

<b>Tab 1</b>	<b>SB 8</b> by <b>Jones (CO-INTRODUCERS) Thompson;</b> (Identical to H 06001) Relief of Leonard Cure/State of Florida					
<b>Tab 2</b>	<b>CS/SB 496</b> by <b>CJ, Burgess;</b> (Identical to CS/H 00329) Electronic Monitoring of Persons Charged with or Convicted of Offenses Involving Schools or Students					
<b>Tab 3</b>	<b>CS/SB 504</b> by <b>CJ, Rodriguez (CO-INTRODUCERS) Perry;</b> (Similar to CS/1ST ENG/H 00605) Expunction of Criminal History Records					
912200	A	S	RS	ACJ, Rodriguez	Delete L.38 - 81:	04/13 01:47 PM
150002	SA	S	RCS	ACJ, Rodriguez	Delete L.28 - 38:	04/13 01:47 PM
<b>Tab 4</b>	<b>CS/SB 516</b> by <b>BI, DiCeglie;</b> (Similar to CS/H 00057) Motor Vehicle Liability Policies					
<b>Tab 5</b>	<b>CS/SB 528</b> by <b>CJ, Davis (CO-INTRODUCERS) Book;</b> (Identical to CS/H 00537) Custody and Supervision of Specified Offenders					
<b>Tab 6</b>	<b>CS/SB 618</b> by <b>CJ, Yarborough;</b> (Similar to CS/H 00095) Rights of Law Enforcement Officers and Correctional Officers					
971074	D	S	RCS	ACJ, Yarborough	Delete everything after	04/13 01:49 PM
<b>Tab 7</b>	<b>SB 676</b> by <b>Grall;</b> (Similar to CS/H 00249) Background Screenings					
<b>Tab 8</b>	<b>CS/SB 836</b> by <b>CJ, Powell;</b> (Identical to CS/H 00889) Theft from Nonprofit Organizations					
<b>Tab 9</b>	<b>CS/SB 994</b> by <b>CJ, Calatayud (CO-INTRODUCERS) Perry, Gruters, Rodriguez, Avila;</b> (Similar to CS/CS/H 00269) Public Nuisances					
<b>Tab 10</b>	<b>CS/SB 1012</b> by <b>CF, Rouson;</b> (Identical to CS/H 01045) Certified Peer Specialist Gateway Pilot Program					
<b>Tab 11</b>	<b>SB 1104</b> by <b>Wright;</b> (Similar to CS/H 01577) Victim Compensation Claims					
674522	A	S	RCS	ACJ, Wright	Delete L.30 - 82:	04/13 02:02 PM
<b>Tab 12</b>	<b>SB 1140</b> by <b>Ingoglia;</b> (Similar to CS/H 01105) Rapid DNA Grant Program					
839280	A	S	RCS	ACJ, Ingoglia	Delete L.26 - 29:	04/13 02:02 PM
969332	A	S	RCS	ACJ, Ingoglia	Delete L.36 - 40.	04/13 02:02 PM
<b>Tab 13</b>	<b>SB 1198</b> by <b>Simon (CO-INTRODUCERS) Davis;</b> (Similar to H 01207) Operation New Hope					
<b>Tab 14</b>	<b>CS/SB 1226</b> by <b>CJ, Burgess;</b> (Identical to CS/H 01359) Controlled Substances					
829160	D	S	L RCS	ACJ, Burgess	Delete everything after	04/13 01:59 PM
<b>Tab 15</b>	<b>CS/SB 1334</b> by <b>CJ, Martin;</b> (Identical to CS/H 01375) Battery by Strangulation					
<b>Tab 16</b>	<b>CS/SB 1478</b> by <b>CJ, Simon;</b> (Similar to CS/H 01263) Criminal Sentencing					

The Florida Senate  
**COMMITTEE MEETING EXPANDED AGENDA**  
**APPROPRIATIONS COMMITTEE ON CRIMINAL AND CIVIL  
JUSTICE**  
**Senator Bradley, Chair**  
**Senator Powell, Vice Chair**

**MEETING DATE:** Wednesday, April 12, 2023  
**TIME:** 11:30 a.m.—2:00 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Building

**MEMBERS:** Senator Bradley, Chair; Senator Powell, Vice Chair; Senators Baxley, Burgess, Hooper, Ingoglia, Martin, Pizzo, Rouson, Torres, Wright, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 8</b> Jones (Identical H 6001)	Relief of Leonard Cure/State of Florida; Providing for the relief of Leonard Cure; providing an appropriation to compensate Mr. Cure for being wrongfully incarcerated for 16 years; providing for the waiver of certain tuition and fees for Mr. Cure; prohibiting funds awarded under this act to Mr. Cure from being used or paid for attorney or lobbying fees, etc.  SM JU     04/04/2023 Favorable ACJ    04/12/2023 Favorable AP	Favorable Yeas 12 Nays 0
2	<b>CS/SB 496</b> Criminal Justice / Burgess (Identical CS/H 329)	Electronic Monitoring of Persons Charged with or Convicted of Offenses Involving Schools or Students; Requiring a court to consider electronic monitoring and location restrictions as conditions of pretrial release for persons charged with certain offenses against schools or students; requiring a court to consider electronic monitoring and location restrictions as conditions of probation or community control for persons charged with certain offenses against schools or students, etc.  CJ     03/27/2023 Fav/CS ACJ    04/12/2023 Favorable RC	Favorable Yeas 12 Nays 0
3	<b>CS/SB 504</b> Criminal Justice / Rodriguez (Similar CS/H 605, Compare H 1273)	Expunction of Criminal History Records; Revising an eligibility criterion under which a person is eligible to petition a court to expunge a criminal history record if an indictment, information, or other charging document was dismissed by a court; expanding an exception to an eligibility requirement for expunction of a criminal history record to allow a prior expunction of a criminal history record granted for an offense committed when the person was a minor, etc.  CJ     03/20/2023 Fav/CS ACJ    04/12/2023 Fav/CS FP	Fav/CS Yeas 12 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Committee on Criminal and Civil Justice  
 Wednesday, April 12, 2023, 11:30 a.m.—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>CS/SB 516</b> Banking and Insurance / DiCeglie (Similar CS/H 57)	Motor Vehicle Liability Policies; Revising the definition of the term "motor vehicle liability policy" and defining the term "risk retention group" for purposes of ch. 324, F.S., etc.  BI 03/15/2023 Temporarily Postponed BI 03/22/2023 Fav/CS ACJ 04/12/2023 Favorable RC	Favorable Yeas 11 Nays 1
5	<b>CS/SB 528</b> Criminal Justice / Davis (Identical CS/H 537)	Custody and Supervision of Specified Offenders; Excluding certain offenders from eligibility to receive basic gain-time; excluding certain offenders from eligibility to receive incentive gain-time; excluding certain offenders from eligibility for specified reductions to a term of supervision; requiring a court to impose additional conditions of supervision on specified offenders, etc.  CJ 03/20/2023 Temporarily Postponed CJ 03/27/2023 Fav/CS ACJ 04/12/2023 Favorable FP	Favorable Yeas 12 Nays 0
6	<b>CS/SB 618</b> Criminal Justice / Yarborough (Similar CS/H 95)	Rights of Law Enforcement Officers and Correctional Officers; Providing rights of law enforcement officers and correctional officers relating to a Brady identification system; prohibiting a law enforcement officer or correctional officer from being discharged, suspended, demoted, or otherwise disciplined for certain reasons; providing that a prosecuting agency is not required to maintain a Brady identification system; authorizing a prosecuting agency to choose different procedures to discharge its obligations under a specified United States Supreme Court ruling, etc.  CJ 03/20/2023 Fav/CS ACJ 04/12/2023 Fav/CS FP	Fav/CS Yeas 12 Nays 0
7	<b>SB 676</b> Grall (Similar H 249)	Background Screenings; Revising level 2 screening requirements; requiring the Care Provider Background Screening Clearinghouse to allow the results of certain screenings after a date certain to be shared among specified agencies and qualified entities; revising requirements relating to background screenings for independent sanctioning authorities; revising requirements for the Criminal Justice Information Program relating to fingerprint searches; revising screening standard requirements for educator certification or employment in positions that require direct contact with certain students, etc.  CJ 03/13/2023 Favorable ACJ 04/12/2023 Favorable AP	Favorable Yeas 11 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Committee on Criminal and Civil Justice  
 Wednesday, April 12, 2023, 11:30 a.m.—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	<b>CS/SB 836</b> Criminal Justice / Powell (Identical CS/H 889)	Theft from Nonprofit Organizations; Providing for the reclassification of certain theft offenses of specified amounts from nonprofit organizations; requiring restitution and community service for certain violations, etc.  CJ 03/27/2023 Fav/CS ACJ 04/12/2023 Favorable FP	Favorable Yeas 12 Nays 0
9	<b>CS/SB 994</b> Criminal Justice / Calatayud (Similar CS/CS/H 269)	Public Nuisances; Prohibiting a person from intentionally dumping onto private property litter that evidences religious or ethnic animus toward an owner or invitee of such property; providing criminal penalties; prohibiting a person from willfully and maliciously harassing, threatening, or intimidating another person based on the person's wearing or displaying of any indicia relating to any religious or ethnic heritage; removing a minimum damage requirement for a violation, etc.  CJ 03/27/2023 Fav/CS ACJ 04/12/2023 Favorable RC	Favorable Yeas 12 Nays 0
10	<b>CS/SB 1012</b> Children, Families, and Elder Affairs / Rouson (Identical CS/H 1045)	Certified Peer Specialist Gateway Pilot Program; Creating the pilot program within the Department of Corrections; authorizing inmates at participating facilities to apply to participate in the pilot program; exempting persons who complete the pilot program's requirements from a specified background screening for peer specialists, etc.  CF 04/04/2023 Fav/CS ACJ 04/12/2023 Favorable FP	Favorable Yeas 12 Nays 0
11	<b>SB 1104</b> Wright (Similar CS/H 1577)	Victim Compensation Claims; Authorizing the Department of Legal Affairs to issue waivers of any claim filing deadlines for specified victim claims for compensation upon a showing that a delay in filing the application occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, etc.  CJ 03/27/2023 Favorable ACJ 04/12/2023 Fav/CS FP	Fav/CS Yeas 12 Nays 0



**COMMITTEE MEETING EXPANDED AGENDA**Appropriations Committee on Criminal and Civil Justice  
Wednesday, April 12, 2023, 11:30 a.m.—2:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	<b>SB 1140</b> Ingoglia (Similar CS/H 1105)	Rapid DNA Grant Program; Creating the Rapid DNA Grant Program within the Department of Law Enforcement for county jails or sheriffs' offices; requiring the department to annually award grant funds to county jails or sheriffs' offices; providing funding requirements; authorizing the department to establish criteria and set specific time periods for the acceptance of applications and the selection process for awarding grant funds, etc.  CJ 03/27/2023 Favorable ACJ 04/12/2023 Fav/CS FP	Fav/CS Yeas 12 Nays 0
13	<b>SB 1198</b> Simon (Similar H 1207)	Operation New Hope; Authorizing the Department of Corrections, contingent upon appropriation, to contract with Operation New Hope for specified services, etc.  CJ 04/04/2023 Favorable ACJ 04/12/2023 Favorable FP	Favorable Yeas 12 Nays 0
14	<b>CS/SB 1226</b> Criminal Justice / Burgess (Identical CS/H 1359)	Controlled Substances; Providing criminal penalties; providing for a mandatory minimum term of imprisonment if a person sells, manufactures, or delivers or possesses with intent to sell, manufacture, or deliver specified substances or mixtures, and such substance or mixture has at least one specified attribute; providing enhanced criminal penalties; providing for a mandatory minimum term of imprisonment if a person commits specified prohibited acts relating to controlled substances, and such substance or mixture has at least one specified attribute, etc.  CJ 03/20/2023 Fav/CS ACJ 04/12/2023 Fav/CS FP	Fav/CS Yeas 12 Nays 0
15	<b>CS/SB 1334</b> Criminal Justice / Martin (Identical CS/H 1375)	Battery by Strangulation; Prohibiting battery by strangulation; providing applicability, etc.  CJ 03/20/2023 Fav/CS ACJ 04/12/2023 Favorable RC	Favorable Yeas 12 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Committee on Criminal and Civil Justice  
Wednesday, April 12, 2023, 11:30 a.m.—2:00 p.m.

---

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
16	<b>CS/SB 1478</b> Criminal Justice / Simon (Similar CS/H 1263)	Criminal Sentencing; Prohibiting points from being assessed for violations of community sanctions which are resolved under an alternative sanctioning program for purposes of calculations under the Criminal Punishment Code; providing for the resolution of low-risk violations of probation through an alternative sanctioning program in certain circumstances; providing for structured sentences when technical violations result in prison terms in certain circumstances; revising the definition of the term "moderate-risk violation"; requiring the state attorney to consent to the offering of an alternative sanction under certain circumstances, etc.  CJ 04/04/2023 Fav/CS ACJ 04/12/2023 Favorable FP	Favorable Yeas 12 Nays 0

---

Other Related Meeting Documents

---



## THE FLORIDA SENATE

### SPECIAL MASTER ON CLAIM BILLS

**Location**  
409 The Capitol

**Mailing Address**  
404 South Monroe Street  
Tallahassee, Florida 32399-1100  
(850) 487-5229

DATE	COMM	ACTION
3/30/23	SM	Favorable
4/3/23	JU	Favorable
4/5/23	ACJ	Favorable

April 11, 2023

The Honorable Kathleen Passidomo  
President, The Florida Senate  
Suite 409, The Capitol  
Tallahassee, Florida 32399-1100

Re: **SB 8** – Senator Jones  
**HB 6001** – Representative Gottlieb  
Relief of Leonard Cure by the State of Florida

### SPECIAL MASTER'S FINAL REPORT

THIS IS A SUPPORTED CLAIM FOR \$817,000 TO BE APPROPRIATED FROM THE GENERAL REVENUE FUND TO THE DEPARTMENT OF FINANCIAL SERVICES, AND A WAIVER OF TUITION AND FEES FOR UP TO 120 HOURS OF INSTRUCTION, TO COMPENSATE LEONARD CURE FOR 16 YEARS OF WRONGFUL INCARCERATION.

#### FINDINGS OF FACT:

#### **General Overview of the Crime**

On November 10, 2003, at 7:15 a.m., a man with a firearm forced his way into a Dania Beach Walgreens store. The man threatened one of the employees with the firearm and then left with \$1,700 in cash. Only two employees, Ashraf Rizk and Kathy Venhuizen, were present during the robbery.<sup>1</sup>

Rizk, the manager of the Walgreens, saw the perpetrator in the parking lot when he arrived at work and asked the perpetrator if he needed anything. This occurred at

---

<sup>1</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 1.

approximately 7:00 a.m.<sup>2</sup> The perpetrator responded that he was waiting to make sure his child got on the bus. When Rizk opened the door at 7:15 a.m. to let Venhuizen in the door, the perpetrator fought with Rizk and threatened him with a firearm. The perpetrator retrieved money from the store safe and fled the scene at approximately 7:24 a.m.<sup>3</sup> The perpetrator was described as wearing long jean shorts, a denim jacket, and a red baseball cap.<sup>4</sup>

#### Identification of Mr. Cure

The two witnesses gave conflicting statements as to the appearance of the perpetrator. Venhuizen described a black male, five foot eight inches, stocky, and missing teeth on the left side of his mouth, like a “vicious animal.” She also described him as “neat” and “well-dressed.” Rizk described the perpetrator as wearing a blue jean jacket and long blue jean shorts. He had no recollection of the perpetrator missing teeth.<sup>5</sup>

On November 12, 2003, both Rizk and Venhuizen met with Detective Gajate to work on a composite sketch. Detective Gajate, was not a trained sketch artist. Rizk and Venhuizen argued over the sketch, and Venhuizen “did most of the talking,” in relation to the composite.<sup>6</sup>

Deputy Bell was posted outside of a nearby elementary school on the day of the robbery. Deputy Bell saw a boy walking to school with a man who was wearing blue jean shorts, a blue jean jacket, and a red baseball cap at approximately 7-8 a.m. Deputy Bell recognized the boy because she sees him regularly walking with his sister to school. She did not recognize the man at the time she saw him walking past her patrol car.<sup>7</sup>

---

<sup>2</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel’s Findings*, 3, (December 8, 2020).

<sup>3</sup> *Id.*; Innocence Project of Florida, Inc, *Statement of Facts and Case*, 1-2.

<sup>4</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel’s Findings*, 3, (December 8, 2020).

<sup>5</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel’s Findings*, 3, (December 8, 2020). Innocence Project of Florida, Inc, *Statement of Facts and Case*, 2.

<sup>6</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel’s Findings*, 2, (December 8, 2020).

<sup>7</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel’s Findings*, 2, (December 8, 2020); Innocence Project of Florida, Inc, *Statement of Facts and Case*, 2.

At approximately 7:24 a.m., a dispatch regarding the robbery went out. Deputy Bell arrived at the scene of the robbery where she learned the description of the perpetrator was a black male wearing blue jeans and a jacket. Deputy Bell did not mention seeing a man matching that description. It was not until a few days later that she remembered seeing a person matching the description of the perpetrator walk past her patrol car.<sup>8</sup>

A few days later, Lieutenant Stewart showed Deputy Bell a photograph of Leonard Cure, and Deputy Bell concluded Mr. Cure was the man she saw walking. After Lieutenant Stewart gave Deputy Bell Mr. Cure's name, Deputy Bell met Mr. Cure at his residence a few months earlier while she was reviewing criminal registrants and prison releases.<sup>9</sup>

Lieutenant Stewart stated she went onto a computer to search a program called "TRAP," which is a program that had information and photographs of people who have been arrested, or were on prisoner release, and lived in the area.<sup>10</sup> Lieutenant Stewart chose a photograph from the database based on Venhuizen's statement that the perpetrator's physical appearance was "neat." Stewart chose only Mr. Cure's photograph because it appeared he maintained a well-kept appearance.<sup>11</sup>

Approximately a week after the robbery, detectives constructed a lineup and asked both Venhuizen and Rizk to identify the suspect independently.<sup>12</sup>

#### Lineup and Arrest

On November 17, 2003, Vehuizen was presented six men in a photo lineup, and she chose number three, Leonard Cure, but noted he did not have the same skin tone as the perpetrator. Detective Mellies then showed her a second four-

---

<sup>8</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 2-3, (December 8, 2020).

<sup>9</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 3, (December 8, 2020); Innocence Project of Florida, Inc, *Statement of Facts and Case*, 2.

<sup>10</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 6, (December 8, 2020).

<sup>11</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 6, (December 8, 2020); Innocence Project of Florida, Inc, *Statement of Facts and Case*, 2.

<sup>12</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 3.

person photo lineup where all four photos were of Leonard Cure.<sup>13</sup>

On November 19, 2003, Rizk was presented a photo lineup and narrowed it down to numbers one and three. He stated he was not 100 percent sure.<sup>14</sup> Rizk also stated he was not sure which person it was, and noted the issue of complexion. Detective Mellies then presented a second lineup with photos of only Leonard Cure.<sup>15</sup> Rizk did not realize the second set of photos were the same person and at trial testified “I thought they [were] three different people.”<sup>16</sup>

Leonard Cure was arrested on November 20, 2003 for robbery with a firearm and assault with a firearm based on this identification.<sup>17</sup>

#### Trial and Conviction

The state relied on Venhuizen’s identification of Mr. Cure and the fact he had a missing side tooth.<sup>18</sup>

The witness Venhuizen described the perpetrator as missing a tooth on the left side of his face. Mr. Cure had both a missing side and front tooth. Mr. Cure’s girlfriend, Enid Roman testified that Mr. Cure wore a bridge and never left home without it. She never knew his teeth were missing until after they started dating.<sup>19</sup>

Detective Mellies testified at trial that he identified the young boy seen by Deputy Bell, and the boy selected Mr. Cure from a lineup. This boy was not called as a witness, the prosecutor had no knowledge of the boy’s identity, and Mellies had no report of the boy’s identification.<sup>20</sup>

---

<sup>13</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel’s Findings*, 5, (December 8, 2020); Innocence Project of Florida, Inc, *Statement of Facts and Case*, 3.

<sup>14</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel’s Findings*, 3, (December 8, 2020).

<sup>15</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, p. 3.

<sup>16</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel’s Findings*, 3, (December 8, 2020).

<sup>17</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 3.

<sup>18</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 3.

<sup>19</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 4.

<sup>20</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 3.

*Alibi Defense*

Mr. Cure presented evidence of an alibi. Mr. Cure left home the morning of the robbery at 6:00 a.m. with his girlfriend Enid Roman and her three children. After Roman dropped the children off at school and daycare, she dropped Mr. Cure off at a bus stop. After exiting the first bus and before catching the second bus on the route he took to work, Mr. Cure stopped by an ATM. Mr. Cure withdrew 20 dollars at 6:52 a.m.<sup>21</sup>

Mr. Cure's manager testified Mr. Cure was a permanent worker with the company because Mr. Cure was always on time. On the day of the robbery, Marty Weiss testified he entered the work site at 8:00 a.m., and Mr. Cure was already present. Additionally, Wayne Knox, Mr. Cure's co-worker, stated in his sworn statement that he arrived to work at 7:00 a.m., on the day of the robbery and Mr. Cure got there after him, between 7:00 a.m. and 7:20 a.m.<sup>22</sup>

Mr. Cure's work attire was construction boots and clothing suitable for construction work, including long pants.<sup>23</sup>

On August 17, 2004, the jury could not reach a unanimous decision and the court ordered a mistrial. Mr. Cure refused an offer of 7 years of incarceration in exchange for a guilty plea.

The second trial began several weeks later, and Rizk testified as a defense witness. Rizk testified he was not sure that Mr. Cure was the person who committed the robbery.<sup>24</sup>

Mr. Cure was found guilty and sentenced to life in prison for armed robbery and assault with a firearm.<sup>25</sup>

---

<sup>21</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 15-17, (December 8, 2020); Innocence Project of Florida, Inc, *Statement of Facts and Case*, 4.

<sup>22</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 15-17, (December 8, 2020); Innocence Project of Florida, Inc, *Statement of Facts and Case*, 4.

<sup>23</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 15-17, (December 8, 2020); Innocence Project of Florida, Inc, *Statement of Facts and Case*, 4.

<sup>24</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 5.

<sup>25</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 5,

### Conviction Review Unit Findings and Recommendation

The Conviction Review Unit (CRU) of the 17<sup>th</sup> Judicial Circuit received a request from Mr. Cure to re-investigate his case. After initial review, Assistant State Attorney Arielle Demby Berger reached out to the Innocence Project of Florida, who became counsel for Mr. Cure in February 2020.<sup>26</sup>

As a result of the CRU's initial investigation, the Office of the State Attorney for the 17<sup>th</sup> Judicial Circuit agreed to resentence Mr. Cure to time-served to allow for his immediate release while the reinvestigation continued.<sup>27</sup> The order, in part, stated "[t]he CRU recommends that in light of all the facts and circumstances of the case it is in the best interest of justice to release Cure to a time-served sentence." Mr. Cure was released on April 14, 2020.<sup>28</sup>

The CRU made the following factual conclusions:

*The Alibi:* The CRU found undisputed evidence of Mr. Cure's alibi, including an ATM receipt showing Mr. Cure at a Wachovia at 6:52 a.m., 3.2 miles from the crime scene. Additionally, there was undisputed testimony Mr. Cure was at work at approximately 7:00 a.m., 7 miles from the crime scene. Mr. Cure did not have access to a car on the morning of the crime, and was relying on the bus system to get to work. The CRU timed the route and determined it was not possible for Mr. Cure to be at the ATM, go to the crime scene, and get back to work by the time he was seen by his coworker.<sup>29</sup>

*The Identification:* The CRU concluded the only reason Mr. Cure was in the photo lineup was because of Venhuizen's description that the perpetrator was "neat," and Lieutenant Stewart chose the only photo depicting a man who seemed to fit that description. Furthermore, the CRU's investigation determined "it is clear that Leonard Cure was not identified through the 'TRAP' program," as stated by Lieutenant Stewart. It is unclear how Mr. Cure's photo was retrieved.<sup>30</sup>

---

<sup>26</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 5.

<sup>27</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 5.

<sup>28</sup> Claimant, Leonard Cure, Exhibit List, *Tab E – Resentencing Order* (April 14, 2020).

<sup>29</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 15-17, (December 8, 2020); Innocence Project of Florida, Inc, *Statement of Facts and Case*, 6.

<sup>30</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 8, (December 8, 2020).



The CRU further discovered a second photo array was shown to both victims that included four photos all of which were Mr. Cure. The CRU had serious concerns about the reliability of the identification due to the suggestive nature of the multiple lineups.<sup>31</sup>

*The boy:* The witnesses described the perpetrator with or waiting for a young boy. The State's theory was that this boy was Enid Roman's son. Detective Mellies indicated he spoke with the boy who identified Mr. Cure, but there was no corroborative documentation of this. The CRU's investigation determined the boy was not Enid Roman's son, and the police never spoke to Enid Roman's son regarding this case.<sup>32</sup>

*Teeth:* Venhuizen described the perpetrator as missing teeth on the left side of his mouth. Mr. Cure was missing a front tooth and one side tooth. Mr. Cure never left his house without wearing his bridge.<sup>33</sup> Based on an expert report the CRU determined Mr. Cure's teeth were different than that described by Venhuizen.<sup>34</sup> Additionally, the second eye witness, Rizk, did not describe the perpetrator as missing teeth.<sup>35</sup>

The CRU concluded the only item tying Mr. Cure to the crime is the identification by Venhuizen, who was under a great deal of stress during and following the crime.<sup>36</sup> Additionally, "a complete review of the evidence presented at trial and in discovery, as well as further investigation of that evidence demonstrates that the case against Mr. Cure gives rise to a reasonable doubt as to his culpability, and that he is most likely innocent."<sup>37, 38</sup>

---

<sup>31</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 6.

<sup>32</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 12-14, (December 8, 2020); Innocence Project of Florida, Inc, *Statement of Facts and Case*, 6.

<sup>33</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 8, (December 8, 2020).

<sup>34</sup> Claimant, Leonard Cure, Exhibit List, *Tab H – Expert Dental Report by Dr. Carrigan Parish, DMD, PhD*, (September 28, 2020).

<sup>35</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 6.

<sup>36</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 19, (December 8, 2020).

<sup>37</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, 6.

<sup>38</sup> Claimant, Leonard Cure, Exhibit List, *Tab B – Conviction Review Unit Memorandum with independent Review Panel's Findings*, 2, (December 8, 2020).

Mr. Cure's convictions were vacated on December 10, 2020.<sup>39</sup>  
40 41 42

LITIGATION HISTORY:

November 20, 2003, Leonard Cure was arrested for robbery with a firearm and assault with a firearm.

August 17, 2004, there was a mistrial after the jury could not reach a unanimous decision. Several weeks later, another trial was held and Mr. Cure was convicted and sentenced to life in prison.

April 14, 202, Mr. Cure was released from prison.

December 10, 2020, Mr. Cure's conviction was vacated.

CONCLUSIONS OF LAW:

**Standard of Proof in Wrongful Incarceration Compensation Claims**

The appropriate standard of proof applied in a wrongful incarceration claim bill is whether there is *clear and convincing evidence* the claimant committed neither the act nor the offense that served as the basis for the conviction and the claimant did not aid, abet, or act as an accomplice.

Generally, the standard of proof in the claim bill process is preponderance of the evidence. However, in 2008, the Legislature established a clear and convincing standard of proof for wrongful incarceration claims under chapter 961, of the Florida Statutes. While the Legislature is not bound to the statutory requirements, precedent<sup>43</sup> and equitability suggest the applicable standard of proof in a wrongful incarceration claim bill should be consistent with these statutory requirements. There have been two wrongful incarceration claim bills passed since the enactment of chapter 961, of the Florida Statutes. Both of these bills have utilized a clear and convincing standard.<sup>44</sup> Additionally, a person who is barred from receiving compensation under the statutory framework

---

<sup>39</sup> Innocence Project of Florida, Inc, *Statement of Facts and Case*, p. 7.

<sup>40</sup> Claimant, Leonard Cure, Exhibit List, *Tab F- Order Vacating Convictions and Sentences* (December 10, 2020) and *G- Nolle Prosequie*, (December 10, 2020).

<sup>41</sup> Special Master Hearing (March 1, 2021), Testimony of Teresa Hall at 17:14-17:26.

<sup>42</sup> *Id.* at 17:35-18:01.

<sup>43</sup> Senate Special Master Report Re: CS/SB 2 (2012) (November 1, 2011) (recommending relief regarding Mr. William Dillon's wrongful incarceration claim); Senate Special Master Report Re: SB 28 (2020) (January 23, 2020) (recommending relief regarding Mr. Clifford Williams' wrongful incarceration claim).

<sup>44</sup> *Id.*

due to prior felony convictions may only be compensated for a wrongful conviction through an act of grace by the Legislature. Applying a lower standard of proof to those barred from statutory relief would create an inequitable result.

Clear and convincing evidence is “evidence making the truth of the facts asserted ‘highly probable.’”<sup>45</sup> A clear and convincing standard “is a greater burden than preponderance of the evidence, the standard applied in most civil trials, but less than evidence beyond a reasonable doubt, the norm for criminal trials.”<sup>46</sup> Florida jury instructions provide clear and convincing evidence is “evidence that is precise, explicit, lacking in confusion, and of such weight that it produces a firm belief or conviction, without hesitation, about the matter in issue.”<sup>47</sup>

### **Compensation for Wrongful Incarceration Compensation Claims**

Chapter 961, of the Florida Statutes, provides that compensation for wrongful incarceration is calculated at a rate of \$50,000 for each year of wrongful incarceration, and is prorated as necessary.<sup>48</sup> Additionally, a petitioner may receive a waiver of tuition and fees for up to 120 hours of instruction at a career center, Florida College System Institution, or any state university;<sup>49</sup> the amount of any fine, penalty, or court costs imposed and paid by the wrongfully incarcerated person;<sup>50</sup> and the amount of reasonable attorney’s fees and expenses incurred by the wrongfully incarcerated person.<sup>51</sup> The total amount awarded may not exceed \$2 million.<sup>52</sup>

Similar to the standard of proof, the Legislature is not bound by the statutory requirements of chapter 961, of the Florida Statutes, but precedent and equitability suggest these requirements be applied.

---

<sup>45</sup> *Slomowitz v. Walker*, 429 So. 2d 797, 799 (4th DCA 1983).

<sup>46</sup> Bryan A. Garner, *Black’s Law Dictionary* (2006).

<sup>47</sup> Standard Jury Instructions-Civil (No. 405.4).

<sup>48</sup> Section 961.06(1)(a), F.S.

<sup>49</sup> Section 961.06(1)(b), F.S.

<sup>50</sup> Section 961.06(1)(c), F.S.

<sup>51</sup> Section 961.06(1)(d), F.S.

<sup>52</sup> Section 961.06(1), F.S.

### **Conclusion Based upon Findings of Fact and Clear and Convincing Evidence**

Mr. Cure presented strong, undisputed evidence of an alibi. There was an ATM receipt showing Mr. Cure at a Wachovia at 6:52 a.m., 3.2 miles from the crime scene. Additionally, there was undisputed testimony Mr. Cure was at work at approximately 7:00 a.m., 7 miles from the crime scene. Mr. Cure did not have access to a car on the morning of the crime, and was relying on the bus system to get to work. It was not possible for Mr. Cure to be at the ATM, go to the crime scene, and get back to work by the time he was seen by his coworker.

Further, the evidence relating to the identification of Mr. Cure was unreliable and suggestive in nature. The only reason Mr. Cure was in the photo lineup was because of Venhuizen's description that the perpetrator was "neat," and Lieutenant Stewart chose the only photo depicting a man who seemed to fit that description. The CRU's investigation determined Mr. Cure was not identified through the TRAP program as stated by the Lieutenant. It remains unclear how Mr. Cure's photo was retrieved. The second photo array shown to both victims only included four photos all of which were Mr. Cure.

Additionally, one victim described the perpetrator as missing teeth on the left side of his mouth. Mr. Cure was missing a front tooth and one side tooth, but never left his house without wearing his bridge. Based on an expert report the CRU determined Mr. Cure's teeth were different than that described by the victim.

The State's theory that the boy seen with the perpetrator was Enid Roman's son has been proven wrong. Detective Mellies indicated he spoke with the boy who identified Mr. Cure, but there was no corroborative documentation of this. The CRU's investigation determined the boy was not Enid Roman's son, and that the police never spoke to Enid Roman's son regarding this case.

The only evidence tying Mr. Cure to the crime is the identification by Venhuizen, who was under a great deal of stress during and following the crime.

The materials presented did not include any substantiated evidence demonstrating Mr. Cure's involvement in the crime.

Given the evidence provided during the claim bill process, the undersigned finds the claimant has demonstrated actual innocence by clear and convincing evidence.

The claimant was wrongfully incarcerated and the amount of \$817,000, calculated at the rate of \$50,000 per year is reasonable.

ATTORNEY FEES:

This bill does not allocate any funds for attorney or lobbying fees. Additionally, the claimant's attorney submitted a Statement on Payment for Attorney, stating the claimant had retained attorney Seth Miller of the Innocence Project of Florida, to represent him during the Special Master hearing. Mr. Miller, nor any other individuals rendering services on behalf of Mr. Cure in support of this claim bill are receiving any form of payment or compensation, and all representation is *pro bono*.<sup>53</sup>

RECOMMENDATIONS:

Based upon the evidence submitted prior to and during the special master hearing, the undersigned finds the claimant has demonstrated actual innocence by clear and convincing evidence. There is clear and convincing evidence that the claimant committed neither the act nor the offense that served as the basis for the conviction and that the petitioner did not aid, abet, or act as an accomplice, and the relief sought is reasonable.

The undersigned recommends the bill be reported FAVORABLY.

Respectfully submitted,

Amanda Stokes  
Senate Special Master

cc: Secretary of the Senate

---

<sup>53</sup> See, Innocence Project of Florida, Inc. *Statement on Payment for Attorney* (2023).



The Florida Senate

## Committee Agenda Request

Senator Shevrin D. "Shev" Jones  
218 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

**To:** Chair Jennifer Bradley  
Committee on Appropriations on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** April 4, 2023

---

I respectfully request that **SB 8: Relief of Leonard Cure/State of Florida**, be placed on the:

- Committee agenda at your earliest possible convenience.
- Next committee agenda.

A handwritten signature in blue ink, appearing to read "Shev Jones".

---

Senator Shevrin Jones  
Florida Senate, District 34

4/12/23

Meeting Date

# The Florida Senate APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

8

Bill Number or Topic

CO APPRUPS

Committee

Amendment Barcode (if applicable)

Name AARON WAYT

FL ASSN OF CRIMINAL  
DEFENSE LAWYERS

Phone (407) 495-3194

Address 553 E TENN ST

Street

Email AARON@DONPVMPHREY.COM

TLH

City

FL

State

32308

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

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

S-001 (08/10/2021)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

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

---

**BILL:** CS/SB 496

**INTRODUCER:** Criminal Justice Committee and Senator Burgess

**SUBJECT:** Electronic Monitoring of Persons Charged with or Convicted of Offenses Involving Schools or Students

**DATE:** April 11, 2023      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 496 amends s. 903.041, F.S., authorizing electronic monitoring and location restrictions as conditions of pretrial release of persons charged with certain offenses against schools or students. The court must consider whether conditions of electronic monitoring and a prohibition of being within 1,000 of any school are appropriate conditions of pretrial release, when a defendant is charged with any of the certain offenses if such offense is against a school or a student.

The bill creates s. 948.301, F.S., authorizing electronic monitoring and location restrictions for probationers or community controllees who commit certain offenses against schools or students. The bill provides the court must consider whether or not to require electronic monitoring or prohibit the probationer or community controllee from being within 1,000 feet of any school.

The bill is effective October 1, 2023.

**II. Present Situation:**

**Use of Electronic Monitoring in Florida's Criminal Justice System**

There are several stages of the criminal justice system in which a court or another authorized entity may order a person to wear an electronic monitoring device. An electronic monitoring



device (EM) is a tamper-resistant device worn on the body that monitors the location of a person at all times of the day. The monitoring agency is notified for various violations of the terms of supervision, such as if the person travels to a location he or she is not authorized to be or if the device is removed. Electronic monitoring systems can be either “passive” or “active” and are typically operated through radio frequency or global positioning system (GPS) monitoring.<sup>1</sup> Some of the instances where a person may be placed on an EM include:

- A court order allowing the release from custody to a pretrial release program while the defendant awaits trial.<sup>2</sup>
- A judge placing an offender on probation<sup>3</sup> or community control<sup>4</sup> in lieu of or in addition to incarceration.<sup>5</sup>
- Supervision by the Florida Commission on Offender Review.<sup>6</sup>

Section 843.23, F.S., makes it a third-degree felony<sup>7</sup> to tamper with an EM, which includes any device that is used to track the location of a person. Tampering in violation of this section includes when a person intentionally and without authority:

- Removes, destroys, alters, tampers with, damages, or circumvents the operation of an electronic monitoring device that must be worn or used by that person or another person pursuant to a specified order; or
- Requests, authorizes, or solicits a person to remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device.

### ***Electronic Monitoring***

The Department of Corrections (DOC) must electronically monitor an offender sentenced to community control when the court has imposed such condition.<sup>8</sup> Any offender placed under supervision who violates the terms and conditions of supervision and is restored to supervision

<sup>1</sup> Office of Juvenile Justice and Delinquency Prevention, Home Confinement and Electronic Monitoring, October 2014, available at [https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/home\\_confinement\\_em.pdf](https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/home_confinement_em.pdf) (last visited March 22, 2023).

<sup>2</sup> Office of Program Policy Analysis & Gov’t Accountability, County Pretrial Release Programs: Calendar Year 2017, Report No. 18-06, at 1, 2, and 8-9, November 2018, available at <https://oppaga.fl.gov/Documents/Reports/18-06.pdf> (last visited March 22, 2023); See also s. 907.041, F.S., which provides a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release unless such person is charged with an enumerated dangerous crime.

<sup>3</sup> Section 948.001(8), F.S. Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose. Standard conditions of probation are enumerated in s. 948.03, F.S., and are not required to be announced on the record, but the court must orally pronounce, as well as provide in writing, any special conditions of probation imposed.

<sup>4</sup> Section 948.001(3), F.S., defines “community control” as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Section 948.10(2), F.S., provides that caseloads must be no more than 30 cases per officer.

<sup>5</sup> Sections 948.01 and 948.11, F.S. The DOC supervises more than 146,000 offenders on active community supervision. This includes offenders released from prison on parole, conditional release, or conditional medical release and offenders placed on court-ordered supervision including probation, drug offender probation, sex offender probation, and community control. DOC, Introduction to Community Corrections, available at <http://www.dc.state.fl.us/cc/index.html> (last visited March 22, 2023).

<sup>6</sup> Section 947.1405(7), (8), and (10), F.S.

<sup>7</sup> A third-degree felony is punishable by up to 5 years of incarceration and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

<sup>8</sup> Section 948.11(1), F.S.

may be supervised by means of an electronic monitoring device or system if ordered by the court.<sup>9</sup>

Electronic monitoring is a condition of a court or commission order for probationers, community controllees, or conditional releasees who have current or prior convictions for violent or sexual offenses. A system that actively monitors and identifies the offender's locations and timely reports or records the offender's presence near or within a crime scene or in a prohibited area or the offender's departure from specified geographic limitations must be used.<sup>10</sup>

Any person who intentionally alters, tampers with, damages, or destroys any electronic monitoring equipment pursuant to court or commission order, commits a third degree felony.<sup>11</sup>

### ***Probation***

The Office of Community Corrections currently supervises more than 146,000 offenders throughout Florida. These adult offenders are monitored and supervised by probation officers located in 130 probation offices. This includes offenders released from prison on parole, conditional release, or conditional medical release. It also includes offenders placed on court ordered supervision including regular probation, administrative probation, drug offender probation, sex offender probation, and community control.<sup>12</sup>

### **III. Effect of Proposed Changes:**

This bill amends s. 903.041, F.S., authorizing electronic monitoring and location restrictions as conditions of pretrial release of persons charged with certain offenses against schools or students. The court must consider whether conditions of electronic monitoring and a prohibition of being within 1,000 of any school are appropriate conditions of pretrial release, when a defendant is charged with any of the following offenses if such offense is against a school or a student:

- Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited;<sup>13</sup>
- Making, possessing, throwing, projecting, placing, or discharging any destructive device or attempt so to do;<sup>14</sup>
- Unlawful throwing, projecting, or discharging of destructive device or bomb that results in injury to another;<sup>15</sup>
- Threats to throw, project, place, or discharge any destructive device;<sup>16</sup>
- False reports concerning planting a bomb, an explosive, or a weapon of mass destruction, or concerning the use of firearms in a violent manner;<sup>17</sup>

---

<sup>9</sup> Section 948.11(2), F.S.

<sup>10</sup> Section 948.11(6), F.S.

<sup>11</sup> Section 843.23, F.S.

<sup>12</sup> Florida Department of Corrections, *Probation*, available at <http://www.dc.state.fl.us/cc/index.html> (last visited March 22, 2023).

<sup>13</sup> Section 790.115, F.S.

<sup>14</sup> Section 790.161, F.S.

<sup>15</sup> Section 790.1615, F.S.

<sup>16</sup> Section 790.162, F.S.

<sup>17</sup> Section 790.163, F.S.

- False reports concerning planting a bomb, explosive, or weapon of mass destruction in, or committing arson against, state-owned property, or concerning the use of firearms in a violent manner;<sup>18</sup>
- Planting of “hoax bomb” prohibited;<sup>19</sup>
- Manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction;<sup>20</sup>
- Trespass on school property with firearm or other weapon;<sup>21</sup>
- Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.<sup>22</sup>

The bill creates s. 948.301, F.S., authorizing electronic monitoring and location restrictions for offenders who commit certain offenses against schools or students if his or her crime was committed on or after October 1, 2023. The court must consider, in addition to all other standard and special conditions imposed, whether conditions of electronic monitoring and a prohibition from being within 1,000 feet of any public or private school<sup>23</sup> is appropriate as a condition of probation or community control supervision for a violation of the following offenses committed against a public or private school or a student in such a school:

- Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited;<sup>24</sup>
- Making, possessing, throwing, projecting, placing, or discharging any destructive device or attempt so to do;<sup>25</sup>
- Unlawful throwing, projecting, or discharging of destructive device or bomb that results in injury to another;<sup>26</sup>
- Threats to throw, project, place, or discharge any destructive device;<sup>27</sup>
- False reports concerning planting a bomb, an explosive, or a weapon of mass destruction, or concerning the use of firearms in a violent manner;<sup>28</sup>
- False reports concerning planting a bomb, explosive, or weapon of mass destruction in, or committing arson against, state-owned property, or concerning the use of firearms in a violent manner;<sup>29</sup>
- Planting of “hoax bomb” prohibited;<sup>30</sup>
- Manufacture, possession, sale, delivery, display, use, or attempted or threatened use of a weapon of mass destruction or hoax weapon of mass destruction;<sup>31</sup>

<sup>18</sup> Section 790.164, F.S.

<sup>19</sup> Section 790.165, F.S.

<sup>20</sup> Section 790.166, F.S.

<sup>21</sup> Section 810.095, F.S.

<sup>22</sup> Section 836.10, F.S.

<sup>23</sup> Section 1003.01(2), F.S., defines “School” as an organization of students for instructional purposes on an elementary, middle or junior high school, secondary or high school, or other public school level authorized under rules of the State Board of Education.

<sup>24</sup> Section 790.115, F.S.

<sup>25</sup> Section 790.161, F.S.

<sup>26</sup> Section 790.1615, F.S.

<sup>27</sup> Section 790.162, F.S.

<sup>28</sup> Section 790.163, F.S.

<sup>29</sup> Section 790.164, F.S.

<sup>30</sup> Section 790.165, F.S.

<sup>31</sup> Section 790.166, F.S.

- Trespass on school property with firearm or other weapon;<sup>32</sup>
- Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.<sup>33</sup>

The bill defines the term “school” to mean the grounds or facility of any early learning, prekindergarten, kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or private.

This bill is effective October 1, 2023.

#### **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:

None.

---

<sup>32</sup> Section 810.095, F.S.

<sup>33</sup> Section 836.10, F.S.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends section 907.041 of the Florida Statutes.

This bill creates section 948.301 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Criminal Justice on March 27, 2023:**

The committee substitute:

- Defines a “school” as the grounds or facility of any early learning, prekindergarten, kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or private.
- Revises s. 907.041, F.S., requiring a court to consider EM and location restrictions as conditions of pretrial release for persons charged with certain offenses against schools or students.

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Burgess

591-03132-23

2023496c1

1 A bill to be entitled  
 2 An act relating to electronic monitoring of persons  
 3 charged with or convicted of offenses involving  
 4 schools or students; amending s. 907.041, F.S.;  
 5 defining the term "school"; requiring a court to  
 6 consider electronic monitoring and location  
 7 restrictions as conditions of pretrial release for  
 8 persons charged with certain offenses against schools  
 9 or students; creating s. 948.301, F.S.; defining the  
 10 term "school"; requiring a court to consider  
 11 electronic monitoring and location restrictions as  
 12 conditions of probation or community control for  
 13 persons charged with certain offenses against schools  
 14 or students; amending s. 790.065, F.S.; conforming a  
 15 cross-reference; providing an effective date.  
 16  
 17 Be It Enacted by the Legislature of the State of Florida:  
 18  
 19 Section 1. Present subsection (4) of section 907.041,  
 20 Florida Statutes, is redesignated as subsection (5), a new  
 21 subsection (4) is added to that section, and paragraph (a) of  
 22 subsection (3) of that section is amended, to read:  
 23 907.041 Pretrial detention and release.—  
 24 (3) RELEASE ON NONMONETARY CONDITIONS.—  
 25 (a) It is the intent of the Legislature to create a  
 26 presumption in favor of release on nonmonetary conditions for  
 27 any person who is granted pretrial release unless such person is  
 28 charged with a dangerous crime as defined in subsection (5) ~~(4)~~.  
 29 Such person shall be released on monetary conditions if it is

Page 1 of 5

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

591-03132-23

2023496c1

30 determined that such monetary conditions are necessary to assure  
 31 the presence of the person at trial or at other proceedings, to  
 32 protect the community from risk of physical harm to persons, to  
 33 assure the presence of the accused at trial, or to assure the  
 34 integrity of the judicial process.  
 35 (4) SPECIAL CONDITIONS FOR CERTAIN OFFENSES INVOLVING  
 36 SCHOOLS OR STUDENTS.—  
 37 (a) As used in this subsection, the term "school" means the  
 38 grounds or facility of any early learning, prekindergarten,  
 39 kindergarten, elementary school, middle school, junior high  
 40 school, secondary school, career center, or postsecondary  
 41 school, whether public or private.  
 42 (b) When a person is charged with a crime under s. 790.115,  
 43 s. 790.161, s. 790.1615, s. 790.162, s. 790.163, s. 790.164, s.  
 44 790.165, s. 790.166, s. 810.095, or s. 836.10, alleged to have  
 45 been committed at or against a school or against a student while  
 46 he or she is at school, the court must consider whether  
 47 conditions of electronic monitoring and a prohibition from being  
 48 within 1,000 feet of any school are appropriate to protect the  
 49 community from risk of physical harm to persons.  
 50 Section 2. Section 948.301, Florida Statutes, is created to  
 51 read:  
 52 948.301 Electronic monitoring as a condition of probation  
 53 or community control for certain offenders.—  
 54 (1) As used in this section, the term "school" means the  
 55 grounds or facility of any early learning, prekindergarten,  
 56 kindergarten, elementary school, middle school, junior high  
 57 school, secondary school, career center, or postsecondary  
 58 school, whether public or private.

Page 2 of 5

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

591-03132-23

2023496c1

59 (2) Effective for any probationer or community controllee  
 60 whose crime was committed on or after October 1, 2023, and who  
 61 is placed under supervision for a violation of s. 790.115, s.  
 62 790.161, s. 790.1615, s. 790.162, s. 790.163, s. 790.164, s.  
 63 790.165, s. 790.166, s. 810.095, or s. 836.10, committed at or  
 64 against a school or against a student while he or she is at  
 65 school, the court must consider whether conditions of electronic  
 66 monitoring and a prohibition from being within 1,000 feet of any  
 67 school are appropriate for the offender.

68 Section 3. Paragraph (c) of subsection (2) of section  
 69 790.065, Florida Statutes, is amended to read:

70 790.065 Sale and delivery of firearms.—

71 (2) Upon receipt of a request for a criminal history record  
 72 check, the Department of Law Enforcement shall, during the  
 73 licensee's call or by return call, forthwith:

74 (c)1. Review any records available to it to determine  
 75 whether the potential buyer or transferee has been indicted or  
 76 has had an information filed against her or him for an offense  
 77 that is a felony under either state or federal law, or, as  
 78 mandated by federal law, has had an injunction for protection  
 79 against domestic violence entered against the potential buyer or  
 80 transferee under s. 741.30, has had an injunction for protection  
 81 against repeat violence entered against the potential buyer or  
 82 transferee under s. 784.046, or has been arrested for a  
 83 dangerous crime as specified in s. 907.041(5) (a) ~~s.~~

84 ~~907.041(4) (a)~~ or for any of the following enumerated offenses:

- 85 a. Criminal anarchy under ss. 876.01 and 876.02.  
 86 b. Extortion under s. 836.05.  
 87 c. Explosives violations under s. 552.22(1) and (2).

Page 3 of 5

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

591-03132-23

2023496c1

- 88 d. Controlled substances violations under chapter 893.  
 89 e. Resisting an officer with violence under s. 843.01.  
 90 f. Weapons and firearms violations under this chapter.  
 91 g. Treason under s. 876.32.  
 92 h. Assisting self-murder under s. 782.08.  
 93 i. Sabotage under s. 876.38.  
 94 j. Stalking or aggravated stalking under s. 784.048.

95  
 96 If the review indicates any such indictment, information, or  
 97 arrest, the department shall provide to the licensee a  
 98 conditional nonapproval number.

99 2. Within 24 working hours, the department shall determine  
 100 the disposition of the indictment, information, or arrest and  
 101 inform the licensee as to whether the potential buyer is  
 102 prohibited from receiving or possessing a firearm. For purposes  
 103 of this paragraph, "working hours" means the hours from 8 a.m.  
 104 to 5 p.m. Monday through Friday, excluding legal holidays.

105 3. The office of the clerk of court, at no charge to the  
 106 department, shall respond to any department request for data on  
 107 the disposition of the indictment, information, or arrest as  
 108 soon as possible, but in no event later than 8 working hours.

109 4. The department shall determine as quickly as possible  
 110 within the allotted time period whether the potential buyer is  
 111 prohibited from receiving or possessing a firearm.

112 5. If the potential buyer is not so prohibited, or if the  
 113 department cannot determine the disposition information within  
 114 the allotted time period, the department shall provide the  
 115 licensee with a conditional approval number.

116 6. If the buyer is so prohibited, the conditional

Page 4 of 5

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

591-03132-23

2023496c1

117 nonapproval number shall become a nonapproval number.

118 7. The department shall continue its attempts to obtain the  
119 disposition information and may retain a record of all approval  
120 numbers granted without sufficient disposition information. If  
121 the department later obtains disposition information which  
122 indicates:

123 a. That the potential buyer is not prohibited from owning a  
124 firearm, it shall treat the record of the transaction in  
125 accordance with this section; or

126 b. That the potential buyer is prohibited from owning a  
127 firearm, it shall immediately revoke the conditional approval  
128 number and notify local law enforcement.

129 8. During the time that disposition of the indictment,  
130 information, or arrest is pending and until the department is  
131 notified by the potential buyer that there has been a final  
132 disposition of the indictment, information, or arrest, the  
133 conditional nonapproval number shall remain in effect.

134 Section 4. This act shall take effect October 1, 2023.





*The Florida Senate*

## Committee Agenda Request

**To:** Senator Jennifer Bradley, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** April 5, 2023

---

I respectfully request that **Senate Bill #496**, relating to Electronic Monitoring of Persons Charged with or Convicted of Offenses Involving Schools or Students, be placed on the:

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

A handwritten signature in blue ink that reads "Danny".

