attempting to elude a law enforcement officer; aggravated fleeing or eluding.—

(6) Notwithstanding s. 948.01, no court may suspend, defer, or withhold adjudication of guilt or imposition of sentence for any violation of this section. A person convicted and sentenced to a mandatory minimum term of incarceration under paragraph (3)(b) or paragraph (4)(b) is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, or conditional aging inmate release under s. 945.0912, prior to serving the mandatory minimum sentence.

Section 3. Paragraph (k) of subsection (4) of section 775.084, Florida Statutes, is amended to read:

775.084 Violent career criminals; habitual felony offenders and habitual violent felony offenders; three-time violent felony offenders; definitions; procedure; enhanced penalties or mandatory minimum prison terms.—

(4)
(k)1. A defendant sentenced under this section as a habitual felony offender, a habitual violent felony offender, or a violent career criminal is eligible for gain-time granted by the Department of Corrections as provided in s. 944.275(4)(b).

2. For an offense committed on or after October 1, 1995, a defendant sentenced under this section as a violent career criminal is not eligible for any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, or conditional aging inmate release under s. 945.0912.

3. For an offense committed on or after July 1, 1999, a defendant sentenced under this section as a three-time violent felony offender shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release.

Section 4. Paragraph (b) of subsection (2) and paragraph (b) of subsection (3) of section 775.087, Florida Statutes, are amended to read:

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

(2)

(b) Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not prevent a court from imposing a longer sentence of incarceration as authorized by law in addition to the minimum mandatory sentence, or from imposing a sentence of death pursuant to other applicable law. Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not authorize a court to impose a lesser sentence than otherwise required by law.
Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, conditional medical release under s. 947.149, or conditional aging inmate release under s. 945.0912, prior to serving the minimum sentence.

(3)

(b) Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not prevent a court from imposing a longer sentence of incarceration as authorized by law in addition to the minimum mandatory sentence, or from imposing a sentence of death pursuant to other applicable law. Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not authorize a court to impose a lesser sentence than otherwise required by law.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, conditional medical release under s. 947.149, or conditional aging inmate release under s. 945.0912, prior to serving the minimum sentence.

Section 5. Subsection (3) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit
employees or agents, or other specified officers; reclassification of offenses; minimum sentences.—

(3) Any person who is convicted of a battery under paragraph (2)(b) and, during the commission of the offense, such person possessed:

(a) A “firearm” or “destructive device” as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 3 years.

(b) A semiautomatic firearm and its high-capacity detachable box magazine, as defined in s. 775.087(3), or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 8 years.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, or conditional aging inmate release under s. 945.0912, prior to serving the minimum sentence.

Section 6. Subsection (1) of section 790.235, Florida Statutes, is amended to read:

790.235 Possession of firearm or ammunition by violent career criminal unlawful; penalty.—

(1) Any person who meets the violent career criminal criteria under s. 775.084(1)(d), regardless of whether such person is or has previously been sentenced as a violent career criminal, who owns or has in his or her care, custody, possession, or control any firearm, ammunition, or electric...
weapon or device, or carries a concealed weapon, including a
tear gas gun or chemical weapon or device, commits a felony of
the first degree, punishable as provided in s. 775.082, s.
775.083, or s. 775.084. A person convicted of a violation of
this section shall be sentenced to a mandatory minimum of 15
years' imprisonment; however, if the person would be sentenced
to a longer term of imprisonment under s. 775.084(4)(d), the
person must be sentenced under that provision. A person
convicted of a violation of this section is not eligible for any
form of discretionary early release, other than pardon,
executive clemency, or conditional medical release under s.
947.149, or conditional aging inmate release under s. 945.0912.

Section 7. Subsection (7) of section 794.0115, Florida
Statutes, is amended to read:

794.0115 Dangerous sexual felony offender; mandatory
sentencing.—

(7) A defendant sentenced to a mandatory minimum term of
imprisonment under this section is not eligible for statutory
gain-time under s. 944.275 or any form of discretionary early
release, other than pardon or executive clemency, or conditional
medical release under s. 947.149, or conditional aging inmate
release under s. 945.0912, before serving the minimum sentence.

Section 8. Paragraphs (b), (c), and (g) of subsection (1)
and subsection (3) of section 893.135, Florida Statutes, are
amended to read:

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

(1) Except as authorized in this chapter or in chapter 499
and notwithstanding the provisions of s. 893.13:
(b)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine, as described in s. 893.03(2)(a)4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first degree, which felony shall be known as “trafficking in cocaine,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

If the quantity involved:

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

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

c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine. A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency, or conditional medical...
release under s. 947.149, or conditional aging inmate release under s. 945.0912. However, if the court determines that, in addition to committing any act specified in this paragraph:

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

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

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

3. Any person who knowingly brings into this state 300 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., and who knows that the probable result of such importation would be the death of any person, commits capital importation of cocaine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(c)1. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
(3)(c)4., or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as “trafficking in illegal drugs,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:
   a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.
   b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $100,000.
   c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $500,000.

2. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as described in s. 893.03(2)(a)1.g., or any salt thereof, or 28 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as “trafficking in hydrocodone,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:
   a. Is 28 grams or more, but less than 50 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of $50,000.
   b. Is 50 grams or more, but less than 100 grams, such
person shall be sentenced to a mandatory minimum term of
imprisonment of 7 years and shall be ordered to pay a fine of
$100,000.

c. Is 100 grams or more, but less than 300 grams, such
person shall be sentenced to a mandatory minimum term of
imprisonment of 15 years and shall be ordered to pay a fine of
$500,000.

d. Is 300 grams or more, but less than 30 kilograms, such
person shall be sentenced to a mandatory minimum term of
imprisonment of 25 years and shall be ordered to pay a fine of
$750,000.

3. A person who knowingly sells, purchases, manufactures,
delivers, or brings into this state, or who is knowingly in
actual or constructive possession of, 7 grams or more of
oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
thereof, or 7 grams or more of any mixture containing any such
substance, commits a felony of the first degree, which felony
shall be known as “trafficking in oxycodone,” punishable as
provided in s. 775.082, s. 775.083, or s. 775.084. If the
quantity involved:

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

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

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

CODING: Words stricken are deletions; words underlined are additions.
$500,000.

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

4.a. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of:

   (I) Alfentanil, as described in s. 893.03(2)(b)1.;
   (II) Carfentanil, as described in s. 893.03(2)(b)6.;
   (III) Fentanyl, as described in s. 893.03(2)(b)9.;
   (IV) Sufentanil, as described in s. 893.03(2)(b)30.;
   (V) A fentanyl derivative, as described in s. 893.03(1)(a)62.;
   (VI) A controlled substance analog, as described in s. 893.0356, of any substance described in sub-sub-subparagraphs (I)-(V); or
   (VII) A mixture containing any substance described in sub-sub-subparagraphs (I)-(VI),

commits a felony of the first degree, which felony shall be known as “trafficking in fentanyl,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. If the quantity involved under sub-subparagraph a.:

   (I) Is 4 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years, and shall be ordered to pay a fine of $50,000.
   (II) Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of
imprisonment of 15 years, and shall be ordered to pay a fine of $100,000.

(III) Is 28 grams or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years, and shall be ordered to pay a fine of $500,000.

5. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more of any morphine, opium, oxycodone, hydrocodone, codeine, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or more of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency, or conditional medical release under s. 947.149, or conditional aging inmate release under s. 945.0912. However, if the court determines that, in addition to committing any act specified in this paragraph:

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

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

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

(g)1. Any person who knowingly sells, purchases, 
manufactures, delivers, or brings into this state, or who is 
knowingly in actual or constructive possession of, 4 grams or 
more of flunitrazepam or any mixture containing flunitrazepam as 
described in s. 893.03(1)(a) commits a felony of the first 
degree, which felony shall be known as “trafficking in 
flunitrazepam,” punishable as provided in s. 775.082, s. 
775.083, or s. 775.084. If the quantity involved:

a. Is 4 grams or more but less than 14 grams, such person 
shall be sentenced to a mandatory minimum term of imprisonment 
of 3 years, and the defendant shall be ordered to pay a fine of 
$50,000.
b. Is 14 grams or more but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years, and the defendant shall be ordered to pay a fine of $100,000.

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

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state or who is knowingly in actual or constructive possession of 30 kilograms or more of flunitrazepam or any mixture containing flunitrazepam as described in s. 893.03(1)(a) commits the first degree felony of trafficking in flunitrazepam. A person who has been convicted of the first degree felony of trafficking in flunitrazepam under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency, or conditional medical release under s. 947.149, or conditional aging inmate release under s. 945.0912. However, if the court determines that, in addition to committing any act specified in this paragraph:

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

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

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

(3) Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, nor shall such person be eligible for parole prior to serving the mandatory minimum term of imprisonment prescribed by this section. A person sentenced to a mandatory minimum term of imprisonment under this section is not eligible for any form of discretionary early release, except pardon or executive clemency or conditional medical release under s. 947.149, or conditional aging inmate release under s. 945.0912, prior to serving the mandatory minimum term of imprisonment.