---

Senator Danny Burgess  
Florida Senate, District 23

April 12, 2023

Meeting Date

CJ Approps

Committee

The Florida Senate

APPEARANCE RECORD

496

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive

Email Barney@BarneyBishop.com

Street

Tallahassee

FL

32308

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Fla. Smart Justice

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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 Committee on Criminal and Civil Justice

---

BILL: CS/CS/SB 504

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee; and Senator Rodriguez and others

SUBJECT: Expunction of Criminal History Records

DATE: April 13, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Stokes</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Fav/CS</u>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/CS/SB 504 amends s. 943.0585, F.S., to permit a person who has had one prior expunction granted for an offense that was committed when he or she was a minor to have another eligible record expunged. If the prior expunction was for an offense in which the minor was charged as an adult, the person is not eligible for a subsequent expunction. This bill also provides that the record is exempt from the 10 year sealing requirement.

Additionally, this bill specifies that a person is not eligible for expunction if the indictment, information, or other charging document in the case giving rise to the criminal history record was dismissed pursuant to s. 916.145, F.S., or s. 985.19, F.S., which provides statutory guidelines for the dismissal of charges when a defendant is adjudicated incompetent to proceed due to mental illness.

This bill may generate additional workload and IT costs for the Florida Department of Law Enforcement (FDLE), which may be offset by revenues from processing fees. See Section V. Fiscal Impact Statement.

This bill is effective July 1, 2023.

## II. Present Situation:

There are multiple types of relief that may be sought in order to seal or expunge a criminal history record. The public will not have access to a criminal history record that has been sealed or expunged. Certain government or related entities have access to records even after they are sealed. Most of the entities who have access to sealed records also have access to see whether a person has had an expunction. However, those entities do not have access to the expunged criminal history record without a court order.<sup>1</sup>

### Sealing and Expunction of Criminal History Records

A criminal history record includes any non-judicial record maintained by a criminal justice agency<sup>2</sup> that contains criminal history information.<sup>3</sup> Criminal history information is information collected by criminal justice agencies and consists of identifiable descriptions of individuals and notations of arrests, detentions, indictments, informations, other formal criminal charges, and criminal dispositions.<sup>4</sup>

### Expunction of a Criminal History Record

A person may have his or her criminal history record expunged under certain circumstances.<sup>5</sup> When a record is expunged, the criminal justice agencies possessing such record must physically destroy or obliterate it. The FDLE maintains a copy of the record to evaluate subsequent requests for sealing or expunction, and to recreate the record in the event a court vacates the order to expunge.<sup>6</sup> The criminal history record retained by the FDLE is confidential and exempt.<sup>7</sup> Once the record is expunged, a person may lawfully deny or fail to acknowledge the arrests covered by the expunged record, subject to exceptions.<sup>8</sup>

### *Certificate of Eligibility*

Before petitioning a court to expunge a criminal history record, a person must apply to the FDLE for a certificate of eligibility for expunction. The FDLE must issue a certificate of eligibility for expunction to a person who is the subject of a criminal history record if that person:

- Is eligible for expunction, as described above;

---

<sup>1</sup> *Florida Department of Law Enforcement Frequently Asked Questions*, Florida Department of Law Enforcement, available at [http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Frequently-Asked-Questions#Sealed\\_vs\\_Expunged](http://www.fdle.state.fl.us/Seal-and-Expunge-Process/Frequently-Asked-Questions#Sealed_vs_Expunged) (last visited March 13, 2023).

<sup>2</sup> Section 943.045(11), F.S., provides that criminal justice agencies include a court, the Florida Department of Law Enforcement (FDLE), the Department of Juvenile Justice, components of the Department of Children and Families, other governmental agencies that administrate criminal justice, and the investigations component of the Department of Financial Services.

<sup>3</sup> Section 943.045(6), F.S.

<sup>4</sup> Section 943.045(5), F.S.

<sup>5</sup> Sections 943.0581, 943.0582, 943.0583, and 943.0585, F.S.

<sup>6</sup> Section 943.045(16), F.S.

<sup>7</sup> Section 943.0585(6)(a), F.S.

<sup>8</sup> Section 943.0585(6), F.S.

- Has submitted to the FDLE a written certified statement from the appropriate state attorney or statewide prosecutor which confirms the criminal history record complies with specified criteria;<sup>9</sup>
- Has submitted to the FDLE a certified copy of the disposition of the charge to which the petition pertains; and
- Pays a \$75 processing fee to the FDLE.<sup>10</sup>

A certificate of eligibility for expunction is valid for 12 months after the date stamped on the certificate when issued by the FDLE.<sup>11</sup>

### ***Court Ordered Expunction***

A court, in its discretion, may order the expunction of a person's criminal history record if the FDLE issues the person a certificate of eligibility for expunction.<sup>12</sup> The FDLE must issue a certificate of eligibility for court-ordered expunction to a person meeting all criteria.<sup>13</sup> Generally, a person is eligible for expunction if:

- An indictment, information, or other charging document was not filed or issued in the case giving rise to the criminal history record.
- An indictment, information, or other charging document was filed or issued in the case giving rise to the criminal history record, but was dismissed or nolle prosequi by the State, was dismissed by the court, a judgment of acquittal was rendered, or a verdict of not guilty was rendered.
- The person is not seeking to expunge a criminal history record relating to a violation of certain enumerated offenses.
- The person has never, prior to filing the application for a certificate of eligibility, been either:
  - Adjudicated guilty of any criminal offense or comparable ordinance violation; or
  - Adjudicated delinquent of any felony or certain enumerated misdemeanors as a juvenile.
- The person has not been adjudicated guilty or delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to expunge pertains.
- The person has never secured a prior sealing or expunction, unless:
  - Expunction is sought of a criminal history record previously sealed for at least 10 years; and
  - The record was sealed because adjudication was withheld, or because a judgment of acquittal or verdict of not guilty was rendered.<sup>14</sup>

---

<sup>9</sup> Section 943.0585(2)(a)2., F.S., Specified criteria include: An indictment, information, or other charging document was not filed or issued in the case giving rise to the criminal history record; An indictment, information, or other charging document was filed or issued in the case giving rise to the criminal history record, was dismissed or nolle prosequi by the state attorney or statewide prosecutor, or was dismissed by a court or a judgment of acquittal was rendered, or a verdict of not guilty was rendered; The person has never been adjudicated guilty or delinquent for committing any felony or specified misdemeanors.

<sup>10</sup> Section 943.0585(2)(a)1.-4., F.S.

<sup>11</sup> Section 943.0585(2), F.S.

<sup>12</sup> Section 943.0585(4), F.S.

<sup>13</sup> Section 943.0585(2), F.S.

<sup>14</sup> Section 943.0585(1), F.S.

A criminal history record is not eligible for court-ordered sealing or expunction if it relates to:

- Sexual misconduct (Sections 393.135, 394.4593, and 916.1075, F.S.).
- Illegal use of explosives (Chapter 552, F.S.).
- Terrorism (Section 775.30, F.S.).
- Murder (Sections 782.04, 782.065, and 782.09, F.S.).
- Manslaughter or homicide (Sections 782.07, 782.071, and 782.072, F.S.).
- Assault or battery of one family or household member by another family or household member<sup>15</sup> (Sections 784.011 and 784.03, F.S.).
- Aggravated assault (Section 784.021, F.S.).
- Felony battery, domestic battery by strangulation, or aggravated battery (Sections 784.03, 784.041, and 784.045, F.S.).
- Stalking or aggravated stalking (Section 784.048, F.S.).
- Luring or enticing a child (Section 787.025, F.S.).
- Human trafficking (Section 787.06, F.S.).
- Kidnapping or false imprisonment (Sections 787.01 and 787.02, F.S.).
- Sexual battery, unlawful sexual activity with a minor, or female genital mutilation (Chapter 794, F.S.).
- Procuring a person under the age of 18 for prostitution (Section 796.03, F.S. (2013) (repealed by ch. 2014-160, s. 10, L.O.F.)).
- Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age (Section 800.04, F.S.).
- Arson (Section 806.01, F.S.).
- Burglary of a dwelling (Section 810.02, F.S.).
- Voyeurism or video voyeurism (Sections 810.14 and 810.145, F.S.).
- Robbery or robbery by sudden snatching (Sections 812.13 and 812.131, F.S.).
- Carjacking (Section 812.133, F.S.).
- Home invasion robbery (Section 812.135, F.S.).
- A violation of the Florida Communications Fraud Act (Section 817.034, F.S.).
- Abuse of an elderly person or disabled adult or aggravated abuse of an elderly person or disabled adult (Section 825.102, F.S.).
- Lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person (Section 825.1025, F.S.).
- Child abuse or aggravated child abuse (Section 827.03, F.S.).
- Sexual performance by a child (Section 827.071, F.S.).
- Offenses by public officers and employees (Chapter 839, F.S.).
- Certain acts in connection with obscenity (Section 847.0133, F.S.).
- A violation of the Computer Pornography and Child Exploitation Prevention Act (Section 893.0135, F.S.).
- Selling or buying of minors (Section 847.0145, F.S.).
- Aircraft piracy (Section 860.16, F.S.).

---

<sup>15</sup> Section 741.28(3), F.S., defines family or household member as spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

- Manufacturing a controlled substance (Chapter 893, F.S.).
- Drug trafficking (Section 893.135, F.S.).
- Any violation specified as a predicate offense for registration as a sexual predator or sexual offender (Sections 775.21 and 943.0535, F.S.).<sup>16</sup>

Other types of expunction include: lawful self-defense expunction;<sup>17</sup> human trafficking victim expunction;<sup>18</sup> automatic juvenile expunction;<sup>19</sup> early juvenile expunction;<sup>20</sup> administrative expunction;<sup>21</sup> and juvenile diversion program expunction.<sup>22</sup>

### **Sealing of a Criminal History Record**

When a criminal history record is sealed, it is preserved so that it is secure and inaccessible to any person who does not have a legal right to access the record or the information contained within the record.<sup>23</sup> A court may order a criminal history record sealed,<sup>24</sup> rendering it confidential and exempt from Florida's public records laws.<sup>25</sup> Only the following entities may access a sealed criminal history record:

- The subject of the record;
- His or her attorney;
- Criminal justice agencies for criminal justice purposes;
- Judges in the state courts system for assisting in their case-related decision-making responsibilities; and
- Certain enumerated entities<sup>26</sup> for licensing, access authorization, and employment purposes.<sup>27</sup>

### ***Certificate of Eligibility***

To seal a record, a person must first apply to the Florida Department of Law Enforcement (FDLE) for a certificate of eligibility, which the FDLE must issue to a person who:

- Has submitted a certified copy of the charge disposition he or she seeks to seal;
- Is not seeking to seal a criminal history record relating to a violation of certain enumerated offenses;
- Has never, prior to filing the application for a certificate of eligibility, been either:

<sup>16</sup> Section 943.0584, F.S.

<sup>17</sup> Section 943.0578, F.S.

<sup>18</sup> Section 943.0583, F.S.

<sup>19</sup> Section 943.0515(1)(b)1., F.S.

<sup>20</sup> Section 943.0515(1)(b)2., F.S.

<sup>21</sup> Section 943.0581, F.S.

<sup>22</sup> Section 943.0582, F.S.

<sup>23</sup> Section 943.045(19), F.S.

<sup>24</sup> Section 943.059, F.S.

<sup>25</sup> Sections 943.059(6) and 119.07(1), F.S.; Art. I, s. 24(a), Fla. Const.

<sup>26</sup> Section 943.059(6)(b), F.S., provides that enumerated entities include criminal justice agencies, The Florida Bar, the Department of Children and Families, the Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, the Department of Juvenile Justice, the Department of Education, a district school board, a university laboratory school, a charter school, a private or parochial school, a local governmental entity that licenses child care facilities, the Division of Insurance Agent and Agency Services within the Department of Financial Services, and the Bureau of License Issuance of the Division of Licensing within the Department of Agriculture and Consumer Services.

<sup>27</sup> Sections 943.059(6)(a), F.S.

- Adjudicated guilty of any criminal offense or comparable ordinance violation; or
- Adjudicated delinquent of any felony or certain enumerated misdemeanors as a juvenile.
- Has not been adjudicated guilty or delinquent for committing any of the acts stemming from the arrest or alleged criminal activity to which the petition to seal pertains;
- Has never secured a prior sealing or expunction;
- Is no longer under court supervision related to the disposition of the arrest or alleged criminal activity to which the petition to seal pertains; and
- Pay a \$75 processing fee to the FDLE.<sup>28</sup>

### ***Court Ordered Sealing***

Upon receiving a certificate of eligibility from the FDLE, a person must petition the court to seal the record.<sup>29</sup> A complete petition contains both a valid certificate of eligibility, issued within the previous 12 months, and a sworn statement from the petitioner attesting to his or her eligibility.<sup>30</sup> It is solely within the court's discretion to grant or deny a petition to seal.<sup>31</sup>

Upon sealing of a criminal history record, the subject of the record may lawfully deny or fail to acknowledge the arrests covered by the sealed record, with exceptions for certain state employment positions, professional licensing purposes, purchasing a firearm, applying for a concealed weapons permit, seeking expunction, or if the subject is a defendant in a criminal prosecution.<sup>32</sup>

### **Dismissal Incompetence to Proceed Due to Mental Illness**

Section 916.145, F.S., provides that the charges against a defendant who has been adjudicated incompetent to proceed due to mental illness must be dismissed without prejudice to the state if the defendant remains incompetent to proceed for 5 continuous, uninterrupted years after such determination, unless the court in its order specifies:

- Its reason for believing that the defendant will become competent to proceed within the foreseeable future; and
- The time within which the defendant is expected to become competent to proceed.

The court may dismiss charges against a defendant who has been adjudicated incompetent to proceed due to mental illness 3 years after such determination, unless the charge is for a specified offense.<sup>33</sup>

---

<sup>28</sup> Section 943.059(2), F.S.

<sup>29</sup> Section 943.059(3), F.S.

<sup>30</sup> Section 943.059(2)(b), F.S.

<sup>31</sup> Section 943.059, F.S.

<sup>32</sup> Sections 943.059(6)(b), F.S.

<sup>33</sup> Section 916.145(1)(a)-(u), F.S.; Specified offenses include: arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; aggravated assault with a deadly weapon; murder; manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; unlawful throwing, projecting, placing, or discharging of a destructive device or bomb; armed burglary; aggravated battery; aggravated stalking; a forcible felony as defined in s. 776.08, F.S.; an offense where an element of the offense requires the possession, use, or discharge of a firearm; an attempt to commit any offense listed herein; an offense allegedly committed by a defendant who has had a forcible or violent felony conviction within the 5 years immediately preceding the date of arrest for the nonviolent felony sought to be dismissed; an offense allegedly committed by a defendant who, after having been found incompetent and placed under court supervision in a community-based program, is formally charged by a state attorney or the



The state may refile any charge that was dismissed pursuant to s. 916.145, F.S.

Section 985.19, F.S., provides the process for a finding of incompetency in juvenile delinquency cases. The court retains jurisdiction for up to two years after a child is found incompetent. If the court determines at any time that the child will never become competent to proceed, the court may dismiss the delinquency petition. The court must dismiss a delinquency petition if, after the two years following the order of incompetency, the child has not attained competency and there is no evidence that the child will attain competency within a year.<sup>34</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 943.0585, F.S., to permit a person who has had one prior expunction granted for an offense that was committed when he or she was a minor to have another eligible record expunged. If the prior expunction was for an offense in which the minor was charged as an adult, the person is not eligible for a subsequent expunction. This bill also provides that the record is exempt from the 10 year sealing requirement.

Additionally, this bill specifies that a person is not eligible for expunction if the indictment, information, or other charging document in the case giving rise to the criminal history record was dismissed pursuant to s. 916.145 F.S., or s. 985.19, F.S., which provides statutory guidelines for the dismissal of charges when a defendant is adjudicated incompetent to proceed due to mental illness.

This bill is effective July 1, 2023.

### **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.

---

Office of the Statewide Prosecutor with a new felony offense; or an offense for which there is an identifiable victim and such victim has not consented to the dismissal.

<sup>34</sup> Section 985.19(5), F.S.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to FDLE, this bill may generate additional workload and IT costs. These costs may be offset by revenues derived from processing fees of applicants. The FDLE cites the need for 2 FTE positions (Criminal Justice Information Analyst II) totaling \$139,140 (\$129,776 recurring). If programmatic changes are required, the analysis, design, programming and testing is estimated to cost approximately \$35,000 in nonrecurring funds. In total, the fiscal impact to the agency may be \$174,140 (\$129,776 recurring); these costs may be offset by the \$75 processing fee that must be paid to the FDLE when a person applies for a certificate of eligibility.<sup>35</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 943.0585 of the Florida Statutes.

---

<sup>35</sup> Florida Department of Law Enforcement, 2023 Agency Analysis of SB 504 (March 22, 2023).

**IX. Additional Information:**

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

**CS/CS by Appropriations Committee on Criminal and Civil Justice on April 12, 2023:**

The committee substitute:

- Adds a reference to s. 985.19, F.S., making a person ineligible for expunction if the case giving rise to the criminal history record was dismissed due to a finding of incompetency in a juvenile proceeding.
- Specifies that the exception is for one prior expunction.

**CS by Criminal Justice on March 20, 2023:**

The committee substitute:

- Specifies that a person is not eligible for expunction if the indictment, information, or other charging document in the case giving rise to the criminal history record was dismissed pursuant to s. 916.145 F.S.

- B. **Amendments:**

None.



912200

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/13/2023	.	
	.	
	.	
	.	

---

The Appropriations Committee on Criminal and Civil Justice (Rodriguez) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 38 - 81  
and insert:

2. One prior expunction was granted for a criminal history record for an offense that was committed when he or she was a minor, and the record is otherwise eligible for expunction. This subparagraph does not apply if the prior expunction was for an offense in which the minor was charged as an adult. The requirement for the record to have previously been sealed for a



912200

11 minimum of 10 years under paragraph (h) does not apply to this  
12 subparagraph.

13 (2) CERTIFICATE OF ELIGIBILITY.—Before petitioning a court  
14 to expunge a criminal history record, a person seeking to  
15 expunge a criminal history record must apply to the department  
16 for a certificate of eligibility for expunction. The department  
17 shall adopt rules to establish procedures for applying for and  
18 issuing a certificate of eligibility for expunction.

19 (a) The department shall issue a certificate of eligibility  
20 for expunction to a person who is the subject of a criminal  
21 history record if that person:

22 1. Satisfies the eligibility criteria in paragraphs (1) (a)-  
23 (h) and is not ineligible under s. 943.0584.

24 2. Has submitted to the department a written certified  
25 statement from the appropriate state attorney or statewide  
26 prosecutor which confirms the criminal history record complies  
27 with the criteria in paragraph (1) (a) or paragraphs (1) (b) and  
28 (c).

29 3. Has submitted to the department a certified copy of the  
30 disposition of the charge to which the petition to expunge  
31 pertains.

32 4. Remits a \$75 processing fee to the department for  
33 placement in the Department of Law Enforcement Operating Trust  
34 Fund, unless the executive director waives such fee.

35 (3) PETITION.—Each petition to expunge a criminal history  
36 record must be accompanied by:

37 (a) A valid certificate of eligibility issued by the  
38 department.

39 (b) The petitioner's sworn statement that he or she:



912200

40 1. Satisfies the eligibility requirements for expunction in  
41 subsection (1).

42 2. Is eligible for expunction to the best of his or her  
43 knowledge and does not have any other petition to seal or  
44 expunge a criminal history record pending before any court.

45

46 A person who knowingly provides false information on such sworn  
47 statement commits a felony of the third degree, punishable as  
48 provided in s. 775.082, s. 775.083, or s. 775.084.

49 Section 2. Paragraph (e) of subsection (1) of section  
50 943.059, Florida Statutes, is amended to read:

51 943.059 Court-ordered sealing of criminal history records.-

52 (1) ELIGIBILITY.-A person is eligible to petition a court  
53 to seal a criminal history record when:

54 (e) The person has never secured a prior sealing or  
55 expunction of a criminal history record under this section, s.  
56 943.0585, except s. 943.0585(1)(g)2., former s. 893.14, former  
57 s. 901.33, or former s. 943.058.

58

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

60 And the title is amended as follows:

61 Delete lines 9 - 12

62 and insert:

63 expunction of a criminal history record to allow one  
64 prior expunction of a criminal history record granted  
65 for an offense committed when the person was a minor;  
66 providing applicability; amending s. 943.059, F.S.;  
67 conforming a provision to changes made by the act;  
68 providing an effective date.



150002

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

---

The Appropriations Committee on Criminal and Civil Justice  
(Rodriguez) recommended the following:

**Senate Substitute for Amendment (912200)**

Delete lines 28 - 38  
and insert:  
competent jurisdiction, unless such dismissal was pursuant to s.  
916.145 or s. 985.19, or a judgment of acquittal was rendered by  
a judge, or a verdict of not guilty was rendered by a judge or  
jury.

(g) The person has never secured a prior sealing or  
expunction of a criminal history record under this section, s.



150002

11 943.059, former s. 893.14, former s. 901.33, or former s.  
12 943.058, unless:

13 1. Expunction is sought of a criminal history record  
14 previously sealed for 10 years pursuant to paragraph (h) and the  
15 record is otherwise eligible for expunction; or

16 2. One prior expunction was granted for a criminal history



By the Committee on Criminal Justice; and Senators Rodriguez and Perry

591-02786-23

2023504c1

1 A bill to be entitled  
 2 An act relating to expunction of criminal history  
 3 records; reenacting and amending s. 943.0585, F.S.;  
 4 revising an eligibility criterion under which a person  
 5 is eligible to petition a court to expunge a criminal  
 6 history record if an indictment, information, or other  
 7 charging document was dismissed by a court; expanding  
 8 an exception to an eligibility requirement for  
 9 expunction of a criminal history record to allow a  
 10 prior expunction of a criminal history record granted  
 11 for an offense committed when the person was a minor;  
 12 providing applicability; providing an effective date.  
 13  
 14 Be It Enacted by the Legislature of the State of Florida:  
 15  
 16 Section 1. Paragraphs (b) and (g) of subsection (1) of  
 17 section 943.0585, Florida Statutes, are amended, and paragraph  
 18 (a) of subsection (2) and subsection (3) of that section are  
 19 reenacted, to read:  
 20 943.0585 Court-ordered expunction of criminal history  
 21 records.—  
 22 (1) ELIGIBILITY.—A person is eligible to petition a court  
 23 to expunge a criminal history record if:  
 24 (b) An indictment, information, or other charging document  
 25 was filed or issued in the case giving rise to the criminal  
 26 history record, was dismissed or nolle prosequi by the state  
 27 attorney or statewide prosecutor, or was dismissed by a court of  
 28 competent jurisdiction, unless the dismissal was pursuant to s.  
 29 916.145 or a judgment of acquittal was rendered by a judge, or a

Page 1 of 3

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

591-02786-23

2023504c1

30 verdict of not guilty was rendered by a judge or jury.  
 31 (g) The person has never secured a prior sealing or  
 32 expunction of a criminal history record under this section, s.  
 33 943.059, former s. 893.14, former s. 901.33, or former s.  
 34 943.058, unless:  
 35 1. Expunction is sought of a criminal history record  
 36 previously sealed for 10 years pursuant to paragraph (h) and the  
 37 record is otherwise eligible for expunction; or  
 38 2. The prior expunction was granted for a criminal history  
 39 record for an offense that was committed when he or she was a  
 40 minor and the record is otherwise eligible for expunction. This  
 41 subparagraph does not apply if the prior expunction was for an  
 42 offense in which the minor was charged as an adult. The  
 43 requirement for the record to have previously been sealed for a  
 44 minimum of 10 years under paragraph (h) does not apply to this  
 45 subparagraph.  
 46 (2) CERTIFICATE OF ELIGIBILITY.—Before petitioning a court  
 47 to expunge a criminal history record, a person seeking to  
 48 expunge a criminal history record must apply to the department  
 49 for a certificate of eligibility for expunction. The department  
 50 shall adopt rules to establish procedures for applying for and  
 51 issuing a certificate of eligibility for expunction.  
 52 (a) The department shall issue a certificate of eligibility  
 53 for expunction to a person who is the subject of a criminal  
 54 history record if that person:  
 55 1. Satisfies the eligibility criteria in paragraphs (1) (a)-  
 56 (h) and is not ineligible under s. 943.0584.  
 57 2. Has submitted to the department a written certified  
 58 statement from the appropriate state attorney or statewide

Page 2 of 3

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

591-02786-23

2023504c1

59 prosecutor which confirms the criminal history record complies  
60 with the criteria in paragraph (1) (a) or paragraphs (1) (b) and  
61 (c).

62 3. Has submitted to the department a certified copy of the  
63 disposition of the charge to which the petition to expunge  
64 pertains.

65 4. Remits a \$75 processing fee to the department for  
66 placement in the Department of Law Enforcement Operating Trust  
67 Fund, unless the executive director waives such fee.

68 (3) PETITION.—Each petition to expunge a criminal history  
69 record must be accompanied by:

70 (a) A valid certificate of eligibility issued by the  
71 department.

72 (b) The petitioner's sworn statement that he or she:

73 1. Satisfies the eligibility requirements for expunction in  
74 subsection (1).

75 2. Is eligible for expunction to the best of his or her  
76 knowledge and does not have any other petition to seal or  
77 expunge a criminal history record pending before any court.

78  
79 A person who knowingly provides false information on such sworn  
80 statement commits a felony of the third degree, punishable as  
81 provided in s. 775.082, s. 775.083, or s. 775.084.

82 Section 2. This act shall take effect July 1, 2023.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jennifer Bradley, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** March 20, 2023

---

I respectfully request that **CS/SB 504**, relating to Expunction of Criminal Records, be placed on the:

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

A handwritten signature in black ink, appearing to read "Ana Maria Rodriguez".

---

Senator Ana Maria Rodriguez  
Florida Senate, District 40

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/12/23

Meeting Date

SB 504

Bill Number or Topic

SEN CJ AND CIVIL RIGHTS

Committee

Amendment Barcode (if applicable)

Name

CHRISTINA MINOR

Phone

(321)223-4232

Address

1300 N ADAMS ST

Email

CMINOR@FJJA.ORG

Street

TALLAHASSEE

FL

32303

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FLORIDA JUVENILE JUSTICE ASSOCIATION

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

4/12/23

Meeting Date

SB 504

Bill Number or Topic

Sen CJ and Civil Approps  
Committee

Amendment Barcode (if applicable)

Name

Nick Millar

Phone

850 - 508 - 2971

Address

1385 Hayback mt Road

Email

njm @ am.kids.org

Street

Tryon

City

NC

State

28782

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

AMI Kids

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) [flsenate.gov](#)

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

12  
4/13/23

Meeting Date

CJ APPROPS

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

504

Bill Number or Topic

Amendment Barcode (if applicable)

Name

AARON WAYT FL ASSN OF CRIMINAL DEFENSE LAWYERS

Phone

(407) 435-3194

Address

553 E TENN ST

Email

AARON@DUNNUPHREY.COM

Street

TLH

City

FL

State

32308

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

4/12/23

Meeting Date

CS/SB 504

Bill Number or Topic

Appropriations Comm. on Criminal & Civil Justice

Committee

Amendment Barcode (if applicable)

Name Laurette Philipson - Florida CARES

Phone

501-855-0833

Address 2048 Ponce de Leon Ave

Street

Email

laurette@floridacarescharity.org

West Palm Beach FL 33407

City

State

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

12 April 2023

Meeting Date

504

Bill Number or Topic

CCJ Approps

Committee

Amendment Barcode (if applicable)

Name Chris Stranburg

Phone 813-767-9667

Address 107 E College Ave

Email cstranburg@afphg.org

Street

Tallahassee

FL

32301

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Americans for Prosperity

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf | flsenate.gov](#)

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



April 12, 2023

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

CS/SB 504

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Appropriation Committee on  
Criminal & Civil Justice  
Committee

Amendment Barcode (if applicable)

Name Gus Corbella

Phone 850.222.6891

Address 101 East College Ave  
Street

Email corbella@gtlaw.com

Tallahassee  
City

FL  
State

32301  
Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Rights Restoration Coalition

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

# APPEARANCE RECORD

504

4/12/2023

Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

App. Crim. & Civil Just.

Committee

Amendment Barcode (if applicable)

Name Karen Mazzola

Phone 407-855-7604

Address 1747 Orlando Central PKWY

Email vp.education@florida  
pta.org

Street

Orlando FL 32809

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida PTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022-jointRules.pdf flsenate.gov](https://www.flsenate.gov/2020-2022-joint-rules.pdf)

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

4/12/2023

Meeting Date

The Florida Senate

# APPEARANCE RECORD

CS/SB 504

Bill Number or Topic

APP. CMTTEE. OF CRIMINAL & CIVIL JUSTICE

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Name CHRISTIAN CAMARA

Phone (305) 608-4300

Amendment Barcode (if applicable)

Address PO Box 122

Email

Street

TALLAHASSEE, FL 32302

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

INSTITUTE FOR JUSTICE

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

April 12, 2023

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

504

Bill Number or Topic

**CJ Approps**

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

**Tallahassee**

**FL**

**32308**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

**Fla. Smart Justice**

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. § 11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) [flsenate.gov](#)*

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

S-001 (08/10/2021)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

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

---

BILL: CS/SB 516

INTRODUCER: Banking and Insurance Committee and Senator DiCeglie

SUBJECT: Motor Vehicle Liability Policies

DATE: April 11, 2023                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Thomas</u>	<u>Knudson</u>	<u>BI</u>	<b>Fav/CS</b>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 516 amends Florida’s Financial Responsibility Law regarding the operation of a motor vehicle to permit certain risk retention groups and surplus lines insurers to provide commercial auto insurance coverage. Risk retention groups are authorized by federal law and sell insurance to eligible members and shareholders. Surplus lines insurers sell insurance coverage that is not available from insurers licensed in the state. Risk retention groups, as well as surplus lines insurers, do not submit rate and form filings to state regulators and are not members of state guaranty associations that manage claims if an insurer becomes insolvent.

The risk retention groups and surplus lines insurers authorized by the bill to provide commercial auto insurance coverage must have an “A” or higher rating for financial strength and “VIII” or higher rating for financial size from A.M. Best Company.

The bill has a negative, but likely insignificant, fiscal impact to the Department of Highway Safety and Motor Vehicles.

The bill has an effective date of July 1, 2023.

**II. Present Situation:**

**Florida’s Motor Vehicle Financial Responsibility Law**

Chapter 324, F.S., sets forth the financial responsibility laws for owners or operators of motor vehicles in Florida, whether they be used for personal or commercial purposes. Generally, a motor vehicle owner or operator is required to insure against losses from liability for bodily injury, death, and property damage by 1) purchasing auto insurance from an insurance carrier authorized by the Office of Insurance Regulation (OIR) to do business in Florida;<sup>1</sup> or 2) obtaining a certificate of self-insurance from the Department of Highway Safety and Motor Vehicles (DHSMV) after demonstrating the ability to cover potential losses arising out of the ownership, maintenance, or use of a motor vehicle.<sup>2</sup>

The OIR licenses insurance carriers and reviews policy contracts and premium rates of its licensees.<sup>3</sup> An insurance carrier may not issue an auto insurance policy in Florida unless the policy includes coverages for both personal injury and property damage.<sup>4</sup>

The DHSMV administers the Financial Responsibility Law by requiring all licensed insurance companies to provide electronic notification of all policies that are issued or cancelled.<sup>5</sup> Vehicle owners must show proof of personal injury protection and property damage liability coverage to register a vehicle,<sup>6</sup> and must provide proof of bodily injury liability coverage if they are involved in an accident and charged with a moving violation.<sup>7</sup> A vehicle owner who fails to maintain continuous coverage may have his or her driver's license and registration suspended.<sup>8</sup> Required coverages vary based on the use of a motor vehicle.

For individual motorists, the law requires \$10,000 in personal injury protection and \$10,000 for property damage.<sup>9</sup> If a driver has been convicted of driving under the influence of alcohol, the motorist must maintain liability coverage of \$100,000 for bodily injury to, or death of, one person in any one crash and in the amount of \$300,000 due to bodily injury to, or death of, two or more persons in any one crash and in the amount of \$50,000 because of property damage in any one crash per accident, for three years after the license is reinstated.<sup>10</sup>

For leased motor vehicles, the lessor is not liable for the actions of a lessee so long as the lease requires \$100,000/\$300,000 bodily injury liability and \$50,000 property damage liability or not less than \$500,000 combined property damage and bodily injury liability.<sup>11</sup> For-hire passenger vehicles like taxicabs and limousines must have bodily injury liability coverage of \$125,000 per person and \$250,000 per occurrence, and \$50,000 property damage coverage.<sup>12</sup>

---

<sup>1</sup> Section 324.021(8), F.S.

<sup>2</sup> Sections 324.161 and 324.171, F.S. *Also see* Florida Department of Highway Safety and Motor Vehicles, Self-Insurance, <https://www.flhsmv.gov/insurance/self-insurance/firm/> (last accessed March 8, 2023).

<sup>3</sup> Sections 624.404, 627.062, 627.410, and 627.4102, F.S.

<sup>4</sup> Section 627.7275, F.S.

<sup>5</sup> Sections 324.0221, 324.252, F.S., and Rules 15A-3.007 and 15A-3.012, F.A.C.

<sup>6</sup> Sections 324.022, 324.023, F.S., and Rule 15A-3.006, F.A.C.

<sup>7</sup> Section 324.021, F.S. *Also see*, Florida Highway Safety and Motor Vehicles, *Florida Insurance Requirements*, <https://www.flhsmv.gov/insurance/> (last accessed March 8, 2023).

<sup>8</sup> Section 324.0221, F.S.

<sup>9</sup> Sections 324.021(7), 324.022, and 627.736, F.S.

<sup>10</sup> Section 324.023, F.S.

<sup>11</sup> Section 324.021(9), F.S.

<sup>12</sup> Sections 324.032, F.S.

Commercial motor vehicles operating on Florida's highways are subject to state and federal regulations related to size and weight limits, safety standards, and registration requirements. Commercial vehicles that weigh 10,001 pounds or more, and engage in interstate commerce or haul hazardous materials, are subject to federal law, where required coverages range from \$750,000 to \$5 million.<sup>13</sup> Commercial vehicles that weigh 26,001 pounds or more, operate only within Florida, and do not transport hazardous materials are subject to Florida law, where required coverages range from \$50,000 to \$300,000.<sup>14</sup>

When the owner or operator of a motor vehicle purchases liability insurance to satisfy the financial responsibility law, the policy must be issued by an insurance company authorized to do business in Florida.<sup>15</sup> When an owner or operator self-insures a vehicle or fleet of vehicles, the owner or operator must obtain a certificate of self-insurance from the DHSMV.<sup>16</sup>

### **Risk Retention Groups**

Federal law treats risk retention groups, which may sell insurance only to eligible members, differently than traditional insurance companies. Members of a risk retention group must be engaged in similar businesses or activities that have similar exposures due to the type of business, trade, product, service, premises, or operations.<sup>17</sup>

Authorized insurers must be licensed in every state in which they operate and the domicile state serves as the primary regulator. Risk retention groups need to be licensed as a liability insurer in only one state; further, those that were chartered prior to 1985 may operate under the laws of Bermuda or the Cayman Islands.<sup>18</sup> State regulators may require risk retention groups to comply with state laws relating to claim settlement and false or fraudulent acts, pay premium taxes, register with the designated state agent for service of process, and submit to financial exams if such exam has not been completed by the state in which the risk retention group is chartered.<sup>19</sup>

States may not require a risk retention group to participate in any insolvency guaranty association.<sup>20</sup> However, states may require notice that insurance provided by a risk retention group is not protected by an insolvency guaranty association.<sup>21</sup> Unlike authorized insurers, risk retention groups do not submit rate and form filings with a state regulator. Instead, risk retention groups apportion risk among their members; thus, rates are based on an actuarial analysis of the membership and policies can be tailored to suit the needs of the membership.<sup>22</sup>

Risk retention groups may only provide liability insurance; the law defines liability insurance as coverage for liability for damages to persons or property arising out of any business, trade,

---

<sup>13</sup> 49 CFR § 387.9.

<sup>14</sup> Sections 207.002(1), 320.01(25), and 627.7415, F.S.

<sup>15</sup> Section 324.021(8), F.S.

<sup>16</sup> Section 324.171, F.S.

<sup>17</sup> 15 U.S.C. §3901(a)(4)(F) and s. 627.942(9), F.S.

<sup>18</sup> 15 U.S.C. § 3901(a)(4) and s. 627.942(9), F.S.

<sup>19</sup> 15 U.S.C. § 3902(a)(1).

<sup>20</sup> 15 U.S.C. § 3902(a)(2).

<sup>21</sup> 15 U.S.C. § 3902(a)(1).

<sup>22</sup> National Association of Insurance Commissioners, *Risk Retention Groups*, [Risk Retention Groups \(naic.org\)](https://www.naic.org) (last accessed March 8, 2023).

product, professional service, premise, operation, or activity of a state or local government.<sup>23</sup> Liability insurance does not include an employer's liability to its employees; thus, risk retention groups may not issue workers' compensation insurance policies to their members.<sup>24</sup>

Risk retention groups may operate in Florida if they obtain a certificate of authority as a liability insurer, or are licensed in another state and provide a copy of their business plan and annual financial statement to the OIR and designate the Chief Financial Officer as agent for service of process.<sup>25</sup> According to the OIR, 140 risk retention groups are licensed in a state other than Florida and registered to do business in Florida.<sup>26</sup>

Risk retention groups licensed in Florida pay the same premium taxes as Florida-licensed insurers.<sup>27</sup> Risk retention groups registered to operate in Florida but licensed in another state pay the same premium taxes as surplus lines insurers that are allowed to sell lines of insurance that consumers cannot obtain from Florida-licensed insurers.<sup>28</sup> All risk retention groups operating in Florida must use agents who are licensed and appointed in Florida.<sup>29</sup>

The International Risk Management Institute describes "fronting" as the use of a licensed, admitted insurer to issue an insurance policy on behalf of a self-insured organization or captive insurer without transferring any risk.<sup>30</sup> The risk of loss under the policy remains with the self-insured entity or captive insurer, but the authorized insurer (and, in the event of insolvency, the guaranty association the insurer belongs to) assumes a credit risk because it would be required to honor the policy if the insured fails to honor the policy. This provides proof of coverage that is needed to satisfy financial responsibility laws.

Under the Florida Insurance Code, a "fronting company" is defined as "an authorized insurer which by reinsurance or otherwise generally transfers more than 50 percent to one unauthorized insurer which does not meet the requirements" to be an accredited or trustee reinsurer in Florida.<sup>31</sup> Section 624.404(4)(a), F.S., provides that "[n]o authorized insurer shall act as a fronting company for any unauthorized insurer which is not an approved reinsurer."

Florida law explicitly prohibits:

---

<sup>23</sup> 15 U.S.C. 3901(a)(2)(A) and s. 627.942(9)(g), F.S.

<sup>24</sup> 15 U.S.C. 3901(a)(2)(B) and s. 627.942(4), F.S.

<sup>25</sup> Sections 627.943 and 627.944, F.S.

<sup>26</sup> Florida Office of Insurance Regulation, *Active Company Search*, <https://companysearch.myfloridacfo.gov/> (last accessed March 8, 2023).

<sup>27</sup> Section 627.943(4), F.S. Pursuant to s. 624.509, F.S., premium taxes (typically 1.75 percent of the premium) are collected by the licensed insurer and paid to the Department of Revenue on or before March 1 of each year.

<sup>28</sup> Section 627.944 (3), F.S. Pursuant to s. 626.932, F.S., premium taxes (4.94 percent of the premium) are collected by the licensed insurance agent and paid to the Department of Financial Services on a quarterly basis; premiums are also reported to the Florida Surplus Lines Service Office (FSLSO) which oversees the reporting requirements of eligible surplus lines insurers. The FSLSO website is <https://www.fslso.com/>.

<sup>29</sup> Sections 627.943(5) and 627.944(12), F.S.

<sup>30</sup> International Risk Management Institute, *Glossary*, <https://www.irmi.com/term/insurance-definitions/fronting> (last accessed March 8, 2023).

<sup>31</sup> Section 624.404(4)(b), F.S.



- An authorized insurer or licensed motor vehicle service agreement company from acting as a fronting company for any unauthorized insurer or unlicensed motor vehicle service agreement company.<sup>32</sup>
- An authorized insurer or licensed home warranty association from acting as a fronting company for any unauthorized insurer or unlicensed home warranty association.<sup>33</sup>
- An authorized insurer or licensed service warranty association from acting as a fronting company for any unauthorized insurer or unlicensed service warranty association.<sup>34</sup>

### **Surplus Lines Insurance**

Surplus lines insurance refers to a category of insurance for which the admitted market is unable or unwilling to provide coverage.<sup>35</sup> There are three basic categories of surplus lines risks:

- Specialty risks that have unusual underwriting characteristics or underwriting characteristics that admitted insurers view as undesirable;
- Niche risks for which admitted carriers do not have a filed policy form or rate; and
- Capacity risks that are risks where an insured needs higher coverage limits than those that are available in the admitted market.

Surplus lines insurers are not “authorized” insurers as defined in the Florida Insurance Code,<sup>36</sup> which means they do not obtain a certificate of authority from the OIR to transact insurance in Florida.<sup>37</sup> Rather, surplus lines insurers are “unauthorized” insurers,<sup>38</sup> but may transact surplus lines insurance if they are made “eligible” by the OIR. To be made eligible to transact insurance, a surplus lines insurer must meet the following requirements related to regulatory oversight in other jurisdictions and solvency:<sup>39</sup>

- The surplus lines insurer is authorized in the state or country of its domicile as to the kind or kinds of insurance proposed to be placed with the insurer.
  - The insurer must have been an authorized insurer for at least the 3 preceding years. The OIR may waive the 3-year requirement if the insurer provides a product or service not readily available to Florida consumers or has operated successfully for a period of at least 1 year and has capital and surplus of not less than \$25 million.
- The surplus lines insurer or an agent requesting to export a policy to the surplus lines insurer must provide the OIR with a duly authenticated copy of the surplus lines insurer’s current annual financial statement, and also must provide any additional information regarding the insurer that the OIR requests.
- The surplus lines insurer must maintain a surplus as to policyholders of at least \$15 million.
  - Alien surplus lines insurers (insurers formed under laws other than those of Florida or any state, district, territory, or commonwealth of the United States) must also maintain in

---

<sup>32</sup> Section 634.241, F.S.

<sup>33</sup> Section 634.326, F.S.

<sup>34</sup> Section 634.429, F.S.

<sup>35</sup> The admitted market is comprised of insurance companies licensed to transact insurance in Florida. The administration of surplus lines insurance business is managed by the Florida Surplus Lines Service Office. S. 626.921, F.S.

<sup>36</sup> Section 624.01, F.S., provides that the Florida Insurance Code is chapters 624-632, 634, 635, 636, 641, 642, 648, and 651, F.S.

<sup>37</sup> Section 624.09(1), F.S.

<sup>38</sup> Section 624.09(2), F.S.

<sup>39</sup> Section 626.918, F.S.

- the United States a trust fund for the protection of policyholders deemed adequate by the OIR of at least \$5.4 million.
- A surplus lines insurer which is a member of an insurance holding company that includes a member which is a Florida domestic insurer may elect to maintain surplus as to policyholders in an amount equal to the requirements of s. 624.408, F.S., and must be in compliance with ch. 625, F.S.
  - The insurer must be of good reputation as to the providing of service to its policyholders and the payment of losses and claims.
  - The officers and directors of the insurer must be competent and trustworthy, meeting the requirements of s. 624.404(3), F.S.

Policies issued by an impaired or insolvent surplus lines insurer are not covered by any of Florida's guaranty associations.

### **A.M. Best Credit Rating Agency**

A.M. Best, founded in 1899, is a credit rating agency and is the largest credit rating agency in the world specializing in the insurance industry. Headquartered in the United States, A.M. Best assesses the creditworthiness of and/or reports on over 16,000 insurance companies worldwide. The company<sup>40</sup> reports that its ratings are independent and summarize the insurance company's ability to pay claims, debts and other financial obligations in a timely manner.<sup>41</sup>

A Best's Credit Rating (BCR) is given by A.M. Best and is based on its opinion regarding an insurer's relative creditworthiness. According to A.M. Best:

The opinion represents a comprehensive analysis consisting of a quantitative and qualitative evaluation of balance sheet strength, operating performance, and business profile or, where appropriate, the specific nature and details of a security... A BCR is developed considering relevant aspects of Best's Rating Methodologies (BRMs).<sup>42</sup>

A.M. Best assigns each rated insurance company a Financial Strength Rating (FSR). The FSR is an opinion of an insurer's financial strength and ability to meet its on-going insurance policy and contract obligations.<sup>43</sup> The lowest FSR ranking is "D" (Poor) – the highest ranking is "A+" (Superior).<sup>44</sup> A ranking of "A" (Excellent) is the second highest ranking.

A.M. Best assigns each rated insurance company a Financial Size Category (FSC). The FSC is based on adjusted policyholders' surplus in U.S. dollars and is designed to provide an indicator of

---

<sup>40</sup> A.M. Best is registered as a Nationally Recognized Statistical Rating Organization (NRSRO) by the Securities & Exchange Commission and as a Credit Rating Provider by the National Association of Insurance Commissioners in the US. *A.M. Best – About Us*, <https://web.ambest.com/about/> (last accessed March 8, 2023).

<sup>41</sup> *Id.*

<sup>42</sup> *A.M. Best – Guide to Best's Credit Ratings - Summary*, <https://web.ambest.com/ratings-services/guide-to-best-s-credit-ratings> (last accessed March 8, 2023).

<sup>43</sup> *A.M. Best – Guide to Best's Credit Ratings*, p. 20, <file:///C:/Users/thomas.tom/OneDrive%20-%20Florida%20Senate/Documents/SB%20516/AM%20Best%20Ratings.pdf> (last accessed March 8, 2023).

<sup>44</sup> *Id.*

the size of a company in terms of its statutory surplus and related accounts.<sup>45</sup> The FSC rankings start at “I” for a company with a surplus of less than \$1 million to a ranking of “XV” for a company with a surplus of greater than \$2 billion.<sup>46</sup> A ranking of “VIII” is for a company with a surplus of \$100,000 up to \$250 million.

### III. Effect of Proposed Changes:

The bill amends s. 324.021, F.S., to permit certain risk retention groups and surplus lines insurers to provide commercial auto insurance coverage. The risk retention groups and surplus lines insurers authorized by the bill to provide commercial auto insurance coverage must have an “A” or higher rating for financial strength and “VIII” or higher rating for financial size from A.M. Best Company.

### 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.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

The bill may benefit members of risk retention groups who are able to buy their motor vehicle policies through the group at a lower rate and operators of commercial vehicles that are unable to obtain commercial vehicle coverage in the authorized market.

---

<sup>45</sup> A.M. Best – Financial Size Category, [https://web.ambest.com/ratings-services/financial-size-category-\(fsc\)](https://web.ambest.com/ratings-services/financial-size-category-(fsc)) (last accessed March 8, 2023).

<sup>46</sup> *Id.*

**C. Government Sector Impact:**

The bill has a negative, but likely insignificant, fiscal impact to the DHSMV. The DHSMV will have to engage in structural testing to confirm successful file transfers with any risk retention group that directly insures its members in Florida or with any surplus lines insurer that provides automobile insurance coverage for commercial motor vehicles. This is needed to ensure that HSMV receives timely insurance information about policies that are issued or cancelled. This administrative cost would be absorbed within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 324.021 of the Florida Statutes.

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

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

**CS by Banking and Insurance Committee on March 22, 2023:**

The committee substitute makes the following changes:

- Provides that a surplus lines insurer as defined in s. 626.914(2), F.S., which is rated “A” or higher by A.M. Best Company may provide automobile insurance coverage for commercial motor vehicles.

**B. Amendments:**

None.

By the Committee on Banking and Insurance; and Senator DiCeglie

597-02911-23

2023516c1

A bill to be entitled

An act relating to motor vehicle liability policies; amending s. 324.021, F.S.; revising the definition of the term "motor vehicle liability policy" and defining the term "risk retention group" for purposes of ch. 324, F.S.; providing an effective date.

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

Section 1. Subsection (8) of section 324.021, Florida Statutes, is amended, and subsection (12) is added to that section, to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

(8) MOTOR VEHICLE LIABILITY POLICY.—Any owner's or operator's policy of liability insurance furnished as proof of financial responsibility pursuant to s. 324.031, insuring such owner or operator against loss from liability for bodily injury, death, and property damage arising out of the ownership, maintenance, or use of a motor vehicle in not less than the limits described in subsection (7) and conforming to the requirements of s. 324.151, issued by any insurance company authorized to do business in this state or by a risk retention group described in subsection (12). In addition, any surplus lines insurer as defined in s. 626.914(2) which is rated "A" or higher by A.M. Best Company may provide coverage to meet

Page 1 of 2

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

597-02911-23

2023516c1

financial responsibility requirements for commercial motor vehicles. The owner, registrant, or operator of a motor vehicle is exempt from providing such proof of financial responsibility if he or she is a member of the United States Armed Forces and is called to or on active duty outside this state or the United States, or if the owner of the vehicle is the dependent spouse of such active duty member and is also residing with the active duty member at the place of posting of such member, and the vehicle is primarily maintained at such place of posting. The exemption provided by this subsection applies only as long as the member of the armed forces is on such active duty outside this state or the United States and the owner complies with the security requirements of the state of posting or any possession or territory of the United States.

(12) RISK RETENTION GROUP.—A risk retention group operating in accordance with s. 627.943 or s. 627.944 which is rated "A" or higher for financial strength and "VIII" or higher for financial size category by A.M. Best Company and which only provides commercial coverage for its members and shareholders.

Section 2. This act shall take effect July 1, 2023.

Page 2 of 2

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

04/12/2023

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

Name Linda Allen

The Florida Senate

**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 516

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 678-464-6434

Address 11340 Silverwood Ct

Email hard\_coretrucking@hotmail.com

Street

Spring Hill

FL

34609

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/12/2023

Meeting Date

SB 516

Bill Number or Topic

ACJ

Committee

Amendment Barcode (if applicable)

Name Lewie Pugh

Phone 330 795 0482

Address 1100 New Jersey Ave

Email lewie\_pugh@001da.com

Street

Washington DC

20003

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

4/12/23

Meeting Date

514

Bill Number or Topic

Justice Approps

Committee

Amendment Barcode (if applicable)

Robert Reyes

Name

Phone

850 509 1802

817 Ingleside Ave

Address

Email

Rreyes@capitolgrp.com

Street

TALL

FL

32303

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

American Contractors Insurance Group

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf flsenate.gov

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



4/12/23

The Florida Senate  
**APPEARANCE RECORD**

516

Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Justice Approp

Committee

Amendment Barcode (if applicable)

Name

B.G. Murphy

Phone

850 413 6355

Address

Shamrock Lane

Email

Bmurphy@FAIA.com

Street

TALL

FL

32309

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

FL Association of Insurance Agents

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) [flsenate.gov](#)

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

S-001 (08/10/2021)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

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

---

**BILL:** CS/SB 528

**INTRODUCER:** Criminal Justice Committee and Senator Davis and others

**SUBJECT:** Custody and Supervision of Specified Offenders

**DATE:** April 12, 2023      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	_____	_____	<u>FP</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 528 amends s. 794.011, F.S., eliminating the possibility of basic gain-time for persons convicted of committing or attempting, soliciting, or conspiring to commit a sexual battery on or after July 1, 2023.

The bill amends s. 944.275, F.S., eliminating the possibility of incentive gain-time for persons convicted of committing or attempting, soliciting, or conspiring to commit specified offenses on or after July 1, 2023.

The bill amends s. 948.05, F.S., prohibiting the court from granting a reduction in the term of supervision for probationers or offenders in community control who are placed under supervision for committing or attempting, soliciting or conspiring to commit a violation of any offense listed in the sexual offender or sexual predator registration statutes, or who qualify as a violent felony offender of special concern.

The bill amends s. 948.30, F.S., requiring a court to impose additional specified terms and conditions of probation or community control in addition to all other conditions imposed for offenders whose crime was committed on or after July 1, 2023, for attempting, soliciting, or conspiring to commit certain sexual offenses.

Additionally, the bill amends s. 948.30, F.S., requiring a court to impose additional specified terms and conditions of probation and community control for offenders who are placed on sex

offender probation, if such offender's crime was committed on or after July 1, 2023, for attempting, soliciting, or conspiring to commit certain sexual offenses.

The bill also requires the court to impose electronic monitoring for an offender whose crime was committed on or after July 1, 2023, for attempting, soliciting, or conspiring to commit certain sexual offenses, and who is placed on probation or community control.

The bill also requires the court to impose a condition prohibiting an offender whose crime was committed on or after July 1, 2023, and who is placed on probation or community control for attempting, soliciting, or conspiring to commit certain sexual offenses, from viewing, accessing, owning, or possessing any obscene pornographic or sexually stimulating material.

The bill is effective July 1, 2023.

## **II. Present Situation:**

### **Gain-Time**

Section 944.275, F.S., allows the Department of Corrections (DOC) to grant deductions from sentences in the form of gain-time in order to encourage satisfactory prisoner behavior, to provide incentive for prisoners to participate in productive activities, and to reward prisoners who perform outstanding deeds or services. There are currently three types of gain-time prisoners may earn: basic, incentive, and meritorious.<sup>1</sup>

Currently, inmates serving sentences for specified convictions committed on or after October 1, 2014, are ineligible to earn incentive gain-time, including inmates serving sentences for attempt to commit, solicitation to commit, or conspiracy to commit one of these underlying offenses. There are currently 791 inmates in DOC custody who are serving a sentence that includes an attempt, conspiracy or solicitation to commit one of the underlying offenses outlined in s. 944.275(4)(e), F.S., (777 inmates for attempt, 5 inmates for conspiracy and 9 inmates for solicitation).<sup>2</sup>

As discussed below, the types of gain-time that a prisoner may earn, as well as the amount of gain-time a prisoner may earn, varies according to the offense date. Gain-time earned by a prisoner may also be forfeited for violations of state law or department rules.<sup>3</sup>

### ***Incentive Gain-Time***

The DOC may grant incentive gain-time for each month during which a prisoner works diligently, participates in training, uses time constructively, or otherwise engages in positive activities. The rate of incentive gain-time in effect on the date the prisoner committed the offense that resulted in his or her incarceration is the prisoner's rate of eligibility to earn incentive gain-time throughout the period of incarceration and cannot be altered by a subsequent change in

---

<sup>1</sup> Section 944.275, F.S.

<sup>2</sup> Department of Corrections, *2023 Agency Legislative Bill Analysis for HB 537*, at 2 (March 13, 2023) (on file with the Senate Committee on Criminal Justice).

<sup>3</sup> Section 944.275, F.S.

the severity level of the offense for which the prisoner was sentenced. Section 944.275(4)(b), F.S., specifies that:

- For sentences imposed for offenses committed prior to January 1, 1994, up to 20 days per month of incentive gain-time may be granted;
- For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:
  - Up to 25 days per month of incentive gain-time may be granted for offenses ranked in offense severity levels 1 through 7 of the former sentencing guidelines;
  - Up to 20 days per month of incentive gain-time may be granted for offenses ranked in offense severity levels 8, 9, and 10 of the former sentencing guidelines; and
- For sentences imposed for offenses committed after October 1, 1995, up to 10 days per month of incentive gain-time may be granted.

The DOC may grant, upon a recommendation of the education program manager, a one-time award of 60 additional days of incentive gain-time to a prisoner who is otherwise eligible and who successfully completes requirements for and is awarded a high school equivalency diploma or vocational certificate. A prisoner may not receive more than 60 days for educational attainment.<sup>4</sup> The DOC may grant an additional six days of incentive gain-time if a prisoner attends and actively participates in 150 hours of adult basic education to attain basic and functional literacy.<sup>5</sup>

The DOC may not grant incentive gain-time for sentences imposed for the following offenses committed on or after October 1, 2014:

- Homicide occurring in the perpetration of or attempted perpetration of a sexual battery;
- Kidnapping of a child under the age of 13, and in the course of committing the offense, commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- False imprisonment of a child under the age of 13, and in the course of committing the offense commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- Sexual battery;
- Lewd or lascivious offenses upon or in the presence of persons less than 16 years of age;
- Lewd or lascivious offenses upon or in the presence of an elderly person or disabled person;
- or
- Transmission of certain images over a computer to a person who is less than 16 years of age.<sup>6</sup>

### ***Basic Gain-Time***

The DOC grants basic gain-time at the rate of 10 days for each month of each sentence imposed on a prisoner to encourage satisfactory behavior, subject to the following:

- Portions of any sentences to be served concurrently are treated as a single sentence when determining basic gain-time;

---

<sup>4</sup> Section 944.275(4)(d), F.S.

<sup>5</sup> Section 944.801(3)(i)5., F.S. “Active participation” means at a minimum, that the inmate is attentive, responsive, cooperative, and completes assigned work.

<sup>6</sup> Section 944.275(4)(e), F.S.

- Basic gain-time for a partial month is prorated on the basis of a 30-day month; and
- When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, basic gain-time is granted for the amount of time the maximum sentence expiration date was extended.<sup>7</sup>

Basic gain-time is awarded as a lump sum upon receipt into the custody of the DOC. Basic gain-time only applies to sentences imposed or offenses committed on or after July 1, 1978, and before January 1, 1994.<sup>8</sup>

The DOC may not grant basic gain-time to prisoners who are convicted of committing a sexual battery on or after October 1, 1992.<sup>9</sup>

### ***Meritorious Gain-Time***

The DOC may grant meritorious gain-time to a prisoner who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped prisoner, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his or her sentence. The grant of meritorious gain-time may be from 1 to 60 days.<sup>10</sup>

### ***Limitations on Earning Gain-Time***

For sentences imposed for offenses committed on or after October 1, 1995, a prisoner may not earn any type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed. Credits awarded by the court for time physically incarcerated are credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by s. 944.275, F.S., a prisoner may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed.<sup>11</sup> If a prisoner is found to have violated state law or department rules, gain-time may be forfeited according to law.<sup>12</sup>

State prisoners sentenced to life imprisonment must be incarcerated for the rest of their natural lives, unless granted pardon or clemency.<sup>13</sup> Certain offenders are statutorily prohibited from earning gain-time:

- Prison releasee reoffenders must serve 100 percent of the court-imposed sentence and may not earn gain-time to shorten the length of incarceration.<sup>14</sup>

<sup>7</sup> Section 944.275(4)(a), F.S.

<sup>8</sup> Section 944.275(6), F.S.

<sup>9</sup> Section 794.011(7), F.S.

<sup>10</sup> Section 944.275(4)(c), F.S.

<sup>11</sup> Section 944.275(4)(f), F.S.

<sup>12</sup> Sections 944.275(5) and 944.28, F.S.

<sup>13</sup> Section 944.275(4)(f), F.S.

<sup>14</sup> Under s. 775.082(9), F.S., a defendant may be designated a "prison releasee offender" if within three years of being released from incarceration commits or attempts to commit: treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, arson, kidnaping, aggravated assault with a deadly weapon, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive device or bomb, any felony that involves the use or threat of physical force or violence against an individual, armed burglary, burglary of a dwelling, or burglary of an occupied structure, or any felony violation of ss. 790.07, 800.04, 827.03, 827.071, or 847.0135(5), F.S. A "prison releasee

- Certain prisoners convicted of offenses involving the fleeing or attempting to elude a law enforcement officer are ineligible for statutory gain-time.<sup>15</sup>
- Prisoners convicted of committing or attempting to commit certain felonies while possessing or using a firearm or destructive device.<sup>16</sup>
- Prisoners convicted of committing or attempting to commit certain felonies while possessing or using a semiautomatic firearm and its high-capacity box magazine or a machine gun.<sup>17</sup>
- Prisoners convicted of battery on a law enforcement officer, firefighter, emergency medical providers, public transit employees or agents, or other specified officers while possessing a firearm or semiautomatic firearm and its high-capacity box magazine.<sup>18</sup>
- Prisoners convicted under the dangerous sexual felony offender statute.<sup>19</sup>

### ***Forfeiture of Gain-Time***

Florida law allows gain-time to be forfeited or withheld if a prisoner is found guilty of an infraction of state law or department rules.<sup>20</sup> A prisoner shall, without prior notice or hearing, forfeit all earned gain-time upon:

- Conviction for an escape committed before October 1, 2013;
- Revocation of parole,<sup>21</sup> conditional release,<sup>22</sup> control release,<sup>23</sup> or clemency;<sup>24</sup>
- Revocation of conditional medical release,<sup>25</sup> if the revocation was for any reason other than improvement in medical condition; or

---

offender” also means any defendant who commits or attempts to commit one of the aforementioned offenses while serving a prison sentence or on escape status from a correctional facility.

<sup>15</sup> Section 316.1935(6), F.S.

<sup>16</sup> Section 775.087(2)(b), F.S.

<sup>17</sup> Section 775.087(3)(b), F.S.

<sup>18</sup> Section 784.07(3), F.S.

<sup>19</sup> Section 794.0115(7), F.S.

<sup>20</sup> Section 944.275(5), F.S.

<sup>21</sup> Parole is the release of a prisoner, prior to the expiration of the prisoner’s court-imposed sentence with a period of supervision to be successfully completed by compliance with the conditions and terms of the release agreement ordered by the Florida Commission on Offender Review. Parole is only available to prisoners whose crimes were committed prior to October 1, 1983, with exceptions. *See* Florida Commission on Offender Review, *Release Types: Parole*, available at <https://www.fcor.state.fl.us/release-types.shtml> (last visited March 14, 2023).

<sup>22</sup> Section 947.1405, F.S., requires certain violent prisoners who have also served a prior felony commitment at a federal or state correctional institution or who are habitual offenders, violent habitual offenders, violent career criminals, or court-designated sexual offenders to be released under supervision subject to specified terms and conditions upon reaching the tentative release date or provisional release date, as established by the DOC. *See also* Florida Commission on Offender Review, *Release Types: Post Release*, available at <https://www.fcor.state.fl.us/postrelease.shtml#conditionalRelease> (last visited March 14, 2023).

<sup>23</sup> Control release is an administrative function to manage the state’s prison population within total capacity. The program, administered by the Florida Commission on Offender Review, through the Control Release Authority, maintains the prison population between 99 and 100 percent of its total capacity. Section 947.146, F.S.

<sup>24</sup> Article IV, Section 8 of the Florida Constitution authorizes a process to provide the means through which convicted individuals may be considered for relief from punishment and seek restoration of their civil rights. The clemency function is an act of mercy that absolves an individual from all, or any part, of the punishment that the law imposes. The power to grant clemency is vested in the Governor with the agreement of two cabinet members. The Governor also has the sole power to deny clemency. Florida Commission on Offender Review, *Clemency*, available at <https://www.fcor.state.fl.us/clemencyOverview.shtml> (last visited March 14, 2023).

<sup>25</sup> Section 947.149, F.S., authorizes the Florida Commission on Offender Review to grant a conditional medical release of a prisoner if, because of an existing medical or physical condition, the prisoner is determined by the department to be permanently incapacitated or terminally ill and the prisoner does not constitute a danger to herself or himself or others.

- Revocation of provisional release supervision,<sup>26</sup> or the revocation of probation<sup>27</sup> or community control<sup>28</sup> if such supervision was imposed for a crime committed on or after October 1, 1989.<sup>29</sup>

To declare a forfeiture, a written charge must be prepared, which specifies each instance of misconduct and the approximate date of each instance.<sup>30</sup> The prisoner must be given a copy of the charge, along with a notice of hearing before a disciplinary committee. The prisoner must be present at the hearing.<sup>31</sup> During the hearing, the prisoner:

- Will be read the charge, asked if he or she understands the charge, and explained the range of penalties that could be imposed if there is a finding of guilt;
- Will be asked if staff assistance is required or desired for the hearing;
- For minor violations, will be advised that he or she may request the charge be referred to the disciplinary team; and
- Will be read the statement of facts and be asked to plea.<sup>32</sup>

If the prisoner pleads guilty, no further action is needed. If the prisoner pleads not guilty, evidence, including witness statements, is to be presented. The prisoner may make only an oral closing statement concerning the infraction under consideration at the hearing. If a prisoner refuses to enter a plea, it is treated as a “not guilty” plea.<sup>33</sup>

A prisoner may forfeit all or part of gain-time earned if after the hearing, the prisoner is found to have:

- Violated a penal law of this state, or any rule of the DOC or institution;
- Threatened or knowingly endangered the life or physical well-being of another;
- Refused in any way to carry out or obey lawful instructions;
- Neglected to perform the work, duties, and tasks assigned in a faithful, diligent, industrious, orderly, and peaceful manner; or
- Escaped on or after October 1, 2013.<sup>34</sup>

The DOC has the discretion to restore all or part of any gain-time that was forfeited due to disciplinary action if the prisoner has performed positively over a period of time, and it appears

<sup>26</sup> Under the former s. 944.277, F.S., which was repealed by ch. 93-406, s. 32, L.O.F., the Secretary of Corrections was authorized to grant certain inmates with provisional credits when the population of the correctional system reached 98 percent of lawful capacity, which advanced the release date for such inmates.

<sup>27</sup> Section 948.001(8), F.S., defines “probation” as a form of community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03, F.S.

<sup>28</sup> Section 948.001(3), F.S., defines “community control” as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Community control is an individualized program in which the freedom of an offender is restricted within the community, home, or non-institutional residential placement and specific sanctions are imposed and enforced.

<sup>29</sup> Rule 33-601.104, F.A.C.

<sup>30</sup> Section 944.28(2)(c), F.S.

<sup>31</sup> Rule 33-601.307(1)(b), F.A.C., provides instances in which the prisoner does not have to attend the hearing and procedures if the prisoner refuses to attend the hearing or is disruptive.

<sup>32</sup> Rule 33-601.307(1)(c)-(f), F.A.C.

<sup>33</sup> Rule 33-601.307(g), F.A.C.

<sup>34</sup> *Supra* note 29.

that the prisoner will continue to perform positively without further violation of the DOC's rules or state laws.<sup>35</sup>

### **Sentence Expiration and Release Dates**

The DOC must establish a maximum sentence expiration date for each prisoner who is committed to the DOC to serve a term of years. The maximum sentence expiration date is the date on which the sentence(s) imposed on the prisoner will expire. The DOC must reduce the total time to be served by any time lawfully credited.<sup>36</sup>

The DOC must also establish a tentative release date for each prisoner sentenced to a term of years. The tentative release date is the date on which the prisoner is projected to be released from custody based on the amount of gain-time earned or forfeited. The initial tentative release date is established by deducting basic gain-time from the maximum sentence expiration date.<sup>37</sup> Other gain-time is applied when earned or restored, to make the tentative release date earlier and forfeited gain-time is applied to make the tentative release date later.<sup>38</sup>

A prisoner who has served his or her time, as reduced by gain-time deductions, must be released and placed under further supervision and control of the DOC.<sup>39</sup>

### **Fla. Dept. of Corrections v. Gould**

An inmate convicted of attempted sexual battery on a child under the age of 12 filed a writ of mandamus seeking to compel the DOC, to exercise its discretion and consider him as eligible for incentive gain-time, retrospectively and for the remainder of his sentence. Gould alleged that a conviction for criminal attempt was not excluded from the award of gain-time by statute because a conviction for a criminal attempt is a separate and distinct crime than the underlying offense.<sup>40</sup>

The First District Court of Appeal (DCA), receded from previous decisions which held that a conviction for an attempted crime was a conviction for the underlying offense modified by the attempt statute in s. 777.04, F.S., and ruled that a conviction for an attempt was a separate and distinct offense.<sup>41</sup> Thus, a person convicted of attempting to commit a crime that would otherwise be ineligible for the award of incentive gain-time is eligible for the award of gain-time.<sup>42</sup> The DOC appealed the decision of the DCA, and that matter is pending before the Florida Supreme Court in Supreme Court Case No. SC22-1207.

---

<sup>35</sup> Rule 33-601.105, F.A.C.

<sup>36</sup> Section 944.275(2), F.S.

<sup>37</sup> Basic gain-time only applies to prisoners serving sentences imposed or for offenses committed on or after July 1, 1978, and before January 1, 1994.

<sup>38</sup> Section 944.275(3), F.S.

<sup>39</sup> Section 944.291(1), F.S. Prisoners serving sentences imposed for offenses committed on or after October 1, 1995, must serve at minimum 85 percent of the imposed sentence. Section 944.275(4)(f), F.S.

<sup>40</sup> *Fla. Dept. of Corrections v. Gould*, 344 So.3d 496 (Fla. 1st DCA 2022).

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*



## Probation and Community Control

Probation is a form of community supervision requiring specified contacts with probation officers and compliance with certain terms and conditions.<sup>43</sup> Following a conviction for a criminal offense, the court determines the terms and conditions of probation. Standard conditions of probation include, but are not limited to:

- Reporting to the probation officer as directed.
- Permitting the probation officer to visit the probationer at his or her home.
- Working faithfully at suitable employment, when possible.
- Residing at a specified place.
- Living without violating the law.
- Paying restitution to any aggrieved party for the damage or loss caused by a probationer's offense.
- Being prohibited from possessing, carrying, or owning a firearm or weapon, without the probation officer's consent.
- Being prohibited from using intoxicants to excess or possessing any drugs or narcotics.<sup>44</sup>

Community control is a form of intensive supervised custody of an offender who remains in the community, but whose freedom is restricted within the home, community, or noninstitutional residential placement and includes specific sanctions and monitoring by probation officers with restricted caseloads.<sup>45</sup> In addition to the standard conditions which apply to normal probationers, an offender on community control must:

- Maintain specified contact with his or her parole or probation officer;
- Be confined to an agreed-upon residence during any hours he or she is away from work or public service activities;
- Complete mandatory public service; and
- Be supervised by the DOC by means of an electronic monitoring device or system.<sup>46</sup>

Section 948.05(2), F.S., authorizes the DOC to implement a system of graduated incentives to promote compliance with the terms of supervision. The DOC may, without leave of court, award a compliant probationer or offender in community control specified incentives, including, but not limited to:

- A 60-day reduction of his or her term of supervision for each educational advancement activity completed; or
- A 30-day reduction of his or her term of supervision for each period of workforce achievement completed.

The DOC may also recommend early termination of supervision for a compliant probationer or offender in community control, but the court must approve such early termination.<sup>47</sup>

---

<sup>43</sup> Section 948.001(8), F.S.

<sup>44</sup> Section 948.03(1), F.S.

<sup>45</sup> Section 948.001(3), F.S.

<sup>46</sup> Section 948.101(1), F.S.

<sup>47</sup> Section 948.05(2)(b)5., F.S.

A “violent felony offender of special concern” (VFOSC) is a person who is on felony supervision:

- Related to a qualifying offense<sup>48</sup> committed on or after March 12, 2007.
- For any offense committed on or after March 12, 2007, and who has previously been convicted of a qualifying offense.
- For any offense committed on or after March 12, 2007, and who is found to have violated supervision by committing a qualifying offense.
- And has previously been found by a court to be a habitual violent felony offender, three-time violent offender, or sexual predator, and who has committed a qualifying offense on or after March 12, 2007.<sup>49</sup>

Section 948.30, F.S., requires a court to impose additional conditions of supervision on a person who is sentenced to probation or community control after being convicted of one of the following offenses:

- Sexual battery in ch. 794, F.S.;
- Lewd or lascivious battery, molestation, conduct, or exhibition in s. 800.04, F.S.;
- Sexual performance by a child in s. 827.071, F.S.;
- Lewd or lascivious exhibition over the Internet in s. 847.0135(5), F.S.; and
- Selling or buying minors to engage in sexually explicit conduct in s. 847.0145, F.S.

Examples of such conditions include:

- A mandatory 8-hour curfew;
- A prohibition on contact or living within 1,000 feet of a school and other places where children regularly congregate;
- A prohibition on any contact with the victim;
- Active participation in and successful completion of a sexual offender treatment program with certain specifications;
- Submit a specimen of blood or other approved biological specimen to be registered with the DNA data bank;
- Submission to a warrantless search by the community control or probation officer of the probationer’s or community controllee’s person, residence, or vehicle;

---

<sup>48</sup> Section 948.06(8)(c), F.S., defines qualifying offense to include any of the following: kidnapping or attempted kidnapping, s. 787.01, F.S.; false imprisonment of a child under the age of 13, s. 787.02(3), F.S.; luring or enticing a child, s. 787.025(2)(b) or (b), F.S.; murder or attempted murder, s. 782.04, F.S.; attempted felony murder, s. 782.051, F.S.; manslaughter, s. 782.07, F.S.; aggravated battery or attempt, s. 784.045, F.S.; sexual battery or attempt, s. 794.011(2), (3), (4), or (8)(b) or (c), F.S.; lewd and lascivious battery or attempt, s. 800.04(4), F.S.; lewd and lascivious molestation, s. 800.04(5)(b) or (c), F.S.; lewd and lascivious conduct, s. 800.04(6)(b), F.S.; lewd and lascivious exhibition, s. 800.04(7)(b), F.S.; lewd and lascivious exhibition on computer, s. 847.0135(5)(b), F.S.; robbery or attempt, s. 812.13, F.S.; carjacking or attempt, s. 812.133, F.S.; home invasion robbery or attempt, s. 812.135, F.S.; lewd and lascivious offense upon or in the presence of an elderly person or attempt, s. 825.1025, F.S.; sexual performance by a child or attempt, s. 827.071, F.S.; computer pornography, s. 847.0135(2) or (3), F.S.; transmission of child pornography, s. 847.0137, F.S.; selling or buying of minors, s. 847.0145, F.S.; poisoning food or water, s. 859.01, F.S.; abuse of a dead human body, s. 872.06, F.S.; any burglary offense that is a first or second degree felony, s. 810.02(2) or (3), F.S.; arson or attempt, s. 806.01(1), F.S.; aggravated assault, s. 784.021, F.S.; aggravated stalking, s. 784.048(3), (4), (5), or (7), F.S.; aircraft piracy, s. 860.16, F.S.; throwing a deadly missile, s. 790.161(2), (3), or (4), F.S.; and treason, s. 876.32, F.S.

<sup>49</sup> Section 948.06(8)(b), F.S.

- Participation at least annually in polygraph examinations for specified purposes and with specified conditions;
- Maintenance of a driving log and prohibition against driving a motor vehicle alone without prior approval;
- Prohibition against obtaining or using a post office box without prior approval;
- Submission to an HIV test with specified conditions; and
- Electronic monitoring when deemed necessary and ordered by the court.<sup>50</sup>

### III. Effect of Proposed Changes:

The bill amends s. 794.011, F.S., eliminating the possibility of basic gain-time for persons convicted of committing or attempting, soliciting, or conspiring to commit a sexual battery on or after July 1, 2023.

The bill amends s. 944.275, F.S., eliminating the possibility of incentive gain-time for persons convicted of committing or attempting, soliciting, or conspiring to commit specified offenses. For sentences imposed for offenses committed on or after July 1, 2023, the department may not grant incentive gain-time if the offense is a violation or an attempted violation of:

- Section 782.04(1)(a)2.c., F.S., Attempted felony murder occurring when a person perpetrates or attempts to perpetrate any felony enumerated in s. 782.04(3), F.S, 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.
- Section 787.01(3)(a)2. or 3., F.S., Kidnapping of a child under the age of 13, and in the course of committing the offense, commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition.
- Section 787.02(3)(a)2. or 3., F.S., False imprisonment of a child under the age of 13, and in the course of committing the offense commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition.
- Section 794.011, F.S., Sexual battery.
- Section 800.04, F.S., Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age occurring when a person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.
- Section 825.1025, F.S., Lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person occurring when a person intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of an elderly person or disabled person when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent.
- Section 847.0135(5), F.S., Transmission of certain images over a computer to a person who is less than 16 years of age.

---

<sup>50</sup> Section 948.30(1) and (2), F.S.

The bill amends s. 948.05, F.S., prohibiting the court from granting a reduction in the term of supervision for probationers or offenders in community control who are placed under supervision for committing or attempting, soliciting or conspiring to commit a violation of any offense listed in the sexual offender or sexual predator registration statutes, or who qualify as a violent felony offender of special concern.

The bill amends s. 948.30, F.S., requiring a court to impose additional specified terms and conditions of probation or community control in addition to all other conditions imposed for offenders whose crime was committed on or after July 1, 2023, for attempting, soliciting, or conspiring to commit certain specified sexual offenses.

Sexual offenses requiring these additional terms and conditions under s. 948.30, F.S., include offenses committed on or after July 1, 2023, for attempting, soliciting, or conspiring to commit violations of any of the following:

- Section 787.06(3)(b), (d), (f), or (g), F.S., Human Trafficking.
- Chapter 794, F.S., Sexual Battery.
- Section 800.04, F.S., Lewd or Lascivious offenses committed upon or in the presence of persons less than 16 years of age.
- Section 827.071, F.S., Sexual Performance by a child; Child Pornography.
- Section 847.0135, F.S., Computer Pornography.
- Section 847.0145, F.S., Selling or Buying of Minors.<sup>51</sup>

Additionally, the bill amends s. 948.30, F.S., requiring a court to impose additional specified terms and conditions of probation and community control for offenders who are placed on sex offender probation for attempting, soliciting, or conspiring to commit certain sexual offenses.

The bill also requires the court to impose electronic monitoring for offenders who are convicted for attempting, soliciting, or conspiring to commit certain sexual offenses, and who are placed on probation or community control.

The bill also requires the court to impose a condition prohibiting an offender who is placed on probation or community control for attempting, soliciting, or conspiring to commit certain sexual offenses, from viewing, accessing, owning, or possessing any obscene pornographic or sexually stimulating material.

The bill is effective July 1, 2023.

#### **IV. Constitutional Issues:**

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

None.

---

<sup>51</sup> Section 847.0145, F.S.

**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, which provides the final, official estimate of prison bed impact, if any, of legislation, has determined that the bill will not have a prison bed impact. However, the DOC's Office of Information Technology anticipates a minimal technology impact, with the amount being indeterminate.<sup>52</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 794.011, 944.275, 948.05, and 948.30.

---

<sup>52</sup> Department of Corrections, *2023 Agency Legislative Bill Analysis for HB 537*, at 2 (March 13, 2023) (on file with the Senate Committee on Criminal Justice).

**IX. Additional Information:**

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

**CS by Criminal Justice on March 27, 2023:**

The committee substitute:

- Eliminates the possibility of basic gain-time for persons convicted of committing, attempting, soliciting, or conspiring to commit certain sexual offenses.
- Eliminates the possibility of incentive gain-time for persons convicted of committing, attempting, soliciting, or conspiring to commit certain sexual offenses.
- Prohibits the court from reducing the supervision term of a person who is on probation or community control for committing, or attempting to commit certain specified sexual offenses.
- Requires a court to impose additional specified terms and conditions of probation or community control in addition to all other conditions imposed for offenders whose crime was committed on or after July 1, 2023, for attempting, soliciting, or conspiring to commit certain specified sexual offenses.

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senators Davis and Book

591-03150-23

2023528c1

1 A bill to be entitled  
 2 An act relating to custody and supervision of  
 3 specified offenders; amending s. 794.011, F.S.;  
 4 excluding certain offenders from eligibility to  
 5 receive basic gain-time; amending s. 944.275, F.S.;  
 6 excluding certain offenders from eligibility to  
 7 receive incentive gain-time; amending s. 948.05, F.S.;  
 8 excluding certain offenders from eligibility for  
 9 specified reductions to a term of supervision;  
 10 amending s. 948.30, F.S.; requiring a court to impose  
 11 additional conditions of supervision on specified  
 12 offenders; providing an effective date.  
 13  
 14 Be It Enacted by the Legislature of the State of Florida:  
 15  
 16 Section 1. Subsection (7) of section 794.011, Florida  
 17 Statutes, is amended to read:  
 18 794.011 Sexual battery.—  
 19 (7) (a) A person who is convicted of committing a sexual  
 20 battery on or after October 1, 1992, is not eligible for basic  
 21 gain-time under s. 944.275.  
 22 (b) Notwithstanding paragraph (a), for sentences imposed  
 23 for offenses committed on or after July 1, 2023, a person who is  
 24 convicted of committing or attempting, soliciting, or conspiring  
 25 to commit a sexual battery in violation of this section is not  
 26 eligible for basic gain-time under s. 944.275.  
 27 (c) This subsection may be cited as the "Junny Rios-  
 28 Martinez, Jr. Act of 1992."  
 29 Section 2. Paragraph (e) of subsection (4) of section

Page 1 of 13

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

591-03150-23

2023528c1

30 944.275, Florida Statutes, is amended, and paragraph (b) of that  
 31 subsection is republished, to read:  
 32 944.275 Gain-time.—  
 33 (4)  
 34 (b) For each month in which an inmate works diligently,  
 35 participates in training, uses time constructively, or otherwise  
 36 engages in positive activities, the department may grant  
 37 incentive gain-time in accordance with this paragraph. The rate  
 38 of incentive gain-time in effect on the date the inmate  
 39 committed the offense which resulted in his or her incarceration  
 40 shall be the inmate's rate of eligibility to earn incentive  
 41 gain-time throughout the period of incarceration and shall not  
 42 be altered by a subsequent change in the severity level of the  
 43 offense for which the inmate was sentenced.  
 44 1. For sentences imposed for offenses committed prior to  
 45 January 1, 1994, up to 20 days of incentive gain-time may be  
 46 granted. If granted, such gain-time shall be credited and  
 47 applied monthly.  
 48 2. For sentences imposed for offenses committed on or after  
 49 January 1, 1994, and before October 1, 1995:  
 50 a. For offenses ranked in offense severity levels 1 through  
 51 7, under former s. 921.0012 or former s. 921.0013, up to 25 days  
 52 of incentive gain-time may be granted. If granted, such gain-  
 53 time shall be credited and applied monthly.  
 54 b. For offenses ranked in offense severity levels 8, 9, and  
 55 10, under former s. 921.0012 or former s. 921.0013, up to 20  
 56 days of incentive gain-time may be granted. If granted, such  
 57 gain-time shall be credited and applied monthly.  
 58 3. For sentences imposed for offenses committed on or after

Page 2 of 13

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

591-03150-23 2023528c1

59 October 1, 1995, the department may grant up to 10 days per  
60 month of incentive gain-time.

61 (e)1. Notwithstanding subparagraph (b)3., for sentences  
62 imposed for offenses committed on or after October 1, 2014, and  
63 before July 1, 2023, the department may not grant incentive  
64 gain-time if the offense is a violation of s. 782.04(1)(a)2.c.;  
65 s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011,  
66 excluding s. 794.011(10); s. 800.04; s. 825.1025; or s.  
67 847.0135(5).

68 2. Notwithstanding subparagraph (b)3., for sentences  
69 imposed for offenses committed on or after July 1, 2023, the  
70 department may not grant incentive gain-time if the offense is  
71 for committing or attempting, soliciting, or conspiring to  
72 commit a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or  
73 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s.  
74 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

75 Section 3. Paragraph (e) of subsection (2) of section  
76 948.05, Florida Statutes, is amended, and paragraph (f) is added  
77 to that subsection, to read:

78 948.05 Court to admonish or commend probationer or offender  
79 in community control; graduated incentives.—

80 (2) The department shall implement a system of graduated  
81 incentives to promote compliance with the terms of supervision,  
82 encourage educational achievement and stable employment, and  
83 prioritize the highest levels of supervision for probationers or  
84 offenders presenting the greatest risk of recidivism.

85 (e) A probationer or offender in community control who  
86 commits a subsequent violation of probation may forfeit any  
87 previously earned probation incentive, as determined appropriate

591-03150-23 2023528c1

88 by his or her probation officer.

89 (f) A probationer or offender in community control who is  
90 placed under supervision for committing or attempting,  
91 soliciting, or conspiring to commit a violation of any felony  
92 offense described in s. 775.21(4)(a)1.a. or b. or s.  
93 943.0435(1)(h)1.a., or who qualifies as a violent felony  
94 offender of special concern under s. 948.06(8)(b) is not  
95 eligible for any reduction of his or her term of supervision  
96 under this section.

97 Section 4. Section 948.30, Florida Statutes, is amended to  
98 read:

99 948.30 Additional terms and conditions of probation or  
100 community control for certain sex offenses.—Conditions imposed  
101 pursuant to this section do not require oral pronouncement at  
102 the time of sentencing and shall be considered standard  
103 conditions of probation or community control for offenders  
104 specified in this section.

105 (1) Effective for probationers or community controllees  
106 whose crime was committed on or after October 1, 1995, and who  
107 are placed under supervision for a violation of chapter 794, s.  
108 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, or whose  
109 crime was committed on or after July 1, 2021, and who are placed  
110 under supervision for a violation of s. 787.06(3)(b), (d), (f),  
111 or (g), or whose crime was committed on or after July 1, 2023,  
112 and who are placed under supervision for attempting, soliciting,  
113 or conspiring to commit a violation of s. 787.06(3)(b), (d),  
114 (f), or (g); chapter 794; s. 800.04; s. 827.071; s. 847.0135(5);  
115 or s. 847.0145, the court must impose the following conditions  
116 in addition to all other standard and special conditions



591-03150-23

2023528c1

117 imposed:

118 (a) A mandatory curfew from 10 p.m. to 6 a.m. The court may  
 119 designate another 8-hour period if the offender's employment  
 120 precludes the above specified time, and the alternative is  
 121 recommended by the Department of Corrections. If the court  
 122 determines that imposing a curfew would endanger the victim, the  
 123 court may consider alternative sanctions.

124 (b) If the victim was under the age of 18, a prohibition on  
 125 living within 1,000 feet of a school, child care facility, park,  
 126 playground, or other place where children regularly congregate,  
 127 as prescribed by the court. The 1,000-foot distance shall be  
 128 measured in a straight line from the offender's place of  
 129 residence to the nearest boundary line of the school, child care  
 130 facility, park, playground, or other place where children  
 131 congregate. The distance may not be measured by a pedestrian  
 132 route or automobile route. A probationer or community controllee  
 133 who is subject to this paragraph may not be forced to relocate  
 134 and does not violate his or her probation or community control  
 135 if he or she is living in a residence that meets the  
 136 requirements of this paragraph and a school, child care  
 137 facility, park, playground, or other place where children  
 138 regularly congregate is subsequently established within 1,000  
 139 feet of his or her residence.

140 (c) Active participation in and successful completion of a  
 141 sex offender treatment program with qualified practitioners  
 142 specifically trained to treat sex offenders, at the  
 143 probationer's or community controllee's own expense. If a  
 144 qualified practitioner is not available within a 50-mile radius  
 145 of the probationer's or community controllee's residence, the

591-03150-23

2023528c1

146 offender shall participate in other appropriate therapy.

147 (d) A prohibition on any contact with the victim, directly  
 148 or indirectly, including through a third person, unless approved  
 149 by the victim, a qualified practitioner in the sexual offender  
 150 treatment program, and the sentencing court.

151 (e) If the victim was under the age of 18, a prohibition on  
 152 contact with a child under the age of 18 except as provided in  
 153 this paragraph. The court may approve supervised contact with a  
 154 child under the age of 18 if the approval is based upon a  
 155 recommendation for contact issued by a qualified practitioner  
 156 who is basing the recommendation on a risk assessment. Further,  
 157 the sex offender must be currently enrolled in or have  
 158 successfully completed a sex offender therapy program. The court  
 159 may not grant supervised contact with a child if the contact is  
 160 not recommended by a qualified practitioner and may deny  
 161 supervised contact with a child at any time. When considering  
 162 whether to approve supervised contact with a child, the court  
 163 must review and consider the following:

164 1. A risk assessment completed by a qualified practitioner.  
 165 The qualified practitioner must prepare a written report that  
 166 must include the findings of the assessment and address each of  
 167 the following components:  
 168 a. The sex offender's current legal status;  
 169 b. The sex offender's history of adult charges with  
 170 apparent sexual motivation;  
 171 c. The sex offender's history of adult charges without  
 172 apparent sexual motivation;  
 173 d. The sex offender's history of juvenile charges, whenever  
 174 available;

591-03150-23 2023528c1

175 e. The sex offender's offender treatment history, including  
 176 consultations with the sex offender's treating, or most recent  
 177 treating, therapist;  
 178 f. The sex offender's current mental status;  
 179 g. The sex offender's mental health and substance abuse  
 180 treatment history as provided by the Department of Corrections;  
 181 h. The sex offender's personal, social, educational, and  
 182 work history;  
 183 i. The results of current psychological testing of the sex  
 184 offender if determined necessary by the qualified practitioner;  
 185 j. A description of the proposed contact, including the  
 186 location, frequency, duration, and supervisory arrangement;  
 187 k. The child's preference and relative comfort level with  
 188 the proposed contact, when age appropriate;  
 189 l. The parent's or legal guardian's preference regarding  
 190 the proposed contact; and  
 191 m. The qualified practitioner's opinion, along with the  
 192 basis for that opinion, as to whether the proposed contact would  
 193 likely pose significant risk of emotional or physical harm to  
 194 the child.  
 195  
 196 The written report of the assessment must be given to the court;  
 197 2. A recommendation made as a part of the risk assessment  
 198 report as to whether supervised contact with the child should be  
 199 approved;  
 200 3. A written consent signed by the child's parent or legal  
 201 guardian, if the parent or legal guardian is not the sex  
 202 offender, agreeing to the sex offender having supervised contact  
 203 with the child after receiving full disclosure of the sex

591-03150-23 2023528c1

204 offender's present legal status, past criminal history, and the  
 205 results of the risk assessment. The court may not approve  
 206 contact with the child if the parent or legal guardian refuses  
 207 to give written consent for supervised contact;  
 208 4. A safety plan prepared by the qualified practitioner,  
 209 who provides treatment to the offender, in collaboration with  
 210 the sex offender, the child's parent or legal guardian, if the  
 211 parent or legal guardian is not the sex offender, and the child,  
 212 when age appropriate, which details the acceptable conditions of  
 213 contact between the sex offender and the child. The safety plan  
 214 must be reviewed and approved by the court; and  
 215 5. Evidence that the child's parent or legal guardian  
 216 understands the need for and agrees to the safety plan and has  
 217 agreed to provide, or to designate another adult to provide,  
 218 constant supervision any time the child is in contact with the  
 219 offender.  
 220  
 221 The court may not appoint a person to conduct a risk assessment  
 222 and may not accept a risk assessment from a person who has not  
 223 demonstrated to the court that he or she has met the  
 224 requirements of a qualified practitioner as defined in this  
 225 section.  
 226 (f) If the victim was under age 18, a prohibition on  
 227 working for pay or as a volunteer at any place where children  
 228 regularly congregate, including, but not limited to, schools,  
 229 child care facilities, parks, playgrounds, pet stores,  
 230 libraries, zoos, theme parks, and malls.  
 231 (g) Unless otherwise indicated in the treatment plan  
 232 provided by a qualified practitioner in the sexual offender

591-03150-23 2023528c1

233 treatment program, a prohibition on viewing, accessing, owning,  
 234 or possessing any obscene, pornographic, or sexually stimulating  
 235 visual or auditory material, including telephone, electronic  
 236 media, computer programs, or computer services that are relevant  
 237 to the offender's deviant behavior pattern.

238 (h) Effective for probationers and community controllees  
 239 whose crime is committed on or after July 1, 2005, a prohibition  
 240 on accessing the Internet or other computer services until a  
 241 qualified practitioner in the offender's sex offender treatment  
 242 program, after a risk assessment is completed, approves and  
 243 implements a safety plan for the offender's accessing or using  
 244 the Internet or other computer services.

245 (i) A requirement that the probationer or community  
 246 controllee must submit a specimen of blood or other approved  
 247 biological specimen to the Department of Law Enforcement to be  
 248 registered with the DNA data bank.

249 (j) A requirement that the probationer or community  
 250 controllee make restitution to the victim, as ordered by the  
 251 court under s. 775.089, for all necessary medical and related  
 252 professional services relating to physical, psychiatric, and  
 253 psychological care.

254 (k) Submission to a warrantless search by the community  
 255 control or probation officer of the probationer's or community  
 256 controllee's person, residence, or vehicle.

257 (2) Effective for a probationer or community controllee  
 258 whose crime was committed on or after October 1, 1997, and who  
 259 is placed on community control or sex offender probation for a  
 260 violation of chapter 794, s. 800.04, s. 827.071, s. 847.0135(5),  
 261 or s. 847.0145, or whose crime was committed on or after July 1,

591-03150-23 2023528c1

262 2021, and who is placed on community control or sex offender  
 263 probation for a violation of s. 787.06(3)(b), (d), (f), or (g),  
 264 or whose crime was committed on or after July 1, 2023, and who  
 265 is placed on community control or sex offender probation for  
 266 attempting, soliciting, or conspiring to commit a violation of  
 267 s. 787.06(3)(b), (d), (f), or (g); chapter 794; s. 800.04; s.  
 268 827.071; s. 847.0135(5); or s. 847.0145, in addition to any  
 269 other provision of this section, the court must impose the  
 270 following conditions of probation or community control:

271 (a) As part of a treatment program, participation at least  
 272 annually in polygraph examinations to obtain information  
 273 necessary for risk management and treatment and to reduce the  
 274 sex offender's denial mechanisms. A polygraph examination must  
 275 be conducted by a polygrapher who is a member of a national or  
 276 state polygraph association and who is certified as a  
 277 postconviction sex offender polygrapher, where available, and  
 278 shall be paid for by the probationer or community controllee.  
 279 The results of the polygraph examination shall be provided to  
 280 the probationer's or community controllee's probation officer  
 281 and qualified practitioner and shall not be used as evidence in  
 282 court to prove that a violation of community supervision has  
 283 occurred.

284 (b) Maintenance of a driving log and a prohibition against  
 285 driving a motor vehicle alone without the prior approval of the  
 286 supervising officer.

287 (c) A prohibition against obtaining or using a post office  
 288 box without the prior approval of the supervising officer.

289 (d) If there was sexual contact, a submission to, at the  
 290 probationer's or community controllee's expense, an HIV test

591-03150-23

2023528c1

291 with the results to be released to the victim or the victim's  
292 parent or guardian.

293 (e) Electronic monitoring when deemed necessary by the  
294 community control or probation officer and his or her  
295 supervisor, and ordered by the court at the recommendation of  
296 the Department of Corrections.

297 (3) Effective for a probationer or community controllee  
298 whose crime was committed on or after September 1, 2005, and  
299 who:

300 (a) Is placed on probation or community control for a  
301 violation of chapter 794; ~~s. 800.04(4), (5), or (6);~~ s.  
302 827.071; or s. 847.0145, or is placed on probation or community  
303 control on or after July 1, 2023, for attempting, soliciting, or  
304 conspiring to commit a violation of chapter 794; s. 800.04(4),  
305 (5), or (6); s. 827.071; or s. 847.0145, and the unlawful sexual  
306 activity involved a victim 15 years of age or younger and the  
307 offender is 18 years of age or older;

308 (b) Is designated a sexual predator pursuant to s. 775.21;  
309 or

310 (c) Has previously been convicted of a violation of chapter  
311 794; ~~s. 800.04(4), (5), or (6);~~ s. 827.071; or s. 847.0145  
312 and the unlawful sexual activity involved a victim 15 years of  
313 age or younger and the offender is 18 years of age or older,  
314  
315 the court must order, in addition to any other provision of this  
316 section, mandatory electronic monitoring as a condition of the  
317 probation or community control supervision.

318 (4) In addition to all other conditions imposed, for a  
319 probationer or community controllee who is subject to

Page 11 of 13

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

591-03150-23

2023528c1

320 supervision for a crime that was committed on or after May 26,  
321 2010, and who has been convicted at any time of committing, or  
322 attempting, soliciting, or conspiring to commit, any of the  
323 criminal offenses listed in s. 943.0435(1)(h)1.a.(I), or a  
324 similar offense in another jurisdiction, against a victim who  
325 was under the age of 18 at the time of the offense; if the  
326 offender has not received a pardon for any felony or similar law  
327 of another jurisdiction necessary for the operation of this  
328 subsection, if a conviction of a felony or similar law of  
329 another jurisdiction necessary for the operation of this  
330 subsection has not been set aside in any postconviction  
331 proceeding, or if the offender has not been removed from the  
332 requirement to register as a sexual offender or sexual predator  
333 pursuant to s. 943.04354, the court must impose the following  
334 conditions:

335 (a) A prohibition on visiting schools, child care  
336 facilities, parks, and playgrounds, without prior approval from  
337 the offender's supervising officer. The court may also designate  
338 additional locations to protect a victim. The prohibition  
339 ordered under this paragraph does not prohibit the offender from  
340 visiting a school, child care facility, park, or playground for  
341 the sole purpose of attending a religious service as defined in  
342 s. 775.0861 or picking up or dropping off the offender's  
343 children or grandchildren at a child care facility or school.

344 (b) A prohibition on distributing candy or other items to  
345 children on Halloween; wearing a Santa Claus costume, or other  
346 costume to appeal to children, on or preceding Christmas;  
347 wearing an Easter Bunny costume, or other costume to appeal to  
348 children, on or preceding Easter; entertaining at children's

Page 12 of 13

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

591-03150-23

2023528c1

349 parties; or wearing a clown costume; without prior approval from  
350 the court.

351 (5) Effective for a probationer or community controllee  
352 whose crime was committed on or after October 1, 2014, and who  
353 is placed on probation or community control for a violation of  
354 chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.  
355 847.0145, or whose crime was committed on or after July 1, 2023,  
356 and who is placed on probation or community control for  
357 attempting, soliciting, or conspiring to commit a violation of  
358 chapter 794, s. 800.04, s. 827.071, s. 847.0135(5), or s.  
359 847.0145, in addition to all other conditions imposed, the court  
360 must impose a condition prohibiting the probationer or community  
361 controllee from viewing, accessing, owning, or possessing any  
362 obscene, pornographic, or sexually stimulating visual or  
363 auditory material unless otherwise indicated in the treatment  
364 plan provided by a qualified practitioner in the sexual offender  
365 treatment program. Visual or auditory material includes, but is  
366 not limited to, telephone, electronic media, computer programs,  
367 and computer services.

368 Section 5. This act shall take effect July 1, 2023.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jennifer Bradley, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** March 27, 2023

---

I respectfully request that **Senate Bill #528**, relating to gain-time for attempted sexual offenses, be placed on the:

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

This bill received a unanimous vote in the first committee of reference.

A handwritten signature in blue ink, appearing to read "Tracie Davis", written over a horizontal line.

Senator Tracie Davis  
Florida Senate, District 5



The Florida Senate

## Committee Agenda Request

**To:** Senator Jennifer Bradley, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request **2<sup>nd</sup> request**

**Date:** March 27, 2023

---

I respectfully request that **Senate Bill # 528**, relating to gain-time for attempted sexual offenses, be placed on the:

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

This bill received a unanimous vote in the first committee of reference.

A handwritten signature in blue ink, appearing to read "Tracie Davis", written over a horizontal line.

Senator Tracie Davis  
Florida Senate, District 5

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 528

Bill Number or Topic

Amendment Barcode (if applicable)

4/12/23

Meeting Date

Approp CC Justice

Committee

Name Ann Salamone

Phone 561-866-0930

Address 4228 NW 68 TER

Email ABSalamone@aol.com

Street

Gainesville, FL

FL

32606

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules](https://www.flsenate.gov/legistics/2020/2022/joint-rules) of [flsenate.gov](https://www.flsenate.gov)

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



April 12, 2023

Meeting Date

CJ Approps

Committee

The Florida Senate

APPEARANCE RECORD

528

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 850-510-9922

Address 1454 Vieux Carre Drive

Email Barney@BarneyBishop.com

Street

Tallahassee

FL

32308

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Fla. Smart Justice

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022JointRules.pdf (flsenate.gov)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

PCS - 528 -

Bill Number or Topic

4/12/23

Meeting Date

Crim Justice

Committee

Amendment Barcode (if applicable)

Name

Ron Book

Phone

810 - 224-3427

Address

104 West Jefferson

Email

ron@RLBookPA.com

Street

TLH

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Lauren's Kids

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

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

The Florida Senate

APPEARANCE RECORD

4/12/23

Meeting Date

528

Bill Number or Topic

Approp Committee Criminal and Civil Justice

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Michael Dobson, The Dream Foundation Phone (850) 241-5896

Address 360 W. College Ave, Suite 208 Email Michael D Dobson and Craig - Co

Tall FL 32301

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [ ] I am appearing without compensation or sponsorship. [ ] I am a registered lobbyist, representing: [ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules. df. flsenate.gov

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 Committee on Criminal and Civil Justice

---

BILL: CS/CS/SB 618

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee;  
and Senator Yarborough

SUBJECT: Rights of Law Enforcement Officers and Correctional Officers

DATE: April 14, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/CS/SB 618 addresses a Brady identification system, which the bill defines as a list or identification, in whatever form, of the name or names of law enforcement or correctional officers (“officers”) about whom a prosecuting agency is in possession of impeachment evidence as defined by decision, statute, or rule. This system is intended to address *Brady v Maryland*,<sup>1</sup> which involves disclosure to the defense of exculpatory evidence, and cases after *Brady*.

The bill prohibits the officer’s employing agency from discharging or taking any disciplinary action against the officer solely as a result of a prosecuting agency determining that the officer’s name and identification should be included in a Brady identification system. However, the employing agency may discharge or take any disciplinary action against the officer based on the underlying actions of the officer which resulted in the officer’s name being included in a Brady identification system. If a collective bargaining agreement applies, the actions taken by the officer’s employing agency must conform to the rules and procedures adopted by the collective bargaining agreement.

A prosecuting agency is not required to maintain a Brady identification system. A prosecuting agency may determine that its obligations under *Brady* are better fulfilled through any such procedures that agency chooses to utilize.

---

<sup>1</sup> 373 U.S. 83 (1963).

The officer's employing agency must forward all sustained and finalized internal affairs complaints relevant to impeachment to the prosecuting agency in the circuit where the employing agency is located to assist the prosecuting agency in complying with *Brady* obligations. The employing agency must also notify the officer of these complaints.

A prosecuting agency that maintains a Brady identification system must adopt written policies that, at a minimum, require the following rights:

- With some exceptions, receiving written notice before or contemporaneously with the officer's name and information being included in a Brady identification system.
- Requesting reconsideration of the officer's inclusion in such system and submitting supporting documents and evidence.

The bill contains procedural requirements when an officer is removed from a Brady identification system and authorizes the officer to petition the court for a writ of mandamus to compel the prosecuting agency to comply with requirements of the bill.

Finally, the bill specifies that these rights and requirements do not:

- Require a prosecuting agency to give notice to or provide an opportunity for review and input from the officer if the information in a Brady identification system is a criminal conviction or finalized internal affairs complaint that may be used for impeachment;
- Limit the duty of a prosecuting agency to produce *Brady* evidence in all cases as required by law;
- Limit or restrict a prosecuting agency's ability to remove the name and information of an officer from the system if inclusion is no longer proper; or
- Create a private cause of action against a prosecuting agency or its employees, other than the described writ of mandamus.

The bill may have an indeterminate workload impact on prosecuting agencies. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

## II. Present Situation:

### Brady Giglio List

In *Brady v. Maryland*, the U.S. Supreme Court held that “the suppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution.”<sup>2</sup>

In a subsequent case, *Giglio v. United States*, the U.S. Supreme Court held that “[s]uppression of material evidence justifies a new trial irrespective of the good faith or bad faith of the

---

<sup>2</sup> *Brady v. Maryland*, 373 U.S. 83 (1963), LexisNexis, available at <https://www.lexisnexis.com/community/casebrief/p/casebrief-brady-v-maryland> (last visited on March 14, 2023). See also *Brady v. Maryland*, 373 U.S. 83, 87-92 (1963).

prosecution. When the reliability of a given witness may well be determinative of guilt or innocence, nondisclosure of evidence affecting credibility falls within this general rule.”<sup>3</sup> A new trial is required “if the false testimony could in any reasonable likelihood have affected the judgment of the jury.”<sup>4</sup>

Brady Giglio lists<sup>5</sup> “arose from U.S. Supreme Court cases that held prosecutors must disclose to the defense any exculpatory evidence – including evidence that could be used to impeach a prosecution witness. Impeachment evidence can include dishonesty, bias, or any other misconduct relevant to the facts of the case. To meet their *Brady* obligations, prosecuting agencies began keeping lists of officers for whom there was such evidence.”<sup>6</sup>

While recognizing prosecutors’ obligations under *Brady* and *Giglio*, some commentators have noted or been critical of prosecutors who place officers on Brady Giglio lists without any procedural protections for the officers, such as affording the officers the opportunity to seek reconsideration of the decision and removal from the list.<sup>7</sup> One commentator noted that “[b]eing Brady-listed can be career ending.”<sup>8</sup> Regardless of any due process issues,<sup>9</sup> a state may elect to create procedural requirements to accomplish state policy goals.<sup>10</sup>

Staff was unable to find any document or other source material that reliably indicates the number of state attorney offices that use a Brady Giglio list.<sup>11</sup>

<sup>3</sup> *Giglio v. United States*, 405 U.S. 150 (1972), Lexis Nexis, available at <https://www.lexisnexis.com/community/casebrief/p/casebrief-giglio-v-united-states> (last visited on March 14, 2023). See also *Giglio v. United States*, 405 U.S. 150, 153-155 (1972).