Section 9. Subsection (2) of section 921.0024, Florida Statutes, is amended to read:

921.0024 Criminal Punishment Code; worksheet computations; scoresheets.—

(2) The lowest permissible sentence is the minimum sentence that may be imposed by the trial court, absent a valid reason for departure. The lowest permissible sentence is any nonstate prison sanction in which the total sentence points equals or is less than 44 points, unless the court determines within its discretion that a prison sentence, which may be up to the statutory maximums for the offenses committed, is appropriate. When the total sentence points exceeds 44 points, the lowest permissible sentence in prison months shall be calculated by subtracting 28 points from the total sentence points and
decreasing the remaining total by 25 percent. The total sentence points shall be calculated only as a means of determining the lowest permissible sentence. The permissible range for sentencing shall be the lowest permissible sentence up to and including the statutory maximum, as defined in s. 775.082, for the primary offense and any additional offenses before the court for sentencing. The sentencing court may impose such sentences concurrently or consecutively. However, any sentence to state prison must exceed 1 year. If the lowest permissible sentence under the code exceeds the statutory maximum sentence as provided in s. 775.082, the sentence required by the code must be imposed. If the total sentence points are greater than or equal to 363, the court may sentence the offender to life imprisonment. An offender sentenced to life imprisonment under this section is not eligible for any form of discretionary early release, except executive clemency, conditional medical release under s. 947.149, or conditional aging inmate release under s. 945.0912.

Section 10. Paragraph (b) of subsection (7) of section 944.605, Florida Statutes, is amended to read:

944.605 Inmate release; notification; identification card.—
(7)
(b) Paragraph (a) does not apply to inmates who:
1. The department determines have a valid driver license or state identification card, except that the department shall provide these inmates with a replacement state identification card or replacement driver license, if necessary.
2. Have an active detainer, unless the department determines that cancellation of the detainer is likely or that
the incarceration for which the detainer was issued will be less than 12 months in duration.

3. Are released due to an emergency release, a conditional medical release under s. 947.149, or conditional aging inmate release under s. 945.0912.

4. Are not in the physical custody of the department at or within 180 days before release.

5. Are subject to sex offender residency restrictions, and who, upon release under such restrictions, do not have a qualifying address.

Section 11. Subsection (1) of section 944.70, Florida Statutes, is amended to read:

944.70 Conditions for release from incarceration.—
(1)(a) A person who is convicted of a crime committed on or after October 1, 1983, but before January 1, 1994, may be released from incarceration only:
1. Upon expiration of the person’s sentence;
2. Upon expiration of the person’s sentence as reduced by accumulated gain-time;
3. As directed by an executive order granting clemency;
4. Upon attaining the provisional release date;
5. Upon placement in a conditional release program pursuant to s. 947.1405; or
6. Upon the granting of control release pursuant to s. 947.146.

(b) A person who is convicted of a crime committed on or after January 1, 1994, may be released from incarceration only:
1. Upon expiration of the person’s sentence;
2. Upon expiration of the person’s sentence as reduced by
accumulated meritorious or incentive gain-time;

3. As directed by an executive order granting clemency;

4. Upon placement in a conditional release program pursuant to s. 947.1405 or a conditional medical release program pursuant to s. 947.149, or a conditional aging inmate release program pursuant to s. 945.0912; or

5. Upon the granting of control release, including emergency control release, pursuant to s. 947.146.

Section 12. This act shall take effect October 1, 2020.
January 22nd, 2020

The Honorable Jeff Brandes, Chair
Appropriations Subcommittee on Criminal and Civil Justice
37 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Brandes:

I am writing to inform you that Senator Gruters will not be at Appropriations Subcommittee on Criminal and Civil Justice on 1/22/20 at 1:30 pm.

Warm regards,

Joe Gruters

cc: PK Jameson, Staff Director
    Lisa Roberts, Committee Administrative Assistant
CourtSmart Tag Report

Room: LL 37  Case No.:  Type:  
Caption: Senate Appropriations Subcommittee on Criminal and Civil Justice  Judge:  

Started:  1/22/2020 1:32:50 PM  Length: 00:06:29
Ends:    1/22/2020 1:39:18 PM

1:32:53 PM  Sen. Brandes (Chair)
1:33:32 PM  S 118
1:33:34 PM  Sen. Perry
1:34:08 PM  Matt Dunagan, Deputy Director, Florida Sheriffs Association (waives in support)
1:34:15 PM  Tonnette Graham, Associate Director of Public Policy, Florida Association of Counties
1:34:26 PM  Sen. Perry
1:34:57 PM  Sen. Rouson (Chair)
1:35:22 PM  S 560
1:35:25 PM  Sen. Brandes
1:35:49 PM  Kara Gross, Legislative Director, American Civil Liberties Union of Florida (waives in support)
1:35:50 PM  Carey Haughwout, Public Defender, Florida Public Defender Association (waives in support)
1:35:51 PM  Starla Brown, Deputy State Director, Americans for Prosperity (waives in support)
1:35:52 PM  Sal Nuzzo, Vice President of Policy, The James Madison Institute (waives in support)
1:36:33 PM  Sen. Brandes (Chair)
1:37:44 PM  Greg Pound, Citizen
1:37:47 PM  Sen. Brandes
1:37:56 PM  Sen. Taddeo
1:38:11 PM  Sen. Brandes
1:38:47 PM  Sen. Bracy
1:39:00 PM  Sen. Gainer
1:39:06 PM  Sen. Brandes