<sup>4</sup> *Id.*

<sup>5</sup> Some of the other names used for the list include “Brady list,” “Giglio list,” and “Brady/Giglio list.”

<sup>6</sup> Val Van Brocklin, *Officer scores a victory for Brady list due process – other states and prosecutors should follow suit* (Aug. 30, 2022), Police1, available at <https://www.police1.com/patrol-issues/articles/officer-scores-a-victory-for-brady-list-due-process-other-states-and-prosecutors-should-follow-suit-h6oPMXL26aZVsfjs/> (last visited on March 14, 2023).

<sup>7</sup> See e.g., Jonathan Abel, *Brady’s Blind Spot: Impeachment Evidence in Police Personnel Files and the Battle Splitting the Prosecution Team*, 67 *Stanford L. Rev.* 743, 746, and 779-782 (2015); Jeffrey Warren, *The Scarlet Letter: North Carolina, Giglio, and the Injury in Search of a Remedy*, 12 *Wake Forest L. Rev. Online* 24 (2022); Val Van Brocklin, *Do Brady and Giglio trump officers’ due process rights?* (Jan. 25, 2022), Police1, available at <https://www.police1.com/patrol-issues/articles/do-brady-and-giglio-trump-officers-due-process-rights-g585QOS4UeSOSF5u/#:~:text=But%20Brady%20and%20Giglio%20do,also%20entitled%20to%20its%20protections>. (Last visited on March 14, 2023); and Mary Sugden, *Brady-Giglio reform bill headed to governor’s desk for signature* (May 24, 2022), *weareiowa.com*, available at <https://www.weareiowa.com/video/news/politics/local-5-politics/brady-giglio-bill-governor-kim-reynolds-police-reform/524-7af344f8-74ba-4296-8542-2dee673e1695> (last visited on March 14, 2023).

<sup>8</sup> *Supra*, at n. 5.

<sup>9</sup> There does not appear to be any controlling case law in Florida that indicates that due process is violated by the absence of such procedures.

<sup>10</sup> See e.g., HF 2496, Iowa legislation which was signed into law in 2022 and which contains procedural requirements for placing an officer’s name on a Brady Giglio list. This legislation is available at <https://www.legis.iowa.gov/legislation/BillBook?ga=89&ba=HF2496> (last visited on March 14, 2023). This legislation is similar to SB 618.

<sup>11</sup> Staff contacted the Florida Prosecuting Attorneys Association. The association did not have any data or other information to the number of state attorney offices with Brady Giglio lists.

### III. Effect of Proposed Changes:

The bill amends ss. 112.531 and 112.532, F.S., to address a Brady identification system, which the bill defines as a list or identification, in whatever form, of the name or names of law enforcement or correctional officers (“officers”) about whom a prosecuting agency<sup>12</sup> is in possession of impeachment evidence as defined by decision, statute, or rule.

The bill prohibits the officer’s employing agency from discharging or taking any disciplinary action against the officer solely as a result of a prosecuting agency determining that the officer’s name and identification should be included in a Brady identification system. However, the employing agency may discharge or take any disciplinary action against the officer based on the underlying actions of the officer which resulted in the officer’s inclusion in a Brady identification system. If a collective bargaining agreement applies, the actions taken by the officer’s employing agency must conform to the rules and procedures adopted by the collective bargaining agreement.

The bill creates s. 112.536, F.S., which provides that a prosecuting agency is not required to maintain a Brady identification system. A prosecuting agency may determine that its obligations under Brady are better fulfilled through any such procedures that agency otherwise chooses to utilize.

The officer’s employing agency must forward all sustained and finalized internal affairs complaints relevant to impeachment to the prosecuting agency in the circuit where the employing agency is located to assist the prosecuting agency in complying with *Brady* obligations. The employing agency must also notify the officer of these complaints.

A prosecuting agency that maintains a Brady identification system must adopt written policies that, at a minimum, require the following rights:

- Receiving written notice before or contemporaneously with the officer’s name and information being included in a Brady identification system, unless a pending case requires immediate disclosure or providing notice would jeopardize a pending investigation.
- Requesting reconsideration of the officer’s inclusion in such system and submitting supporting documents and evidence.

The new section contains the following procedural requirements when an officer is removed from a Brady identification system:

- Removal of the officer from such system.
- Mailed written notice to the officer of such removal.
- If the name of the officer was previously included in such system and was disclosed in a pending criminal case, notice to all parties to the pending criminal case of the officer’s removal from such system.

---

<sup>12</sup> The bill defines a prosecuting agency as the Attorney General or an assistant attorney general, the statewide prosecutor or an assistant statewide prosecutor, a state attorney or an assistant state attorney, a city or county attorney, a special prosecutor, or any other person or entity charged with the prosecution of a criminal case.

The officer may petition the court for a writ of mandamus to compel the prosecuting agency to comply with procedural requirements of the new section. However, the court's scope of review in such matter is limited to whether the prosecuting agency acted in accordance with such procedural requirements, not a judicial review of the evidence or merits that were the basis for the inclusion of the officer's name in a Brady identification system. The new section does not preclude the officer from pursuing whatever administrative or judicial remedies are otherwise available to the officer in relation to any other action or remedy outside of this section.

Finally, the bill specifies that this section does not:

- Require a prosecuting agency to give notice to or provide an opportunity for review and input from the officer if the information in a Brady identification system is a criminal conviction or finalized internal affairs complaint that may be used for impeachment;
- Limit the duty of a prosecuting agency to produce Brady evidence in all cases as required by law;
- Limit or restrict a prosecuting agency's ability to remove the name and information of an officer from such system if inclusion is no longer proper; or
- Create a private cause of action against a prosecuting agency or its employees, other than the described writ of mandamus.

The bill takes effect July 1, 2023.

#### **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 bill may have an indeterminate workload impact on prosecuting agencies. The Florida Prosecuting Attorneys Association commented that “initial thoughts are that [the bill] ... is indeterminate due to the added time and work needed to create/revise policies, tracking, and review cases....”<sup>13</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 112.531 and 112.532.

This bill creates section 112.536 of the Florida Statutes.

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

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

**CS/CS by Appropriations Committee on Criminal and Civil Justice on April 12, 2023:**

The committee substitute:

- Requires the employing agency of a law enforcement officer or correctional officer (“officer”) to mail notification of a sustained and finalized internal affairs complaint against the officer through the United States mail to the last known address of the officer if the officer is no longer employed by the agency.
- Clarifies that a prosecuting agency that maintains a Brady identification system must adopt a written policy that includes the right of the officer to receive mailed, written notice of being listed in a Brady identification system, unless a pending “criminal” case requires immediate disclosure or providing such notice would jeopardize a pending investigation.
- Specifies procedural requirements if a prosecuting agency subsequently determines that an officer should not be included in a Brady identification system.

---

<sup>13</sup> E-mail from Garrett Berman, Executive Director, Florida Prosecuting Attorneys Association, dated March 14, 2023 (on file with the Senate Committee on Criminal Justice).

- Clarifies that the new section created by the bill does not preclude the officer from pursuing whatever administrative or judicial remedies are otherwise available to the officer in relation to any other action or remedy outside of this section.

**CS by Criminal Justice on March 20, 2023:**

The committee substitute:

- Removes references to a “Brady Giglio list” and substitutes “Brady identification system” which the bill defines.
- Provides that a prosecuting agency is not required to maintain a Brady identification system.
- Revises procedural requirements regarding written notice and reconsideration of removal from the Brady identification system.
- Authorizes a petition for writ of mandamus if the prosecuting agency fails to comply with procedural requirements and specifies hearing requirements.
- Specifies that the bill does not preclude an officer from pursuing available administrative or judicial remedies.

**B. Amendments:**

None.



971074

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

---

The Appropriations Committee on Criminal and Civil Justice  
(Yarborough) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Present subsections (1) and (2) of section  
112.531, Florida Statutes, are redesignated as subsections (2)  
and (3), respectively, and a new subsection (1) and subsection  
(4) are added to that section, to read:

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

(1) "Brady identification system" means a list or



971074

11 identification, in whatever form, of the name or names of law  
12 enforcement officers or correctional officers about whom a  
13 prosecuting agency is in possession of impeachment evidence as  
14 defined by court decision, statute, or rule.

15 (4) "Prosecuting agency" means the Attorney General or an  
16 assistant attorney general, the statewide prosecutor or an  
17 assistant statewide prosecutor, a state attorney or an assistant  
18 state attorney, a city or county attorney, a special prosecutor,  
19 or any other person or entity charged with the prosecution of a  
20 criminal case.

21 Section 2. Subsection (7) is added to section 112.532,  
22 Florida Statutes, to read:

23 112.532 Law enforcement officers' and correctional  
24 officers' rights.—All law enforcement officers and correctional  
25 officers employed by or appointed to a law enforcement agency or  
26 a correctional agency shall have the following rights and  
27 privileges:

28 (7) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL  
29 OFFICERS RELATING TO A BRADY IDENTIFICATION SYSTEM.—

30 (a) A law enforcement officer or correctional officer has  
31 all of the rights specified in s. 112.536 relating to the  
32 inclusion of the name and information of the officer in a Brady  
33 identification system.

34 (b) A law enforcement officer or correctional officer may  
35 not be discharged, suspended, demoted, or otherwise disciplined,  
36 or threatened with discharge, suspension, demotion, or other  
37 discipline, by his or her employing agency solely as a result of  
38 a prosecuting agency determining that the officer's name and  
39 information should be included in a Brady identification system.



971074

40 This paragraph does not prohibit an officer's employing agency  
41 from discharging, suspending, demoting, or taking other  
42 disciplinary action against a law enforcement officer or  
43 correctional officer based on the underlying actions of the  
44 officer which resulted in his or her name being included in a  
45 Brady identification system. If a collective bargaining  
46 agreement applies, the actions taken by the officer's employing  
47 agency must conform to the rules and procedures adopted by the  
48 collective bargaining agreement.

49 Section 3. Section 112.536, Florida Statutes, is created to  
50 read:

51 112.536 Requirements for maintaining a Brady identification  
52 system.—

53 (1) (a) A prosecuting agency is not required to maintain a  
54 Brady identification system and may determine, in its  
55 discretion, that its obligations under the decision in *Brady v.*  
56 *Maryland*, 373 U.S. 83 (1963), are better fulfilled through any  
57 such procedure the prosecuting agency otherwise chooses to  
58 utilize.

59 (b) The employing agency of a law enforcement officer or  
60 correctional officer shall forward all sustained and finalized  
61 internal affairs complaints relevant to s. 90.608, s. 90.609, or  
62 s. 90.610 to the prosecuting agency in the circuit in which the  
63 employing agency is located to assist the prosecuting agency in  
64 complying with its obligations under the *Brady* decision. The  
65 employing agency of a law enforcement officer or correctional  
66 officer must notify the law enforcement officer or correctional  
67 officer of any sustained and finalized internal affairs  
68 complaints that are sent to a prosecuting agency as required



971074

69 under this section. If the law enforcement officer or  
70 correctional officer is no longer employed by the employing  
71 agency, the employing agency must mail through United States  
72 mail such notification to the officer's last known address on  
73 file with the employing agency.

74 (2) A prosecuting agency that maintains a Brady  
75 identification system must adopt written policies that, at a  
76 minimum, require all of the following:

77 (a) The right of a law enforcement officer or correctional  
78 officer to receive written notice by United States mail or e-  
79 mail, which must be sent to the officer's current or last known  
80 employing agency before or contemporaneously with the  
81 prosecuting agency including the name and information of the  
82 officer in the Brady identification system, unless a pending  
83 criminal case requires immediate disclosure or providing such  
84 notice to the officer would jeopardize a pending investigation.

85 (b) The right of a law enforcement officer or correctional  
86 officer to request reconsideration of the prosecuting agency's  
87 decision to include the name and information of the officer in a  
88 Brady identification system and his or her right to submit  
89 documents and evidence in support of the request for  
90 reconsideration.

91 (3) If, after a request for reconsideration is made under  
92 paragraph (2) (b), the prosecuting agency subsequently determines  
93 that the law enforcement officer or correctional officer should  
94 not be included in a Brady identification system, the  
95 prosecuting agency must do all of the following:

96 (a) Remove such officer from the Brady identification  
97 system.



971074

98           (b) Send written notice by United States mail or e-mail to  
99 the law enforcement officer or correctional officer at the  
100 officer's current or last known employing agency confirming that  
101 the officer's name has been removed from the Brady  
102 identification system.

103           (c) If the name of a law enforcement officer or  
104 correctional officer was previously included in a Brady  
105 identification system and his or her name was disclosed in a  
106 pending criminal case, notify all parties to the pending  
107 criminal case of the officer's removal from the Brady  
108 identification system.

109           (4) If a prosecuting agency fails to comply with this  
110 section, a law enforcement officer or correctional officer may  
111 petition a court for a writ of mandamus to compel the  
112 prosecuting agency to comply with the requirements of this  
113 section. The court's scope of review in such matter is limited  
114 to whether the prosecuting agency acted in accordance with the  
115 procedural requirements of this section and may not include a  
116 judicial review of the evidence or merits that were the basis  
117 for the inclusion of the officer's name in a Brady  
118 identification system. This section does not preclude a law  
119 enforcement officer or correctional officer from pursuing any  
120 other available administrative or judicial remedies.

121           (5) This section does not:

122           (a) Require a prosecuting agency to give notice to or  
123 provide an opportunity for review and input from a law  
124 enforcement officer or correctional officer if the information  
125 in a Brady identification system is:

126           1. A criminal conviction that may be used for impeachment



971074

127 under s. 90.610; or

128 2. A sustained and finalized internal affairs complaint  
129 that may be used for impeachment under s. 90.608, s. 90.609, or  
130 s. 90.610;

131 (b) Limit the duty of a prosecuting agency to produce Brady  
132 evidence in all cases as required by the United States  
133 Constitution, the State Constitution, and the Florida Rules of  
134 Criminal Procedure and relevant case law;

135 (c) Limit or restrict a prosecuting agency's ability to  
136 remove the name and information of a law enforcement officer or  
137 correctional officer from a Brady identification system if, at  
138 any time, the prosecuting agency determines that the name and  
139 information of the officer are no longer proper for  
140 identification; or

141 (d) Create a private cause of action against a prosecuting  
142 agency or any employee of a prosecuting agency, other than the  
143 writ of mandamus authorized in subsection (4).

144 Section 4. This act shall take effect July 1, 2023.

145  
146 ===== T I T L E A M E N D M E N T =====

147 And the title is amended as follows:

148 Delete everything before the enacting clause  
149 and insert:

150 A bill to be entitled  
151 An act relating to rights of law enforcement officers  
152 and correctional officers; amending s. 112.531, F.S.;  
153 providing definitions; amending s. 112.532, F.S.;  
154 providing rights of law enforcement officers and  
155 correctional officers relating to Brady identification





971074

156 systems; prohibiting a law enforcement officer or  
157 correctional officer from being discharged, suspended,  
158 demoted, or otherwise disciplined or threatened with  
159 discipline for certain reasons; providing  
160 construction; requiring the employing agency of a law  
161 enforcement officer or correctional officer to conform  
162 to certain rules and procedures; creating s. 112.536,  
163 F.S.; providing that a prosecuting agency is not  
164 required to maintain a Brady identification system;  
165 authorizing a prosecuting agency to choose different  
166 procedures to fulfill its obligations under a  
167 specified Supreme Court case; requiring the employing  
168 agency of a law enforcement officer or correctional  
169 officer to forward specified information to a  
170 prosecuting agency; requiring an employing agency to  
171 provide certain notice to a law enforcement officer or  
172 correctional officer in specified circumstances;  
173 requiring a prosecuting agency that maintains a Brady  
174 information system to adopt written policies;  
175 providing minimum requirements for such policies;  
176 authorizing a law enforcement officer or correctional  
177 officer to request reconsideration of the inclusion of  
178 his or her name and information in a Brady  
179 identification system; requiring a prosecuting agency  
180 to remove the name of a law enforcement officer or  
181 correctional officer from a Brady identification  
182 system under certain circumstances; requiring a  
183 prosecuting agency to notify a law enforcement officer  
184 or correctional officer and certain parties that the



971074

185 officer's name is being removed from the Brady  
186 identification system; authorizing a law enforcement  
187 officer or correctional officer to petition for a writ  
188 of mandamus under certain circumstances; providing the  
189 scope of a court's judicial review; providing  
190 construction; providing an effective date.

By the Committee on Criminal Justice; and Senator Yarborough

591-02784-23

2023618c1

1 A bill to be entitled  
 2 An act relating to rights of law enforcement officers  
 3 and correctional officers; amending s. 112.531, F.S.;  
 4 defining terms; amending s. 112.532, F.S.; providing  
 5 rights of law enforcement officers and correctional  
 6 officers relating to a Brady identification system;  
 7 prohibiting a law enforcement officer or correctional  
 8 officer from being discharged, suspended, demoted, or  
 9 otherwise disciplined for certain reasons; providing  
 10 construction; requiring the employing agency of a law  
 11 enforcement officer or correctional officer to conform  
 12 to certain rules and procedures; creating s. 112.536,  
 13 F.S.; providing that a prosecuting agency is not  
 14 required to maintain a Brady identification system;  
 15 authorizing a prosecuting agency to choose different  
 16 procedures to discharge its obligations under a  
 17 specified United States Supreme Court ruling; imposing  
 18 requirements on the current or former employing agency  
 19 of the law enforcement officer or correctional  
 20 officer; requiring a prosecuting agency that maintains  
 21 a Brady identification system to adopt written  
 22 policies; providing minimum requirements for such  
 23 policies; requiring a prosecuting agency to provide  
 24 certain notices to certain law enforcement officers or  
 25 correctional officers and their employing agency under  
 26 certain conditions; requiring the prosecuting agency  
 27 to notify specified parties in a pending case of the  
 28 removal of the name of a law enforcement officer or a  
 29 correctional officer from the Brady identification

Page 1 of 7

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

591-02784-23

2023618c1

30 system under certain conditions; authorizing a law  
 31 enforcement officer or a correctional officer to  
 32 petition for a writ of mandamus under certain  
 33 circumstances; providing the scope of the judicial  
 34 review; providing construction; providing an effective  
 35 date.

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

38  
 39 Section 1. Present subsections (1) and (2) of section  
 40 112.531, Florida Statutes, are redesignated as subsections (2)  
 41 and (3), respectively, and a new subsection (1) and subsection  
 42 (4) are added to that section, to read:

43 112.531 Definitions.—As used in this part, the term:

44 (1) "Brady identification system" means a list or  
 45 identification, in whatever form, of the name or names of law  
 46 enforcement or correctional officers about whom a prosecuting  
 47 agency is in possession of impeachment evidence as defined by  
 48 decision, statute, or rule.

49 (4) "Prosecuting agency" means the Attorney General or an  
 50 assistant attorney general, the statewide prosecutor or an  
 51 assistant statewide prosecutor, a state attorney or an assistant  
 52 state attorney, a city or county attorney, a special prosecutor,  
 53 or any other person or entity charged with the prosecution of a  
 54 criminal case.

55 Section 2. Subsection (7) is added to section 112.532,  
 56 Florida Statutes, to read:

57 112.532 Law enforcement officers' and correctional  
 58 officers' rights.—All law enforcement officers and correctional

Page 2 of 7

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

591-02784-23

2023618c1

59 officers employed by or appointed to a law enforcement agency or  
60 a correctional agency shall have the following rights and  
61 privileges:

62 (7) RIGHTS OF LAW ENFORCEMENT OFFICERS AND CORRECTIONAL  
63 OFFICERS RELATING TO A BRADY IDENTIFICATION SYSTEM.—

64 (a) A law enforcement officer or correctional officer has  
65 all of the rights specified in s. 112.536 relating to the  
66 inclusion of the name and information of the officer in a Brady  
67 identification system.

68 (b) A law enforcement officer or correctional officer may  
69 not be discharged, suspended, demoted, or otherwise disciplined,  
70 or threatened with discharge, suspension, demotion, or other  
71 discipline, by his or her employing agency solely as a result of  
72 a prosecuting agency determining that the officer's name and  
73 information should be included in a Brady identification system.  
74 This paragraph does not prohibit an officer's employing agency  
75 from discharging, suspending, demoting, or taking other  
76 disciplinary action against a law enforcement officer or  
77 correctional officer based on the underlying actions of the  
78 officer which resulted in his or her inclusion in a Brady  
79 identification system. If a collective bargaining agreement  
80 applies, the actions taken by the officer's employing agency  
81 must conform to the rules and procedures adopted by the  
82 collective bargaining agreement.

83 Section 3. Section 112.536, Florida Statutes, is created to  
84 read:

85 112.536 Requirements for maintaining a Brady identification  
86 system.—

87 (1) (a) A prosecuting agency is not required to maintain a

591-02784-23

2023618c1

88 Brady identification system. A prosecuting agency may determine  
89 that its obligations under the *Brady v. Maryland*, 373 U.S. 83  
90 (1963) decision are better discharged through such procedures as  
91 that agency chooses to use.

92 (b) A law enforcement officer's or correctional officer's  
93 employing agency shall forward all sustained and finalized  
94 internal affairs complaints relevant to s. 90.608, s. 90.609, or  
95 s. 90.610 to the prosecuting agency in the circuit in which the  
96 law enforcement agency is located to assist the prosecuting  
97 agency in compliance with its obligations under the Brady  
98 decision. The employing agency must notify the law enforcement  
99 officer or correctional officer of any sustained and finalized  
100 internal affairs investigations it sends to the prosecuting  
101 agency as required by this section. If the law enforcement  
102 officer or correctional officer is no longer employed, the  
103 agency must mail notification to the officer's last known  
104 address on file at the agency.

105 (2) A prosecuting agency that maintains a Brady  
106 identification system shall adopt written policies that, at a  
107 minimum, require all of the following:

108 (a) The right of a law enforcement officer or a  
109 correctional officer to receive written notice through United  
110 States mail or e-mail to the current or last known employing  
111 agency of the officer, before or contemporaneously with a  
112 prosecuting agency including the name and information of the  
113 officer in a Brady identification system, unless a pending case  
114 requires immediate disclosure or providing notice would  
115 jeopardize a pending investigation.

116 (b) The right of a law enforcement officer or a

591-02784-23

2023618c1

117 correctional officer to receive written notice before a  
 118 prosecuting agency includes the name and information of the  
 119 officer in a Brady identification system.

120 (c) The right of a law enforcement officer or a  
 121 correctional officer to request reconsideration of the  
 122 prosecuting agency's decision to include the name and  
 123 information of the officer in a Brady identification system and  
 124 his or her right to submit documents and evidence in support of  
 125 the request for reconsideration.

126 (3) If, after the policies provided in subsection (2) are  
 127 followed, it is determined that the law enforcement officer or  
 128 correctional officer in question should not be included in a  
 129 Brady identification system, the prosecuting agency must send  
 130 notice to the law enforcement officer or correctional officer  
 131 and his or her employing agency that he or she has been removed  
 132 from the Brady identification system.

133 (4) If, after the policies provided in subsection (2) are  
 134 followed, it is determined that the law enforcement officer or  
 135 correctional officer in question should not be included in a  
 136 Brady identification system, but his or her name was disclosed  
 137 in a pending case, the prosecuting agency must take the  
 138 necessary steps to notify the parties involved in the pending  
 139 case of the law enforcement officer's or correctional officer's  
 140 removal from the Brady identification system.

141 (5) If a prosecuting agency fails to comply with this  
 142 section, a law enforcement officer or a correctional officer may  
 143 petition the court for a writ of mandamus to compel the  
 144 prosecuting agency to act in accordance with this section. The  
 145 scope of such a hearing may not include a judicial review of the

Page 5 of 7

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

591-02784-23

2023618c1

146 evidence or merits of an officer's inclusion in a Brady  
 147 identification system, but instead must be limited to whether  
 148 the prosecuting agency acted in accordance with the procedural  
 149 requirements of this section. This section does not preclude the  
 150 law enforcement officer or correctional officer from pursuing  
 151 whatever administrative or judicial remedies are otherwise  
 152 available to him or her in relation to any other action or  
 153 remedy outside of this section.

154 (6) This section does not:

155 (a) Require a prosecuting agency to give notice to or  
 156 provide an opportunity for review and input from the law  
 157 enforcement officer or correctional officer if the information  
 158 in a Brady identification system is the following:

159 1. A criminal conviction relevant to s. 90.610; or

160 2. A sustained and finalized internal affairs complaint  
 161 relevant to s. 90.608, s. 90.609, or s. 90.610;

162 (b) Limit the duty of a prosecuting agency to produce Brady  
 163 evidence in all cases as required by the United States  
 164 Constitution, the State Constitution, and the Florida Rules of  
 165 Criminal Procedure and relevant case law;

166 (c) Limit or restrict a prosecuting agency's ability to  
 167 remove the name and information of a law enforcement officer or  
 168 correctional officer from a Brady identification system if, at  
 169 any time, the prosecuting agency determines that the name and  
 170 information of the officer are no longer proper for  
 171 identification; or

172 (d) Create a private cause of action against a prosecuting  
 173 agency or any employee of a prosecuting agency, other than the  
 174 writ described in subsection (5).

Page 6 of 7

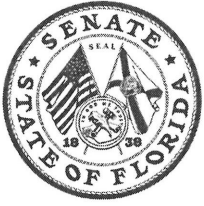
CODING: Words ~~stricken~~ are deletions; words underlined are additions.

591-02784-23

2023618c1

175

Section 4. This act shall take effect July 1, 2023.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jennifer Bradley, Chair  
Appropriations Committee on Criminal and Civil Justice


**Subject:** Committee Agenda Request

**Date:** March 23, 2023

---

I respectfully request that **Senate Bill #618**, relating to Rights of Law Enforcement Officers and Correctional Officers, be placed on the:

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

  
\_\_\_\_\_  
Senator Clay Yarborough  
Florida Senate, District 4

# APPEARANCE RECORD

4/12/23

Meeting Date

Criminal Justice Approp

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

618

Bill Number or Topic

971074

Amendment Barcode (if applicable)

Name

Ron Laface

Phone

Address

Street

Email

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FL Prosecuting Attorneys Assoc

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](#)

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



The Florida Senate

APPEARANCE RECORD

4/12/23

Meeting Date

CS/HB 118

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Appropriations Comm  
Criminal & Civil Justice  
Committee

Amendment Barcode (if applicable)

Name LAURETTE PHILIPSEN

Phone 727-484-0237

Address 7240 Westwind drive  
Street

Email advocatephilipsen@gmail.com

PORT RICHEY FL 34668  
City State Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

April 12, 2023

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

618

Bill Number or Topic

**CJ Approps**

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

**Tallahassee**

**FL**

**32308**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

**Fla. Smart Justice**

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) ([flsenate.gov](#))*

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

618

Meeting Date

Deliver both copies of this form to Senate professional staff conducting the meeting

Bill Number or Topic

Approp on Gov Crim

Committee

Amendment Barcode (if applicable)

Name Lisa Henning

Phone 850-766-8808

Address 242 Office Plaza Dr

Email

Street

Tallahassee FL 32301

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[ ] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Fraternal Order of Police

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules. df flsenate.gov

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 Committee on Criminal and Civil Justice

---

BILL: SB 676

INTRODUCER: Senator Grall

SUBJECT: Background Screenings

DATE: April 11, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Stokes</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	_____	_____	<u>AP</u>	_____

---

**I. Summary:**

SB 676 modifies current background screening standards and requirements for individuals who work with children and other vulnerable persons. The bill:

- Requires a Level 2 security background investigation of current or prospective employees to include an employment history check and a search of the sexual predator and sexual offender registries and the child abuse and neglect registry of any state the individual resided during the previous five years;
- Authorizes qualified entities to conduct background screenings using the Care Provider Background Screening Clearinghouse (Clearinghouse) beginning January 1, 2025, if such entities choose to do so;
- Requires a qualified entity that chooses to use the Clearinghouse to comply with all Clearinghouse requirements and processes for background screening required by law;
- Revises the background screening standards for individuals who have direct contact with a student in a district school system, a charter school, or a private school that participates in a state scholarship program by replacing the list of disqualifying offenses with the level 2 screening standard in s. 435.04(2), F.S.;
- Requires Level 2 screenings for youth athletic coaches (currently, Level 1 screenings) and removes the 20 hour minimum work requirement; and
- Requires that noninstructional contractors, with access to school grounds when students are present, will have to meet the level 2 screening standard in s. 435.04(2), F.S., instead of the current list of nine disqualifying offenses.

The bill also provides appropriations of \$285,367 in recurring funds and \$581,064 in non-recurring funds to the Agency for Health Care Administration (AHCA) for the purposes of providing staff for the Clearinghouse to support additional background screenings for entities using the Clearinghouse. According to AHCA, however, this appropriation may be insufficient to fully implement the bill's provisions. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

## II. Present Situation:

Individuals who work with children and other vulnerable persons are required to undergo criminal background screening. Depending on the role of the individual or the agency responsible, the individual may be screened by the FDLE through the Volunteer Employee Criminal History System (VECHS), the Florida Shared School Results (FSSR) system, or the AHCA's Clearinghouse. However, screening results are only shared among employers through the FSSR system or the AHCA's Clearinghouse.

### Employee Background Screenings

Florida law provides standard procedures for screening a prospective employee where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.<sup>1</sup>

Current law establishes standard procedures for criminal history background screening of prospective employees; ch. 435, F.S., outlines the screening requirements. There are two levels of background screening: level 1 and level 2. Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the FDLE and a check of the Dru Sjodin National Sex Offender Public Website,<sup>2</sup> and may include criminal records checks through local law enforcement agencies. A Level 1 screening may be paid for and conducted through the FDLE's website, which provides immediate results.<sup>3</sup>

A level 2 background screening includes, but is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.<sup>4</sup>

Every person required by law to be screened pursuant to ch. 435, F.S., must submit a complete set of information necessary to conduct a screening to his or her employer.<sup>5</sup> Information for a level 2 screening includes fingerprints, which are taken by a vendor that submits them electronically to the FDLE.<sup>6</sup>

For both level 1 and 2 screenings, the employer must submit the information necessary for screening to the FDLE within five working days after receiving it.<sup>7</sup> Additionally, for both levels

---

<sup>1</sup> Chapter 435, F.S.

<sup>2</sup> The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site. The website is available at <https://www.nspow.gov/> (last visited on March 8, 2023).

<sup>3</sup> Florida Department of Law Enforcement, State of Florida Criminal History Records Check, available at <https://www.fdle.state.fl.us/Criminal-History-Records/Record-Check> (last visited on March 8, 2023).

<sup>4</sup> Section 435.04, F.S.

<sup>5</sup> Section 435.05(1)(a), F.S.

<sup>6</sup> Sections 435.03(1) and 435.04(1)(a), F.S.

<sup>7</sup> Section 435.05(1)(b)-(c), F.S.

of screening, the FDLE must perform a criminal history record check of its records.<sup>8</sup> For a level 1 screening, this is the only information searched, and once complete, the FDLE responds to the employer or agency, who must then inform the employee whether screening has revealed any disqualifying information.<sup>9</sup> For level 2 screenings, the FDLE also requests the FBI to conduct a national criminal history record check of its records for each employee for whom the request is made.<sup>10</sup> As with a level 1 screening, the FDLE responds to the employer or agency, and the employer or agency must inform the employee whether screening has revealed disqualifying information. If the employer or agency finds that an individual has a history containing one of these offenses, it must disqualify that individual from employment.

The person whose background is being checked must supply any missing criminal or other necessary information upon request to the requesting employer or agency within 30 days after receiving the request for the information.<sup>11</sup>

### **Disqualifying Offenses**

Regardless of whether the screening is level 1 or level 2, the screening employer or agency must make sure that the applicant has good moral character by ensuring that the employee has not been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any of the following 52 offenses prohibited under Florida law, or similar law of another jurisdiction:<sup>12</sup>

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 415.111, F.S., relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
- Section 777.04, F.S., relating to attempts, solicitation, and conspiracy to commit an offense listed in this subsection.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
- Section 782.071, F.S., relating to vehicular homicide.
- Section 782.09, F.S., relating to killing of an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 784.011, F.S., relating to assault, if the victim of the offense was a minor.
- Section 784.03, F.S., relating to battery, if the victim of the offense was a minor.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.

---

<sup>8</sup> *Id.*

<sup>9</sup> Section 435.05(1)(b), F.S.

<sup>10</sup> Section 435.05(1)(c), F.S.

<sup>11</sup> Section 435.05(1)(d), F.S.

<sup>12</sup> Section 435.04(2), F.S.

- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- Section 787.04(3), F.S., relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.
- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.
- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Chapter 796, F.S., relating to prostitution.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.
- Section 806.01, F.S., relating to arson.
- Section 810.02, F.S., relating to burglary.
- Section 810.14, F.S., relating to voyeurism, if the offense is a felony.
- Section 810.145, F.S., relating to video voyeurism, if the offense is a felony.
- Chapter 812, F.S., relating to theft, robbery, and related crimes, if the offense is a felony.
- Section 817.563, F.S., relating to fraudulent sale of controlled substances, only if the offense was a felony.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, F.S., relating to exploitation of an elderly person or disabled adult, if the offense was a felony.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of means of protection or communication.
- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, F.S., relating to obscene literature.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, F.S., relating to drug abuse prevention and control, only if the offense was a felony or if any other person involved in the offense was a minor.

- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, F.S., relating to introduction of contraband into a correctional facility.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to contraband introduced into detention facilities.

### **Exemption from Disqualification**

If an individual is disqualified due to a pending arrest, conviction, plea of nolo contendere, or adjudication of delinquency to one or more of the disqualifying offenses, s. 435.07, F.S., allows the Secretary of the appropriate agency to exempt applicants from that disqualification under certain circumstances:<sup>13</sup>

- Three years have elapsed since the individual has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by a court for a disqualifying felony; or
- The applicant has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by a court for a misdemeanor or an offense that was a felony at the time of commission but is now a misdemeanor.

Receiving an exemption allows that individual to work despite the disqualifying crime in that person's past. However, an individual who is considered a sexual predator,<sup>14</sup> career offender,<sup>15</sup> or sexual offender (unless not required to register)<sup>16</sup> cannot ever be exempted from disqualification.<sup>17</sup>

Current law does not prohibit a person from becoming certified as a teacher if ineligible for an exemption from a disqualifying offense under s. 435.07, F.S.

### **Volunteer Employee Criminal History System (VECHS)**

The VECHS was enacted in 1999 to implement the National Child Protection Act (NCPA).<sup>18</sup> The VECHS provides state and national criminal history record information on applicants, employees, and volunteers to qualified entities. A "qualified entity" is a business or organization that provides care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities.<sup>19</sup> Qualified entities that register with the FDLE may screen personnel and employees through the submission of fingerprints. Each request

---

<sup>13</sup> Section 435.07(1), F.S.

<sup>14</sup> Section 775.21, F.S.

<sup>15</sup> Section 775.261, F.S.

<sup>16</sup> Section 943.0435, F.S.

<sup>17</sup> Section 435.07(4)(b), F.S.

<sup>18</sup> Pub. L. 103-209 (Dec. 20, 1993). See Florida Department of Law Enforcement, *Volunteer and Employee Criminal History System*, available at <https://www.fdle.state.fl.us/Background-Checks> (last visited on March 8, 2023).

<sup>19</sup> Section 943.0542(1), F.S.



must be voluntary and conform to the requirements of the National Child Protection Act of 1993, as amended.<sup>20</sup> Organizations that are statutorily required to obtain criminal history record checks on their employees or volunteers may not use VECHS.<sup>21</sup>

### **Care Provider Background Screening Clearinghouse (Clearinghouse)**

Many different agencies, programs, employers, and professionals serve vulnerable populations in Florida. Personnel working with those entities who serve vulnerable persons are subject to background screening. However, due to restrictions placed on the sharing of criminal history information, persons who work for more than one agency or employer or change jobs, or wish to volunteer for such an entity, often must undergo a new and duplicative background screening and fingerprinting.

Policies imposed by the FBI prevent the sharing of criminal history information except within a given “program.” Since each regulatory area is covered by a different controlling statute and screenings are done for separate purposes, the screenings have been viewed as separate “program” areas and sharing of results has not been allowed.<sup>22</sup> In addition, screenings are only as good as the date they are run. Arrests or convictions occurring after the screening are not known until the person is rescreened or self-reports.

In 2012, the Legislature created the Clearinghouse to create a single “program” of screening individuals and allow for the results of criminal history checks of persons acting as covered care providers to be shared among the specified agencies.<sup>23</sup> Designated agencies include:

- AHCA;
- Department of Health;
- Department of Children and Families;
- Department of Elder Affairs;
- Agency for Persons with Disabilities;
- Department of Education (DOE);
- Each district unit under s. 1001.30, F.S.;
- Special district units under s. 1011.24, F.S.;
- Florida School for the Deaf and the Blind under s. 1002.36, F.S.;
- Florida Virtual School under s. 1002.37, F.S.;
- Virtual instruction programs under s. 1002.45, F.S.;
- Charter schools under s. 1002.33, F.S.;
- Hope operators under s. 1002.333, F.S.;
- Private schools participating in an educational scholarship program established pursuant to ch. 1002, F.S.;
- Alternative schools under s. 1008.341, F.S.;
- Regional workforce boards providing services as defined in s. 445.002(3), F.S.; and

---

<sup>20</sup> Section 943.0542(2), F.S.

<sup>21</sup> Florida Department of Law Enforcement, *About VECHS*, available at <https://www.fdle.state.fl.us/Background-Checks/About-Us> (last visited on March 8, 2023).

<sup>22</sup> See Pub. L. No. 92-544 (Oct. 25, 1972); 28 C.F.R. Part 20; 28 C.F.R. s. 50.12.

<sup>23</sup> Chapter 2012-73, L.O.F.

- Local licensing agencies approved pursuant to s. 402.307, F.S., when these agencies are conducting state and national criminal history background screening on persons who work with children or persons who are elderly or disabled.<sup>24</sup>

Once a person's screening record is in the Clearinghouse, that person will avoid the need for any future state screens and related fees.<sup>25</sup> Final implementation of the Clearinghouse by the designated state agencies was required by October 1, 2013. The Clearinghouse was initially implemented by the AHCA on January 1, 2013.

School districts, lab schools, the Florida School for the Deaf and the Blind, the Florida Virtual School, virtual instruction providers, charter schools, hope operators, early learning coalitions, and private schools participating in an educational scholarship program (education entities, collectively) currently using VECHS to conduct background screenings are required to use the Clearinghouse beginning in January 1, 2023. Education entities must be fully implemented into the Clearinghouse by January 1, 2024, or by a date determined by the AHCA.

Qualified entities are not currently required to conduct background screenings through the Clearinghouse.

### **Background Screening of Individuals at Schools**

Individuals who work in or provide services to school districts, charter schools, alternative schools, and private schools participating in state school choice scholarship programs<sup>26</sup> must undergo a fingerprint based background screening before being permitted access to school grounds.<sup>27</sup> The individuals who must undergo background screening fall under three personnel classifications: instructional and noninstructional personnel;<sup>28</sup> noninstructional school district employees and contracted personnel;<sup>29</sup> and noninstructional contractors.<sup>30</sup> Candidates for educator certification must also undergo background screening.<sup>31</sup>

The background screening requirements for each personnel classification vary depending upon the individual's duties, whether or not the individual is a school district employee, and the degree of contact the individual has with students.<sup>32</sup> Because they are more likely to have direct contact with students, candidates for educator certification, instructional and noninstructional personnel, and noninstructional school district employees and contracted personnel must be screened

---

<sup>24</sup> Section 435.02(5), F.S. (definition of "specified agency").

<sup>25</sup> Agency for Health Care Administration, *Clearinghouse Renewals*, available at [https://ahca.myflorida.com/MCHQ/Central\\_Services/Background\\_Screening/Renewals.shtml](https://ahca.myflorida.com/MCHQ/Central_Services/Background_Screening/Renewals.shtml) (last visited on March 8, 2023).

<sup>26</sup> The background screenings conducted by such private schools are conducted through the VECHS.

<sup>27</sup> Sections 1002.421, 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

<sup>28</sup> Instructional and noninstructional personnel are individuals who are hired or contracted to fill positions that require direct contact with students in any public school. Section 1012.32(2), F.S.

<sup>29</sup> Noninstructional school district employees and contracted personnel are individuals who are permitted access to school grounds when students are present; who have direct contact with students; or who have access to, or control of, school funds. Section 1012.465(1), F.S.

<sup>30</sup> Noninstructional contractors are vendors or contractors who are not school district employees, are permitted access to school grounds when students are present, and have little or no direct contact with students. Section 1012.467(1)(a), F.S.

<sup>31</sup> Sections 1012.315, 1012.32(2)(a), and 1012.56(10)(a), F.S.

<sup>32</sup> See ss. 1012.32(2), 1012.465(2), and 1012.467(2)(a), F.S.

against a distinct list of 52 disqualifying offenses applicable to employment with public schools and school districts.<sup>33</sup> Athletic coaches employed by public schools must be certified by the DOE and are subject to the same background screening standards as other individuals seeking certification.<sup>34</sup> In contrast, noninstructional contractors, individuals who are not school district employees and have no direct contact with students, are screened against a statutory list of 12 disqualifying offenses.<sup>35</sup> These background screenings are conducted through the Clearinghouse.

Screening results for contractors, both those who have direct contact with students and those who simply have access to school property when students are present, are entered into the FSSR system,<sup>36</sup> which allows the results to be shared with other school districts through a secure internet website or other secure electronic means. However, the screening results for instructional personnel hired or contracted by an approved virtual instruction provider are not included in the FSSR system. As a result, these individuals must often undergo background screening by multiple school districts using the provider's services.<sup>37</sup>

In addition to fingerprint-based background screening, before employing instructional personnel or school administrators in any position that requires direct contact with students, school districts, charter schools, and private schools participating in a state school choice scholarship program must:<sup>38</sup>

- Conduct an employment history check of the individual's previous employer. If unable to contact a previous employer, efforts to contact the employer must be documented;
- Screen the individual through use of the DOE Professional Practices' Database of Disciplinary Actions Against Educators, Teacher Certification Database, and the disqualification list;<sup>39</sup> and
- Document the findings.

The disqualification list is maintained by the DOE and includes:<sup>40</sup>

- The identity of any person who has been permanently denied an educator certificate or whose certificate was permanently revoked and has been placed on the list as directed by the Education Practices Commission.<sup>41</sup>
- The identity of any person who has been permanently disqualified by the Commissioner as an owner or operator of a private school participating in a state scholarship program.

<sup>33</sup> Sections 1012.315, 1012.32, and 1012.465, F.S.

<sup>34</sup> Section 1012.55(2), F.S. See also 1012.56, F.S.; Rule 6A-4.004(4), F.S.

<sup>35</sup> See s. 1012.467(2)(b), F.S. The law references eight specific offenses plus crimes involving lewd and lascivious behavior in ch. 800, F.S., which includes four such offenses. Id.

<sup>36</sup> Florida Department of Law Enforcement, *Jessica Lunsford Act Information*, available at <http://www.fdle.state.fl.us/JLA/Jessica-Lunsford-ActInformation.aspx> (last visited on March 8, 2023).

<sup>37</sup> Section 1012.467(7)(a), F.S.

<sup>38</sup> Section 1002.33(12)(g)4., F.S. (charter schools), s. 1002.421(1)(o), F.S. (private schools), and s. 1012.27(6), F.S. (school districts).

<sup>39</sup> See s. 1001.10(4)(b), F.S.; see also Florida Department of Education, *Employment Screening Tools*, available at <https://www.fldoe.org/teaching/professional-practices/employment-screening-tools.shtml> (last visited on March 8, 2023) (includes links to the Professional Practices' Database of Disciplinary Actions Against Educators and the Teacher Certification Database).

<sup>40</sup> Section 1001.10(4)(b), F.S.

<sup>41</sup> Section 1012.795, F.S.

- The identity of any person who has been terminated, or has resigned in lieu of termination, from employment as a result of sexual misconduct with a student.
- The identity of any person who is ineligible for educator certification or employment under s. 1012.315, F.S.

An individual on the disqualification list is prohibited from serving or applying to serve as an employee or contracted personnel at any public school, charter school, or private school participating in a state scholarship program. Any individual who knowingly violates this prohibition commits a third degree felony.<sup>42</sup>

Additionally, the DOE is required to investigate complaints or allegations made against certified educators and initiate proceedings to suspend or revoke the educator's certificate if grounds exist to do so. The law specifically references certified educators employed by traditional public schools, charter schools, and private schools participating in a state school choice scholarship program, while omitting approved virtual instruction providers.<sup>43</sup>

The law also requires law enforcement agencies to notify the appropriate district school superintendent, charter school governing board, private school owner or administrator, president of the Florida School for the Deaf and the Blind, or university lab school director or principal, as applicable, within 48 hours if its employee is charged with any felony or misdemeanor involving the abuse of children or sale or possession of controlled substances.<sup>44</sup>

Upon notification by law enforcement, the principal must, within 24 hours, notify parents of enrolled students who had direct contact with the perpetrator of the arrest and include, at a minimum, the employee's name and the specific charges against him or her.<sup>45</sup>

### **Employee Misconduct Reporting Policies**

Each school district, charter school, and private school participating in a state scholarship program must post, at each school and on their website, if they maintain a website, their policies and procedures related to reporting alleged misconduct by instructional personnel, educational support personnel, or school administrators which affects the health, safety, or welfare of a student.<sup>46</sup> Additionally, the published policies and procedures must include the contact person to whom the report is made and the penalties that will be imposed for failure to report misconduct.<sup>47</sup>

### **Youth Athletic Team Coaches**

An independent sanctioning authority is a private, nongovernmental entity that organizes, operates, or coordinates a youth athletic team in Florida which include one or more minors and

---

<sup>42</sup> Sections 775.082 and 775.083, F.S.

<sup>43</sup> Section 1012.796(1), F.S.

<sup>44</sup> Section 1012.797, F.S.

<sup>45</sup> *Id.*

<sup>46</sup> Section 1006.061(2), F.S.

<sup>47</sup> *Id.*

are not affiliated with a private school.<sup>48</sup> An independent sanctioning authority must conduct a Level 1 background screening of each current and prospective athletic coach. The required background screening must also include a search of the applicant or coach's name or other identifying information against state and federal registries of sexual predators and sexual offenders.<sup>49</sup> An individual may not serve as a youth athletic coach<sup>50</sup> unless a Level 1 screening has been conducted and the screening does not result in his or her disqualification.

In 2014, the Legislature expanded background screening requirements for athletic coaches, assistant coaches, and referees of independent sanctioning authorities and allowed a background screening conducted by a commercial consumer reporting agency in compliance with federal standards to satisfy the state level requirement so long as such screening includes a Level 1 background screening and a search against the state and federal registries of sexual predators and sexual offenders to meet the requirements under s. 943.0438, F.S.<sup>51</sup>

An independent sanctioning authority must disqualify an applicant from acting as an athletic coach in Florida if he or she is disqualified by the Level 1 background screening or if his or her name appears in either registry.<sup>52</sup> Within seven days of the screening, the independent sanctioning authority must provide written notification to a disqualified person advising him or her of the results.<sup>53</sup> In specified circumstances, an independent sanctioning authority may grant an exception to an applicant in accordance with s. 435.07(1)(a), F.S.<sup>54</sup> Examples of possible exceptions include, but are not limited to, an applicant whose criminal record includes a:<sup>55</sup>

- Felony that occurred three or more years ago and he or she has lawfully completed or been released from confinement or supervision for the disqualifying felony;
- Misdemeanor and he or she has completed or been lawfully released from confinement or supervision for the disqualifying misdemeanor offense; or
- Felony when committed, but is now classified as a misdemeanor, and he or she has completed or been lawfully released from confinement or supervision for all requirements imposed.

The sanctioning authority must maintain documentation of the results of each person screened and the written notice provided to any disqualified person for a minimum of five years.<sup>56</sup>

---

<sup>48</sup> Sections 1002.01 and 943.0438(1)(b), F.S.

<sup>49</sup> Section 943.0438(2)(a)1., F.S.

<sup>50</sup> "Athletic coach" means a person who is authorized by an independent sanctioning authority to work as a coach, assistant coach, or referee for 20 or more hours within a calendar year, whether for compensation or as a volunteer, for a youth athletic based team in this state; and has direct contact with one or more minors on the youth athletic team. Section 943.0438(1)(a), F.S.

<sup>51</sup> Chapter 2014-9, L.O.F.

<sup>52</sup> Section 943.0438(2)(b), F.S.

<sup>53</sup> Section 943.0438(2)(c), F.S.

<sup>54</sup> Section 943.0438(2)(b), F.S.

<sup>55</sup> Section 435.07(1), F.S.

<sup>56</sup> Section 943.0438(2)(d), F.S.

### **III. Effect of Proposed Changes:**

#### **Employee Background Screenings**

The bill amends s. 435.04, F.S., to require Level 2 security background investigations of current or prospective employees to include an employment history check and a search of the sexual predator and sexual offender registries and the child abuse and neglect registry of any state the individual resided during the previous five years. The list of disqualifying offenses in this section is revised to include:

- Section 784.021, F.S., relating to aggravated assault;
- Section 784.045, F.S., relating to aggravated battery;
- Section 784.075, F.S., relating to battery on staff of a detention or commitment facility or on a juvenile probation officer;
- Section 794.08, F.S., relating to female genital mutilation; and
- Chapter 800, F.S., relating to offenses against students by authority figures.

For purposes of background screening, the bill amends s. 435.02, F.S., to provide definitions for “affiliation” and “qualified entity.”

#### **Care Provider Background Screening Clearinghouse**

The bill amends ss. 435.12, 943.05, and 943.0542, F.S., to:

- Authorize qualified entities to conduct background screenings using the Clearinghouse beginning January 1, 2025, or a date determined by the AHCA, if such entities choose to do so.
- Require a qualified entity that chooses to use the Clearinghouse to comply with all Clearinghouse requirements and processes for background screening required by law.
- Require the FDLE to retain fingerprints obtained from background screenings for the purpose of providing arrest notifications subsequent to initial background screenings of qualified entities.
- Require the FDLE to develop a method for identifying or verifying an individual through automated biometrics for federal approval.

Including qualified entities in the Clearinghouse will allow such entities to share background screening results and reduce the amount of screenings individuals must undergo in order to volunteer or work for such entities.

#### **Youth Athletic Team Coaches**

Current law requires youth athletic coaches, assistant coaches, and referees to undergo a Level 1 background screening if the coach works for more than 20 hours per year. The bill amends s. 943.0438, F.S., to revise background screening requirements to require these individuals, including managers, to undergo Level 2 screenings and removes the 20 hour minimum work requirement. This means that all youth athletic coaches, assistant coaches, managers and referees must undergo a Level 2 background screening, regardless of hours worked.

### **Background Screening of Individuals at Schools**

The bill amends ss. 1012.315 and 1012.467, F.S., to revise the background screening standards for individuals who have direct contact with a student in a district school system, a charter school, or a private school that participates in a state scholarship program by replacing the list of disqualifying offenses with the level 2 screening standard under s. 435.04(2), F.S. Noninstructional contractors with access to school grounds when students are present will also have to meet the level 2 screening standard in s. 435.04(2), F.S., instead of the current list of nine disqualifying offenses.

### **Appropriations**

The bill provides that, for FY 2023-24, the sums of \$285,367 in recurring funds and \$581,064 in nonrecurring funds from the Health Care Trust Fund, five full-time equivalent positions, and associated salary rate of 173,431 are appropriated to the AHCA for the purpose of implementing this act.

### **Effective Date**

The bill takes effect July 1, 2024.

## **IV. Constitutional Issues:**

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

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State 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 provides that, for FY 2023-24, the sums of \$285,367 in recurring funds and \$581,064 in nonrecurring funds from the Health Care Trust Fund, five full-time equivalent positions, and associated salary rate of 173,431 are appropriated to the AHCA for the purpose of implementing this act. According to estimates from ACHA, this appropriation may be insufficient to cover the cost of the implementation of the bill's provisions.

ACHA advised that the implementation in the Clearinghouse is an estimated 24-month process from the time in which the new entity is created and would include 5 full-time Health Services and Facilities Consultants, 4 full-time Regulatory Specialist III positions, and 1 full-time Government Operations Consultant II position for ongoing support of the Clearinghouse for additional entities.

The agency cites the need for an additional \$600,000 for 3 contracted staff to research, develop, test, and implement the updated system and \$662,000 recurring for the ongoing costs of the program to the utilizing organizations.

The total fiscal impact will be \$1,024,787 in Year 1 and \$1,901,363 in Years 2 and 3. These system updates cannot occur until the Clearinghouse completes modernization, which is due to be completed in April 2024. Completion will cross two (2) fiscal years for full implementation.<sup>57</sup>

FDLE advised that although there is no programing required, if it is decided that VECHS entities will retain their applicants in the Clearinghouse, this bill combined with other background screening bills adds to the workload on FDLE's Biometric Identification System. FDLE is currently in the process of migrating the current system to the new generation of Biometric Identification Systems. With the state and capacity limitations of the current system, this could cause undue strain.

Additionally, the bill will have an indeterminate impact on revenues remitted to the FDLE's Operating Trust Fund, as the estimated number of individuals falling within the following four (4) areas is undetermined and at the discretion of the qualified entity:

---

<sup>57</sup> 2023 ACHA Legislative Bill Analysis (SB 676), Florida Agency for Health Care Administration (on file with Senate Appropriations Committee on Criminal and Civil Justice).



*VECHS Employees screened through the Clearinghouse*

The total fiscal revenue for the state portion of a state and national criminal history record check with five (5) years of fingerprint retention within the Clearinghouse is \$48 for employees who provide services to children, the elderly, or individuals with disabilities. The cost for the Florida (state) portion of a state and national criminal history record check is \$24 for employees who provide services to children, the elderly, or individuals with disabilities. Since persons screened pursuant to this bill are eligible to be entered in the Clearinghouse, as applicable, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. Once enrolled in the federal retention program, there will be no fees required by the Federal Bureau of Investigation (FBI) for federal fingerprint retention.

*VECHS Volunteers screened through the Clearinghouse*

The total fiscal revenue for the state portion of a state and national criminal history record check with five (5) years of fingerprint retention within the Clearinghouse is \$42 for volunteers who provide services to children, the elderly, or individuals with disabilities. The cost for the Florida (state) portion of a state and national criminal history record check is \$18 for volunteers who provide services to children, the elderly, or individuals with disabilities. Since persons screened pursuant to this bill are eligible to be entered in the Clearinghouse, as applicable, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. Once enrolled in the federal retention program, there will be no fees required by the FBI for federal fingerprint retention.

*Current and prospective athletic coaches screened through the Clearinghouse*

The total fiscal revenue for the state portion of a state and national criminal history record check with five (5) years of fingerprint retention within the Clearinghouse retention is \$48. These fees will go into the FDLE's Operating Trust Fund. The cost for Florida (state-level) criminal history record checks is \$24. Since persons screened pursuant to this bill are eligible to be entered in the Clearinghouse, as applicable, \$24 for five (5) years of state fingerprint retention will be paid up front and will go into FDLE's Operating Trust Fund. Once enrolled in the federal retention program, there will be no fees required by the FBI for federal fingerprint retention.

*Current and prospective athletic coaches not screened through the Clearinghouse (no fingerprint retention)*

The total fiscal revenue for the Florida (state) portion of a state and national criminal history record check is \$24, which goes into FDLE's Operating Trust Fund.<sup>58</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 435.02, 435.04, 435.12, 943.0438, 943.05, 943.0542, 1012.315, and 1012.467.

This bill reenacts the following sections of the Florida Statutes: 39.821, 381.0059, 381.986, 393.0655, 397.487, 397.4871, 402.62, 408.809, 409.913, 413.011, 413.208, 430.0402, 435.03, 435.07, 456.0135, 464.018, 468.3101, 744.309, 744.474, 985.04, 985.644, 1001.10, 1001.42, 1001.51, 1002.33, 1002.333, 1012.32, 1002.36, 1002.395, 1002.421, 1002.55, 1002.61, 1002.63, 1006.20, 1012.321, 1012.468, 1012.56, 1012.795, and 1012.796.

**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.

---

<sup>58</sup> 2023 FDLE Legislative Bill Analysis (SB 676) (Feb. 14, 2023), Florida Department of Law Enforcement (on file with Senate Committee on Criminal Justice).

By Senator Grall

29-00666A-23

2023676\_\_

1 A bill to be entitled  
 2 An act relating to background screenings; amending s.  
 3 435.02, F.S.; defining the terms "affiliation" and  
 4 "qualified entity"; amending s. 435.04, F.S.; revising  
 5 level 2 screening requirements; amending s. 435.12,  
 6 F.S.; deleting obsolete language; requiring the Care  
 7 Provider Background Screening Clearinghouse to allow  
 8 the results of certain screenings after a date certain  
 9 to be shared among specified agencies and qualified  
 10 entities; requiring qualified entities participating  
 11 in the clearinghouse to meet certain requirements;  
 12 conforming provisions to changes made by the act;  
 13 amending s. 943.0438, F.S.; revising the definition of  
 14 the term "athletic coach"; revising requirements  
 15 relating to background screenings for independent  
 16 sanctioning authorities; requiring independent  
 17 sanctioning authorities to participate in the  
 18 Volunteer and Employee Criminal History System;  
 19 amending s. 943.05, F.S.; revising requirements for  
 20 the Criminal Justice Information Program relating to  
 21 fingerprint searches; requiring the program to develop  
 22 a method for identifying or verifying an individual  
 23 through automated biometrics; amending s. 943.0542,  
 24 F.S.; requiring qualified entities to initiate all  
 25 background criminal history checks through the  
 26 clearinghouse after a date certain; requiring, rather  
 27 than authorizing, the Department of Law Enforcement to  
 28 periodically audit qualified entities; requiring  
 29 qualified entities initiating background criminal

Page 1 of 79

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

29-00666A-23

2023676\_\_

30 history checks through the clearinghouse to comply  
 31 with specified provisions; requiring that certain  
 32 fingerprints be entered into the clearinghouse;  
 33 providing requirements to the clearinghouse relating  
 34 to such checks; amending s. 1012.315, F.S.; revising  
 35 screening standard requirements for educator  
 36 certification or employment in positions that require  
 37 direct contact with certain students; amending s.  
 38 1012.467, F.S.; revising criminal history check  
 39 requirements for certain noninstructional contractors;  
 40 reenacting ss. 39.821(1), 381.0059(1), 381.986(9),  
 41 393.0655(5), 397.487(6), 397.4871(5) and (6)(b),  
 42 402.62(3)(a), 408.809(2)(a), (3) and (4), 409.913(13),  
 43 413.011(7), 413.208(2)(d) and (e), 430.0402(6),  
 44 435.03(2), 435.07(4)(a), 456.0135(5), 464.018(1)(e),  
 45 468.3101(1)(m), 744.309(3), 744.474(12), 985.04(6)(a),  
 46 985.644(3)(a), 1002.36(7)(b), 1002.395(6)(b),  
 47 1002.421(1)(e), (m), and (p), 1002.55(3)(d),  
 48 1002.61(5), 1002.63(5), 1006.20(2)(e), 1012.321, and  
 49 1012.468(2)(b), F.S., relating to qualifications of  
 50 guardians ad litem, background screening requirements  
 51 for school health services personnel, medical use of  
 52 marijuana, screening of direct service providers,  
 53 voluntary certification of recovery residences,  
 54 recovery residence administrator certification, the  
 55 Strong Families Tax Credit, background screening,  
 56 oversight of the integrity of the Medicaid program,  
 57 the Division of Blind Services and the Rehabilitation  
 58 Council for the Blind, service providers, screening of

Page 2 of 79

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

29-00666A-23

2023676\_\_

59 direct service providers, level 1 screening standards,  
 60 exemptions from disqualification, general background  
 61 screening provisions, disciplinary actions,  
 62 disciplinary grounds and actions, who may be appointed  
 63 guardian of a resident ward, reasons for removal of  
 64 guardian, records, personnel standards and  
 65 investigation, the Florida School for the Deaf and the  
 66 Blind, the Florida Tax Credit Scholarship Program,  
 67 state school choice scholarship program accountability  
 68 and oversight, school-year prekindergarten program  
 69 delivered by private prekindergarten providers, summer  
 70 prekindergarten program delivered by public schools  
 71 and private prekindergarten providers, school-year  
 72 prekindergarten program delivered by public schools,  
 73 athletics in public K-12 schools, exceptions for  
 74 certain instructional personnel from background  
 75 screening requirements, and exceptions to certain  
 76 fingerprinting and criminal history checks,  
 77 respectively, to incorporate the amendment made to s.  
 78 435.04, F.S., in references thereto; reenacting ss.  
 79 1001.10(4)(b), 1001.42(6), 1001.51(12)(b),  
 80 1002.33(12)(g), 1002.333(6)(d), 1002.421(1)(r),  
 81 1012.32(1), 1012.56(10)(a) and (d), 1012.795(1), and  
 82 1012.796(7)(i), F.S., relating to the Commissioner of  
 83 Education, powers and duties of district school board,  
 84 duties and responsibilities of district school  
 85 superintendent, charter schools, persistently low-  
 86 performing schools, state school choice scholarship  
 87 program accountability and oversight, qualifications

Page 3 of 79

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

29-00666A-23

2023676\_\_

88 of personnel, educator certification requirements, the  
 89 Education Practices Commission, and complaints against  
 90 teachers and administrators, respectively, to  
 91 incorporate the amendment made to s. 1012.315, F.S.,  
 92 in references thereto; reenacting s. 1012.468(2) and  
 93 (3)(a), F.S., relating to exceptions to certain  
 94 fingerprinting and criminal history checks, to  
 95 incorporate the amendment made to s. 1012.467, F.S.,  
 96 in references thereto; providing an appropriation;  
 97 providing an effective date.  
 98  
 99 Be It Enacted by the Legislature of the State of Florida:  
 100  
 101 Section 1. Present subsections (1) through (4), (5), and  
 102 (6) of section 435.02, Florida Statutes, are redesignated as  
 103 subsections (2) through (5), (7), and (8), respectively, and new  
 104 subsections (1) and (6) are added to that section, to read:  
 105 435.02 Definitions.—For the purposes of this chapter, the  
 106 term:  
 107 (1) "Affiliation" means employment by or serving as a  
 108 volunteer or contractor with a qualified entity in a position  
 109 for which screening is not required by law but which is allowed  
 110 under the National Child Protection Act.  
 111 (6) "Qualified entity" has the same meaning as provided in  
 112 s. 943.0542(1)(b).  
 113 Section 2. Present paragraphs (bb) through (zz) of  
 114 subsection (2) of section 435.04, Florida Statutes, are  
 115 redesignated as paragraphs (gg) through (eee), new paragraphs  
 116 (k), (m), (n), (y), and (cc) are added to that subsection, and

Page 4 of 79

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

29-00666A-23

2023676\_\_

117 paragraphs (a), (b), and (d) of subsection (1) and present  
 118 paragraphs (k) through (aa) of subsection (2) of that section  
 119 are amended, to read:

120 435.04 Level 2 screening standards.—

121 (1) (a) All employees required by law to be screened  
 122 pursuant to this section must undergo security background  
 123 investigations as a condition of employment and continued  
 124 employment which includes, but need not be limited to,  
 125 fingerprinting for statewide criminal history records checks  
 126 through the Department of Law Enforcement, and national criminal  
 127 history records checks through the Federal Bureau of  
 128 Investigation and a search of criminal history records, sexual  
 129 predator and sexual offender registries, and child abuse and  
 130 neglect registries of any state in which the current or  
 131 prospective employee resided during the preceding 5 years. Such  
 132 background investigations, and may include local criminal  
 133 records checks through local law enforcement agencies.

134 (b) Fingerprints submitted pursuant to this section ~~on or~~  
 135 ~~after July 1, 2012,~~ must be submitted electronically to the  
 136 Department of Law Enforcement.

137 ~~(d) An agency may require by rule that fingerprints~~  
 138 ~~submitted pursuant to this section must be submitted~~  
 139 ~~electronically to the Department of Law Enforcement on a date~~  
 140 ~~earlier than July 1, 2012.~~

141 (2) The security background investigations under this  
 142 section must ensure that no persons subject to the provisions of  
 143 this section have been arrested for and are awaiting final  
 144 disposition of, have been found guilty of, regardless of  
 145 adjudication, or entered a plea of nolo contendere or guilty to,

Page 5 of 79

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

29-00666A-23

2023676\_\_

146 or have been adjudicated delinquent and the record has not been  
 147 sealed or expunged for, any offense prohibited under any of the  
 148 following provisions of state law or similar law of another  
 149 jurisdiction:

150 (k) Section 784.021, relating to aggravated assault.

151 (l)(k) Section 784.03, relating to battery, if the victim  
 152 of the offense was a minor.

153 (m) Section 784.045, relating to aggravated battery.

154 (n) Section 784.075, relating to battery on a detention or  
 155 commitment facility staff member or juvenile probation officer.

156 (o)(l) Section 787.01, relating to kidnapping.

157 (p)(m) Section 787.02, relating to false imprisonment.

158 (q)(n) Section 787.025, relating to luring or enticing a  
 159 child.

160 (r)(e) Section 787.04(2), relating to taking, enticing, or  
 161 removing a child beyond the state limits with criminal intent  
 162 pending custody proceedings.

163 (s)(p) Section 787.04(3), relating to carrying a child  
 164 beyond the state lines with criminal intent to avoid producing a  
 165 child at a custody hearing or delivering the child to the  
 166 designated person.

167 (t)(q) Section 790.115(1), relating to exhibiting firearms  
 168 or weapons within 1,000 feet of a school.

169 (u)(r) Section 790.115(2)(b), relating to possessing an  
 170 electric weapon or device, destructive device, or other weapon  
 171 on school property.

172 (v)(s) Section 794.011, relating to sexual battery.

173 (w)(t) Former s. 794.041, relating to prohibited acts of  
 174 persons in familial or custodial authority.

Page 6 of 79

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

29-00666A-23

2023676\_\_

175 ~~(x)(u)~~ Section 794.05, relating to unlawful sexual activity  
176 with certain minors.

177 (y) Section 794.08, relating to female genital mutilation.

178 ~~(z)(v)~~ Chapter 796, relating to prostitution.

179 ~~(aa)(w)~~ Section 798.02, relating to lewd and lascivious  
180 behavior.

181 ~~(bb)(x)~~ Chapter 800, relating to lewdness and indecent  
182 exposure.

183 (cc) Section 800.101, relating to offenses against students  
184 by authority figures.

185 ~~(dd)(y)~~ Section 806.01, relating to arson.

186 ~~(ee)(z)~~ Section 810.02, relating to burglary.

187 ~~(ff)(aa)~~ Section 810.14, relating to voyeurism, ~~if the~~  
188 ~~offense is a felony.~~

189 Section 3. Subsections (1) and (2) of section 435.12,  
190 Florida Statutes, are amended to read:

191 435.12 Care Provider Background Screening Clearinghouse.—

192 (1) The Agency for Health Care Administration in  
193 consultation with the Department of Law Enforcement shall create  
194 a secure web-based system, which shall be known as the "Care  
195 Provider Background Screening Clearinghouse" or  
196 "clearinghouse," ~~and which shall be implemented to the full~~  
197 ~~extent practicable no later than September 30, 2013, subject to~~  
198 ~~the specified agencies being funded and equipped to participate~~  
199 ~~in such program.~~ The clearinghouse shall allow the results of  
200 criminal history checks provided to the specified agencies and,  
201 beginning January 1, 2025, or a later date established by the  
202 Agency for Health Care Administration, to qualified entities  
203 participating in the clearinghouse, for screening of persons

29-00666A-23

2023676\_\_

204 qualified as care providers under s. 943.0542 to be shared among  
205 the specified agencies and such qualified entities when a person  
206 has applied to volunteer, be employed, be licensed, or enter  
207 into a contract that requires, or has an affiliation that allows  
208 for, a state and national fingerprint-based criminal history  
209 check. The Agency for Health Care Administration and the  
210 Department of Law Enforcement may adopt rules to create forms or  
211 implement procedures needed to carry out this section.

212 (2) (a) To ensure that the information in the clearinghouse  
213 is current, the fingerprints of a person an employee required to  
214 ~~be screened by a specified agency and included in the~~  
215 clearinghouse must be:

216 1. Retained by the Department of Law Enforcement pursuant  
217 to s. 943.05(2) (g) and (h) and (3), and the Department of Law  
218 Enforcement must report the results of searching those  
219 fingerprints against state incoming arrest fingerprint  
220 submissions to the Agency for Health Care Administration for  
221 inclusion in the clearinghouse.

222 2. Retained by the Federal Bureau of Investigation in the  
223 national retained print arrest notification program as soon as  
224 the Department of Law Enforcement begins participation in such  
225 program. Arrest prints will be searched against retained prints  
226 at the Federal Bureau of Investigation and notification of  
227 arrests will be forwarded to the Florida Department of Law  
228 Enforcement and reported to the Agency for Health Care  
229 Administration for inclusion in the clearinghouse.

230 3. Resubmitted for a Federal Bureau of Investigation  
231 national criminal history check every 5 years until such time as  
232 the fingerprints are retained by the Federal Bureau of

29-00666A-23

2023676\_\_

233 Investigation.

234 4. Subject to retention on a 5-year renewal basis with fees  
235 collected at the time of initial submission or resubmission of  
236 fingerprints.

237 5. Submitted with a photograph of the person taken at the  
238 time the fingerprints are submitted.

239 (b) Until such time as the fingerprints are enrolled in the  
240 national retained print arrest notification program at the  
241 Federal Bureau of Investigation, an employee with a break in  
242 service of more than 90 days from a position that requires  
243 screening ~~by a specified agency~~ must submit to a national  
244 screening if the person returns to a position that requires  
245 screening ~~by a specified agency~~.

246 (c) An employer of persons subject to screening or a  
247 qualified entity participating in the clearinghouse ~~by a~~  
248 ~~specified agency~~ must register with the clearinghouse and  
249 maintain the employment or affiliation status of all persons  
250 included in employees within the clearinghouse. Initial  
251 employment or affiliation status and any changes in status must  
252 be reported within 10 business days.

253 (d) An employer or a qualified entity participating in the  
254 clearinghouse must register with and initiate all criminal  
255 history checks through the clearinghouse before referring an  
256 employee or potential employee or a person with a current or  
257 potential affiliation with a qualified entity participating in  
258 the clearinghouse for electronic fingerprint submission to the  
259 Department of Law Enforcement. The registration must include the  
260 employee's full first name, middle initial, and last name;  
261 social security number; date of birth; mailing address; sex; and

Page 9 of 79

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

29-00666A-23

2023676\_\_

262 race. Individuals, persons, applicants, and controlling  
263 interests that cannot legally obtain a social security number  
264 must provide an individual taxpayer identification number.

265 Section 4. Paragraph (a) of subsection (1), paragraphs (a)  
266 and (b) of subsection (2), and subsection (4) of section  
267 943.0438, Florida Statutes, are amended to read:

268 943.0438 Athletic coaches for independent sanctioning  
269 authorities.—

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

271 (a) "Athletic coach" means a person who:

272 1. Is authorized by an independent sanctioning authority to  
273 work as a manager, coach, assistant coach, or referee ~~for 20 or~~  
274 ~~more hours within a calendar year~~, whether for compensation or  
275 as a volunteer, for a youth athletic team based in this state;  
276 and

277 2. Has direct contact with one or more minors on the youth  
278 athletic team.

279 (2) An independent sanctioning authority shall:

280 (a) ~~+~~ Conduct a level 2 ~~+~~ background screening pursuant to  
281 s. 435.04 ~~s. 435.03~~ of each current and prospective athletic  
282 coach. The authority may not delegate this responsibility to an  
283 individual team and may not authorize any person to act as an  
284 athletic coach unless a level 2 ~~+~~ background screening has been  
285 ~~is~~ conducted and has ~~does~~ not resulted ~~result~~ in  
286 disqualification under paragraph (b). ~~Level 1 background~~  
287 ~~screenings shall be conducted annually for each athletic coach.~~  
288 ~~For purposes of this section, a background screening shall~~  
289 ~~include a search of the athletic coach's name or other~~  
290 ~~identifying information against state and federal registries of~~

Page 10 of 79

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

29-00666A-23

2023676\_\_

291 ~~sexual predators and sexual offenders, which are available to~~  
 292 ~~the public on Internet sites provided by:~~

293 ~~a. The Department of Law Enforcement under s. 943.043; and~~  
 294 ~~b. The Attorney General of the United States under 42~~  
 295 ~~U.S.C. s. 16920.~~

296 ~~2. For purposes of this section, a background screening~~  
 297 ~~conducted by a commercial consumer reporting agency in~~  
 298 ~~compliance with the federal Fair Credit Reporting Act using the~~  
 299 ~~identifying information referenced in subparagraph 1. that~~  
 300 ~~includes a level 1 background screening and a search of that~~  
 301 ~~information against the sexual predator and sexual offender~~  
 302 ~~Internet sites listed in sub-subparagraphs 1.a. and b. shall be~~  
 303 ~~deemed to satisfy the requirements of this paragraph.~~

304 (b) Disqualify any person from acting as an athletic coach  
 305 as provided in s. 435.04 ~~s. 435.03~~ or if he or she is identified  
 306 ~~on a registry described in paragraph (a).~~ The authority may  
 307 allow a person disqualified under this paragraph to act as an  
 308 athletic coach if it determines that the person meets the  
 309 requirements for an exemption from disqualification under s.  
 310 435.07.

311 ~~(4) The Legislature encourages~~ Independent sanctioning  
 312 authorities for youth athletic teams ~~shall~~ ~~to~~ participate in the  
 313 Volunteer and Employee Criminal History System, as authorized by  
 314 the National Child Protection Act of 1993 and s. 943.0542.

315 Section 5. Paragraph (h) of subsection (2) of section  
 316 943.05, Florida Statutes, is amended, and paragraph (i) is added  
 317 to that subsection, to read:

318 943.05 Criminal Justice Information Program; duties; crime  
 319 reports.-

29-00666A-23

2023676\_\_

320 (2) The program shall:

321 (h) For each specified agency under s. 435.02, each  
 322 qualified entity under s. 943.0542 participating in the Care  
 323 Provider Background Screening Clearinghouse under s. 435.12, or  
 324 any other agency or qualified entity that officially requests  
 325 retention of fingerprints or for which retention is otherwise  
 326 required by law, search all arrest fingerprint submissions  
 327 received under s. 943.051 against the fingerprints retained in  
 328 the statewide automated biometric identification system under  
 329 paragraph (g).

330 1. Any arrest record that is identified with the retained  
 331 fingerprints of a person subject to background screening as  
 332 provided in paragraph (g) shall be reported to the appropriate  
 333 agency or qualified entity.

334 2. To participate in this search process, agencies or  
 335 qualified entities must notify each person fingerprinted that  
 336 his or her fingerprints will be retained, pay an annual fee to  
 337 the department unless otherwise provided by law, and inform the  
 338 department of any change in the affiliation, employment, or  
 339 contractual status of each person whose fingerprints are  
 340 retained under paragraph (g) if such change removes or  
 341 eliminates the agency or qualified entity's basis or need for  
 342 receiving reports of any arrest of that person, so that the  
 343 agency or qualified entity is not obligated to pay the upcoming  
 344 annual fee for the retention and searching of that person's  
 345 fingerprints to the department. The department shall adopt a  
 346 rule setting the amount of the annual fee to be imposed upon  
 347 each participating agency or qualified entity for performing  
 348 these searches and establishing the procedures for the retention



29-00666A-23 2023676\_\_

349 of fingerprints and the dissemination of search results. The fee  
 350 may be borne by the agency, qualified entity, or person subject  
 351 to fingerprint retention or as otherwise provided by law.  
 352 Consistent with the recognition of criminal justice agencies  
 353 expressed in s. 943.053(3), these services shall be provided to  
 354 criminal justice agencies for criminal justice purposes free of  
 355 charge. Qualified entities that elect to participate in the  
 356 fingerprint retention and search process are required to timely  
 357 remit the fee to the department by a payment mechanism approved  
 358 by the department. If requested by the qualified entity, and  
 359 with the approval of the department, such fees may be timely  
 360 remitted to the department by a qualified entity upon receipt of  
 361 an invoice for such fees from the department. Failure of a  
 362 qualified entity to pay the amount due on a timely basis or as  
 363 invoiced by the department may result in the refusal by the  
 364 department to permit the qualified entity to continue to  
 365 participate in the fingerprint retention and search process  
 366 until all fees due and owing are paid.

367 3. Agencies that participate in the fingerprint retention  
 368 and search process may adopt rules pursuant to ss. 120.536(1)  
 369 and 120.54 to require employers to keep the agency informed of  
 370 any change in the affiliation, employment, or contractual status  
 371 of each person whose fingerprints are retained under paragraph  
 372 (g) if such change removes or eliminates the agency's basis or  
 373 need for receiving reports of any arrest of that person, so that  
 374 the agency is not obligated to pay the upcoming annual fee for  
 375 the retention and searching of that person's fingerprints to the  
 376 department.

377 (i) Develop, for federal approval, a method for identifying

29-00666A-23 2023676\_\_

378 or verifying an individual through automated biometrics.  
 379 Section 6. Section 943.0542, Florida Statutes, is amended  
 380 to read:  
 381 943.0542 Access to criminal history information provided by  
 382 the department or the Care Provider Background Screening  
 383 Clearinghouse to qualified entities.—  
 384 (1) As used in this section, the term:  
 385 (a) "Care" means the provision of care, treatment,  
 386 education, training, instruction, supervision, or recreation to  
 387 children, the elderly, or individuals with disabilities.  
 388 (b) "Qualified entity" means a business or organization,  
 389 whether public, private, operated for profit, operated not for  
 390 profit, or voluntary, which provides care or care placement  
 391 services, including a business or organization that licenses or  
 392 certifies others to provide care or care placement services.  
 393 (2) ~~(a)~~ A qualified entity must initiate all background  
 394 criminal history checks through the department. Beginning  
 395 January 1, 2025, or a later date established by the Agency for  
 396 Health Care Administration, a qualified entity must initiate all  
 397 background criminal history checks through the Care Provider  
 398 Background Screening Clearinghouse under s. 435.12.  
 399 (a) If a qualified entity initiates a background criminal  
 400 history check through the department, the qualified entity must:  
 401 1. Register with the department before submitting a request  
 402 for screening under this section. Each such request must be  
 403 voluntary and conform to the requirements established in the  
 404 National Child Protection Act of 1993, as amended. As a part of  
 405 the registration, the qualified entity must agree to comply with  
 406 state and federal law and must so indicate by signing an

29-00666A-23

2023676\_\_

407 agreement approved by the department. The department shall ~~may~~  
 408 periodically audit qualified entities to ensure compliance with  
 409 federal law and this section.

410 ~~2.(b) A qualified entity shall~~ Submit to the department a  
 411 request for screening an employee or volunteer or person  
 412 applying to be an employee or volunteer by submitting  
 413 fingerprints, or the request may be submitted electronically.  
 414 The qualified entity must maintain a signed waiver allowing the  
 415 release of the state and national criminal history record  
 416 information to the qualified entity.

417 ~~3.(e)~~ Each such request must be accompanied by payment of a  
 418 fee for a statewide criminal history check by the department  
 419 established by s. 943.053, plus the amount currently prescribed  
 420 by the Federal Bureau of Investigation for the national criminal  
 421 history check in compliance with the National Child Protection  
 422 Act of 1993, as amended. Payments must be made in the manner  
 423 prescribed by the department by rule.

424 ~~4.(a)~~ Any current or prospective employee or volunteer who  
 425 is subject to a request for screening must indicate to the  
 426 qualified entity submitting the request the name and address of  
 427 each qualified entity that has submitted a previous request for  
 428 screening regarding that employee or volunteer.

429 (b) If a qualified entity initiates a background criminal  
 430 history check through the clearinghouse, the qualified entity  
 431 must comply with s. 435.12. All fingerprints received under this  
 432 section must be entered into the clearinghouse as provided in s.  
 433 435.12.

434 (3) The clearinghouse or the department shall provide  
 435 directly to the qualified entity the state criminal history

Page 15 of 79

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

29-00666A-23

2023676\_\_

436 records that are not exempt from disclosure under chapter 119 or  
 437 otherwise confidential under law. A person who is the subject of  
 438 a state criminal history record may challenge the record only as  
 439 provided in s. 943.056.

440 (4) The national criminal history data is available to  
 441 qualified entities to use only for the purpose of screening  
 442 employees and volunteers or persons applying to be an employee  
 443 or volunteer with a qualified entity. The clearinghouse or the  
 444 department shall provide this national criminal history record  
 445 information directly to the qualified entity as authorized by  
 446 the written waiver required for submission of a request to the  
 447 department.

448 (5) The determination whether the criminal history record  
 449 shows that the employee or volunteer has been convicted of or is  
 450 under pending indictment for any crime that bears upon the  
 451 fitness of the employee or volunteer to have responsibility for  
 452 the safety and well-being of children, the elderly, or disabled  
 453 persons shall solely be made by the qualified entity. This  
 454 section does not require the department to make such a  
 455 determination on behalf of any qualified entity.

456 (6) The qualified entity must notify in writing the person  
 457 of his or her right to obtain a copy of any background screening  
 458 report, including the criminal history records, if any,  
 459 contained in the report, and of the person's right to challenge  
 460 the accuracy and completeness of any information contained in  
 461 any such report and to obtain a determination as to the validity  
 462 of such challenge before a final determination regarding the  
 463 person is made by the qualified entity reviewing the criminal  
 464 history information. A qualified entity that is required by law

Page 16 of 79

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

29-00666A-23

2023676\_\_

465 to apply screening criteria, including any right to contest or  
 466 request an exemption from disqualification, shall apply such  
 467 screening criteria to the state and national criminal history  
 468 record information received from the department for those  
 469 persons subject to the required screening.

470 (7) The department may establish a database of registered  
 471 qualified entities and make this data available free of charge  
 472 to all registered qualified entities. The database must include,  
 473 at a minimum, the name, address, and phone number of each  
 474 qualified entity.

475 (8) A qualified entity is not liable for damages solely for  
 476 failing to obtain the information authorized under this section  
 477 with respect to an employee or volunteer. The state, any  
 478 political subdivision of the state, or any agency, officer, or  
 479 employee of the state or a political subdivision is not liable  
 480 for damages for providing the information requested under this  
 481 section.

482 (9) The department has authority to adopt rules to  
 483 implement this section.

484 Section 7. Section 1012.315, Florida Statutes, is amended  
 485 to read:

486 1012.315 Screening standards.—A person is ineligible for  
 487 educator certification or employment in any position that  
 488 requires direct contact with students in a district school  
 489 system, a charter school, or a private school that participates  
 490 in a state scholarship program under chapter 1002 if the person  
 491 is on the disqualification list maintained by the department  
 492 pursuant to s. 1001.10(4)(b), is registered as a sex offender as  
 493 described in 42 U.S.C. s. 9858f(c)(1)(C), would be ineligible

Page 17 of 79

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

29-00666A-23

2023676\_\_

494 for an exemption under s. 435.07(4)(c), or is ineligible based  
 495 on the security background investigation under s. 435.04(2) has  
 496 ~~been convicted or found guilty of, has had adjudication withheld~~  
 497 ~~for, or has pled guilty or nolo contendere to:~~

498 (1) ~~Any felony offense prohibited under any of the~~  
 499 ~~following statutes:~~

500 (a) ~~Section 393.135, relating to sexual misconduct with~~  
 501 ~~certain developmentally disabled clients and reporting of such~~  
 502 ~~sexual misconduct.~~

503 (b) ~~Section 394.4593, relating to sexual misconduct with~~  
 504 ~~certain mental health patients and reporting of such sexual~~  
 505 ~~misconduct.~~

506 (c) ~~Section 415.111, relating to adult abuse, neglect, or~~  
 507 ~~exploitation of aged persons or disabled adults.~~

508 (d) ~~Section 782.04, relating to murder.~~

509 (e) ~~Section 782.07, relating to manslaughter; aggravated~~  
 510 ~~manslaughter of an elderly person or disabled adult; aggravated~~  
 511 ~~manslaughter of a child; or aggravated manslaughter of an~~  
 512 ~~officer, a firefighter, an emergency medical technician, or a~~  
 513 ~~paramedic.~~

514 (f) ~~Section 784.021, relating to aggravated assault.~~

515 (g) ~~Section 784.045, relating to aggravated battery.~~

516 (h) ~~Section 784.075, relating to battery on a detention or~~  
 517 ~~commitment facility staff member or a juvenile probation~~  
 518 ~~officer.~~

519 (i) ~~Section 787.01, relating to kidnapping.~~

520 (j) ~~Section 787.02, relating to false imprisonment.~~

521 (k) ~~Section 787.025, relating to luring or enticing a~~  
 522 ~~child.~~

Page 18 of 79

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

29-00666A-23

2023676\_\_

523 ~~(l) Section 787.04(2), relating to leading, taking,~~  
 524 ~~enticing, or removing a minor beyond the state limits, or~~  
 525 ~~concealing the location of a minor, with criminal intent pending~~  
 526 ~~custody proceedings.~~  
 527 ~~(m) Section 787.04(3), relating to leading, taking,~~  
 528 ~~enticing, or removing a minor beyond the state limits, or~~  
 529 ~~concealing the location of a minor, with criminal intent pending~~  
 530 ~~dependency proceedings or proceedings concerning alleged abuse~~  
 531 ~~or neglect of a minor.~~  
 532 ~~(n) Section 790.115(1), relating to exhibiting firearms or~~  
 533 ~~weapons at a school-sponsored event, on school property, or~~  
 534 ~~within 1,000 feet of a school.~~  
 535 ~~(o) Section 790.115(2)(b), relating to possessing an~~  
 536 ~~electric weapon or device, destructive device, or other weapon~~  
 537 ~~at a school-sponsored event or on school property.~~  
 538 ~~(p) Section 794.011, relating to sexual battery.~~  
 539 ~~(q) Former s. 794.041, relating to sexual activity with or~~  
 540 ~~solicitation of a child by a person in familial or custodial~~  
 541 ~~authority.~~  
 542 ~~(r) Section 794.05, relating to unlawful sexual activity~~  
 543 ~~with certain minors.~~  
 544 ~~(s) Section 794.08, relating to female genital mutilation.~~  
 545 ~~(t) Chapter 796, relating to prostitution.~~  
 546 ~~(u) Chapter 800, relating to lewdness and indecent~~  
 547 ~~exposure.~~  
 548 ~~(v) Section 800.101, relating to offenses against students~~  
 549 ~~by authority figures.~~  
 550 ~~(w) Section 806.01, relating to arson.~~  
 551 ~~(x) Section 810.14, relating to voyeurism.~~

Page 19 of 79

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

29-00666A-23

2023676\_\_

552 ~~(y) Section 810.145, relating to video voyeurism.~~  
 553 ~~(z) Section 812.014(6), relating to coordinating the~~  
 554 ~~commission of theft in excess of \$3,000.~~  
 555 ~~(aa) Section 812.0145, relating to theft from persons 65~~  
 556 ~~years of age or older.~~  
 557 ~~(bb) Section 812.019, relating to dealing in stolen~~  
 558 ~~property.~~  
 559 ~~(cc) Section 812.13, relating to robbery.~~  
 560 ~~(dd) Section 812.131, relating to robbery by sudden~~  
 561 ~~snatching.~~  
 562 ~~(ee) Section 812.133, relating to carjacking.~~  
 563 ~~(ff) Section 812.135, relating to home invasion robbery.~~  
 564 ~~(gg) Section 817.563, relating to fraudulent sale of~~  
 565 ~~controlled substances.~~  
 566 ~~(hh) Section 825.102, relating to abuse, aggravated abuse,~~  
 567 ~~or neglect of an elderly person or disabled adult.~~  
 568 ~~(ii) Section 825.103, relating to exploitation of an~~  
 569 ~~elderly person or disabled adult.~~  
 570 ~~(jj) Section 825.1025, relating to lewd or lascivious~~  
 571 ~~offenses committed upon or in the presence of an elderly person~~  
 572 ~~or disabled person.~~  
 573 ~~(kk) Section 826.04, relating to incest.~~  
 574 ~~(ll) Section 827.03, relating to child abuse, aggravated~~  
 575 ~~child abuse, or neglect of a child.~~  
 576 ~~(mm) Section 827.04, relating to contributing to the~~  
 577 ~~delinquency or dependency of a child.~~  
 578 ~~(nn) Section 827.071, relating to sexual performance by a~~  
 579 ~~child.~~  
 580 ~~(oo) Section 843.01, relating to resisting arrest with~~

Page 20 of 79

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

29-00666A-23

2023676\_\_

581 ~~violence.~~582 ~~(pp) Chapter 847, relating to obscenity.~~583 ~~(qq) Section 874.05, relating to causing, encouraging,~~  
584 ~~soliciting, or recruiting another to join a criminal street~~  
585 ~~gang.~~586 ~~(rr) Chapter 893, relating to drug abuse prevention and~~  
587 ~~control, if the offense was a felony of the second degree or~~  
588 ~~greater severity.~~589 ~~(ss) Section 916.1075, relating to sexual misconduct with~~  
590 ~~certain forensic clients and reporting of such sexual~~  
591 ~~misconduct.~~592 ~~(tt) Section 944.47, relating to introduction, removal, or~~  
593 ~~possession of contraband at a correctional facility.~~594 ~~(uu) Section 985.701, relating to sexual misconduct in~~  
595 ~~juvenile justice programs.~~596 ~~(vv) Section 985.711, relating to introduction, removal, or~~  
597 ~~possession of contraband at a juvenile detention facility or~~  
598 ~~commitment program.~~599 ~~(2) Any misdemeanor offense prohibited under any of the~~  
600 ~~following statutes:~~601 ~~(a) Section 784.03, relating to battery, if the victim of~~  
602 ~~the offense was a minor.~~603 ~~(b) Section 787.025, relating to luring or enticing a~~  
604 ~~child.~~605 ~~(3) Any criminal act committed in another state or under~~  
606 ~~federal law which, if committed in this state, constitutes an~~  
607 ~~offense prohibited under any statute listed in subsection (1) or~~  
608 ~~subsection (2).~~609 ~~(4) Any delinquent act committed in this state or any~~

29-00666A-23

2023676\_\_

610 ~~delinquent or criminal act committed in another state or under~~  
611 ~~federal law which, if committed in this state, qualifies an~~  
612 ~~individual for inclusion on the Registered Juvenile Sex Offender~~  
613 ~~List under s. 943.0435(1)(h)1.d.~~614 Section 8. Subsection (2) of section 1012.467, Florida  
615 Statutes, is amended to read:616 1012.467 Noninstructional contractors who are permitted  
617 access to school grounds when students are present; background  
618 screening requirements.-619 (2) (a) A fingerprint-based criminal history check shall be  
620 performed on each noninstructional contractor who is permitted  
621 access to school grounds when students are present, whose  
622 performance of the contract with the school or school board is  
623 not anticipated to result in direct contact with students, and  
624 for whom any unanticipated contact would be infrequent and  
625 incidental using the process described in s. 1012.32(3). The  
626 results of each criminal history check shall be reported to the  
627 school district in which the individual is seeking access and  
628 entered into the shared system described in subsection (7). The  
629 school district shall screen the results using the disqualifying  
630 offenses in s. 435.04(2) paragraph (b). The cost of the criminal  
631 history check may be borne by the district school board, the  
632 school, or the contractor.633 (b) A noninstructional contractor for whom a criminal  
634 history check is required under this section may not have been  
635 convicted of any of the ~~following~~ offenses in s. 435.04(2)  
636 ~~designated in the Florida Statutes, any similar offense in~~  
637 ~~another jurisdiction, or any similar offense committed in this~~  
638 ~~state which has been redesignated from a former provision of the~~

29-00666A-23

2023676\_\_

639 ~~Florida Statutes to one of the following offenses:~~

640 ~~1. Any offense listed in s. 943.0435(1)(h)1., relating to~~  
 641 ~~the registration of an individual as a sexual offender.~~

642 ~~2. Section 393.135, relating to sexual misconduct with~~  
 643 ~~certain developmentally disabled clients and the reporting of~~  
 644 ~~such sexual misconduct.~~

645 ~~3. Section 394.4593, relating to sexual misconduct with~~  
 646 ~~certain mental health patients and the reporting of such sexual~~  
 647 ~~misconduct.~~

648 ~~4. Section 775.30, relating to terrorism.~~

649 ~~5. Section 782.04, relating to murder.~~

650 ~~6. Section 787.01, relating to kidnapping.~~

651 ~~7. Any offense under chapter 800, relating to lewdness and~~  
 652 ~~indecent exposure.~~

653 ~~8. Section 826.04, relating to incest.~~

654 ~~9. Section 827.03, relating to child abuse, aggravated~~  
 655 ~~child abuse, or neglect of a child.~~

656 Section 9. For the purpose of incorporating the amendment  
 657 made by this act to section 435.04, Florida Statutes, in a  
 658 reference thereto, subsection (1) of section 39.821, Florida  
 659 Statutes, is reenacted to read:

660 39.821 Qualifications of guardians ad litem.—

661 (1) Because of the special trust or responsibility placed  
 662 in a guardian ad litem, the Guardian Ad Litem Program may use  
 663 any private funds collected by the program, or any state funds  
 664 so designated, to conduct a security background investigation  
 665 before certifying a volunteer to serve. A security background  
 666 investigation must include, but need not be limited to,  
 667 employment history checks, checks of references, local criminal

29-00666A-23

2023676\_\_

668 history records checks through local law enforcement agencies,  
 669 and statewide criminal history records checks through the  
 670 Department of Law Enforcement. Upon request, an employer shall  
 671 furnish a copy of the personnel record for the employee or  
 672 former employee who is the subject of a security background  
 673 investigation conducted under this section. The information  
 674 contained in the personnel record may include, but need not be  
 675 limited to, disciplinary matters and the reason why the employee  
 676 was terminated from employment. An employer who releases a  
 677 personnel record for purposes of a security background  
 678 investigation is presumed to have acted in good faith and is not  
 679 liable for information contained in the record without a showing  
 680 that the employer maliciously falsified the record. A security  
 681 background investigation conducted under this section must  
 682 ensure that a person is not certified as a guardian ad litem if  
 683 the person has an arrest awaiting final disposition for, been  
 684 convicted of, regardless of adjudication, entered a plea of nolo  
 685 contendere or guilty to, or been adjudicated delinquent and the  
 686 record has not been sealed or expunged for, any offense  
 687 prohibited under the provisions listed in s. 435.04. All  
 688 applicants must undergo a level 2 background screening pursuant  
 689 to chapter 435 before being certified to serve as a guardian ad  
 690 litem. In analyzing and evaluating the information obtained in  
 691 the security background investigation, the program must give  
 692 particular emphasis to past activities involving children,  
 693 including, but not limited to, child-related criminal offenses  
 694 or child abuse. The program has sole discretion in determining  
 695 whether to certify a person based on his or her security  
 696 background investigation. The information collected pursuant to

29-00666A-23 2023676\_\_

697 the security background investigation is confidential and exempt  
698 from s. 119.07(1).

699 Section 10. For the purpose of incorporating the amendment  
700 made by this act to section 435.04, Florida Statutes, in a  
701 reference thereto, subsection (1) of section 381.0059, Florida  
702 Statutes, is reenacted to read:

703 381.0059 Background screening requirements for school  
704 health services personnel.—

705 (1) Pursuant to the provisions of chapter 435, any person  
706 who provides services under a school health services plan  
707 pursuant to s. 381.0056 must meet level 2 screening requirements  
708 as described in s. 435.04. A person may satisfy the requirements  
709 of this subsection by submitting proof of compliance with the  
710 requirements of level 2 screening conducted within 12 months  
711 before the date that person initially provides services under a  
712 school health services plan.

713 Section 11. For the purpose of incorporating the amendment  
714 made by this act to section 435.04, Florida Statutes, in a  
715 reference thereto, subsection (9) of section 381.986, Florida  
716 Statutes, is reenacted to read:

717 381.986 Medical use of marijuana.—

718 (9) BACKGROUND SCREENING.—An individual required to undergo  
719 a background screening pursuant to this section must pass a  
720 level 2 background screening as provided under chapter 435,  
721 which, in addition to the disqualifying offenses provided in s.  
722 435.04, shall exclude an individual who has an arrest awaiting  
723 final disposition for, has been found guilty of, regardless of  
724 adjudication, or has entered a plea of nolo contendere or guilty  
725 to an offense under chapter 837, chapter 895, or chapter 896 or

Page 25 of 79

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

29-00666A-23 2023676\_\_

726 similar law of another jurisdiction.

727 (a) Such individual must submit a full set of fingerprints  
728 to the department or to a vendor, entity, or agency authorized  
729 by s. 943.053(13). The department, vendor, entity, or agency  
730 shall forward the fingerprints to the Department of Law  
731 Enforcement for state processing, and the Department of Law  
732 Enforcement shall forward the fingerprints to the Federal Bureau  
733 of Investigation for national processing.

734 (b) Fees for state and federal fingerprint processing and  
735 retention shall be borne by the individual. The state cost for  
736 fingerprint processing shall be as provided in s. 943.053(3)(e)  
737 for records provided to persons or entities other than those  
738 specified as exceptions therein.

739 (c) Fingerprints submitted to the Department of Law  
740 Enforcement pursuant to this subsection shall be retained by the  
741 Department of Law Enforcement as provided in s. 943.05(2)(g) and  
742 (h) and, when the Department of Law Enforcement begins  
743 participation in the program, enrolled in the Federal Bureau of  
744 Investigation's national retained print arrest notification  
745 program. Any arrest record identified shall be reported to the  
746 department.

747 Section 12. For the purpose of incorporating the amendment  
748 made by this act to section 435.04, Florida Statutes, in a  
749 reference thereto, subsection (5) of section 393.0655, Florida  
750 Statutes, is reenacted to read:

751 393.0655 Screening of direct service providers.—

752 (5) DISQUALIFYING OFFENSES.—The background screening  
753 conducted under this section must ensure that, in addition to  
754 the disqualifying offenses listed in s. 435.04, no person

Page 26 of 79

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

29-00666A-23

2023676\_\_

755 subject to the provisions of this section has an arrest awaiting  
 756 final disposition for, has been found guilty of, regardless of  
 757 adjudication, or entered a plea of nolo contendere or guilty to,  
 758 or has been adjudicated delinquent and the record has not been  
 759 sealed or expunged for, any offense prohibited under any of the  
 760 following provisions of state law or similar law of another  
 761 jurisdiction:

- 762 (a) Any authorizing statutes, if the offense was a felony.  
 763 (b) This chapter, if the offense was a felony.  
 764 (c) Section 409.920, relating to Medicaid provider fraud.  
 765 (d) Section 409.9201, relating to Medicaid fraud.  
 766 (e) Section 817.034, relating to fraudulent acts through  
 767 mail, wire, radio, electromagnetic, photoelectronic, or  
 768 photooptical systems.  
 769 (f) Section 817.234, relating to false and fraudulent  
 770 insurance claims.  
 771 (g) Section 817.505, relating to patient brokering.  
 772 (h) Section 817.568, relating to criminal use of personal  
 773 identification information.  
 774 (i) Section 817.60, relating to obtaining a credit card  
 775 through fraudulent means.  
 776 (j) Section 817.61, relating to fraudulent use of credit  
 777 cards, if the offense was a felony.  
 778 (k) Section 831.01, relating to forgery.  
 779 (l) Section 831.02, relating to uttering forged  
 780 instruments.  
 781 (m) Section 831.07, relating to forging bank bills, checks,  
 782 drafts, or promissory notes.  
 783 (n) Section 831.09, relating to uttering forged bank bills,

Page 27 of 79

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

29-00666A-23

2023676\_\_

784 checks, drafts, or promissory notes.

785 Section 13. For the purpose of incorporating the amendment  
 786 made by this act to section 435.04, Florida Statutes, in a  
 787 reference thereto, subsection (6) of section 397.487, Florida  
 788 Statutes, is reenacted to read:

789 397.487 Voluntary certification of recovery residences.—

790 (6) All owners, directors, and chief financial officers of  
 791 an applicant recovery residence are subject to level 2  
 792 background screening as provided under s. 408.809 and chapter  
 793 435. A recovery residence is ineligible for certification, and a  
 794 credentialing entity shall deny a recovery residence's  
 795 application, if any owner, director, or chief financial officer  
 796 has been found guilty of, or has entered a plea of guilty or  
 797 nolo contendere to, regardless of adjudication, any offense  
 798 listed in s. 408.809(4) or s. 435.04(2) unless the department  
 799 has issued an exemption under s. 435.07. Exemptions from  
 800 disqualification applicable to service provider personnel  
 801 pursuant to s. 397.4073 or s. 435.07 shall apply to this  
 802 subsection. In accordance with s. 435.04, the department shall  
 803 notify the credentialing agency of an owner's, director's, or  
 804 chief financial officer's eligibility based on the results of  
 805 his or her background screening.

806 Section 14. For the purpose of incorporating the amendment  
 807 made by this act to section 435.04, Florida Statutes, in a  
 808 reference thereto, Subsection (5) and paragraph (b) of  
 809 subsection (6) of section 397.4871, Florida Statutes, are  
 810 reenacted to read:

811 397.4871 Recovery residence administrator certification.—

812 (5) All applicants are subject to level 2 background

Page 28 of 79

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



29-00666A-23

2023676\_\_

813 screening as provided under chapter 435. An applicant is  
 814 ineligible, and a credentialing entity shall deny the  
 815 application, if the applicant has been found guilty of, or has  
 816 entered a plea of guilty or nolo contendere to, regardless of  
 817 adjudication, any offense listed in s. 408.809 or s. 435.04(2)  
 818 unless the department has issued an exemption under s. 435.07.  
 819 Exemptions from disqualification applicable to service provider  
 820 personnel pursuant to s. 397.4073 or s. 435.07 shall apply to  
 821 this subsection. In accordance with s. 435.04, the department  
 822 shall notify the credentialing agency of the applicant's  
 823 eligibility based on the results of his or her background  
 824 screening.

825 (6) The credentialing entity shall issue a certificate of  
 826 compliance upon approval of a person's application. The  
 827 certification shall automatically terminate 1 year after  
 828 issuance if not renewed.

829 (b) If a certified recovery residence administrator of a  
 830 recovery residence is arrested for or found guilty of, or enters  
 831 a plea of guilty or nolo contendere to, regardless of  
 832 adjudication, any offense listed in s. 435.04(2) while acting in  
 833 that capacity, the recovery residence shall immediately remove  
 834 the person from that position and shall notify the credentialing  
 835 entity within 3 business days after such removal. The recovery  
 836 residence shall have 30 days to retain a certified recovery  
 837 residence administrator. The credentialing entity shall revoke  
 838 the certificate of compliance of any recovery residence that  
 839 fails to meet these requirements.

840 Section 15. For the purpose of incorporating the amendment  
 841 made by this act to section 435.04, Florida Statutes, in a

29-00666A-23

2023676\_\_

842 reference thereto, paragraph (a) of subsection (3) of section  
 843 402.62, Florida Statutes, is reenacted to read:

844 402.62 Strong Families Tax Credit.—

845 (3) RESPONSIBILITIES OF ELIGIBLE CHARITABLE ORGANIZATIONS.—

846 An eligible charitable organization that receives a contribution  
 847 under this section must do all of the following:

848 (a) Apply for admittance into the Department of Law  
 849 Enforcement's Volunteer and Employee Criminal History System  
 850 and, if accepted, conduct background screening on all volunteers  
 851 and staff working directly with children in any program funded  
 852 under this section pursuant to s. 943.0542. Background screening  
 853 shall use level 2 screening standards pursuant to s. 435.04 and  
 854 additionally include, but need not be limited to, a check of the  
 855 Dru Sjodin National Sex Offender Public Website.

856 Section 16. For the purpose of incorporating the amendment  
 857 made by this act to section 435.04, Florida Statutes, in a  
 858 reference thereto, paragraph (a) of subsection (2) and  
 859 subsections (3) and (4) of section 408.809, Florida Statutes,  
 860 are reenacted to read:

861 408.809 Background screening; prohibited offenses.—

862 (2) Every 5 years following his or her licensure,  
 863 employment, or entry into a contract in a capacity that under  
 864 subsection (1) would require level 2 background screening under  
 865 chapter 435, each such person must submit to level 2 background  
 866 rescreening as a condition of retaining such license or  
 867 continuing in such employment or contractual status. For any  
 868 such rescreening, the agency shall request the Department of Law  
 869 Enforcement to forward the person's fingerprints to the Federal  
 870 Bureau of Investigation for a national criminal history record

29-00666A-23

2023676\_\_

871 check unless the person's fingerprints are enrolled in the  
 872 Federal Bureau of Investigation's national retained print arrest  
 873 notification program. If the fingerprints of such a person are  
 874 not retained by the Department of Law Enforcement under s.  
 875 943.05(2)(g) and (h), the person must submit fingerprints  
 876 electronically to the Department of Law Enforcement for state  
 877 processing, and the Department of Law Enforcement shall forward  
 878 the fingerprints to the Federal Bureau of Investigation for a  
 879 national criminal history record check. The fingerprints shall  
 880 be retained by the Department of Law Enforcement under s.  
 881 943.05(2)(g) and (h) and enrolled in the national retained print  
 882 arrest notification program when the Department of Law  
 883 Enforcement begins participation in the program. The cost of the  
 884 state and national criminal history records checks required by  
 885 level 2 screening may be borne by the licensee or the person  
 886 fingerprinted. The agency may accept as satisfying the  
 887 requirements of this section proof of compliance with level 2  
 888 screening standards submitted within the previous 5 years to  
 889 meet any provider or professional licensure requirements of the  
 890 Department of Financial Services for an applicant for a  
 891 certificate of authority or provisional certificate of authority  
 892 to operate a continuing care retirement community under chapter  
 893 651, provided that:

894 (a) The screening standards and disqualifying offenses for  
 895 the prior screening are equivalent to those specified in s.  
 896 435.04 and this section;

897 (3) All fingerprints must be provided in electronic format.  
 898 Screening results shall be reviewed by the agency with respect  
 899 to the offenses specified in s. 435.04 and this section, and the

29-00666A-23

2023676\_\_

900 qualifying or disqualifying status of the person named in the  
 901 request shall be maintained in a database. The qualifying or  
 902 disqualifying status of the person named in the request shall be  
 903 posted on a secure website for retrieval by the licensee or  
 904 designated agent on the licensee's behalf.

905 (4) In addition to the offenses listed in s. 435.04, all  
 906 persons required to undergo background screening pursuant to  
 907 this part or authorizing statutes must not have an arrest  
 908 awaiting final disposition for, must not have been found guilty  
 909 of, regardless of adjudication, or entered a plea of nolo  
 910 contendere or guilty to, and must not have been adjudicated  
 911 delinquent and the record not have been sealed or expunged for  
 912 any of the following offenses or any similar offense of another  
 913 jurisdiction:

914 (a) Any authorizing statutes, if the offense was a felony.

915 (b) This chapter, if the offense was a felony.

916 (c) Section 409.920, relating to Medicaid provider fraud.

917 (d) Section 409.9201, relating to Medicaid fraud.

918 (e) Section 741.28, relating to domestic violence.

919 (f) Section 777.04, relating to attempts, solicitation, and  
 920 conspiracy to commit an offense listed in this subsection.

921 (g) Section 784.03, relating to battery, if the victim is a  
 922 vulnerable adult as defined in s. 415.102 or a patient or  
 923 resident of a facility licensed under chapter 395, chapter 400,  
 924 or chapter 429.

925 (h) Section 817.034, relating to fraudulent acts through  
 926 mail, wire, radio, electromagnetic, photoelectronic, or  
 927 photooptical systems.

928 (i) Section 817.234, relating to false and fraudulent

29-00666A-23

2023676\_\_

929 insurance claims.

930 (j) Section 817.481, relating to obtaining goods by using a  
931 false or expired credit card or other credit device, if the  
932 offense was a felony.

933 (k) Section 817.50, relating to fraudulently obtaining  
934 goods or services from a health care provider.

935 (l) Section 817.505, relating to patient brokering.

936 (m) Section 817.568, relating to criminal use of personal  
937 identification information.

938 (n) Section 817.60, relating to obtaining a credit card  
939 through fraudulent means.

940 (o) Section 817.61, relating to fraudulent use of credit  
941 cards, if the offense was a felony.

942 (p) Section 831.01, relating to forgery.

943 (q) Section 831.02, relating to uttering forged  
944 instruments.

945 (r) Section 831.07, relating to forging bank bills, checks,  
946 drafts, or promissory notes.

947 (s) Section 831.09, relating to uttering forged bank bills,  
948 checks, drafts, or promissory notes.

949 (t) Section 831.30, relating to fraud in obtaining  
950 medicinal drugs.

951 (u) Section 831.31, relating to the sale, manufacture,  
952 delivery, or possession with the intent to sell, manufacture, or  
953 deliver any counterfeit controlled substance, if the offense was  
954 a felony.

955 (v) Section 895.03, relating to racketeering and collection  
956 of unlawful debts.

957 (w) Section 896.101, relating to the Florida Money

29-00666A-23

2023676\_\_

958 Laundering Act.

959

960 If, upon rescreening, a person who is currently employed or  
961 contracted with a licensee and was screened and qualified under  
962 s. 435.04 has a disqualifying offense that was not a  
963 disqualifying offense at the time of the last screening, but is  
964 a current disqualifying offense and was committed before the  
965 last screening, he or she may apply for an exemption from the  
966 appropriate licensing agency and, if agreed to by the employer,  
967 may continue to perform his or her duties until the licensing  
968 agency renders a decision on the application for exemption if  
969 the person is eligible to apply for an exemption and the  
970 exemption request is received by the agency no later than 30  
971 days after receipt of the rescreening results by the person.

972 Section 17. For the purpose of incorporating the amendment  
973 made by this act to section 435.04, Florida Statutes, in a  
974 reference thereto, subsection (13) of section 409.913, Florida  
975 Statutes, is reenacted to read:

976 409.913 Oversight of the integrity of the Medicaid  
977 program.—The agency shall operate a program to oversee the  
978 activities of Florida Medicaid recipients, and providers and  
979 their representatives, to ensure that fraudulent and abusive  
980 behavior and neglect of recipients occur to the minimum extent  
981 possible, and to recover overpayments and impose sanctions as  
982 appropriate. Each January 15, the agency and the Medicaid Fraud  
983 Control Unit of the Department of Legal Affairs shall submit a  
984 report to the Legislature documenting the effectiveness of the  
985 state's efforts to control Medicaid fraud and abuse and to  
986 recover Medicaid overpayments during the previous fiscal year.

29-00666A-23

2023676\_\_

987 The report must describe the number of cases opened and  
 988 investigated each year; the sources of the cases opened; the  
 989 disposition of the cases closed each year; the amount of  
 990 overpayments alleged in preliminary and final audit letters; the  
 991 number and amount of fines or penalties imposed; any reductions  
 992 in overpayment amounts negotiated in settlement agreements or by  
 993 other means; the amount of final agency determinations of  
 994 overpayments; the amount deducted from federal claiming as a  
 995 result of overpayments; the amount of overpayments recovered  
 996 each year; the amount of cost of investigation recovered each  
 997 year; the average length of time to collect from the time the  
 998 case was opened until the overpayment is paid in full; the  
 999 amount determined as uncollectible and the portion of the  
 1000 uncollectible amount subsequently reclaimed from the Federal  
 1001 Government; the number of providers, by type, that are  
 1002 terminated from participation in the Medicaid program as a  
 1003 result of fraud and abuse; and all costs associated with  
 1004 discovering and prosecuting cases of Medicaid overpayments and  
 1005 making recoveries in such cases. The report must also document  
 1006 actions taken to prevent overpayments and the number of  
 1007 providers prevented from enrolling in or reenrolling in the  
 1008 Medicaid program as a result of documented Medicaid fraud and  
 1009 abuse and must include policy recommendations necessary to  
 1010 prevent or recover overpayments and changes necessary to prevent  
 1011 and detect Medicaid fraud. All policy recommendations in the  
 1012 report must include a detailed fiscal analysis, including, but  
 1013 not limited to, implementation costs, estimated savings to the  
 1014 Medicaid program, and the return on investment. The agency must  
 1015 submit the policy recommendations and fiscal analyses in the

Page 35 of 79

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

29-00666A-23

2023676\_\_

1016 report to the appropriate estimating conference, pursuant to s.  
 1017 216.137, by February 15 of each year. The agency and the  
 1018 Medicaid Fraud Control Unit of the Department of Legal Affairs  
 1019 each must include detailed unit-specific performance standards,  
 1020 benchmarks, and metrics in the report, including projected cost  
 1021 savings to the state Medicaid program during the following  
 1022 fiscal year.

1023 (13) The agency shall terminate participation of a Medicaid  
 1024 provider in the Medicaid program and may seek civil remedies or  
 1025 impose other administrative sanctions against a Medicaid  
 1026 provider, if the provider or any principal, officer, director,  
 1027 agent, managing employee, or affiliated person of the provider,  
 1028 or any partner or shareholder having an ownership interest in  
 1029 the provider equal to 5 percent or greater, has been convicted  
 1030 of a criminal offense under federal law or the law of any state  
 1031 relating to the practice of the provider's profession, or a  
 1032 criminal offense listed under s. 408.809(4), s. 409.907(10), or  
 1033 s. 435.04(2). If the agency determines that the provider did not  
 1034 participate or acquiesce in the offense, termination will not be  
 1035 imposed. If the agency effects a termination under this  
 1036 subsection, the agency shall take final agency action.

1037 Section 18. For the purpose of incorporating the amendment  
 1038 made by this act to section 435.04, Florida Statutes, in a  
 1039 reference thereto, subsection (7) of section 413.011, Florida  
 1040 Statutes, is reenacted to read:

1041 413.011 Division of Blind Services, legislative policy,  
 1042 intent; internal organizational structure and powers;  
 1043 Rehabilitation Council for the Blind.-

1044 (7) EMPLOYMENT SCREENING.-The division shall require all

Page 36 of 79

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

29-00666A-23

2023676\_\_

1045 employees and applicants for employment to undergo personnel  
 1046 screening and security background investigations as provided in  
 1047 chapter 435, using the level 2 standards for screening set forth  
 1048 in that chapter, as a condition of employment and continued  
 1049 employment. All division employees and applicants for employment  
 1050 must meet level 2 screening standards as provided in s. 435.04  
 1051 prior to employment and as a condition of continued employment.

1052 Section 19. For the purpose of incorporating the amendment  
 1053 made by this act to section 435.04, Florida Statutes, in a  
 1054 reference thereto, paragraphs (d) and (e) of subsection (2) of  
 1055 section 413.208, Florida Statutes, are reenacted to read:

1056 413.208 Service providers; quality assurance; fitness for  
 1057 responsibilities; background screening.—

1058 (2)

1059 (d)1. Every 5 years following the initial screening, each  
 1060 person subject to background screening under this section must  
 1061 submit to level 2 background rescreening as a condition of the  
 1062 service provider retaining such registration.

1063 2. Until the person's background screening results are  
 1064 retained in the clearinghouse created under s. 435.12, the  
 1065 division may accept as satisfying the requirements of this  
 1066 section proof of compliance with level 2 screening standards  
 1067 submitted within the previous 5 years to meet any provider or  
 1068 professional licensure requirements of the Agency for Health  
 1069 Care Administration, the Department of Health, the Department of  
 1070 Elderly Affairs, the Agency for Persons with Disabilities, or  
 1071 the Department of Children and Families, provided:

1072 a. The screening standards and disqualifying offenses for  
 1073 the prior screening are equivalent to those specified in s.

Page 37 of 79

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

29-00666A-23

2023676\_\_

1074 435.04 and this section;

1075 b. The person subject to screening has not had a break in  
 1076 service from a position that requires level 2 screening for more  
 1077 than 90 days; and

1078 c. Such proof is accompanied, under penalty of perjury, by  
 1079 an affidavit of compliance with the provisions of chapter 435  
 1080 and this section.

1081 (e) In addition to the disqualifying offenses listed in s.  
 1082 435.04, all persons subject to undergo background screening  
 1083 pursuant to this section must not have an arrest awaiting final  
 1084 disposition for, must not have been found guilty of, regardless  
 1085 of adjudication, or entered a plea of nolo contendere or guilty  
 1086 to, and must not have been adjudicated delinquent, and the  
 1087 record has not been expunged for, any offense prohibited under  
 1088 any of the following provisions or similar law of another  
 1089 jurisdiction:

1090 1. Section 409.920, relating to Medicaid provider fraud.

1091 2. Section 409.9201, relating to Medicaid fraud.

1092 3. Section 741.28, relating to domestic violence.

1093 4. Section 817.034, relating to fraudulent acts through  
 1094 mail, wire, radio, electromagnetic, photoelectronic, or  
 1095 photooptical systems.

1096 5. Section 817.234, relating to false and fraudulent  
 1097 insurance claims.

1098 6. Section 817.505, relating to patient brokering.

1099 7. Section 817.568, relating to criminal use of personal  
 1100 identification information.

1101 8. Section 817.60, relating to obtaining a credit card  
 1102 through fraudulent means.

Page 38 of 79

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

29-00666A-23

2023676\_\_

1103 9. Section 817.61, relating to fraudulent use of credit  
 1104 cards, if the offense was a felony.

1105 10. Section 831.01, relating to forgery.

1106 11. Section 831.02, relating to uttering forged  
 1107 instruments.

1108 12. Section 831.07, relating to forging bank bills, checks,  
 1109 drafts, or promissory notes.

1110 13. Section 831.09, relating to uttering forged bank bills,  
 1111 checks, drafts, or promissory notes.

1112 14. Section 831.31, relating to the sale, manufacture,  
 1113 delivery, or possession with the intent to sell, manufacture, or  
 1114 deliver any counterfeit controlled substance, if the offense was  
 1115 a felony.

1116 Section 20. For the purpose of incorporating the amendment  
 1117 made by this act to section 435.04, Florida Statutes, in a  
 1118 reference thereto, subsection (6) of section 430.0402, Florida  
 1119 Statutes, is reenacted to read:

1120 430.0402 Screening of direct service providers.—  
 1121 (6) The background screening conducted pursuant to this  
 1122 section must ensure that, in addition to the disqualifying  
 1123 offenses listed in s. 435.04, no person subject to the  
 1124 provisions of this section has an arrest awaiting final  
 1125 disposition for, has been found guilty of, regardless of  
 1126 adjudication, or entered a plea of nolo contendere or guilty to,  
 1127 or has been adjudicated delinquent and the record has not been  
 1128 sealed or expunged for, any offense prohibited under any of the  
 1129 following provisions of state law or similar law of another  
 1130 jurisdiction:

1131 (a) Section 409.920, relating to Medicaid provider fraud.

Page 39 of 79

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

29-00666A-23

2023676\_\_

1132 (b) Section 409.9201, relating to Medicaid fraud.

1133 (c) Section 817.034, relating to fraudulent acts through  
 1134 mail, wire, radio, electromagnetic, photoelectronic, or  
 1135 photooptical systems.

1136 (d) Section 817.234, relating to false and fraudulent  
 1137 insurance claims.

1138 (e) Section 817.505, relating to patient brokering.

1139 (f) Section 817.568, relating to criminal use of personal  
 1140 identification information.

1141 (g) Section 817.60, relating to obtaining a credit card  
 1142 through fraudulent means.

1143 (h) Section 817.61, relating to fraudulent use of credit  
 1144 cards, if the offense was a felony.

1145 (i) Section 831.01, relating to forgery.

1146 (j) Section 831.02, relating to uttering forged  
 1147 instruments.

1148 (k) Section 831.07, relating to forging bank bills, checks,  
 1149 drafts, or promissory notes.

1150 (l) Section 831.09, relating to uttering forged bank bills,  
 1151 checks, drafts, or promissory notes.

1152 Section 21. For the purpose of incorporating the amendment  
 1153 made by this act to section 435.04, Florida Statutes, in a  
 1154 reference thereto, subsection (2) of section 435.03, Florida  
 1155 Statutes, is reenacted to read:

1156 435.03 Level 1 screening standards.—  
 1157 (2) Any person required by law to be screened pursuant to  
 1158 this section must not have an arrest awaiting final disposition,  
 1159 must not have been found guilty of, regardless of adjudication,  
 1160 or entered a plea of nolo contendere or guilty to, and must not

Page 40 of 79

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

29-00666A-23

2023676\_\_

1161 have been adjudicated delinquent and the record has not been  
 1162 sealed or expunged for, any offense prohibited under s.  
 1163 435.04(2) or similar law of another jurisdiction.

1164 Section 22. For the purpose of incorporating the amendment  
 1165 made by this act to section 435.04, Florida Statutes, in a  
 1166 reference thereto, paragraph (a) of subsection (4) of section  
 1167 435.07, Florida Statutes, is reenacted to read:

1168 435.07 Exemptions from disqualification.—Unless otherwise  
 1169 provided by law, the provisions of this section apply to  
 1170 exemptions from disqualification for disqualifying offenses  
 1171 revealed pursuant to background screenings required under this  
 1172 chapter, regardless of whether those disqualifying offenses are  
 1173 listed in this chapter or other laws.

1174 (4)(a) Disqualification from employment under this chapter  
 1175 may not be removed from, nor may an exemption be granted to, any  
 1176 personnel who is found guilty of, regardless of adjudication, or  
 1177 who has entered a plea of nolo contendere or guilty to, any  
 1178 felony covered by s. 435.03 or s. 435.04 solely by reason of any  
 1179 pardon, executive clemency, or restoration of civil rights.

1180 Section 23. For the purpose of incorporating the amendment  
 1181 made by this act to section 435.04, Florida Statutes, in a  
 1182 reference thereto, subsection (5) of section 456.0135, Florida  
 1183 Statutes, is reenacted to read:

1184 456.0135 General background screening provisions.—

1185 (5) In addition to the offenses listed in s. 435.04, all  
 1186 persons required to undergo background screening under this  
 1187 section, other than those licensed under s. 465.022, must not  
 1188 have an arrest awaiting final disposition for, must not have  
 1189 been found guilty of, regardless of adjudication, or entered a

29-00666A-23

2023676\_\_

1190 plea of nolo contendere or guilty to, and must not have been  
 1191 adjudicated delinquent and the record not have been sealed or  
 1192 expunged for an offense under s. 784.03 or any similar offense  
 1193 of another jurisdiction relating to battery, if the victim is a  
 1194 vulnerable adult as defined in s. 415.102 or a patient or  
 1195 resident of a facility licensed under chapter 395, chapter 400,  
 1196 or chapter 429.

1197 Section 24. For the purpose of incorporating the amendment  
 1198 made by this act to section 435.04, Florida Statutes, in a  
 1199 reference thereto, paragraph (e) of subsection (1) of section  
 1200 464.018, Florida Statutes, is reenacted to read:

1201 464.018 Disciplinary actions.—

1202 (1) The following acts constitute grounds for denial of a  
 1203 license or disciplinary action, as specified in ss. 456.072(2)  
 1204 and 464.0095:

1205 (e) Having been found guilty of or entered a plea of nolo  
 1206 contendere or guilty to, regardless of adjudication, any offense  
 1207 prohibited under s. 435.04 or similar statute of another  
 1208 jurisdiction; or having committed an act which constitutes  
 1209 domestic violence as defined in s. 741.28.

1210 Section 25. For the purpose of incorporating the amendment  
 1211 made by this act to section 435.04, Florida Statutes, in a  
 1212 reference thereto, paragraph (m) of subsection (1) of section  
 1213 468.3101, Florida Statutes, is reenacted to read:

1214 468.3101 Disciplinary grounds and actions.—

1215 (1) The department may make or require to be made any  
 1216 investigations, inspections, evaluations, and tests, and require  
 1217 the submission of any documents and statements, which it  
 1218 considers necessary to determine whether a violation of this

29-00666A-23

2023676\_\_

1219 part has occurred. The following acts shall be grounds for  
1220 disciplinary action as set forth in this section:

1221 (m) Having been found guilty of, regardless of  
1222 adjudication, or pleading guilty or nolo contendere to, any  
1223 offense prohibited under s. 435.04 or similar statute of another  
1224 jurisdiction.

1225 Section 26. For the purpose of incorporating the amendment  
1226 made by this act to section 435.04, Florida Statutes, in a  
1227 reference thereto, subsection (3) of section 744.309, Florida  
1228 Statutes, is reenacted to read:

1229 744.309 Who may be appointed guardian of a resident ward.—

1230 (3) DISQUALIFIED PERSONS.—No person who has been convicted  
1231 of a felony or who, from any incapacity or illness, is incapable  
1232 of discharging the duties of a guardian, or who is otherwise  
1233 unsuitable to perform the duties of a guardian, shall be  
1234 appointed to act as guardian. Further, no person who has been  
1235 judicially determined to have committed abuse, abandonment, or  
1236 neglect against a child as defined in s. 39.01 or s. 984.03(1),  
1237 (2), and (37), or who has been found guilty of, regardless of  
1238 adjudication, or entered a plea of nolo contendere or guilty to,  
1239 any offense prohibited under s. 435.04 or similar statute of  
1240 another jurisdiction, shall be appointed to act as a guardian.

1241 Except as provided in subsection (5) or subsection (6), a person  
1242 who provides substantial services to the proposed ward in a  
1243 professional or business capacity, or a creditor of the proposed  
1244 ward, may not be appointed guardian and retain that previous  
1245 professional or business relationship. A person may not be  
1246 appointed a guardian if he or she is in the employ of any  
1247 person, agency, government, or corporation that provides service

Page 43 of 79

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

29-00666A-23

2023676\_\_

1248 to the proposed ward in a professional or business capacity,  
1249 except that a person so employed may be appointed if he or she  
1250 is the spouse, adult child, parent, or sibling of the proposed  
1251 ward or the court determines that the potential conflict of  
1252 interest is insubstantial and that the appointment would clearly  
1253 be in the proposed ward's best interest. The court may not  
1254 appoint a guardian in any other circumstance in which a conflict  
1255 of interest may occur.

1256 Section 27. For the purpose of incorporating the amendment  
1257 made by this act to section 435.04, Florida Statutes, in a  
1258 reference thereto, subsection (12) of section 744.474, Florida  
1259 Statutes, is reenacted to read:

1260 744.474 Reasons for removal of guardian.—A guardian may be  
1261 removed for any of the following reasons, and the removal shall  
1262 be in addition to any other penalties prescribed by law:

1263 (12) Having been found guilty of, regardless of  
1264 adjudication, or entered a plea of nolo contendere or guilty to,  
1265 any offense prohibited under s. 435.04 or similar statute of  
1266 another jurisdiction.

1267 Section 28. For the purpose of incorporating the amendment  
1268 made by this act to section 435.04, Florida Statutes, in a  
1269 reference thereto, paragraph (a) of subsection (6) of section  
1270 985.04, Florida Statutes, is reenacted to read:

1271 985.04 Oaths; records; confidential information.—

1272 (6) (a) Records maintained by the department, including  
1273 copies of records maintained by the court, which pertain to a  
1274 child found to have committed a delinquent act which, if  
1275 committed by an adult, would be a crime specified in s. 435.04  
1276 may not be destroyed under this section for 25 years after the

Page 44 of 79

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



29-00666A-23

2023676\_\_

1277 youth's final referral to the department, except in cases of the  
 1278 death of the child. Such records, however, shall be sealed by  
 1279 the court for use only in meeting the screening requirements for  
 1280 personnel in s. 402.3055 and the other sections cited above, or  
 1281 under departmental rule; however, current criminal history  
 1282 information must be obtained from the Department of Law  
 1283 Enforcement in accordance with s. 943.053. The information shall  
 1284 be released to those persons specified in the above cited  
 1285 sections for the purposes of complying with those sections. The  
 1286 court may punish by contempt any person who releases or uses the  
 1287 records for any unauthorized purpose.

1288 Section 29. For the purpose of incorporating the amendment  
 1289 made by this act to section 435.04, Florida Statutes, in a  
 1290 reference thereto, paragraph (a) of subsection (3) of section  
 1291 985.644, Florida Statutes, is reenacted to read:

1292 985.644 Departmental contracting powers; personnel  
 1293 standards and investigation.—

1294 (3) (a) All employees of the department and all personnel of  
 1295 contract providers for any program for children, including all  
 1296 owners, operators, employees, persons who have access to  
 1297 confidential juvenile records, and volunteers, must complete:

1298 1. A level 2 employment screening pursuant to chapter 435  
 1299 before employment. The security background investigation  
 1300 conducted under this section must ensure that, in addition to  
 1301 the disqualifying offenses listed in s. 435.04, no person  
 1302 subject to the background screening provisions of this section  
 1303 has an arrest awaiting final disposition for, been found guilty  
 1304 of, regardless of adjudication, or entered a plea of nolo  
 1305 contendere or guilty to, or been adjudicated delinquent and the

Page 45 of 79

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

29-00666A-23

2023676\_\_

1306 record has not been sealed or expunged for, any offense  
 1307 prohibited under the following provisions of state law or  
 1308 similar laws of another jurisdiction:

1309 a. Section 784.07, relating to assault or battery of law  
 1310 enforcement officers, firefighters, emergency medical care  
 1311 providers, public transit employees or agents, or other  
 1312 specified officers.

1313 b. Section 817.568, relating to criminal use of personal  
 1314 identification information.

1315 2. A national criminal records check by the Federal Bureau  
 1316 of Investigation every 5 years following the date of the  
 1317 person's employment.

1318 Section 30. For the purpose of incorporating the amendment  
 1319 made by this act to section 435.04, Florida Statutes, in a  
 1320 reference thereto, paragraph (b) of subsection (7) of section  
 1321 1002.36, Florida Statutes, is reenacted to read:

1322 1002.36 Florida School for the Deaf and the Blind.—

1323 (7) PERSONNEL SCREENING.—

1324 (b) As a prerequisite for initial and continuing employment  
 1325 at the Florida School for the Deaf and the Blind:

1326 1. The applicant or employee shall submit to the Florida  
 1327 School for the Deaf and the Blind a complete set of fingerprints  
 1328 taken by an authorized law enforcement agency or an employee of  
 1329 the Florida School for the Deaf and the Blind who is trained to  
 1330 take fingerprints. The Florida School for the Deaf and the Blind  
 1331 shall submit the fingerprints to the Department of Law  
 1332 Enforcement for state processing and the Federal Bureau of  
 1333 Investigation for federal processing.

1334 2.a. The applicant or employee shall attest to the minimum

Page 46 of 79

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

29-00666A-23 2023676\_\_

1335 standards for good moral character as contained in chapter 435,  
 1336 using the level 2 standards set forth in that chapter under  
 1337 penalty of perjury.

1338 b. New personnel shall be on a probationary status pending  
 1339 a determination of compliance with such minimum standards for  
 1340 good moral character. This paragraph is in addition to any  
 1341 probationary status provided for by Florida law or Florida  
 1342 School for the Deaf and the Blind rules or collective bargaining  
 1343 contracts.

1344 3. The Florida School for the Deaf and the Blind shall  
 1345 review the record of the applicant or employee with respect to  
 1346 the crimes contained in s. 435.04 and shall notify the applicant  
 1347 or employee of its findings. When disposition information is  
 1348 missing on a criminal record, it shall be the responsibility of  
 1349 the applicant or employee, upon request of the Florida School  
 1350 for the Deaf and the Blind, to obtain and supply within 30 days  
 1351 the missing disposition information to the Florida School for  
 1352 the Deaf and the Blind. Failure to supply missing information  
 1353 within 30 days or to show reasonable efforts to obtain such  
 1354 information shall result in automatic disqualification of an  
 1355 applicant and automatic termination of an employee.

1356 4. After an initial personnel screening and security  
 1357 background investigation, written notification shall be given to  
 1358 the affected employee within a reasonable time prior to any  
 1359 subsequent screening and investigation.

1360 Section 31. For the purpose of incorporating the amendment  
 1361 made by this act to section 435.04, Florida Statutes, in a  
 1362 reference thereto, paragraph (b) of subsection (6) of section  
 1363 1002.395, Florida Statutes, is reenacted to read:

29-00666A-23 2023676\_\_

1364 1002.395 Florida Tax Credit Scholarship Program.—  
 1365 (6) OBLIGATIONS OF ELIGIBLE NONPROFIT SCHOLARSHIP-FUNDING  
 1366 ORGANIZATIONS.—An eligible nonprofit scholarship-funding  
 1367 organization:  
 1368 (b) Must comply with the following background check  
 1369 requirements:  
 1370 1. All owners and operators as defined in subparagraph  
 1371 (2) (i) 1. are, before employment or engagement to provide  
 1372 services, subject to level 2 background screening as provided  
 1373 under chapter 435. The fingerprints for the background screening  
 1374 must be electronically submitted to the Department of Law  
 1375 Enforcement and can be taken by an authorized law enforcement  
 1376 agency or by an employee of the eligible nonprofit scholarship-  
 1377 funding organization or a private company who is trained to take  
 1378 fingerprints. However, the complete set of fingerprints of an  
 1379 owner or operator may not be taken by the owner or operator. The  
 1380 results of the state and national criminal history check shall  
 1381 be provided to the Department of Education for screening under  
 1382 chapter 435. The cost of the background screening may be borne  
 1383 by the eligible nonprofit scholarship-funding organization or  
 1384 the owner or operator.

1385 2. Every 5 years following employment or engagement to  
 1386 provide services or association with an eligible nonprofit  
 1387 scholarship-funding organization, each owner or operator must  
 1388 meet level 2 screening standards as described in s. 435.04, at  
 1389 which time the nonprofit scholarship-funding organization shall  
 1390 request the Department of Law Enforcement to forward the  
 1391 fingerprints to the Federal Bureau of Investigation for level 2  
 1392 screening. If the fingerprints of an owner or operator are not

29-00666A-23

2023676\_\_

1393 retained by the Department of Law Enforcement under subparagraph  
 1394 3., the owner or operator must electronically file a complete  
 1395 set of fingerprints with the Department of Law Enforcement. Upon  
 1396 submission of fingerprints for this purpose, the eligible  
 1397 nonprofit scholarship-funding organization shall request that  
 1398 the Department of Law Enforcement forward the fingerprints to  
 1399 the Federal Bureau of Investigation for level 2 screening, and  
 1400 the fingerprints shall be retained by the Department of Law  
 1401 Enforcement under subparagraph 3.

1402 3. Fingerprints submitted to the Department of Law  
 1403 Enforcement as required by this paragraph must be retained by  
 1404 the Department of Law Enforcement in a manner approved by rule  
 1405 and entered in the statewide automated biometric identification  
 1406 system authorized by s. 943.05(2)(b). The fingerprints must  
 1407 thereafter be available for all purposes and uses authorized for  
 1408 arrest fingerprints entered in the statewide automated biometric  
 1409 identification system pursuant to s. 943.051.

1410 4. The Department of Law Enforcement shall search all  
 1411 arrest fingerprints received under s. 943.051 against the  
 1412 fingerprints retained in the statewide automated biometric  
 1413 identification system under subparagraph 3. Any arrest record  
 1414 that is identified with an owner's or operator's fingerprints  
 1415 must be reported to the Department of Education. The Department  
 1416 of Education shall participate in this search process by paying  
 1417 an annual fee to the Department of Law Enforcement and by  
 1418 informing the Department of Law Enforcement of any change in the  
 1419 employment, engagement, or association status of the owners or  
 1420 operators whose fingerprints are retained under subparagraph 3.  
 1421 The Department of Law Enforcement shall adopt a rule setting the

29-00666A-23

2023676\_\_

1422 amount of the annual fee to be imposed upon the Department of  
 1423 Education for performing these services and establishing the  
 1424 procedures for the retention of owner and operator fingerprints  
 1425 and the dissemination of search results. The fee may be borne by  
 1426 the owner or operator of the nonprofit scholarship-funding  
 1427 organization.

1428 5. A nonprofit scholarship-funding organization whose owner  
 1429 or operator fails the level 2 background screening is not  
 1430 eligible to provide scholarships under this section.

1431 6. A nonprofit scholarship-funding organization whose owner  
 1432 or operator in the last 7 years has filed for personal  
 1433 bankruptcy or corporate bankruptcy in a corporation of which he  
 1434 or she owned more than 20 percent shall not be eligible to  
 1435 provide scholarships under this section.

1436 7. In addition to the offenses listed in s. 435.04, a  
 1437 person required to undergo background screening pursuant to this  
 1438 part or authorizing statutes must not have an arrest awaiting  
 1439 final disposition for, must not have been found guilty of, or  
 1440 entered a plea of nolo contendere to, regardless of  
 1441 adjudication, and must not have been adjudicated delinquent, and  
 1442 the record must not have been sealed or expunged for, any of the  
 1443 following offenses or any similar offense of another  
 1444 jurisdiction:

- 1445 a. Any authorizing statutes, if the offense was a felony.
- 1446 b. This chapter, if the offense was a felony.
- 1447 c. Section 409.920, relating to Medicaid provider fraud.
- 1448 d. Section 409.9201, relating to Medicaid fraud.
- 1449 e. Section 741.28, relating to domestic violence.
- 1450 f. Section 817.034, relating to fraudulent acts through

29-00666A-23

2023676\_\_

1451 mail, wire, radio, electromagnetic, photoelectronic, or  
 1452 photooptical systems.

1453 g. Section 817.234, relating to false and fraudulent  
 1454 insurance claims.

1455 h. Section 817.505, relating to patient brokering.

1456 i. Section 817.568, relating to criminal use of personal  
 1457 identification information.

1458 j. Section 817.60, relating to obtaining a credit card  
 1459 through fraudulent means.

1460 k. Section 817.61, relating to fraudulent use of credit  
 1461 cards, if the offense was a felony.

1462 l. Section 831.01, relating to forgery.

1463 m. Section 831.02, relating to uttering forged instruments.

1464 n. Section 831.07, relating to forging bank bills, checks,  
 1465 drafts, or promissory notes.

1466 o. Section 831.09, relating to uttering forged bank bills,  
 1467 checks, drafts, or promissory notes.

1468 p. Section 831.30, relating to fraud in obtaining medicinal  
 1469 drugs.

1470 q. Section 831.31, relating to the sale, manufacture,  
 1471 delivery, or possession with the intent to sell, manufacture, or  
 1472 deliver any counterfeit controlled substance, if the offense was  
 1473 a felony.

1474

1475 Information and documentation provided to the Department of  
 1476 Education and the Auditor General relating to the identity of a  
 1477 taxpayer that provides an eligible contribution under this  
 1478 section shall remain confidential at all times in accordance  
 1479 with s. 213.053.

Page 51 of 79

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

29-00666A-23

2023676\_\_

1480 Section 32. For the purpose of incorporating the amendment  
 1481 made by this act to section 435.04, Florida Statutes, in a  
 1482 reference thereto, paragraphs (e), (m), and (p) of subsection  
 1483 (1) of section 1002.421, Florida Statutes, are reenacted to  
 1484 read:

1485 1002.421 State school choice scholarship program  
 1486 accountability and oversight.—

1487 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private  
 1488 school participating in an educational scholarship program  
 1489 established pursuant to this chapter must be a private school as  
 1490 defined in s. 1002.01(2) in this state, be registered, and be in  
 1491 compliance with all requirements of this section in addition to  
 1492 private school requirements outlined in s. 1002.42, specific  
 1493 requirements identified within respective scholarship program  
 1494 laws, and other provisions of Florida law that apply to private  
 1495 schools, and must:

1496 (e) Annually complete and submit to the department a  
 1497 notarized scholarship compliance statement certifying that all  
 1498 school employees and contracted personnel with direct student  
 1499 contact have undergone background screening pursuant to s.  
 1500 435.12 and have met the screening standards as provided in s.  
 1501 435.04.

1502 (m) Require each employee and contracted personnel with  
 1503 direct student contact, upon employment or engagement to provide  
 1504 services, to undergo a state and national background screening,  
 1505 pursuant to s. 943.0542, by electronically filing with the  
 1506 Department of Law Enforcement a complete set of fingerprints  
 1507 taken by an authorized law enforcement agency or an employee of  
 1508 the private school, a school district, or a private company who

Page 52 of 79

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

29-00666A-23

2023676\_\_

1509 is trained to take fingerprints and deny employment to or  
 1510 terminate an employee if he or she fails to meet the screening  
 1511 standards under s. 435.04. Results of the screening shall be  
 1512 provided to the participating private school. For purposes of  
 1513 this paragraph:

1514 1. An "employee or contracted personnel with direct student  
 1515 contact" means any employee or contracted personnel who has  
 1516 unsupervised access to a scholarship student for whom the  
 1517 private school is responsible.

1518 2. The costs of fingerprinting and the background check  
 1519 shall not be borne by the state.

1520 3. Continued employment of an employee or contracted  
 1521 personnel after notification that he or she has failed the  
 1522 background screening under this paragraph shall cause a private  
 1523 school to be ineligible for participation in a scholarship  
 1524 program.

1525 4. An employee or contracted personnel holding a valid  
 1526 Florida teaching certificate who has been fingerprinted pursuant  
 1527 to s. 1012.32 is not required to comply with the provisions of  
 1528 this paragraph.

1529 5. All fingerprints submitted to the Department of Law  
 1530 Enforcement as required by this section shall be retained by the  
 1531 Department of Law Enforcement in a manner provided by rule and  
 1532 entered in the statewide automated biometric identification  
 1533 system authorized by s. 943.05(2)(b). Such fingerprints shall  
 1534 thereafter be available for all purposes and uses authorized for  
 1535 arrest fingerprints entered in the statewide automated biometric  
 1536 identification system pursuant to s. 943.051.

1537 6. The Department of Law Enforcement shall search all

29-00666A-23

2023676\_\_

1538 arrest fingerprints received under s. 943.051 against the  
 1539 fingerprints retained in the statewide automated biometric  
 1540 identification system under subparagraph 5. Any arrest record  
 1541 that is identified with the retained fingerprints of a person  
 1542 subject to the background screening under this section shall be  
 1543 reported to the employing school with which the person is  
 1544 affiliated. Each private school participating in a scholarship  
 1545 program is required to participate in this search process by  
 1546 informing the Department of Law Enforcement of any change in the  
 1547 employment or contractual status of its personnel whose  
 1548 fingerprints are retained under subparagraph 5. The Department  
 1549 of Law Enforcement shall adopt a rule setting the amount of the  
 1550 annual fee to be imposed upon each private school for performing  
 1551 these searches and establishing the procedures for the retention  
 1552 of private school employee and contracted personnel fingerprints  
 1553 and the dissemination of search results. The fee may be borne by  
 1554 the private school or the person fingerprinted.

1555 7. Employees and contracted personnel whose fingerprints  
 1556 are not retained by the Department of Law Enforcement under  
 1557 subparagraphs 5. and 6. are required to be refingerprinted and  
 1558 must meet state and national background screening requirements  
 1559 upon reemployment or reengagement to provide services in order  
 1560 to comply with the requirements of this section.

1561 8. Every 5 years following employment or engagement to  
 1562 provide services with a private school, employees or contracted  
 1563 personnel required to be screened under this section must meet  
 1564 screening standards under s. 435.04, at which time the private  
 1565 school shall request the Department of Law Enforcement to  
 1566 forward the fingerprints to the Federal Bureau of Investigation

29-00666A-23

2023676\_\_

1567 for national processing. If the fingerprints of employees or  
 1568 contracted personnel are not retained by the Department of Law  
 1569 Enforcement under subparagraph 5., employees and contracted  
 1570 personnel must electronically file a complete set of  
 1571 fingerprints with the Department of Law Enforcement. Upon  
 1572 submission of fingerprints for this purpose, the private school  
 1573 shall request that the Department of Law Enforcement forward the  
 1574 fingerprints to the Federal Bureau of Investigation for national  
 1575 processing, and the fingerprints shall be retained by the  
 1576 Department of Law Enforcement under subparagraph 5.

1577 (p) Require each owner or operator of the private school,  
 1578 prior to employment or engagement to provide services, to  
 1579 undergo level 2 background screening as provided under chapter  
 1580 435. For purposes of this paragraph, the term "owner or  
 1581 operator" means an owner, operator, superintendent, or principal  
 1582 of, or a person with equivalent decisionmaking authority over, a  
 1583 private school participating in a scholarship program  
 1584 established pursuant to this chapter. The fingerprints for the  
 1585 background screening must be electronically submitted to the  
 1586 Department of Law Enforcement and may be taken by an authorized  
 1587 law enforcement agency or a private company who is trained to  
 1588 take fingerprints. However, the complete set of fingerprints of  
 1589 an owner or operator may not be taken by the owner or operator.  
 1590 The owner or operator shall provide a copy of the results of the  
 1591 state and national criminal history check to the Department of  
 1592 Education. The cost of the background screening may be borne by  
 1593 the owner or operator.

1594 1. Every 5 years following employment or engagement to  
 1595 provide services, each owner or operator must meet level 2

Page 55 of 79

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

29-00666A-23

2023676\_\_

1596 screening standards as described in s. 435.04, at which time the  
 1597 owner or operator shall request the Department of Law  
 1598 Enforcement to forward the fingerprints to the Federal Bureau of  
 1599 Investigation for level 2 screening. If the fingerprints of an  
 1600 owner or operator are not retained by the Department of Law  
 1601 Enforcement under subparagraph 2., the owner or operator must  
 1602 electronically file a complete set of fingerprints with the  
 1603 Department of Law Enforcement. Upon submission of fingerprints  
 1604 for this purpose, the owner or operator shall request that the  
 1605 Department of Law Enforcement forward the fingerprints to the  
 1606 Federal Bureau of Investigation for level 2 screening, and the  
 1607 fingerprints shall be retained by the Department of Law  
 1608 Enforcement under subparagraph 2.

1609 2. Fingerprints submitted to the Department of Law  
 1610 Enforcement as required by this paragraph must be retained by  
 1611 the Department of Law Enforcement in a manner approved by rule  
 1612 and entered in the statewide automated biometric identification  
 1613 system authorized by s. 943.05(2)(b). The fingerprints must  
 1614 thereafter be available for all purposes and uses authorized for  
 1615 arrest fingerprints entered in the statewide automated biometric  
 1616 identification system pursuant to s. 943.051.

1617 3. The Department of Law Enforcement shall search all  
 1618 arrest fingerprints received under s. 943.051 against the  
 1619 fingerprints retained in the statewide automated biometric  
 1620 identification system under subparagraph 2. Any arrest record  
 1621 that is identified with an owner's or operator's fingerprints  
 1622 must be reported to the owner or operator, who must report to  
 1623 the Department of Education. Any costs associated with the  
 1624 search shall be borne by the owner or operator.

Page 56 of 79

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

29-00666A-23

2023676\_\_

- 1625 4. An owner or operator who fails the level 2 background  
 1626 screening is not eligible to participate in a scholarship  
 1627 program under this chapter.
- 1628 5. In addition to the offenses listed in s. 435.04, a  
 1629 person required to undergo background screening pursuant to this  
 1630 part or authorizing statutes may not have an arrest awaiting  
 1631 final disposition for, must not have been found guilty of, or  
 1632 entered a plea of nolo contendere to, regardless of  
 1633 adjudication, and must not have been adjudicated delinquent for,  
 1634 and the record must not have been sealed or expunged for, any of  
 1635 the following offenses or any similar offense of another  
 1636 jurisdiction:
- 1637 a. Any authorizing statutes, if the offense was a felony.
  - 1638 b. This chapter, if the offense was a felony.
  - 1639 c. Section 409.920, relating to Medicaid provider fraud.
  - 1640 d. Section 409.9201, relating to Medicaid fraud.
  - 1641 e. Section 741.28, relating to domestic violence.
  - 1642 f. Section 817.034, relating to fraudulent acts through  
 1643 mail, wire, radio, electromagnetic, photoelectronic, or  
 1644 photooptical systems.
  - 1645 g. Section 817.234, relating to false and fraudulent  
 1646 insurance claims.
  - 1647 h. Section 817.505, relating to patient brokering.
  - 1648 i. Section 817.568, relating to criminal use of personal  
 1649 identification information.
  - 1650 j. Section 817.60, relating to obtaining a credit card  
 1651 through fraudulent means.
  - 1652 k. Section 817.61, relating to fraudulent use of credit  
 1653 cards, if the offense was a felony.

Page 57 of 79

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

29-00666A-23

2023676\_\_

- 1654 1. Section 831.01, relating to forgery.
- 1655 m. Section 831.02, relating to uttering forged instruments.
- 1656 n. Section 831.07, relating to forging bank bills, checks,  
 1657 drafts, or promissory notes.
- 1658 o. Section 831.09, relating to uttering forged bank bills,  
 1659 checks, drafts, or promissory notes.
- 1660 p. Section 831.30, relating to fraud in obtaining medicinal  
 1661 drugs.
- 1662 q. Section 831.31, relating to the sale, manufacture,  
 1663 delivery, or possession with the intent to sell, manufacture, or  
 1664 deliver any counterfeit controlled substance, if the offense was  
 1665 a felony.
- 1666 6. At least 30 calendar days before a transfer of ownership  
 1667 of a private school, the owner or operator shall notify the  
 1668 parent of each scholarship student.
- 1669 7. The owner or operator of a private school that has been  
 1670 deemed ineligible to participate in a scholarship program  
 1671 pursuant to this chapter may not transfer ownership or  
 1672 management authority of the school to a relative in order to  
 1673 participate in a scholarship program as the same school or a new  
 1674 school. For purposes of this subparagraph, the term "relative"  
 1675 means father, mother, son, daughter, grandfather, grandmother,  
 1676 brother, sister, uncle, aunt, cousin, nephew, niece, husband,  
 1677 wife, father-in-law, mother-in-law, son-in-law, daughter-in-law,  
 1678 brother-in-law, sister-in-law, stepfather, stepmother, stepson,  
 1679 stepdaughter, stepbrother, stepsister, half-brother, or half-  
 1680 sister.
- 1681  
 1682 The department shall suspend the payment of funds to a private

Page 58 of 79

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

29-00666A-23

2023676\_\_

1683 school that knowingly fails to comply with this subsection, and  
 1684 shall prohibit the school from enrolling new scholarship  
 1685 students, for 1 fiscal year and until the school complies. If a  
 1686 private school fails to meet the requirements of this subsection  
 1687 or has consecutive years of material exceptions listed in the  
 1688 report required under paragraph (q), the commissioner may  
 1689 determine that the private school is ineligible to participate  
 1690 in a scholarship program.

1691 Section 33. For the purpose of incorporating the amendment  
 1692 made by this act to section 435.04, Florida Statutes, in a  
 1693 reference thereto, paragraph (d) of subsection (3) of section  
 1694 1002.55, Florida Statutes, is reenacted to read:

1695 1002.55 School-year prekindergarten program delivered by  
 1696 private prekindergarten providers.—

1697 (3) To be eligible to deliver the prekindergarten program,  
 1698 a private prekindergarten provider must meet each of the  
 1699 following requirements:

1700 (d) Each prekindergarten instructor employed by the private  
 1701 prekindergarten provider must be of good moral character, must  
 1702 be screened using the level 2 screening standards in s. 435.04  
 1703 before employment and rescreened at least once every 5 years,  
 1704 must be denied employment or terminated if required under s.  
 1705 435.06, and must not be ineligible to teach in a public school  
 1706 because his or her educator certificate is suspended or revoked.

1707 Section 34. For the purpose of incorporating the amendment  
 1708 made by this act to section 435.04, Florida Statutes, in a  
 1709 reference thereto, subsection (5) of section 1002.61, Florida  
 1710 Statutes, is reenacted to read:

1711 1002.61 Summer prekindergarten program delivered by public

29-00666A-23

2023676\_\_

1712 schools and private prekindergarten providers.—

1713 (5) Each prekindergarten instructor employed by a public  
 1714 school or private prekindergarten provider delivering the summer  
 1715 prekindergarten program must be of good moral character, must be  
 1716 screened using the level 2 screening standards in s. 435.04  
 1717 before employment and rescreened at least once every 5 years,  
 1718 must be denied employment or terminated if required under s.  
 1719 435.06, and must not be ineligible to teach in a public school  
 1720 because his or her educator certificate is suspended or revoked.  
 1721 This subsection does not supersede employment requirements for  
 1722 instructional personnel in public schools which are more  
 1723 stringent than the requirements of this subsection.

1724 Section 35. For the purpose of incorporating the amendment  
 1725 made by this act to section 435.04, Florida Statutes, in a  
 1726 reference thereto, subsection (5) of section 1002.63, Florida  
 1727 Statutes, is reenacted to read:

1728 1002.63 School-year prekindergarten program delivered by  
 1729 public schools.—

1730 (5) Each prekindergarten instructor employed by a public  
 1731 school delivering the school-year prekindergarten program must  
 1732 be of good moral character, must be screened using the level 2  
 1733 screening standards in s. 435.04 before employment and  
 1734 rescreened at least once every 5 years, must be denied  
 1735 employment or terminated if required under s. 435.06, and must  
 1736 not be ineligible to teach in a public school because his or her  
 1737 educator certificate is suspended or revoked. This subsection  
 1738 does not supersede employment requirements for instructional  
 1739 personnel in public schools which are more stringent than the  
 1740 requirements of this subsection.



29-00666A-23

2023676\_\_

1741 Section 36. For the purpose of incorporating the amendment  
 1742 made by this act to section 435.04, Florida Statutes, in a  
 1743 reference thereto, paragraph (e) of subsection (2) of section  
 1744 1006.20, Florida Statutes, is reenacted to read:

1745 1006.20 Athletics in public K-12 schools.—

1746 (2) ADOPTION OF BYLAWS, POLICIES, OR GUIDELINES.—

1747 (e) The FHSAA shall adopt bylaws that regulate persons who  
 1748 conduct investigations on behalf of the FHSAA. The bylaws shall  
 1749 include provisions that require an investigator to:

1750 1. Undergo level 2 background screening under s. 435.04,  
 1751 establishing that the investigator has not committed any  
 1752 disqualifying offense listed in s. 435.04, unless the  
 1753 investigator can provide proof of compliance with level 2  
 1754 screening standards submitted within the previous 5 years to  
 1755 meet any professional licensure requirements, provided:

1756 a. The investigator has not had a break in service from a  
 1757 position that requires level 2 screening for more than 90 days;  
 1758 and

1759 b. The investigator submits, under penalty of perjury, an  
 1760 affidavit verifying that the investigator has not committed any  
 1761 disqualifying offense listed in s. 435.04 and is in full  
 1762 compliance with this paragraph.

1763 2. Be appointed as an investigator by the executive  
 1764 director.

1765 3. Carry a photo identification card that shows the FHSAA  
 1766 name, logo, and the investigator's official title.

1767 4. Adhere to the following guidelines:

1768 a. Investigate only those alleged violations assigned by  
 1769 the executive director or the board of directors.

Page 61 of 79

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

29-00666A-23

2023676\_\_

1770 b. Conduct interviews on Monday through Friday between the  
 1771 hours of 9 a.m. and 7 p.m. only, unless previously agreed to by  
 1772 the interviewee.

1773 c. Allow the parent of any student being interviewed to be  
 1774 present during the interview.

1775 d. Search residences or other private areas only with the  
 1776 permission of the executive director and the written consent of  
 1777 the student's parent and only with a parent or a representative  
 1778 of the parent present.

1779 Section 37. For the purpose of incorporating the amendment  
 1780 made by this act to section 435.04, Florida Statutes, in a  
 1781 reference thereto, section 1012.321, Florida Statutes, is  
 1782 reenacted to read:

1783 1012.321 Exceptions for certain instructional personnel  
 1784 from background screening requirements.—Instructional personnel  
 1785 who are required to undergo level 2 background screening under  
 1786 s. 393.0655 or s. 402.305 and who meet the level 2 screening  
 1787 standards in s. 435.04 are not required to be rescreened in  
 1788 order to satisfy the screening requirements in s. 1012.32 if the  
 1789 instructional personnel:

1790 (1) Have completed the criminal history check within 5  
 1791 years prior to having direct contact with students;

1792 (2) Are rescreened every 5 years and meet the level 2  
 1793 screening standards; and

1794 (3) Have their fingerprints retained by the Department of  
 1795 Law Enforcement.

1796 Section 38. For the purpose of incorporating the amendment  
 1797 made by this act to section 435.04, Florida Statutes, in a  
 1798 reference thereto, paragraph (b) of subsection (2) of section

Page 62 of 79

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

29-00666A-23

2023676\_\_

1799 1012.468, Florida Statutes, is reenacted to read:

1800 1012.468 Exceptions to certain fingerprinting and criminal  
1801 history checks.—

1802 (2) A district school board shall exempt from the screening  
1803 requirements set forth in ss. 1012.465 and 1012.467 the  
1804 following noninstructional contractors:

1805 (b) Noninstructional contractors who are required by law to  
1806 undergo a level 2 background screening pursuant to s. 435.04 for  
1807 licensure, certification, employment, or other purposes and who  
1808 submit evidence of meeting the following criteria:

1809 1. The contractor meets the screening standards in s.  
1810 435.04;

1811 2. The contractor's license or certificate is active and in  
1812 good standing, if the contractor is a licensee or  
1813 certificateholder; and

1814 3. The contractor completed the criminal history check  
1815 within 5 years prior to seeking access to school grounds when  
1816 students are present.

1817 Section 39. For the purpose of incorporating the amendment  
1818 made by this act to section 1012.315, Florida Statutes, in a  
1819 reference thereto, paragraph (b) of subsection (4) of section  
1820 1001.10, Florida Statutes, is reenacted to read:

1821 1001.10 Commissioner of Education; general powers and  
1822 duties.—

1823 (4) The Department of Education shall:

1824 (b) Maintain a disqualification list that includes all of  
1825 the following:

1826 1. The identity of each person who has been permanently  
1827 denied an educator certificate or whose educator certificate has

29-00666A-23

2023676\_\_

1828 been permanently revoked and has been placed on the list as  
1829 directed by the Education Practices Commission pursuant to s.  
1830 1012.795(1) or s. 1012.796(7).

1831 2. The identity of each person who has been permanently  
1832 disqualified by the commissioner from owning or operating a  
1833 private school that participates in state scholarship programs  
1834 under s. 1002.421.

1835 3. The identity of each person who has been terminated, or  
1836 has resigned in lieu of termination, from employment as a result  
1837 of sexual misconduct with a student.

1838 4. The identity of each person who is ineligible for  
1839 educator certification or employment pursuant to s. 1012.315.

1840 Section 40. For the purpose of incorporating the amendment  
1841 made by this act to section 1012.315, Florida Statutes, in a  
1842 reference thereto, subsection (6) of section 1001.42, Florida  
1843 Statutes, is reenacted to read:

1844 1001.42 Powers and duties of district school board.—The  
1845 district school board, acting as a board, shall exercise all  
1846 powers and perform all duties listed below:

1847 (6) STANDARDS OF ETHICAL CONDUCT.—Adopt policies  
1848 establishing standards of ethical conduct for educational  
1849 support employees, instructional personnel, administrative  
1850 personnel, and school officers. The policies must require all  
1851 educational support employees, instructional personnel,  
1852 administrative personnel, and school officers, as defined in s.  
1853 1012.01, to complete training on the standards; establish the  
1854 duty of educational support employees, instructional personnel,  
1855 administrative personnel, and school officers to report, and  
1856 procedures for reporting, alleged misconduct by other

29-00666A-23

2023676\_\_

1857 educational support employees, instructional or administrative  
 1858 personnel, and school officers which affects the health, safety,  
 1859 or welfare of a student, including misconduct that involves  
 1860 engaging in or soliciting sexual, romantic, or lewd conduct with  
 1861 a student; require the district school superintendent to report  
 1862 to law enforcement misconduct by educational support employees,  
 1863 instructional personnel, or school administrators that would  
 1864 result in disqualification from educator certification or  
 1865 employment as provided in s. 1012.315; and include an  
 1866 explanation of the liability protections provided under ss.  
 1867 39.203 and 768.095. A district school board, or any of its  
 1868 employees or personnel, may not enter into a confidentiality  
 1869 agreement regarding terminated or dismissed educational support  
 1870 employees, instructional or administrative personnel, or school  
 1871 officers who resign in lieu of termination, based in whole or in  
 1872 part on misconduct that affects the health, safety, or welfare  
 1873 of a student, and may not provide educational support employees,  
 1874 instructional personnel, administrative personnel, or school  
 1875 officers with employment references or discuss the employees',  
 1876 personnel's, or officers' performance with prospective employers  
 1877 in another educational setting, without disclosing the  
 1878 employees', personnel's, or officers' misconduct. Any part of an  
 1879 agreement or contract that has the purpose or effect of  
 1880 concealing misconduct by educational support employees,  
 1881 instructional personnel, administrative personnel, or school  
 1882 officers which affects the health, safety, or welfare of a  
 1883 student is void, is contrary to public policy, and may not be  
 1884 enforced.

1885 Section 41. For the purpose of incorporating the amendment

Page 65 of 79

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

29-00666A-23

2023676\_\_

1886 made by this act to section 1012.315, Florida Statutes, in a  
 1887 reference thereto, paragraph (b) of subsection (12) of section  
 1888 1001.51, Florida Statutes, is reenacted to read:

1889 1001.51 Duties and responsibilities of district school  
 1890 superintendent.—The district school superintendent shall  
 1891 exercise all powers and perform all duties listed below and  
 1892 elsewhere in the law, provided that, in so doing, he or she  
 1893 shall advise and counsel with the district school board. The  
 1894 district school superintendent shall perform all tasks necessary  
 1895 to make sound recommendations, nominations, proposals, and  
 1896 reports required by law to be acted upon by the district school  
 1897 board. All such recommendations, nominations, proposals, and  
 1898 reports by the district school superintendent shall be either  
 1899 recorded in the minutes or shall be made in writing, noted in  
 1900 the minutes, and filed in the public records of the district  
 1901 school board. It shall be presumed that, in the absence of the  
 1902 record required in this section, the recommendations,  
 1903 nominations, and proposals required of the district school  
 1904 superintendent were not contrary to the action taken by the  
 1905 district school board in such matters.

1906 (12) RECORDS AND REPORTS.—Recommend such records as should  
 1907 be kept in addition to those prescribed by rules of the State  
 1908 Board of Education; prepare forms for keeping such records as  
 1909 are approved by the district school board; ensure that such  
 1910 records are properly kept; and make all reports that are needed  
 1911 or required, as follows:

1912 (b) *Reports to the department.*—Prepare, for the approval of  
 1913 the district school board, all reports required by law or rules  
 1914 of the State Board of Education to be made to the department and

Page 66 of 79

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

29-00666A-23

2023676\_\_

1915 transmit promptly all such reports, when approved, to the  
 1916 department, as required by law. If any reports are not  
 1917 transmitted at the time and in the manner prescribed by law or  
 1918 by State Board of Education rules, the salary of the district  
 1919 school superintendent must be withheld until the report has been  
 1920 properly submitted. Unless otherwise provided by rules of the  
 1921 State Board of Education, the annual report on attendance and  
 1922 personnel is due on or before July 1, and the annual school  
 1923 budget and the report on finance are due on the date prescribed  
 1924 by the commissioner.

1925  
 1926 Any district school superintendent who knowingly signs and  
 1927 transmits to any state official a report that the superintendent  
 1928 knows to be false or incorrect; who knowingly fails to complete  
 1929 the investigation of any allegation of misconduct that affects  
 1930 the health, safety, or welfare of a student, that would be a  
 1931 violation of s. 800.101, or that would be a disqualifying  
 1932 offense under s. 1012.315, or any allegation of sexual  
 1933 misconduct with a student; who knowingly fails to report the  
 1934 alleged misconduct to the department as required in s. 1012.796;  
 1935 or who knowingly fails to report misconduct to the law  
 1936 enforcement agencies with jurisdiction over the conduct pursuant  
 1937 to district school board policy under s. 1001.42(6), forfeits  
 1938 his or her salary for 1 year following the date of such act or  
 1939 failure to act.

1940 Section 42. For the purpose of incorporating the amendment  
 1941 made by this act to section 1012.315, Florida Statutes, in a  
 1942 reference thereto, paragraph (g) of subsection (12) of section  
 1943 1002.33, Florida Statutes, is reenacted to read:

Page 67 of 79

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

29-00666A-23

2023676\_\_

1944 1002.33 Charter schools.-  
 1945 (12) EMPLOYEES OF CHARTER SCHOOLS.-  
 1946 (g)1. A charter school shall employ or contract with  
 1947 employees who have undergone background screening as provided in  
 1948 s. 1012.32. Members of the governing board of the charter school  
 1949 shall also undergo background screening in a manner similar to  
 1950 that provided in s. 1012.32. An individual may not be employed  
 1951 as an employee or contract personnel of a charter school or  
 1952 serve as a member of a charter school governing board if the  
 1953 individual is on the disqualification list maintained by the  
 1954 department pursuant to s. 1001.10(4)(b).

1955 2. A charter school shall prohibit educational support  
 1956 employees, instructional personnel, and school administrators,  
 1957 as defined in s. 1012.01, from employment in any position that  
 1958 requires direct contact with students if the employees,  
 1959 personnel, or administrators are ineligible for such employment  
 1960 under s. 1012.315 or have been terminated or have resigned in  
 1961 lieu of termination for sexual misconduct with a student. If the  
 1962 prohibited conduct occurs while employed, a charter school must  
 1963 report the individual and the disqualifying circumstances to the  
 1964 department for inclusion on the disqualification list maintained  
 1965 pursuant to s. 1001.10(4)(b).

1966 3. The governing board of a charter school shall adopt  
 1967 policies establishing standards of ethical conduct for  
 1968 educational support employees, instructional personnel, and  
 1969 school administrators. The policies must require all educational  
 1970 support employees, instructional personnel, and school  
 1971 administrators, as defined in s. 1012.01, to complete training  
 1972 on the standards; establish the duty of educational support

Page 68 of 79

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

29-00666A-23 2023676\_\_

1973 employees, instructional personnel, and school administrators to  
 1974 report, and procedures for reporting, alleged misconduct that  
 1975 affects the health, safety, or welfare of a student; and include  
 1976 an explanation of the liability protections provided under ss.  
 1977 39.203 and 768.095. A charter school, or any of its employees,  
 1978 may not enter into a confidentiality agreement regarding  
 1979 terminated or dismissed educational support employees,  
 1980 instructional personnel, or school administrators, or employees,  
 1981 personnel, or administrators who resign in lieu of termination,  
 1982 based in whole or in part on misconduct that affects the health,  
 1983 safety, or welfare of a student, and may not provide employees,  
 1984 personnel, or administrators with employment references or  
 1985 discuss the employees', personnel's, or administrators'  
 1986 performance with prospective employers in another educational  
 1987 setting, without disclosing the employees', personnel's, or  
 1988 administrators' misconduct. Any part of an agreement or contract  
 1989 that has the purpose or effect of concealing misconduct by  
 1990 educational support employees, instructional personnel, or  
 1991 school administrators which affects the health, safety, or  
 1992 welfare of a student is void, is contrary to public policy, and  
 1993 may not be enforced.

1994 4. Before employing an individual in any position that  
 1995 requires direct contact with students, a charter school shall  
 1996 conduct employment history checks of each individual through use  
 1997 of the educator screening tools described in s. 1001.10(5), and  
 1998 document the findings. If unable to contact a previous employer,  
 1999 the charter school must document efforts to contact the  
 2000 employer.

2001 5. The sponsor of a charter school that knowingly fails to

29-00666A-23 2023676\_\_

2002 comply with this paragraph shall terminate the charter under  
 2003 subsection (8).

2004 Section 43. For the purpose of incorporating the amendment  
 2005 made by this act to section 1012.315, Florida Statutes, in a  
 2006 reference thereto, paragraph (d) of subsection (6) of section  
 2007 1002.333, Florida Statutes, is reenacted to read:  
 2008 1002.333 Persistently low-performing schools.—  
 2009 (6) STATUTORY AUTHORITY.—  
 2010 (d) A hope operator may employ school administrators and  
 2011 instructional personnel who do not meet the requirements of s.  
 2012 1012.56 if the school administrators and instructional personnel  
 2013 are not ineligible for such employment under s. 1012.315.

2014 Section 44. For the purpose of incorporating the amendment  
 2015 made by this act to section 1012.315, Florida Statutes, in a  
 2016 reference thereto, paragraph (r) of subsection (1) of section  
 2017 1002.421, Florida Statutes, is reenacted to read:  
 2018 1002.421 State school choice scholarship program  
 2019 accountability and oversight.—  
 2020 (1) PRIVATE SCHOOL ELIGIBILITY AND OBLIGATIONS.—A private  
 2021 school participating in an educational scholarship program  
 2022 established pursuant to this chapter must be a private school as  
 2023 defined in s. 1002.01(2) in this state, be registered, and be in  
 2024 compliance with all requirements of this section in addition to  
 2025 private school requirements outlined in s. 1002.42, specific  
 2026 requirements identified within respective scholarship program  
 2027 laws, and other provisions of Florida law that apply to private  
 2028 schools, and must:  
 2029 (r) Prohibit education support employees, instructional  
 2030 personnel, and school administrators from employment in any

29-00666A-23

2023676\_\_

2031 position that requires direct contact with students if the  
 2032 personnel or administrators are ineligible for such employment  
 2033 pursuant to this section or s. 1012.315, or have been terminated  
 2034 or have resigned in lieu of termination for sexual misconduct  
 2035 with a student. If the prohibited conduct occurs subsequent to  
 2036 employment, the private school must report the person and the  
 2037 disqualifying circumstances to the department for inclusion on  
 2038 the disqualification list maintained pursuant to s.  
 2039 1001.10(4)(b).

2040

2041 The department shall suspend the payment of funds to a private  
 2042 school that knowingly fails to comply with this subsection, and  
 2043 shall prohibit the school from enrolling new scholarship  
 2044 students, for 1 fiscal year and until the school complies. If a  
 2045 private school fails to meet the requirements of this subsection  
 2046 or has consecutive years of material exceptions listed in the  
 2047 report required under paragraph (q), the commissioner may  
 2048 determine that the private school is ineligible to participate  
 2049 in a scholarship program.

2050

2051 Section 45. For the purpose of incorporating the amendment  
 2052 made by this act to section 1012.315, Florida Statutes, in a  
 2053 reference thereto, Subsection (1) of section 1012.32, Florida  
 2054 Statutes, is reenacted to read:

2054

1012.32 Qualifications of personnel.—

2055

2056 (1) To be eligible for appointment in any position in any  
 2057 district school system, a person must be of good moral  
 2058 character; must have attained the age of 18 years, if he or she  
 2059 is to be employed in an instructional capacity; must not be  
 ineligible for such employment under s. 1012.315; and must, when

29-00666A-23

2023676\_\_

2060 required by law, hold a certificate or license issued under  
 2061 rules of the State Board of Education or the Department of  
 2062 Children and Families, except when employed pursuant to s.  
 2063 1012.55 or under the emergency provisions of s. 1012.24.  
 2064 Previous residence in this state shall not be required in any  
 2065 school of the state as a prerequisite for any person holding a  
 2066 valid Florida certificate or license to serve in an  
 2067 instructional capacity.

2068

2069 Section 46. For the purpose of incorporating the amendment  
 2070 made by this act to section 1012.315, Florida Statutes, in a  
 2071 reference thereto, paragraphs (a) and (d) of subsection (10) of  
 2072 section 1012.56, Florida Statutes, are reenacted to read:

2072

1012.56 Educator certification requirements.—

2073

2074 (10) BACKGROUND SCREENING REQUIRED, INITIALLY AND  
 PERIODICALLY.—

2075

2076 (a) Each person who seeks certification under this chapter  
 2077 must be fingerprinted and screened in accordance with s. 1012.32  
 2078 and must not be ineligible for such certification under s.  
 2079 1012.315. A person who has been screened in accordance with s.  
 2080 1012.32 by a district school board or the Department of  
 2081 Education within 12 months before the date the person initially  
 2082 obtains certification under this chapter, the results of which  
 2083 are submitted to the district school board or to the Department  
 2084 of Education, is not required to repeat the screening under this  
 paragraph.

2085

2086 (d) If it is found under s. 1012.796 that a person who is  
 2087 employed in a position requiring certification under this  
 2088 chapter has not been screened in accordance with s. 1012.32, or  
 is ineligible for such certification under s. 1012.315, the

29-00666A-23

2023676\_\_

2089 person's certification shall be immediately revoked or suspended  
 2090 and he or she shall be immediately suspended from the position  
 2091 requiring certification.

2092 Section 47. For the purpose of incorporating the amendment  
 2093 made by this act to section 1012.315, Florida Statutes, in a  
 2094 reference thereto, subsection (1) of section 1012.795, Florida  
 2095 Statutes, is reenacted to read:

2096 1012.795 Education Practices Commission; authority to  
 2097 discipline.—

2098 (1) The Education Practices Commission may suspend the  
 2099 educator certificate of any instructional personnel or school  
 2100 administrator, as defined in s. 1012.01(2) or (3), for up to 5  
 2101 years, thereby denying that person the right to teach or  
 2102 otherwise be employed by a district school board or public  
 2103 school in any capacity requiring direct contact with students  
 2104 for that period of time, after which the person may return to  
 2105 teaching as provided in subsection (4); may revoke the educator  
 2106 certificate of any person, thereby denying that person the right  
 2107 to teach or otherwise be employed by a district school board or  
 2108 public school in any capacity requiring direct contact with  
 2109 students for up to 10 years, with reinstatement subject to  
 2110 subsection (4); may permanently revoke the educator certificate  
 2111 of any person thereby denying that person the right to teach or  
 2112 otherwise be employed by a district school board or public  
 2113 school in any capacity requiring direct contact with students;  
 2114 may suspend a person's educator certificate, upon an order of  
 2115 the court or notice by the Department of Revenue relating to the  
 2116 payment of child support; may direct the department to place a  
 2117 certificateholder employed by a public school, charter school,

Page 73 of 79

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

29-00666A-23

2023676\_\_

2118 charter school governing board, or private school that  
 2119 participates in a state scholarship program under chapter 1002  
 2120 on the disqualification list maintained by the department  
 2121 pursuant to s. 1001.10(4)(b) for misconduct that would render  
 2122 the person ineligible pursuant to s. 1012.315 or sexual  
 2123 misconduct with a student; or may impose any other penalty  
 2124 provided by law, if the person:

2125 (a) Obtained or attempted to obtain an educator certificate  
 2126 by fraudulent means.

2127 (b) Knowingly failed to report actual or suspected child  
 2128 abuse as required in s. 1006.061 or report alleged misconduct by  
 2129 instructional personnel or school administrators which affects  
 2130 the health, safety, or welfare of a student as required in s.  
 2131 1012.796.

2132 (c) Has proved to be incompetent to teach or to perform  
 2133 duties as an employee of the public school system or to teach in  
 2134 or to operate a private school.

2135 (d) Has been guilty of gross immorality or an act involving  
 2136 moral turpitude as defined by rule of the State Board of  
 2137 Education, including engaging in or soliciting sexual, romantic,  
 2138 or lewd conduct with a student or minor.

2139 (e) Has had an educator certificate or other professional  
 2140 license sanctioned by this or any other state or has had the  
 2141 authority to practice the regulated profession revoked,  
 2142 suspended, or otherwise acted against, including a denial of  
 2143 certification or licensure, by the licensing or certifying  
 2144 authority of any jurisdiction, including its agencies and  
 2145 subdivisions. The licensing or certifying authority's acceptance  
 2146 of a relinquishment, stipulation, consent order, or other

Page 74 of 79

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

29-00666A-23

2023676\_\_

2147 settlement offered in response to or in anticipation of the  
 2148 filing of charges against the licensee or certificateholder  
 2149 shall be construed as action against the license or certificate.  
 2150 For purposes of this section, a sanction or action against a  
 2151 professional license, a certificate, or an authority to practice  
 2152 a regulated profession must relate to being an educator or the  
 2153 fitness of or ability to be an educator.

2154 (f) Has been convicted or found guilty of, has had  
 2155 adjudication withheld for, or has pled guilty or nolo contendere  
 2156 to a misdemeanor, felony, or any other criminal charge, other  
 2157 than a minor traffic violation.

2158 (g) Upon investigation, has been found guilty of personal  
 2159 conduct that seriously reduces that person's effectiveness as an  
 2160 employee of the district school board.

2161 (h) Has breached a contract, as provided in s. 1012.33(2)  
 2162 or s. 1012.335.

2163 (i) Has been the subject of a court order or notice by the  
 2164 Department of Revenue pursuant to s. 409.2598 directing the  
 2165 Education Practices Commission to suspend the certificate as a  
 2166 result of noncompliance with a child support order, a subpoena,  
 2167 an order to show cause, or a written agreement with the  
 2168 Department of Revenue.

2169 (j) Has violated the Principles of Professional Conduct for  
 2170 the Education Profession prescribed by State Board of Education  
 2171 rules.

2172 (k) Has otherwise violated the provisions of law, the  
 2173 penalty for which is the revocation of the educator certificate.

2174 (l) Has violated any order of the Education Practices  
 2175 Commission.

29-00666A-23

2023676\_\_

2176 (m) Has been the subject of a court order or plea agreement  
 2177 in any jurisdiction which requires the certificateholder to  
 2178 surrender or otherwise relinquish his or her educator's  
 2179 certificate. A surrender or relinquishment shall be for  
 2180 permanent revocation of the certificate. A person may not  
 2181 surrender or otherwise relinquish his or her certificate prior  
 2182 to a finding of probable cause by the commissioner as provided  
 2183 in s. 1012.796.

2184 (n) Has been disqualified from educator certification under  
 2185 s. 1012.315.

2186 (o) Has committed a third recruiting offense as determined  
 2187 by the Florida High School Athletic Association (FHSAA) pursuant  
 2188 to s. 1006.20(2)(b).

2189 (p) Has violated test security as provided in s. 1008.24.  
 2190 Section 48. For the purpose of incorporating the amendment  
 2191 made by this act to section 1012.315, Florida Statutes, in a  
 2192 reference thereto, paragraph (i) of subsection (7) of section  
 2193 1012.796, Florida Statutes, is reenacted to read:

2194 1012.796 Complaints against teachers and administrators;  
 2195 procedure; penalties.-

2196 (7) A panel of the commission shall enter a final order  
 2197 either dismissing the complaint or imposing one or more of the  
 2198 following penalties:

2199 (i) Direct the department to place instructional personnel  
 2200 or school administrators on the disqualification list maintained  
 2201 by the department pursuant to s. 1001.10(4)(b) for conduct that  
 2202 would render the person ineligible pursuant to s. 1012.315 or  
 2203 sexual misconduct with a student.

2204



29-00666A-23

2023676\_\_

2205 The penalties imposed under this subsection are in addition to,  
 2206 and not in lieu of, the penalties required for a third  
 2207 recruiting offense pursuant to s. 1006.20(2)(b).

2208 Section 49. For the purpose of incorporating the amendment  
 2209 made by this act to section 1012.467, Florida Statutes, in a  
 2210 reference thereto, subsection (2) and paragraph (a) of  
 2211 subsection (3) of section 1012.468, Florida Statutes, are  
 2212 reenacted to read:

2213 1012.468 Exceptions to certain fingerprinting and criminal  
 2214 history checks.—

2215 (2) A district school board shall exempt from the screening  
 2216 requirements set forth in ss. 1012.465 and 1012.467 the  
 2217 following noninstructional contractors:

2218 (a)1. Noninstructional contractors who are under the direct  
 2219 supervision of a school district employee or contractor who has  
 2220 had a criminal history check and meets the screening  
 2221 requirements under s. 1012.32, s. 1012.465, s. 1012.467, or s.  
 2222 1012.56. For purposes of this paragraph, the term "direct  
 2223 supervision" means that a school district employee or contractor  
 2224 is physically present with a noninstructional contractor when  
 2225 the contractor has access to a student and the access remains in  
 2226 the school district employee's or the contractor's line of  
 2227 sight.

2228 2. If a noninstructional contractor who is exempt under  
 2229 this subsection is no longer under direct supervision as  
 2230 specified in subparagraph 1., the contractor may not be  
 2231 permitted on school grounds when students are present until the  
 2232 contractor meets the screening requirements in s. 1012.465 or s.  
 2233 1012.467.

Page 77 of 79

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

29-00666A-23

2023676\_\_

2234 (b) Noninstructional contractors who are required by law to  
 2235 undergo a level 2 background screening pursuant to s. 435.04 for  
 2236 licensure, certification, employment, or other purposes and who  
 2237 submit evidence of meeting the following criteria:

2238 1. The contractor meets the screening standards in s.  
 2239 435.04;

2240 2. The contractor's license or certificate is active and in  
 2241 good standing, if the contractor is a licensee or  
 2242 certificateholder; and

2243 3. The contractor completed the criminal history check  
 2244 within 5 years prior to seeking access to school grounds when  
 2245 students are present.

2246 (c) A law enforcement officer, as defined in s. 943.10, who  
 2247 is assigned or dispatched to school grounds by his or her  
 2248 employer.

2249 (d) An employee or medical director of an ambulance  
 2250 provider, licensed pursuant to chapter 401, who is providing  
 2251 services within the scope of part III of chapter 401 on behalf  
 2252 of such ambulance provider.

2253 (e) Noninstructional contractors who remain at a site where  
 2254 students are not permitted if the site is separated from the  
 2255 remainder of the school grounds by a single chain-link fence of  
 2256 6 feet in height.

2257 (f) A noninstructional contractor who provides pickup or  
 2258 delivery services and those services involve brief visits on  
 2259 school grounds when students are present.

2260 (g) An investigator for the Florida High School Athletic  
 2261 Association (FHSAA) who meets the requirements under s.  
 2262 1006.20(2)(e).

Page 78 of 79

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

29-00666A-23

2023676\_\_

2263 (3) (a) A noninstructional contractor who is exempt under  
2264 this section from the screening requirements set forth in s.  
2265 1012.465 or s. 1012.467 is subject to a search of his or her  
2266 name or other identifying information against the registration  
2267 information regarding sexual predators and sexual offenders  
2268 maintained by the Department of Law Enforcement under s. 943.043  
2269 and the National Sex Offender Public Registry maintained by the  
2270 United States Department of Justice. The school district shall  
2271 conduct the search required under this subsection without charge  
2272 or fee to the contractor.

2273 Section 50. For the 2023-2024 fiscal year, the sums of  
2274 \$285,367 in recurring funds from the Health Care Trust Fund and  
2275 \$581,064 in nonrecurring funds from the Health Care Trust Fund  
2276 are appropriated to the Agency for Health Care Administration  
2277 and five full-time equivalent positions with associated salary  
2278 rate of 173,431 are authorized for the purpose of implementing  
2279 this act.

2280 Section 51. This act shall take effect July 1, 2024.

The Florida Senate

# APPEARANCE RECORD

SB 676- Background Screening

4/12/2023

Meeting Date

Appropriations Committee on Criminal & Civil Justice

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Michele Watson**

Phone **850-320-2388**

Address **1203 Governor's Square Blvd. Suite 102**

Email **mwatson@facct.com**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Florida Alliance of Children's Councils & Trusts**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

April 12, 2023

Meeting Date

CJ Approps

Committee

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

676

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

**Tallahassee**

**FL**

**32308**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

**Fla. Smart Justice**

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022JointRules.pdf)*

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

S-001 (08/10/2021)

4/12/2023

# APPEARANCE RECORD

676

Meeting Date  
App. Crim & Civil Justice  
Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Name Karen Mazzola

Amendment Barcode (if applicable)  
Phone 407-855-7604

Address 1747 Orlando Central Pkwy  
Orlando FL 32809  
Street City State Zip

Email vp.education@floridapta.org

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:  
Florida PTA

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) (flsenate.gov)*

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 Committee on Criminal and Civil Justice

---

BILL: CS/SB 836

INTRODUCER: Criminal Justice Committee and Senator Powell

SUBJECT: Theft from Nonprofit Organizations

DATE: April 11, 2023                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Stokes</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	_____	_____	<u>FP</u>	_____

---

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

---

**I. Summary:**

CS/SB 836 creates s. 812.0146, F.S., to reclassify the crime of theft, whenever a person is charged with committing theft from an organization that person knows or has reason to believe is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code. The crime of theft is reclassified based on the value of the property taken. If the funds, assets, or property involved in the theft from a qualified organization is valued at:

- Fifty thousand dollars or more, the offender commits a first degree felony.
- Ten thousand dollars or more, but less than \$50,000, the offender commits a second degree felony.
- Three hundred dollars or more, but less than \$10,000, the offender commits a third degree felony.

A person who is convicted of theft of more than \$1,000 from an organization that the person knows or has reason to believe is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code must be ordered to make restitution to the victim and to perform up to 500 hours of community service.

The bill may have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds) on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2023.

## II. Present Situation:

A nonprofit organization, as defined in 26 U.S.C. s. 501(c)(3), is an organization that is organized and operated exclusively for religious, charitable, scientific, public safety, literary, or educational purposes, or to foster specified national or international amateur sports competition, or for the prevention of cruelty to children or animals. None of such an organizations earnings may benefit any private shareholder or individual. No substantial part of the organizations activities may be directed towards attempting to influence legislation or any political campaign.

### Property Theft

Section 812.014, F.S., provides that a person commits theft if he or she knowingly obtains or uses, or endeavors to obtain or use, the property of another with intent to, either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to the use of the property.<sup>1</sup>

Second degree petit theft, a second degree misdemeanor, is theft of property valued at less than \$100.<sup>2</sup> First degree petit theft, a first degree misdemeanor, is theft of property valued at \$100 or more but less than \$750.<sup>3</sup> Second degree petit theft incurs greater penalties if there is a prior theft conviction: it is a first degree misdemeanor if there is one prior conviction,<sup>4</sup> and a third degree felony if there are two or more prior convictions.<sup>5</sup>

Third degree grand theft, a third degree felony,<sup>6</sup> is theft of:

- Property valued at \$750 or more, but less than \$20,000;
- Specified property including, but not limited to:
  - A will, codicil, or testamentary instrument;
  - A firearm;
  - Any commercially farmed animal,<sup>7</sup> a bee colony of a registered beekeeper, or aquaculture species raised at a certified aquaculture facility;<sup>8</sup>
  - Any fire extinguisher;<sup>9</sup>
  - Citrus fruit of 2,000 or more individual pieces;
  - Any stop sign;

---

<sup>1</sup> Section 812.014(1), F.S.

<sup>2</sup> Section 812.014(3)(a), F.S. A second degree misdemeanor is punishable by up to 60 days in jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

<sup>3</sup> Section 812.014(2)(e), F.S. A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

<sup>4</sup> Section 812.014(3)(b), F.S.

<sup>5</sup> Section 812.014(3)(c), F.S.

<sup>6</sup> A third degree felony is punishable by up to 5 years' incarceration and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

<sup>7</sup> This includes any animal of the equine, avian, bovine, or swine class or other grazing animal.

<sup>8</sup> If the theft is of these types of property, a fine of \$10,000 must be imposed. Section 812.014 (2)(c)7., F.S.

<sup>9</sup> Section 812.014(2)(c)8., F.S., provides that such fire extinguisher must, at the time of the taking, be installed in any building for the purpose of fire prevention and control.

- Property taken from a designated, posted construction site;<sup>10</sup> and
- Property from a dwelling or its unenclosed curtilage if the property is valued at \$100 or more, but less than \$750.<sup>11</sup>

### **Reclassification of Theft Offenses**

Certain theft offenses are reclassified to the next higher degree offense if the person committing the offense has previous theft convictions. A petit theft offense is reclassified to a third degree felony, if the person has two previous convictions of any theft.<sup>12</sup> A third degree felony retail theft offense is reclassified to a second degree felony if the person has a previous retail theft in violation of s. 812.015(8), F.S.<sup>13</sup>

There are no time limits between theft convictions related to theft crime level and penalty enhancements.

Reclassification under s. 812.0145, F.S., is similar to the reclassification provided in the bill for theft from a qualified charitable organization. Section 812.0145(2), F.S., reclassifies the degree of theft when the victim of the theft is a person 65 years of age or older.<sup>14</sup> Reclassification is based on the value of the funds, assets, or property involved in the theft:

- First degree felony (value is \$50,000 or more);
- Second degree felony (value is 10,000 or more, but less than \$50,000); or
- Third degree felony (value is \$300 or more, but less than \$10,000).

### **Criminal Punishment Code**

The Criminal Punishment Code<sup>15</sup> (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).<sup>16</sup> Offenses are either ranked in the Offense Severity Ranking Chart (OSRC), or are ranked by default based on a ranking assigned to the felony degree of the offense. The Default ranking is as follows:

- A first degree felony is ranked as a level 7 offense.
- A second degree felony is ranked as a level 4 offense.
- A third degree felony is ranked as a level 1 offense.<sup>17</sup>

Points are assigned and accrue based upon the offense severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses. The lowest permissible sentence is any nonstate prison

<sup>10</sup> Section 812.014(2)(c), F.S.

<sup>11</sup> Section 812.014(2)(d), F.S.

<sup>12</sup> Section 812.014(3)(c), F.S.

<sup>13</sup> Section 812.015(9)(a), F.S.

<sup>14</sup> The perpetrator must know or have reason to believe that the victim was 65 years of age or older. Section 812.0145(2), F.S.

<sup>15</sup> Sections 921.002-921.0027, F.S. *See* chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

<sup>16</sup> Section 921.0022, F.S.

<sup>17</sup> Section 921.0023, F.S.



sanction 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.<sup>18</sup> Absent mitigation,<sup>19</sup> the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.<sup>20</sup>

### III. Effect of Proposed Changes:

The bill creates s. 812.0146, F.S., to reclassify the crime of theft, whenever a person is charged with committing theft from an organization that person knows or has reason to believe is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code. The crime of theft is reclassified based on the value of the property taken. If the funds, assets, or property involved in the theft from a qualified organization is valued at:

- Fifty thousand dollars or more, the offender commits a first degree felony.
- Ten thousand dollars or more, but less than \$50,000, the offender commits a second degree felony.
- Three hundred dollars or more, but less than \$10,000, the offender commits a third degree felony.

A person who is convicted of theft of more than \$1,000 from an organization that the person knows or has reason to believe is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code must be ordered to make restitution to the victim and to perform up to 500 hours of community service. Such restitution and community service hours are in addition to any fine or sentence which may be imposed by the court.

The bill does not rank the reclassified offenses on the OSRC, and therefore will default to the statutorily assigned ranking levels, pursuant to s. 921.0023, F.S., as follows:

- A first degree felony is ranked as a level 7 offense.
- A second degree felony is ranked as a level 4 offense.
- A third degree felony is ranked as a level 1 offense.

The bill is effective October 1, 2023.

### IV. Constitutional Issues:

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

None.

---

<sup>18</sup> Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

<sup>19</sup> The court may “mitigate” or “depart downward” from the scored lowest permissible sentence, if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

<sup>20</sup> 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.

**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, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds) on the Department of Corrections. The CJIC provides the following additional information regarding its estimate:

While these felonies are newly created, other felonies currently exist where theft from nonprofit organizations might be prosecuted, such as retail theft, grand theft, and petit theft. Per DOC, there were 40 new commitments to prison in FY 18-19 for retail theft offenses, and 23 new commitments in FY 19-20. There were 22 new commitments in FY 20-21, and 14 new commitments in FY 21-22. For grand theft, there were 1,511 new commitments in FY 18-19, and 1,069 new commitments in FY 19-20. In FY 20-21, there were 698 new commitments, and in FY 21-22, there were 785 new commitments. While a large proportion of the grand theft commitments include a third conviction for petit theft, there are also a large number of 1st degree misdemeanor petit theft convictions each year for those on their first or second conviction. Per FDLE, in FY 21-22, there were 5,335 guilty/convicted charges and 1,454 adjudication withheld charges. These misdemeanors could be elevated to felonies under this new language, though it is not known how many of these involved theft from a nonprofit organization, nor is it known how many of these fall between \$300 and \$750, since the minimum threshold for a 1st degree misdemeanor is \$100.

The same can be said for the other theft felonies where theft from nonprofit organizations might currently fall, and which also have differing monetary thresholds from the current language. Therefore, the impact of this new language on the prison population cannot be quantified.<sup>21</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 812.0146 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Criminal Justice on March 27, 2023:**

The committee substitute specifies that the offender must know or have reason to believe that the organization is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code to receive the enhanced penalties.

- B. **Amendments:**

None.

---

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

---

---

<sup>21</sup> *SB 836- Theft from Nonprofit Organizations*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

By the Committee on Criminal Justice; and Senator Powell

591-03151-23

2023836c1

A bill to be entitled

An act relating to theft from nonprofit organizations; creating s. 812.0146, F.S.; providing for the reclassification of certain theft offenses of specified amounts from nonprofit organizations; requiring restitution and community service for certain violations; providing an effective date.

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

Section 1. Section 812.0146, Florida Statutes, is created to read:

812.0146 Theft from a nonprofit organization; reclassification of offenses.-

(1) Whenever a person is charged with committing theft from an organization that he or she knows or has reason to believe is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code, the offense for which the person is charged shall be reclassified as follows:

(a) If the funds, assets, or property involved in the theft from an organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is valued at \$50,000 or more, the offender commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the funds, assets, or property involved in the theft from an organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is valued at \$10,000 or more, but less than \$50,000, the offender commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s.

Page 1 of 2

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

591-03151-23

2023836c1

775.084.

(c) If the funds, assets, or property involved in the theft from an organization qualified as charitable under s. 501(c)(3) of the Internal Revenue Code is valued at \$300 or more, but less than \$10,000, the offender commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who is convicted of theft of more than \$1,000 from an organization that he or she knows or has reason to believe is qualified as charitable under s. 501(c)(3) of the Internal Revenue Code shall be ordered by the sentencing judge to make restitution to the victim of such offense and to perform up to 500 hours of community service work. Such restitution and community service work shall be in addition to any fine or sentence which may be imposed and shall not be in lieu thereof.

Section 2. This act shall take effect October 1, 2023.

Page 2 of 2

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

April 12, 2023

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

836

Bill Number or Topic

**CJ Approps**

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

**Tallahassee**

**FL**

**32308**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

**Fla. Smart Justice**

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) [flsenate.gov](#)*

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

S-001 (08/10/2021)

4/12/23

Meeting Date

# APPEARANCE RECORD

836

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Criminal and Civil Justice  
Committee

Amendment Barcode (if applicable)

Name Michael Dobson, The Dream Foundation Phone (850) 241-5896

Address 310 W. College Av  
Street  
Jal, FL 32301  
City State Zip

Email Michael@DobsonandCrawley.com

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

4/12/23

Meeting Date

# APPEARANCE RECORD

SB 836

Bill Number or Topic

Appropriations Criminal

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

↓ CIVIL

Amendment Barcode (if applicable)

Name

Laurette Philipson

Phone

727-484-0237

Address

7240 Westwind Drive

Email

~~laurette.philipson@flsenate.gov~~

Street

advocate.philipson@gmail.com

Port Lichey

State

FL

Zip

34108

City

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

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

---

BILL: CS/SB 994

INTRODUCER: Criminal Justice Committee and Senator Calatayud and others

SUBJECT: Public Nuisances

DATE: April 11, 2023                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Stokes</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 994 makes several changes relating to public nuisances, especially regarding certain acts that evidence religious or ethnic animus, by:

- Providing that it is a third degree felony to intentionally dump onto private property litter that evidences religious or ethnic animus toward an owner or invitee of such property.
- Providing that it is a third degree felony to willfully and maliciously harass, threaten, or intimidate another person based on the person’s wearing or displaying of any indicia relating to any religious or ethnic heritage.
- Providing that it is a third degree felony to willfully and maliciously deface, injure, or damage by any means any cemetery, grave, or memorial or any school or community center which the person knows, or reasonably should have known, is associated with a particular religious or ethnic heritage.
- Providing that it is a first degree misdemeanor to knowingly and intentionally display or project, using any medium, an image onto a building, structure, or other property without the written consent of the owner of the building, structure, or property. If a person displays or projects an image that evidences religious or ethnic animus during commission of the offense, it is prima facie evidence the person has evidenced prejudice in the commission of the offense for the purpose of hate-crime reclassification.
- Providing that is a first degree misdemeanor for a person, without being authorized, licensed, or invited, to willfully enter the campus of a state university or Florida College System institution for the purpose of threatening or intimidating another person, and is warned by the state university or Florida College System institution to depart and refuses to do so. If a



person evidences religious or ethnic animus during commission of the offense, it is prima facie evidence the person has evidenced prejudice in the commission of the offense for the purpose of hate-crimes reclassification.

- Revising a current offense in s. 871.01, F.S., relating to disturbing a school or place of worship, to increase the degree of the offense from a second degree misdemeanor to a first degree misdemeanor. If a person evidences religious or ethnic animus during commission of the offense, it is prima facie evidence the person has evidenced prejudice in the commission of the offense for the purpose of hate-crime classification.

The bill also requires hate crime-reporting for the described offenses and defines key terms.

The bill may have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds) on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill takes effect upon becoming a law.

## **II. Present Situation:**

### **Noncriminal Infraction of Florida Litter Law**

Section 403.413, F.S., is the Florida Litter Law. Section 403.413(4), F.S., provides that, unless otherwise authorized by law or permit, it is unlawful for any person to dump litter in any manner or amount:

- In or on any public highway, road, street, alley, or thoroughfare, including any portion of the right-of-way thereof, or any other public lands, except in containers or areas lawfully provided therefor. When any litter is thrown or discarded from a motor vehicle, the operator or owner of the motor vehicle, or both, shall be deemed in violation of this section;
- In or on any freshwater lake, river, canal, or stream or tidal or coastal water of the state, including canals. When any litter is thrown or discarded from a boat, the operator or owner of the boat, or both, shall be deemed in violation of this section; or
- In or on any private property, unless prior consent of the owner has been given and unless the dumping of such litter by such person will not cause a public nuisance or otherwise be in violation of any other state or local law, rule, or regulation.

Section 403.413(6)(a), F.S., provides that any person who dumps litter in violation of s. 403.413(4), F.S., in an amount not exceeding 15 pounds in weight or 27 cubic feet in volume and not for commercial purposes commits a noncriminal infraction, punishable by a civil penalty of \$150, from which \$50 is deposited into the Solid Waste Management Trust Fund to be used for the solid waste management grant program pursuant to s. 403.7095, F.S. In addition, the court may require the violator to pick up litter or perform other labor commensurate with the offense committed.

## Stalking and Aggravated Stalking

Section 784.048(2), F.S., provides that it is a first degree misdemeanor<sup>1</sup> to willfully, maliciously, and repeatedly follow, harass,<sup>2</sup> or cyberstalk<sup>3</sup> another person.

A person commits aggravated stalking, a third degree felony,<sup>4</sup> if the person willfully, maliciously, and repeatedly follows, harasses, or cyberstalks:

- Another person, and makes a credible threat<sup>5</sup> to that person;
- A child under 16 years of age;
- Another person who has been granted an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to s. 784.046, F.S., or an injunction for protection against domestic violence pursuant to s. 741.30, F.S., or after any other court-imposed prohibition of conduct toward the subject person or that person's property; or
- A person who, after having been sentenced for a violation of s. 794.011, F.S. (sexual battery), s. 800.04, F.S. (lewd or lascivious offenses), or s. 847.0135(5), F.S. (computer pornography offenses), is prohibited from contacting the victim of the offense under s. 921.244, F.S.<sup>6</sup>

## Criminal Mischief

Section 806.13, F.S., provides that a person commits criminal mischief by willfully and maliciously injuring or damaging by any means any real or personal property belonging to another, including by placement of graffiti or other acts of vandalism. The penalty for criminal mischief generally corresponds to the cost of the damage. It is a:

- Second degree misdemeanor<sup>7</sup> if the damage is \$200 or less;
- First degree misdemeanor if the damage is greater than \$200 but less than \$1,000; and
- Third degree felony if the damage is \$1,000 or greater or there is interruption or impairment of a business operation or public communication, transportation, supply of water, gas or power, or other public service which costs \$1,000 or more in labor and supplies to restore.<sup>8</sup>

<sup>1</sup> A first degree misdemeanor is punishable by not more than 1 year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

<sup>2</sup> "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose. Section 784.048(1)(a), F.S.

<sup>3</sup> "Cyberstalk" means: (1) to engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person; or (2) to access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person's permission, causing substantial emotional distress to that person and serving no legitimate purpose. Section. 784.048(1)(d), F.S.

<sup>4</sup> A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

<sup>5</sup> "Credible threat" means a verbal or nonverbal threat, or a combination of the two, including threats delivered by electronic communication or implied by a pattern of conduct, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her family members or individuals closely associated with the person, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat.

<sup>6</sup> Section 784.048(3)-(5) and (7), F.S.

<sup>7</sup> A second degree misdemeanor is punishable by not more than 60 days in county jail and a fine not exceeding \$500. Sections 775.082 and 775.083, F.S.

<sup>8</sup> Section 806.13(1)(a) and (b)1.-3., F.S.

Criminal mischief may also be enhanced to a third degree felony based on a prior criminal mischief conviction or the nature of the property damaged, including when a person damages a:

- Church, synagogue, mosque, or other place of worship, or any religious article contained therein, if the damage to the property is greater than \$200;
- Memorial or historic property, if the damage is greater than \$200;
- Public telephone and other communication apparatuses, regardless of the value of the damage; or
- Sexually violent predator detention or commitment facility or any property contained therein, if the damage is valued greater than \$200.<sup>9</sup>

A person who commits criminal mischief by placement of graffiti must also pay a fine, which increases based on the number of convictions, and perform community service.<sup>10</sup> A minor who commits a delinquent act of criminal mischief is also subject to additional penalties.<sup>11</sup>

### **Disturbing Schools and Religious and Other Assemblies**

Section 871.01(1), F.S., provides that it is second degree misdemeanor to willfully interrupt or disturb any school or any assembly of people met for the worship of God or for any lawful purpose.

### **Unlawful Protests**

Section 871.015, F.S., provides that it is a first degree misdemeanor to knowingly engage in protest activities or knowingly cause protest activities to occur within 500 feet of the property line of a residence, cemetery, funeral home, house of worship, or other location during or within 1 hour before or 1 hour after the conducting of a funeral or burial at that place. This section does not prohibit protest activities that occur adjacent to that portion of a funeral procession which extends beyond 500 feet of the property line of the location of the funeral or burial.<sup>12</sup>

### **Hate-Crime Reporting**

Section 877.19, F.S., Florida's Hate Crimes Reporting Act, requires the Governor, through the Florida Department of Law Enforcement (FDLE), to collect and disseminate data on incidents of criminal acts that evidence prejudice based on race, religion, ethnicity, color, ancestry, sexual orientation, or national origin. All law enforcement agencies must report monthly to the FDLE concerning such offenses in such form and in such manner as prescribed by rules adopted by the department. This information is compiled by the FDLE and disseminated upon request to any local law enforcement agency, unit of local government, or state agency.<sup>13</sup>

---

<sup>9</sup> Section 806.13(1)(b) 4. and (2)-(5), F.S.

<sup>10</sup> Section 806.13(7)(a) and (b), F.S.

<sup>11</sup> Section 806.13(7)(c), (8), and (9), F.S.

<sup>12</sup> Section 871.015(2) and (3), F.S.

<sup>13</sup> Section 877.19(2), F.S. This information is confidential and exempt from public disclosure. Data required pursuant to this section is used only for research or statistical purposes and does not include any information that may reveal the identity of an individual victim of a crime. Section 877.19(3), F.S.

### **III. Effect of Proposed Changes:**

The bill makes several changes relating to public nuisances, especially regarding certain acts that evidence religious or ethnic animus.

#### **Littering**

The bill amends s. 403.413, F.S., the Florida Litter Law, to provide that it is a third degree felony to intentionally dump onto private property litter that evidences religious or ethnic animus toward an owner or invitee of such property.

#### **Harassment or Intimidation**

The bill creates s. 784.0493, F.S., which provides that it is a third degree felony to willfully and maliciously harass, threaten, or intimidate another person based on the person's wearing or displaying of any indicia relating to any religious or ethnic heritage.

#### **Criminal Mischief**

The bill amends s. 806.13, F.S., to provide that it is a third degree felony to willfully and maliciously deface, injure, or damage by any means any cemetery, grave, or memorial as defined in s. 806.135, F.S., or any school or community center as defined in s. 893.13(1)(c), F.S., which the person knows, or reasonably should have known, is associated with a particular religious or ethnic heritage.

The bill also amends this section to provide that it is a first degree misdemeanor to knowingly and intentionally display or project, using any medium, an image onto a building, structure, or other property without the written consent of the owner of the building, structure, or property. If a person displays or projects an image that evidences religious or ethnic animus during commission of the offense, it is prima facie evidence the person has evidenced prejudice in the commission of the offense for the purpose of hate-crime reclassification.

#### **Trespass**

The bill creates s. 810.098, F.S., which provides that it is a first degree misdemeanor for a person, without being authorized, licensed, or invited, to willfully enter the campus of a state university or Florida College System institution for the purpose of threatening or intimidating another person, and is warned by the state university or Florida College System institution to depart and refuses to do so. If a person evidences religious or ethnic animus during commission of the offense, it is prima facie evidence the person has evidenced prejudice in the commission of the offense for the purpose of hate-crimes reclassification.

#### **Disturbing Schools and Places of Worship**

The bill amends s. 871.01, F.S., which punishes disturbing a school or place of worship. Currently, the offense requires willfulness. The bill adds malice. The bill also increases the degree of the offense from a second degree misdemeanor to a first degree misdemeanor. If a person evidences religious or ethnic animus during commission the offense, it is prima facie

evidence the person has evidenced prejudice in the commission of the offense for the purpose of hate-crime reclassification.

### **Hate-Crime Reporting**

The previously described offenses are subjected to hate-crime reporting.

### **Terminology**

The bill defines the following terms where they appear in the bill:

- “Animus” includes intent to intimidate or threaten or intent to do harm.
- “Florida College System institution” has the same meaning as in s. 1000.21(3), F.S.
- “Harass” has the same meaning as in s. 784.048, F.S., which defines the term as engaging in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.
- “Image” means a visual representation or likeness of a person or object, including text, graphics, logos, other artwork, or any combination thereof.
- “School” means the grounds or facility of any early learning center, prekindergarten, kindergarten, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or private.
- “State university” has the same meaning as in s. 1000.21(6), F.S.

The bill takes effect upon becoming a law.

## **IV. Constitutional Issues:**

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

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

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

None.

### **C. Trust Funds Restrictions:**

None.

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

None.

## E. Other Constitutional Issues:

If a question arises about whether the bias-evidencing crimes created by the bill implicate the First Amendment, the Florida Supreme Court’s opinion in *State v. Stadler*<sup>14</sup> may provide some guidance in answering that question.

In *State v. Stadler*, the Florida Supreme Court held that s. 775.085, F.S., Florida’s hate crimes law,<sup>15</sup> did not violate the First Amendment. In its analysis of s. 775.085, F.S., the Court determined that s. 775.085, F.S., is a bias-evidencing law and explained that a bias-evidencing crime is “any crime wherein the perpetrator ‘evidences prejudice’ based on one or more of the enumerated characteristics of the victim ‘while committing [the] offense.’”<sup>16</sup> The court further explained that a bias-evidencing crime “has been viewed as embracing two broad classes of offenses.”<sup>17</sup> The first class consists of “offenses committed because of prejudice. For instance, A beats B because B is a member of a particular racial group.”<sup>18</sup> For this class, “[t]he targeted activity—the selection of a victim—is an integral part of the underlying crime. As such, the conduct is not protected speech at all, but rather falls outside the First Amendment and may be banned.”<sup>19</sup> The Court construed Florida’s hate crimes law as embracing only bias-motivated crimes, and therefore, falling within this class.

The second class consists of “those offenses committed for some reason other than prejudice but that nevertheless show bias in their commission. For example, A beats B because of jealousy, but in the course of the battery calls B a racially derogatory term.”<sup>20</sup> For this class, expression of bias is targeted and this expression is “related to the underlying crime in only the most tangential way: The expression and crime share the same temporal framework, nothing more.”<sup>21</sup> Bias-evidencing crimes in this class violate the First Amendment.

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

None.

### B. Private Sector Impact:

None.

---

<sup>14</sup> 630 So.2d 1072 (Fla. 1974).

<sup>15</sup> Subsequent to *Stadler*, the Legislature created a second hate crimes law, s. 775.0863, F.S., which reclassifies the misdemeanor or felony degree of an offense if the commission of that offense evidences prejudice based on mental or physical disability of the victim.

<sup>16</sup> *Stadler*, *supra*, at 1076, quoting s. 775.085, F.S.

<sup>17</sup> *Stadler*, *supra*, at 1076 (citations omitted).

<sup>18</sup> *Stadler*, *supra*, at 1076.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

### C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds) on the Department of Corrections. The CJIC provides the following additional information regarding its estimate:

In FY 18-19, the incarceration rate for a Level 1, 3rd degree felony was 9.1%, and in FY 19-20 the incarceration rate was 8.2%. In FY 20-21, the incarceration rate for a Level 1, 3rd degree felony was 7.5%, and in FY 21-22 the incarceration rate was 8.6%.

Per data obtained from the Department of Environmental Protection's Schedule I found on the Florida Fiscal Portal, there are estimated to be a maximum of 800 people who receive citations under s. 403.413, F.S.[,] for littering less than 15 pounds each fiscal year. It is not known how many of these people would fit the criteria listed for the new misdemeanor and felony created for this statute.

Per [Florida Department of Law Enforcement or] FDLE, there were 638 misdemeanor stalking arrests (s. 784.048(2), F.S.) in FY 21- 22, with 280 guilty/convicted charges and 80 adjudication withheld charges. Per [Department of Corrections or] DOC, in FY 18-19, there were 74 new commitments for aggravated stalking, and in FY 19-20, there were 62 new commitments. In FY 20-21, there were 67 new commitments, and in FY 21-22, there were 68 new commitments. It should be noted that over half of these involved violating court orders. Furthermore, it is not known if offenders fitting the bill's criteria are already included in these numbers.

Per FDLE, there were 2,978 misdemeanor criminal mischief arrests (s. 806.13(1)(b)1., F.S.) in FY 21-22, with 1,587 guilty/convicted charges and 430 adjudication withheld charges. Per DOC, there have been no new commitments to prison in the last four fiscal years under the current version of the Level 1, 3rd degree felony for "any person who willfully and maliciously defaces, injures, or damages by any means...any church, synagogue, mosque, or other place of worship, or any religious article contained therein." Furthermore, there is no data available regarding image projections that evidence "religious or ethnic intimidation, threat, or intent to harm."

Per FDLE, in FY 21-22, there were 35 arrests under the current 2nd degree misdemeanor language for disturbance of a school, church, or other assembly. There were also 4 guilty/convicted charges and 9 adjudication withheld charges.

Per Uniform Crime Reports, in CY 2021, there were 5 arrests for crimes evidencing prejudice with a religious bias. Of those arrests, 4 were Anti-Jewish and one was Anti-Catholic. While this new language does create multiple

felonies, the number of potential offenders is not known, so the impact on the prison population cannot be quantified.<sup>22</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 403.413, 784.048, 806.13, and 871.01.

This bill creates the following sections of the Florida Statutes: 784.0493 and 810.098.

**IX. Additional Information:**

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

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

**CS by Criminal Justice on March 27, 2023:**

The committee substitute:

- Revises elements of new offenses relating to littering, harassment, and criminal mischief, including damaging any cemetery, grave, or memorial or any school or community center, unlawfully projecting images on buildings. It also revises the current offense relating to disturbing a school or place of worship to increase the penalty from a second degree misdemeanor to a first degree misdemeanor. Some offenses require evidence of religious or ethnic animus.
- Creates s. 810.098, F.S., which provides it is a first degree misdemeanor for a person to trespass on the campus of a state university or Florida College System institution for the purpose of threatening or intimidating another person, and the person is warned to depart and refuses to do so.
- Specifies what constitutes prima facie evidence for purpose of hate crimes penalty reclassification.
- Defines terminology.
- Requires hate-crime reporting.
- Changes effective date from October 1, 2023 to upon becoming a law.

**B. Amendments:**

None.

---

<sup>22</sup> SB 994 – *Public Nuisances*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).



---

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 Calatayud,  
Perry, Gruters, Rodriguez, and Avila

591-03148-23

2023994c1

1 A bill to be entitled  
2 An act relating to public nuisances; amending s.  
3 403.413, F.S.; prohibiting a person from intentionally  
4 dumping onto private property litter that evidences  
5 religious or ethnic animus toward an owner or invitee  
6 of such property; defining the term "animus";  
7 providing criminal penalties; requiring that certain  
8 violations be reported pursuant to specified  
9 provisions; creating s. 784.0493, F.S.; defining the  
10 term "harass"; prohibiting a person from willfully and  
11 maliciously harassing, threatening, or intimidating  
12 another person based on the person's wearing or  
13 displaying of any indicia relating to any religious or  
14 ethnic heritage; providing criminal penalties;  
15 requiring that certain violations be reported pursuant  
16 to specified provisions; amending s. 806.13, F.S.;  
17 prohibiting willful and malicious defacement, injury,  
18 or damage to certain property; providing criminal  
19 penalties; removing a minimum damage requirement for a  
20 violation; requiring that certain violations be  
21 reported pursuant to specified provisions; defining  
22 the term "school"; prohibiting the knowing and  
23 intentional display or projection of certain images  
24 onto a building, structure, or property without  
25 permission; defining the term "image"; providing  
26 criminal penalties; providing construction; defining  
27 the term "animus"; requiring that certain violations  
28 be reported pursuant to specified provisions; creating  
29 s. 810.098, F.S.; prohibiting a person who willfully

Page 1 of 7

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

591-03148-23

2023994c1

30 enters the campus of a state university or Florida  
31 College System institution for the purpose of  
32 threatening or intimidating another person from  
33 remaining on such campus after being warned to depart;  
34 providing criminal penalties; providing construction;  
35 requiring that certain violations be reported pursuant  
36 to specified provisions; defining terms; amending s.  
37 871.01, F.S.; prohibiting the willful and malicious  
38 interruption or disruption of certain assemblies;  
39 providing criminal penalties; providing construction;  
40 defining the term "animus"; requiring that certain  
41 violations be reported pursuant to specified  
42 provisions; providing an effective date.  
43  
44 Be It Enacted by the Legislature of the State of Florida:  
45  
46 Section 1. Paragraph (a) of subsection (6) of section  
47 403.413, Florida Statutes, is amended to read:  
48 403.413 Florida Litter Law.—  
49 (6) PENALTIES; ENFORCEMENT.—  
50 (a)1. Except as provided in subparagraph 2., any person who  
51 dumps litter in violation of subsection (4) in an amount not  
52 exceeding 15 pounds in weight or 27 cubic feet in volume and not  
53 for commercial purposes commits a noncriminal infraction,  
54 punishable by a civil penalty of \$150, from which \$50 shall be  
55 deposited into the Solid Waste Management Trust Fund to be used  
56 for the solid waste management grant program pursuant to s.  
57 403.7095. In addition, the court may require the violator to  
58 pick up litter or perform other labor commensurate with the

Page 2 of 7

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

591-03148-23 2023994c1

59 offense committed.

60 2. If a person violates subparagraph 1. by intentionally  
 61 dumping onto private property litter that evidences religious or  
 62 ethnic animus toward an owner or invitee of such property, the  
 63 person commits a felony of the third degree, punishable as  
 64 provided in s. 775.082, s. 775.083, or s. 775.084. As used in  
 65 this subparagraph, the term "animus" includes intent to  
 66 intimidate or threaten or intent to do harm. A violation of this  
 67 subparagraph shall be reported pursuant to s. 877.19.

68 Section 2. Section 784.0493, Florida Statutes, is created  
 69 to read:

70 784.0493 Harassment or intimidation based on religious or  
 71 ethnic heritage.—

72 (1) As used in this section, the term "harass" has the same  
 73 meaning as in s. 784.048.

74 (2) A person may not willfully and maliciously harass,  
 75 threaten, or intimidate another person based on the person's  
 76 wearing or displaying of any indicia relating to any religious  
 77 or ethnic heritage.

78 (3) A person who violates this section commits a felony of  
 79 the third degree, punishable as provided in s. 775.082, s.  
 80 775.083, or s. 775.084.

81 (4) A violation of this section shall be reported pursuant  
 82 to s. 877.19.

83 Section 3. Present subsections (6) through (10) of section  
 84 806.13, Florida Statutes, are redesignated as subsections (7)  
 85 through (11), respectively, a new subsection (6) is added to  
 86 that section, and subsection (2) and present subsection (9) of  
 87 that section are amended, to read:

591-03148-23 2023994c1

88 806.13 Criminal mischief; penalties; penalty for minor.—

89 (2) (a) Any person who willfully and maliciously defaces,  
 90 injures, or damages by any means;

91 1. Any church, synagogue, mosque, or other place of  
 92 worship, or any religious article contained therein;

93 2. Any cemetery, grave, or memorial as defined in s.  
 94 806.135 which the person knows, or reasonably should have known,  
 95 is associated with a particular religious or ethnic heritage; or

96 3. Any school or community center as defined in s.  
 97 893.13(1)(c) which the person knows, or reasonably should have  
 98 known, is associated with a particular religious or ethnic  
 99 heritage,

100 commits a felony of the third degree, punishable as provided in  
 101 s. 775.082, s. 775.083, or s. 775.084, ~~if the damage to the~~  
 102 ~~property is greater than \$200.~~

103 (b) A violation of this subsection shall be reported  
 104 pursuant to s. 877.19.

105 (c) For purposes of this subsection, the term "school"  
 106 means the grounds or facility of any early learning center,  
 107 prekindergarten, kindergarten, elementary school, middle school,  
 108 junior high school, secondary school, career center, or  
 109 postsecondary school, whether public or private.

110 (6) A person may not knowingly and intentionally display or  
 111 project, using any medium, an image onto a building, structure,  
 112 or other property without the written consent of the owner of  
 113 the building, structure, or property. For purposes of this  
 114 subsection, the term "image" means a visual representation or  
 115 likeness of a person or object, including text, graphics, logos,  
 116

591-03148-23

2023994c1

117 other artwork, or any combination thereof.

118 (a) A person who violates this subsection commits a  
 119 misdemeanor of the first degree, punishable as provided in s.  
 120 775.082 or s. 775.083.

121 (b) If a person displays or projects an image that  
 122 evidences religious or ethnic animus during the commission of an  
 123 offense under this subsection, it is prima facie evidence that  
 124 such person has evidenced prejudice in the commission of the  
 125 offense for the purpose of reclassifying the penalty under s.  
 126 775.085. As used in this paragraph, the term "animus" includes  
 127 intent to intimidate or threaten or intent to do harm.

128 (c) If the penalty for a violation of this subsection is  
 129 reclassified under s. 775.085, such a violation shall be  
 130 reported pursuant to s. 877.19.

131 (10)(9) A minor whose driver license or driving privilege  
 132 is revoked, suspended, or withheld under subsection (9) (8) may  
 133 elect to reduce the period of revocation, suspension, or  
 134 withholding by performing community service at the rate of 1 day  
 135 for each hour of community service performed. In addition, if  
 136 the court determines that due to a family hardship, the minor's  
 137 driver license or driving privilege is necessary for employment  
 138 or medical purposes of the minor or a member of the minor's  
 139 family, the court shall order the minor to perform community  
 140 service and reduce the period of revocation, suspension, or  
 141 withholding at the rate of 1 day for each hour of community  
 142 service performed. As used in this subsection, the term  
 143 "community service" means cleaning graffiti from public  
 144 property.

145 Section 4. Section 810.098, Florida Statutes, is created to

Page 5 of 7

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

591-03148-23

2023994c1

146 read:

147 810.098 Trespass for the purpose of threatening or  
 148 intimidating another person.-

149 (1) (a) Whoever, without being authorized, licensed, or  
 150 invited, willfully enters the campus of a state university or  
 151 Florida College System institution for the purpose of  
 152 threatening or intimidating another person, and is warned by the  
 153 state university or Florida College System institution to depart  
 154 and refuses to do so, commits a misdemeanor of the first degree,  
 155 punishable as provided in s. 775.082 or s. 775.083.

156 (b) If a person evidences religious or ethnic animus during  
 157 the commission of an offense under this subsection, it is prima  
 158 facie evidence that such person has evidenced prejudice in the  
 159 commission of the offense for the purpose of reclassifying the  
 160 penalty under s. 775.085.

161 (c) If the penalty for a violation of this subsection is  
 162 reclassified under s. 775.085, such a violation shall be  
 163 reported pursuant to s. 877.19.

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

165 (a) "Animus" includes intent to intimidate or threaten or  
 166 intent to do harm.

167 (b) "Florida College System institution" has the same  
 168 meaning as in s. 1000.21(3).

169 (c) "State university" has the same meaning as in s.  
 170 1000.21(6).

171 Section 5. Subsection (1) of section 871.01, Florida  
 172 Statutes, is amended to read:

173 871.01 Disturbing schools and religious and other  
 174 assemblies.-

Page 6 of 7

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

591-03148-23

2023994c1

175 (1) (a) Whoever willfully and maliciously interrupts or  
176 disturbs any school or any assembly of people met for the  
177 worship of God, any assembly of people met for the purpose of  
178 acknowledging the death of an individual, or any assembly of  
179 people met for any other lawful purpose commits a misdemeanor of  
180 the first ~~second~~ degree, punishable as provided in s. 775.082 or  
181 s. 775.083.

182 (b) If a person evidences religious or ethnic animus during  
183 the commission of an offense under this subsection, it is prima  
184 facie evidence that such person has evidenced prejudice in the  
185 commission of the offense for the purpose of reclassifying the  
186 penalty under s. 775.085. As used in this paragraph, the term  
187 "animus" includes intent to intimidate or threaten or intent to  
188 do harm.

189 (c) If the penalty for a violation of this subsection is  
190 reclassified under s. 775.085, such a violation shall be  
191 reported pursuant to s. 877.19.

192 Section 6. This act shall take effect upon becoming a law.

APPEARANCE RECORD

994

4/12/2023

Meeting Date

Bill Number or Topic

App. CRIM & Civil Justice

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Karen Mazzola

Phone 407-855-7604

Address 1747 Orlando Central Pkwy

Email vp.education@florida

Street

Orlando FL 32809

pta.org

City

State

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Florida PTA

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

4/12/2023

Meeting Date

# The Florida Senate APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SB 994

Bill Number or Topic

Committee

Name Molly Hudson (Volusia Sheriff's Office)

Amendment Barcode (if applicable)  
Phone 386 736 5961

Address 123 Indiana Ave.

Email mhudson@volusia-sheriff.gov

Street

Deland Fla. 32720

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

4/12/23

Meeting Date

# The Florida Senate APPEARANCE RECORD

994

Bill Number or Topic

Civil & Crim Justice App

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Ellyn Bogdanoff

Phone

954 364-6005

Address

1 E Brd Blvd

Email

ebogdanoff@beckertlawyers.com

Street

FT LAUD FL 33301

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf flsenate.gov](https://www.flsenate.gov/2020-2022/JointRules.pdf)

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

S-001 (08/10/2021)



April 12, 2023

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

994

Bill Number or Topic

**CJ Approps**

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

**Tallahassee**

**FL**

**32308**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

**Fla. Smart Justice**

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) ([flsenate.gov](#))*

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

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

994

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Jess McCarty, Executive Assistant County Attorney Phone 305-979-7110

Address 111 NW 1st Street, Suite 2800 Email jmm2@miamidade.gov

Street

Miami

FL

33128

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Miami-Dade County**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2020)

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

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

---

BILL: SB 1012

INTRODUCER: Senator Rouson

SUBJECT: Certified Peer Specialist Pilot Program

DATE: April 12, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	<b>Fav/CS</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	<u>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

SB 1012 creates the Certified Peer Specialist Pilot Program (Program) within the Department of Corrections (the DOC). The bill explains the purpose of the Program and specifies that the Program will be used to recruit and enroll qualified graduates of the Program into approved certified peer specialist training programs. The Program will provide the training and on-the-job experience required for peer specialist certification and assist in completion of the national certification exam, and will assist participants in obtaining employment upon release.

The bill allows inmates at participating facilities to apply for participation and requires the DOC to develop criteria for selecting program participants, and provides factors that the DOC may include in selection criteria.

The bill specifies that the Program will assist those that complete the Program in obtaining employment upon release by aiding potential employers to obtain bonds from the U.S. Department of Labor, if applicable, or may offer funding for initial hiring and retention costs dependent on securing grant funds.

The bill is likely to have an indeterminate workload impact on the DOC. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023, and the Program expires June 30, 2029.

## II. Present Situation:

### Substance Use Disorder Treatment

Substance use disorder is the harmful or hazardous use of psychoactive substances, including alcohol and illicit drugs.<sup>1</sup> According to the Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5), a diagnosis of substance use disorder (SUD) is based on evidence of impaired control, social impairment, risky use, and pharmacological criteria.<sup>2</sup> SUD occurs when an individual chronically uses alcohol or drugs, resulting in significant impairment, such as health problems, disability, and failure to meet major responsibilities at work, school, or home.<sup>3</sup> Repeated drug use leads to changes in the brain's structure and function that can make a person more susceptible to developing a substance use disorder.<sup>4</sup> Imaging studies of brains belonging to persons with SUD reveal physical changes in areas of the brain critical to judgment, decision making, learning and memory, and behavior control.<sup>5</sup>

In 2021, approximately 46.3 million people aged 12 or older had a SUD related to corresponding use of alcohol or illicit drugs within the previous year.<sup>6</sup> The most common substance use disorders in the United States are from the use of alcohol, tobacco, cannabis, opioids, hallucinogens, and stimulants.<sup>7</sup> Provisional data from the CDC's National Center for Health Statistics indicate there were an estimated 107,622 drug overdose deaths in the United States during 2021 (the last year for which there is complete data), an increase of nearly 15% from the 93,655 deaths estimated in 2020.<sup>8</sup>

### Substance Use Disorder Treatment in Florida

In the early 1970s, the federal government enacted laws creating formula grants for states to develop continuums of care for individuals and families affected by substance use disorder.<sup>9</sup> The

---

<sup>1</sup> The World Health Organization, *Mental Health and Substance Abuse*, available at <https://www.who.int/westernpacific/about/how-we-work/programmes/mental-health-and-substance-abuse>; (last visited March 15, 2023); the National Institute on Drug Abuse (NIDA), *The Science of Drug Use and Addiction: The Basics*, available at <https://www.drugabuse.gov/publications/media-guide/science-drug-use-addiction-basics> (last visited February 8, 2023).

<sup>2</sup> The National Association of Addiction Treatment Providers, *Substance Use Disorder*, available at <https://www.naatp.org/resources/clinical/substance-use-disorder> (last visited March 15, 2023).

<sup>3</sup> The Substance Abuse and Mental Health Services Administration (The SAMHSA), *Substance Use Disorders*, available at <http://www.samhsa.gov/disorders/substance-use> (last visited March 15, 2023).

<sup>4</sup> The NIDA, *Drugs, Brains, and Behavior: The Science of Addiction*, available at <https://www.drugabuse.gov/publications/drugs-brains-behavior-science-addiction/drug-abuse-addiction> (last visited March 15, 2023).

<sup>5</sup> *Id.*

<sup>6</sup> The SAMHSA, *Highlights for the 2021 National Survey on Drug Use and Health*, p. 2, available at <https://www.samhsa.gov/data/sites/default/files/2022-12/2021NSDUHFRHHighlights092722.pdf> (last visited March 15, 2023).

<sup>7</sup> The Rural Health Information Hub, *Defining Substance Abuse and Substance Use Disorders*, available at <https://www.ruralhealthinfo.org/toolkits/substance-abuse/1/definition> (last visited March 15, 2023).

<sup>8</sup> The Center for Disease Control and Prevention, National Center for Health Statistics, *U.S. Overdose Deaths In 2021 Increased Half as Much as in 2020 – But Are Still Up 15%*, available at [https://www.cdc.gov/nchs/pressroom/nchs\\_press\\_releases/2022/202205.htm](https://www.cdc.gov/nchs/pressroom/nchs_press_releases/2022/202205.htm) (last visited March 15, 2023).

<sup>9</sup> The DCF, *Baker Act and Marchman Act Project Team Report for Fiscal Year 2016-2017*, p. 4-5. (on file with the Senate Committee on Children, Families, and Elder Affairs).

laws resulted in separate funding streams and requirements for alcoholism and drug abuse. In response to the laws, the Florida Legislature enacted chs. 396 and 397, F.S., relating to alcohol and drug abuse, respectively.<sup>10</sup> Each of these laws governed different aspects of addiction, and thus had different rules promulgated by the state to fully implement the respective pieces of legislation.<sup>11</sup> However, because persons with substance use issues often do not restrict their misuse to one substance or another, having two separate laws dealing with the prevention and treatment of addiction was cumbersome and did not adequately address Florida's substance use disorder problem.<sup>12</sup> In 1993, legislation was adopted to combine chs. 396 and 397, F.S., into a single law, the Hal S. Marchman Alcohol and Other Drug Services Act (Marchman Act).<sup>13</sup>

The Marchman Act encourages individuals to seek services on a voluntary basis within the existing financial and space capacities of a service provider.<sup>14</sup> However, denial of addiction is a prevalent symptom of SUD, creating a barrier to timely intervention and effective treatment.<sup>15</sup> As a result, treatment typically must stem from a third party providing the intervention needed for SUD treatment.<sup>16</sup>

The DCF administers a statewide system of safety-net services for substance abuse and mental health (SAMH) prevention, treatment, and recovery for children and adults who are otherwise unable to obtain these services. Services are provided based upon state and federally-established priority populations.<sup>17</sup> The DCF provides treatment for SUD through a community-based provider system offering detoxification, treatment, and recovery support for individuals affected by substance misuse, abuse, or dependence.<sup>18</sup>

- **Detoxification Services:** Detoxification services use medical and clinical procedures to assist individuals and adults as they withdraw from the physiological and psychological effects of substance use disorder.<sup>19</sup>
- **Treatment Services:** Treatment services<sup>20</sup> include a wide array of assessment, counseling, case management, and support that are designed to help individuals who have lost their abilities to control their substance use on their own and require formal, structured intervention and support.<sup>21</sup>

---

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Chapter 93-39, s. 2, L.O.F., which codified current ch. 397, F.S.

<sup>14</sup> See s. 397.601(1) and (2), F.S. An individual who wishes to enter treatment may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, the individual must be admitted to treatment when sufficient evidence exists that he or she is impaired by substance abuse and his or her medical and behavioral conditions are not beyond the safe management capabilities of the service provider.

<sup>15</sup> Darran Duchene and Patrick Lane, *Fundamentals of the Marchman Act*, Risk RX, Vol. 6 No. 2 (Apr. – Jun. 2006) State University System of Florida Self-Insurance Programs, available at <http://fbog.sip.ufl.edu/risk-rx-article/fundamentals-of-the-marchman-act/> (last visited March 15, 2023) (hereinafter cited as “Fundamentals of the Marchman Act”).

<sup>16</sup> *Id.*

<sup>17</sup> See chs. 394 and 397, F.S.

<sup>18</sup> The DCF, *Treatment for Substance Abuse*, available at <https://www.myflfamilies.com/service-programs/samh/substance-abuse.shtml> (last visited March 15, 2023).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.* Research indicates that persons who successfully complete substance abuse treatment have better post-treatment outcomes related to future abstinence, reduced use, less involvement in the criminal justice system, reduced involvement in the child-protective system, employment, increased earnings, and better health.

<sup>21</sup> *Id.*

- **Recovery Support:** Recovery support services, including transitional housing, life skills training, parenting skills, and peer-based individual and group counseling, are offered during and following treatment to further assist individuals in their development of the knowledge and skills necessary to maintain their recovery.<sup>22</sup>

### Peer Specialists

Research has shown that social support provided by peers is beneficial to those in recovery from a SUD or mental illness.<sup>23</sup> Section 397.311(30), F.S., defines a peer specialist as “a person who has been in recovery from a SUD or mental illness for at least 2 years who uses his or her personal experience to provide services in behavioral health settings to support others in their recovery, or a person who has at least 2 years of experience as a family member or caregiver of an individual who has a SUD or mental illness. The term does not include a qualified professional or a person otherwise certified under ch. 394 or ch. 397.”<sup>24</sup>

There are four primary types of social support provided by peers:

- **Emotional:** where a peer demonstrates empathy, caring or concern to bolster a person’s self-esteem (i.e., peer mentoring or peer-led support groups).
- **Informational:** where a peer shares knowledge and information to provide life or vocational skills training (i.e., parenting classes, job readiness training, or wellness seminars).
- **Instrumental:** where a peer provides concrete assistance to help others accomplish tasks (i.e., child care, transportation, and help accessing health and human services).
- **Affiliational:** where a peer facilitates contacts with other people to promote learning of social skills, create a sense of community, and acquire a sense of belonging (i.e., recovery centers, sports league participation, and alcohol or drug free socialization opportunities).<sup>25</sup>

An individual seeking to become a certified peer specialist must have either been in recovery from a SUD or mental illness for at least two years, or must be a family member or caregiver of an individual suffering from a substance use disorder or mental illness.<sup>26</sup> The Department of Children and Families (the DCF) must approve one or more third-party credentialing entities for the purposes of certifying peer specialists, approving training programs for individuals seeking certification as peer specialists, approving continuing education programs, and establishing the minimum requirements and standards that applicants must achieve to maintain certification.<sup>27</sup> To obtain approval, the third-party credentialing entity must demonstrate compliance with nationally recognized standards for developing and administering professional certification programs to certify peer specialists.<sup>28</sup> All individuals providing DCF-funded recovery support services as a peer specialist must be certified; however, an individual who is not currently certified may work as a peer specialist for a maximum of one year if they are working toward certification and are

---

<sup>22</sup> *Id.*

<sup>23</sup> Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment, *What Are Peer Recovery Support Services?*, available at <https://store.samhsa.gov/system/files/sma09-4454.pdf> (last visited March 15, 2023).

<sup>24</sup> Section 397.311(30), F.S.

<sup>25</sup> The DCF, *Florida Peer Services Handbook* at p. 4-5, 2016, available at [https://www.myflfamilies.com/sites/default/files/2022-11/Peer%20Guidance\\_2016.pdf](https://www.myflfamilies.com/sites/default/files/2022-11/Peer%20Guidance_2016.pdf) (last visited March 15, 2023).

<sup>26</sup> Section 397.417(2), F.S.

<sup>27</sup> Section 397.417(3)(b), F.S.

<sup>28</sup> *Id.*

supervised by a qualified professional or by a certified peer specialist with at least two years of full-time experience as a peer specialist at a licensed behavioral health organization.<sup>29</sup>

In addition to completing a competency exam, a peer specialist, or a person who is working towards certification as a peer specialist, must have completed or been lawfully released from confinement, supervision, or any nonmonetary condition imposed by a court for any felony and must undergo a background screening.<sup>30</sup>

A person may not be certified as a peer specialist if he or she has been arrested for and is awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any felony offense in the three years preceding the application for certification, or for a conviction at any time for committing, or attempting, conspiring, or soliciting another person to commit,<sup>31</sup> the following offenses:

- Section 393.135, F.S., relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- Section 394.4593, F.S., relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- Section 409.920, F.S., relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.
- Section 415.111, F.S., relating to adult abuse, neglect, or exploitation of vulnerable adults.
- Section 782.04, F.S., relating to murder.
- Section 782.07, F.S., relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
- Section 782.071, F.S., relating to vehicular homicide.
- Section 782.09, F.S., relating to killing of an unborn child by injury to the mother.
- Chapter 784, F.S., relating to assault, battery, and culpable negligence, if the offense was a felony.
- Section 787.01, F.S., relating to kidnapping.
- Section 787.02, F.S., relating to false imprisonment.
- Section 787.025, F.S., relating to luring or enticing a child.
- Section 787.04(2), F.S., relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- Section 787.04(3), F.S., relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.
- Section 790.115(1), F.S., relating to exhibiting firearms or weapons within 1,000 feet of a school.
- Section 790.115(2)(b), F.S., relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- Section 794.011, F.S., relating to sexual battery.

---

<sup>29</sup> Section 397.417(3)(d), F.S.

<sup>30</sup> Section 397.417(4)(a), F.S.

<sup>31</sup> See s. 397.417(4)(e)6., F.S.

- Former s. 794.041, F.S., relating to prohibited acts of persons in familial or custodial authority.
- Section 794.05, F.S., relating to unlawful sexual activity with certain minors.
- Section 794.08, F.S., relating to female genital mutilation.
- Section 796.07, F.S., relating to procuring another to commit prostitution, except for those offenses expunged pursuant to human trafficking victim expunction.
- Section 798.02, F.S., relating to lewd and lascivious behavior.
- Chapter 800, F.S., relating to lewdness and indecent exposure.
- Section 806.01, F.S., relating to arson.
- Section 810.02, F.S., relating to first degree felony burglary.
- Section 810.14, F.S., relating to felony voyeurism.
- Section 810.145, F.S., relating to felony video voyeurism.
- Chapter 812, F.S., relating to felony theft, robbery, and related crimes.
- Section 817.034, F.S., relating to first degree felony communications fraud.
- Section 817.234, F.S., relating to first or second degree felony false and fraudulent insurance claims.
- Section 817.50, F.S., relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.
- Section 817.505, F.S., relating to patient brokering.
- Section 817.568, F.S., relating to first or second degree felony fraudulent use of personal identification.
- Section 825.102, F.S., relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.
- Section 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.
- Section 825.103, F.S., relating to felony exploitation of an elderly person or disabled adult.
- Section 826.04, F.S., relating to incest.
- Section 827.03, F.S., relating to child abuse, aggravated child abuse, or neglect of a child.
- Section 827.04, F.S., relating to contributing to the delinquency or dependency of a child.
- Former s. 827.05, F.S., relating to negligent treatment of children.
- Section 827.071, F.S., relating to sexual performance by a child.
- Section 831.30, F.S., relating to fraud in obtaining medicinal drugs.
- Section 831.31, F.S., relating to the felony sale; manufacture; delivery; or possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance.
- Section 843.01, F.S., relating to resisting arrest with violence.
- Section 843.025, F.S., relating to depriving a law enforcement, correctional, or correctional probation officer of means of protection or communication.
- Section 843.12, F.S., relating to aiding in an escape.
- Section 843.13, F.S., relating to aiding in the escape of juvenile inmates in correctional institutions.
- Chapter 847, F.S., relating to obscenity.
- Section 874.05, F.S., relating to encouraging or recruiting another to join a criminal gang.
- Chapter 893, F.S., relating to drug abuse prevention and control, only if the offense was a second degree felony or higher.
- Section 895.03, F.S., relating to racketeering and collection of unlawful debts.



- Section 896.101, F.S., relating to the Florida Money Laundering Act.
- Section 916.1075, F.S., relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
- Section 944.35(3), F.S., relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
- Section 944.40, F.S., relating to escape.
- Section 944.46, F.S., relating to harboring, concealing, or aiding an escaped prisoner.
- Section 944.47, F.S., relating to introduction of contraband into a correctional facility.
- Section 985.701, F.S., relating to sexual misconduct in juvenile justice programs.
- Section 985.711, F.S., relating to contraband introduced into detention facilities.<sup>32</sup>

If a person seeking certification as a peer specialist is disqualified due to a pending arrest, conviction, plea of nolo contendere, or adjudication of delinquency for one or more of the disqualifying offenses, the person may seek an exemption under s. 435.07, F.S., which authorizes the Secretary of either the DCF or the Agency for Health Care Administration (AHCA), as applicable, to grant exemptions under limited circumstances.<sup>33</sup>

### **Department of Corrections**

The DOC is the third largest state prison system in the country with a budget of \$2.7 billion, approximately 80,000 inmates incarcerated and nearly 146,000 offenders on active community supervision (probation).<sup>34</sup> The DOC has 143 facilities statewide, including 50 correctional institutions, seven private partner facilities, 16 annexes, 33 work camps, three re-entry centers, 12 DOC-operated work release centers, 18 private work release centers, two road prisons, one forestry camp and one basic training camp.<sup>35</sup> The DOC is the largest state agency in Florida, and over 80% of its staff are either certified correctional officers or probation officers.<sup>36</sup>

### ***Custody Classification***

Section 944.1905, F.S., requires each inmate placed in the custody of the DOC to be classified or reclassified based upon the inmate's risk level. An inmate's initial classification is determined by a number of factors including, but not limited to, length of sentence, criminal history, any history

---

<sup>32</sup> Section 397.417(4)(e), F.S.

<sup>33</sup> Under s. 435.07(1), F.S., the DCF/AHCA Secretary may grant a person seeking certification as a peer specialist but who is otherwise disqualified from employment an exemption from disqualification for:

- A felony conviction, if at least three years have elapsed since the person has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony;
- A misdemeanor conviction, if a person has completed or been lawfully released from confinement, supervision, or nonmonetary conditions imposed by the court;
- Offenses that were felonies when committed but that are now misdemeanors and for which the person has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court; or
- A finding of delinquency.

<sup>34</sup> The DOC, *About the Florida Department of Corrections*, available at <http://www.dc.state.fl.us/about.html> (last visited March 29, 2023).

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

of violence, and escape history.<sup>37</sup> Classification levels impact the facility placement and programming that an inmate is eligible to participate in while incarcerated.<sup>38</sup>

### ***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.<sup>39</sup> 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.<sup>40</sup> The only forms of gain-time that can currently<sup>41</sup> be earned are incentive gain-time,<sup>42</sup> meritorious gain-time,<sup>43</sup> and educational achievement gain-time.<sup>44</sup>

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.<sup>45</sup> 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.<sup>46</sup>

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.<sup>47</sup> 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.<sup>48</sup>

---

<sup>37</sup> The DOC, *Inmate Orientation Handbook*, at p. 9, available at <http://www.dc.state.fl.us/pub/files/InmateOrientationHandbook.pdf> (last visited March 29, 2023) (hereinafter cited as, "Inmate Handbook"); See also Section 944.1905(1)-(3), F.S.

<sup>38</sup> Inmate Handbook at p.8.

<sup>39</sup> 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 is not eligible to earn gain-time. Section 944.275(4)(e), F.S., also prohibits an inmate committed to the DOC for specified sexual offenses committed on or after October 1, 2014, from earning incentive gain-time.

<sup>40</sup> Section 944.275(4)(f), F.S.

<sup>41</sup> 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. Chapter 93-406, L.O.F.

<sup>42</sup> Section 944.275(4)(b), F.S, provides 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.

<sup>43</sup> 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.

<sup>44</sup> 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.

<sup>45</sup> Section 944.275(3)(c), F.S.

<sup>46</sup> Section 944.275(2)(a), F.S.

<sup>47</sup> Section 944.275(3)(a), F.S.

<sup>48</sup> *Id.* See also s. 944.275(4)(b), F.S.

### III. Effect of Proposed Changes:

The bill creates an unnumbered section of law to establish the “Certified Peer Specialist Pilot Program” (Program) within the DOC. The purpose of the Program is to provide participating inmates with a path to become certified peer specialists by offering such inmates the necessary training hours and experience needed for certification while incarcerated and assisting inmates who complete the Program with post-incarceration employment.

The Program will be used to:

- Recruit and enroll graduates of the pilot program into statutorily-approved certified peer specialist training programs;
- Provide core educational training and on-the-job work experience during each participant’s incarceration which meets all of the requirements for peer specialist certification;
- Assist with completing the national certification exam before each participant’s release; and
- Assist in placing participants in employment as certified peer specialist professionals upon their release.

The bill allows inmates at participating facilities to apply to participate in the Program. The bill directs the DOC to develop criteria for selecting qualified applicants for the Program, which may include, but is not limited to, requiring that participants:

- Have the appropriate custody classification;
- Meet certain discipline criteria;
- Have an expected release date within a specified timeframe;
- Be housed at the institution providing training;
- Have served as a positive role model during their incarceration;
- Express a desire to work in the behavioral health treatment field after release; and
- Not have any offenses that would prohibit them from becoming a certified peer specialist.

The bill exempts a person who completed the Program from the background screening requirements for certified peer specialists.

Under the bill, the Program must assist persons who have completed the Program with post-incarceration employment by:

- Assisting potential employers with acquiring bonds from the United States Department of Labor’s Federal Bonding Program, if applicable; and
- Offering funding to a potential employer to cover the costs of initially hiring and retaining such person.

The bill provides the DOC with rulemaking authority to implement provisions of the bill.

The bill is effective July 1, 2023, and the Program expires June 30, 2029.

### 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 bill will have a negative indeterminate workload impact on the DOC associated with the educational training and on-the-job work experience provisions. The DOC will implement the pilot program to the extent possible within existing resources.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates an undesignated section of law.

**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 the Committee on Children, Families, and Elder Affairs; and  
Senator Rouson

586-03514-23

20231012c1

A bill to be entitled

An act relating to the Certified Peer Specialist Gateway Pilot Program; creating the pilot program within the Department of Corrections; providing the purpose of, and requirements for, the pilot program; authorizing inmates at participating facilities to apply to participate in the pilot program; requiring the department to develop certain criteria for selecting qualified applicants; exempting persons who complete the pilot program's requirements from a specified background screening for peer specialists; requiring the pilot program to assist potential employers with acquiring specified bonds; authorizing the pilot program to offer funding to potential employers to cover specified costs under certain circumstances; requiring persons who have completed the pilot program's requirements to provide prospective employers with incarceration records; requiring such persons to receive a signed informed consent form from any potential clients; providing requirements for such form; requiring the department to adopt rules; providing for expiration of the pilot program; providing an effective date.

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

Section 1. The Certified Peer Specialist Gateway Pilot Program is created within the Department of Corrections. The purpose of the pilot program is to provide participating inmates

Page 1 of 4

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

586-03514-23

20231012c1

with a path to becoming certified peer specialists under s. 397.417, Florida Statutes, upon release by offering such inmates while incarcerated the necessary training hours and experience needed for certification and to assist inmates who complete the pilot program's requirements with post-incarceration employment.

(1) The pilot program shall:

(a) Recruit and enroll inmates who have completed certain treatment programs while incarcerated into certified peer specialist training programs approved under s. 397.417, Florida Statutes.

(b) Provide core educational training and on-the-job work experience during each participant's incarceration which meets all of the requirements for peer specialist certification.

(c) Assist participants with completing the national certification exam before each participant's release.

(d) Assist in placing participants in employment as certified peer specialist professionals upon their release.

(2) Inmates at participating facilities may apply to participate in the pilot program. The Department of Corrections shall develop criteria for selecting qualified applicants for the pilot program including, but not limited to, requiring that applicants:

(a) Have the appropriate custody classification.

(b) Meet certain discipline criteria.

(c) Have an expected release date within a specified timeframe.

(d) Be housed at the facility providing training.

(e) Have served as a positive role model during their incarceration.

Page 2 of 4

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

586-03514-23

20231012c1

59 (f) Express a desire to work in the behavioral health  
 60 treatment field after release.  
 61 (g) Not have any convictions for an offense that would  
 62 prohibit them from becoming a certified peer specialist.  
 63 However, an inmate who has been convicted of murder or a felony  
 64 sexual offense as those terms are defined in s. 98.0751(2),  
 65 Florida Statutes, or an offense under s. 787.01, Florida  
 66 Statutes, relating to kidnapping; s. 806.01, Florida Statutes,  
 67 relating to arson; or s. 784.045, Florida Statutes, relating to  
 68 aggravated battery may not participate in the program.  
 69 (3) A person who completes the pilot program's requirements  
 70 is exempt from the background screening requirements for peer  
 71 specialists under s. 397.417, Florida Statutes.  
 72 (4) In assisting persons who have completed the pilot  
 73 program's requirements with post-incarceration employment, the  
 74 pilot program:  
 75 (a) Shall assist potential employers with acquiring bonds  
 76 from the United States Department of Labor's Federal Bonding  
 77 Program, if applicable.  
 78 (b) May offer funding to a potential employer to cover the  
 79 initial costs of hiring and retaining such persons, if the pilot  
 80 program secures applicable grant funds for such purpose.  
 81 (5) After a person who has completed the pilot program's  
 82 requirements has been released, he or she must provide each  
 83 prospective employer with a copy of his or her incarceration  
 84 record before the employer may hire the person. The person must  
 85 also receive a signed informed consent form from any potential  
 86 client seeking treatment from him or her. Such consent form must  
 87 specify that the person has completed the pilot program's

Page 3 of 4

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

586-03514-23

20231012c1

88 requirements and is certified as a peer specialist under s.  
 89 397.417, Florida Statutes.  
 90 (6) The Department of Corrections shall adopt rules to  
 91 implement this act.  
 92 (7) The pilot program expires June 30, 2026.  
 93 Section 2. This act shall take effect July 1, 2023.

Page 4 of 4

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Appropriations, *Vice Chair*  
Ethics and Elections, *Vice Chair*  
Agriculture  
Appropriations Committee on Criminal  
and Civil Justice  
Appropriations Committee on Health and  
Human Services  
Children, Families, and Elder Affairs  
Governmental Oversight and Accountability  
Rules

### JOINT COMMITTEE:

Joint Administrative Procedures Committee

### SENATOR DARRYL ERVIN ROUSON

16th District

April 4, 2023

Senator Jennifer Bradley  
Chair, Appropriations Committee on Criminal and Civil Justice  
201 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chair Bradley,

I write today respectfully requesting that SB 1012, Certified Peer Specialist Pilot Program, be added to the agenda of a forthcoming meeting of the Appropriations Committee on Criminal and Civil Justice for consideration. I look forward to the opportunity to present SB 1012 to the committee. I am available for any questions you may have about this legislation. Thank you in advance for the committee's time and consideration.

Sincerely –

A handwritten signature in green ink that reads "Darryl E. Rouson".

Senator Darryl E. Rouson  
Florida Senate District 16

#### REPLY TO:

- 535 Central Avenue, Suite 302, St. Petersburg, Florida 33701 (727) 822-6828
- 212 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore



4/12/23

# The Florida Senate APPEARANCE RECORD

1012

Meeting Date  
Appropriations Committee on Criminal and Civil Justice

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Committee  
Name **Natalie Kelly**

Amendment Barcode (if applicable)  
850-895-1313

Address **122 S Calhoun St.**

Email **natalie@flmanagingentities.com**

Street

**Tallahassee**

**FL**

**32301**

City

State

Zip

**Reset Form**

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Florida Association of Managing Entities**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1, [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)

4/12/23

Meeting Date

# The Florida Senate APPEARANCE RECORD

CS/SB 10/2

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Appropriations on  
Criminal <sup>Committee</sup> & Civil Justice

Amendment Barcode (if applicable)

Name Laurette Philipson- Florida CARES

Phone 501-855-0833

Address 2048 Ponce DeLeon Ave  
Street

Email laurette@floridacares  
charity.org

West Palm Beach FL 33407  
City State Zip

Speaking:  For  Against  Information

**OR**

Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) (flsenate.gov)

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

The Florida Senate

APPEARANCE RECORD

4/12/23

Meeting Date

SB 1012

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

CRIMINAL JUSTICE APPROP

Committee

Amendment Barcode (if applicable)

Name

JEFFREY STARK

Phone

850 224 1060

Address

100 E. COLLEGE AVE, #110

Email

JEFFREYSTARK@jwd.com

Street

TX FL

32301

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

GATEWAY FOUNDATION

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate

APPEARANCE RECORD

4/12/23

Meeting Date

1012

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Criminal and Civil Justice

Committee

Amendment Barcode (if applicable)

Name Michael Dobson, The Dream Foundation

Phone

Address 310 W. College Ave, Suite 208

Street

Email Michael@DobsonandCraig.com

Tallahassee, FL

City

State

32301

Zip

Speaking:  For  Against  Information

OR

Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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 Committee on Criminal and Civil Justice

---

BILL: CS/SB 1104

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Senator Wright

SUBJECT: Victim Compensation Claims

DATE: April 14, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Fav/CS</b>
3.	_____	_____	<u>FP</u>	_____

---

## I. Summary:

CS/SB 1104 amends s. 960.07, F.S., to extend the time a victim may file a claim for compensation under the Florida Crimes Compensation Act. Specifically, the bill provides that upon a showing that a delay in filing a claim occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, a person who is eligible for compensation may receive a waiver from the Department of Legal Affairs (DLA) of any claim filing deadline.

The bill may have an indeterminate negative impact on the DLA. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

## II. Present Situation:

### Florida Crimes Compensation Act

The Florida Crimes Compensation Act<sup>1</sup> authorizes the Florida Attorney General's Division of Victim Services to administer a compensation program to ensure financial assistance for victims of crime. Injured victims of crime may file for compensation for financial assistance such as treatment costs, economic loss, disability, or loss of support.<sup>2</sup>

Section 960.065, F.S., provides that the following persons are eligible for compensation under ch. 960, F.S.:

---

<sup>1</sup> Sections 960.01-960.28, F.S.

<sup>2</sup> Attorney General, *Victim Compensation Brochure*, available at: [http://myfloridalegal.com/webfiles.nsf/WF/MRAY-8CVP5T/\\$file/BVCVictimCompensationBrochure.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MRAY-8CVP5T/$file/BVCVictimCompensationBrochure.pdf) (last visited March 20, 2023).

- A victim.
- An intervenor.
- A surviving spouse, parent or guardian, sibling, or child of a deceased victim or intervenor.
- Any other person who is dependent for his or her principal support upon a deceased victim or intervenor.<sup>3</sup>

Claims will generally be denied if filed for or on behalf of a person who:

- Committed or aided in the commission of the crime upon which the claim for compensation was based;
- Was engaged in an unlawful activity at the time of the crime upon which the claim for compensation is based, unless the victim was engaged in prostitution as a result of being a victim of human trafficking;
- Was in custody or confined, regardless of conviction, in a county or municipal detention facility, a state or federal correctional facility, or a juvenile detention or commitment facility at the time of the crime upon which the compensation is based;
- Has been adjudicated as a habitual felony offender (HFO), habitual violent offender, or violent career criminal; or
- Has been adjudicated guilty of a forcible felony offense.<sup>4</sup>

Claims filed by or on behalf of a person who was in custody or confined, who are adjudicated as a HFO or found guilty of a forcible felony may be eligible upon a finding by the Crime Victim's Service Office of mitigating or special circumstances that would render a disqualification unjust.<sup>5</sup>

Any award granted, must be granted on an "actual need" basis. An award is provided only after all benefits provided by primary insurance carriers, including, but not limited to, health and accident insurers, workers' compensation, and automobile accident coverage.<sup>6</sup> Payments under ch. 960, F.S., are considered payments "of last resort," that follow all other payments.<sup>7</sup>

Payment of claims are made from the Crimes Compensation Trust Fund (Trust Fund). The Trust Fund was created for the purpose of providing, in part, for the payment of claims. The funds placed in the Trust Fund consist of moneys:

- Appropriated by the Legislature;
- Recovered on behalf of the DLA by subrogation or other action, recovered through restitution;
- Received from additional court costs, or fines;
- Received from the Federal Government; or
- Received from any other public or private source.<sup>8</sup>

---

<sup>3</sup> Section 960.065(1), F.S.

<sup>4</sup> Section 960.065(2), F.S.

<sup>5</sup> Section 960.065(3), F.S.

<sup>6</sup> Section 960.13(2), F.S.

<sup>7</sup> Section 960.13(3), F.S.

<sup>8</sup> Section 960.21, F.S.

### ***Filing of Claims for Compensation***

A claim for compensation may be filed by an eligible person. If such person is a minor, or is mentally incompetent, a claim may be filed by the person's parent, or guardian, as appropriate.

Claims arising from a crime occurring before October 1, 2019, must be filed within 1 year after:

- The occurrence of the crime upon which the claim is based.
- The death of the victim or intervenor.
- The death of the victim or intervenor is determined to be the result of a crime, and the crime occurred after June 30, 1994.

The DLA may extend the time for filing a claim for a crime occurring before October 1, 2019, by up to 2 years, upon a showing of good cause.<sup>9</sup>

Claims arising from a crime occurring on or after October 1, 2019, must be filed within 3 years after the later of:

- The occurrence of the crime upon which the claim is based;
- The death of the victim or intervenor; or
- The death of the victim or intervenor is determined to be the result of the crime.

The DLA may extend the time for filing a claim for a crime occurring on or after October 1, 2019, by up to 5 years, upon a showing of good cause.<sup>10</sup>

There are exceptions to the time limitations mentioned above for a victim or intervenor who was under the age of 18 at the time the crime upon which the claim is based occurred.<sup>11</sup> These exceptions include:

- The victim's or intervenor's parent or guardian may file a claim on behalf of the victim or intervenor while the victim or intervenor is less than 18 years of age;
- For a claim arising from a crime that occurred before October 1, 2019, when a victim or intervenor who was under the age of 18 at the time of the crime occurred reaches the age of 18, the victim or intervenor has 1 year to file a claim; or
- For a claim arising from a crime occurring on or after October 1, 2019, when a victim or intervenor who was under the age of 18 at the time the crime occurred reaches the age of 18, the victim or intervenor has 3 years to file a claim.<sup>12</sup>

Upon a showing of good cause, the DLA may extend the time for filing a claim for an additional period up to 1 year for a crime occurring before October 1, 2019, if the victim or intervenor was less than 18 years of age. Additionally, upon a showing of good cause, the DLA may extend the time for filing a claim for an additional 2 years for a crime occurring on or after October 1, 2019, if the victim or intervenor was less than 18 years of age.<sup>13</sup>

---

<sup>9</sup> Section 960.07(2)(a), F.S.

<sup>10</sup> Section 960.07(2)(b), F.S.

<sup>11</sup> Section 960.07(3), F.S.

<sup>12</sup> Section 960.07(3)(a)-(c), F.S.

<sup>13</sup> *Id.*

Additionally, there are exceptions to the time limitations mentioned above for victims of sexually violent offenses.<sup>14</sup> Such victims may file a claim for compensation for counseling or other mental health services within:

- One year after the filing of a petition to involuntarily civilly commit the individual who perpetrated the sexually violent offense, if the claim arises from a crime committed before October 1, 2019; or
- Three years after the filing of a petition to involuntarily civilly commit the individual who perpetrated the sexually violent offense, if the claim arises from a crime committed on or after October 1, 2019.<sup>15</sup>

### III. Effect of Proposed Changes:

The bill amends s. 960.07, F.S., to extend the time a victim may file a claim for compensation under the Florida Crimes Compensation Act. Specifically, the bill provides that upon a showing that a delay in filing a claim occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, a person who is eligible for compensation may receive a waiver from the DLA of any claim filing deadline.

The bill is effective July 1, 2023.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

---

<sup>14</sup> Section 394.912, F.S., provides that a “sexually violent offense” means: murder of a human being while engaged in sexual battery in violation of s. 782.04(1)(a)2, F.S.; kidnapping of a child under the age of 13 and, in the course of that offense, committing sexual battery or a lewd, lascivious, or indecent assault or act upon or in the presence of the child; committing the offense of false imprisonment upon a child under the age of 13 and, in the course of that offense, committing sexual battery or a lewd, lascivious, or indecent assault or act upon or in the presence of the child; sexual battery in violation of s. 794.011, F.S.; lewd, lascivious, or indecent assault or act upon or in presence of the child in violation of s. 800.04 or s. 847.0135(5), F.S.; an attempt, criminal solicitation, or conspiracy, in violation of s. 777.04, F.S., of a sexually violent offense; any conviction for a felony offense in effect at any time before October 1, 1998, which is comparable to a sexually violent offense under paragraphs (a)-(f) or any federal conviction or conviction in another state for a felony offense that in this state would be a sexually violent offense; any criminal act that, either at the time of sentencing for the offense or subsequently during civil commitment proceedings under this part, has been determined beyond a reasonable doubt to have been sexually motivated; or a criminal offense in which the state attorney refers a person to the DOC for civil commitment proceedings.

<sup>15</sup> Section 960.07(4), F.S.



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 may have an indeterminate negative fiscal impact on available funds in the DLA's Crimes Compensation Trust Fund, as more victims will be eligible for compensation due to the expansion of eligibility to file claims. It is uncertain how many individuals may be eligible due to the expansion under the bill or how many of the newly eligible individuals will file claims.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 960.07 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

**CS by Appropriations Committee on Criminal and Civil Justice on April 12, 2023:**

The committee substitute makes technical changes by correcting references in the bill.

B. Amendments:

None.

---

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

---



674522

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

---

The Appropriations Committee on Criminal and Civil Justice  
(Wright) recommended the following:

**Senate Amendment**

Delete lines 30 - 82  
and insert:

2. Upon a showing that a delay in filing a claim under this paragraph occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, a person who is eligible for compensation under subsection (1) may receive a waiver from



674522

11 the department of any claim filing deadline.

12 3. For good cause based on a reason other than a delay as  
13 described in subparagraph 2., the department may extend the time  
14 for filing a claim under subparagraph 1. for a period not  
15 exceeding 2 years after such occurrence.

16 (b)1. A claim arising from a crime occurring on or after  
17 October 1, 2019, must be filed within 3 years after the later  
18 of:

19 a. The occurrence of the crime upon which the claim is  
20 based;

21 b. The death of the victim or intervenor; or

22 c. The death of the victim or intervenor is determined to  
23 be the result of the crime.

24 2. Upon a showing that a delay in filing a claim under this  
25 paragraph occurred because of a delay in the testing of, or  
26 delay in the DNA profile matching from, a sexual assault  
27 forensic examination kit or biological material collected as  
28 evidence related to a sexual offense, a person who is eligible  
29 for compensation under subsection (1) may receive a waiver from  
30 the department of any claim filing deadline.

31 3. For good cause based on a reason other than a delay as  
32 described in subparagraph 2., the department may extend the time  
33 for filing a claim under subparagraph 1. for a period not to  
34 exceed 5 years after such occurrence.

35 (3) (a) Notwithstanding ~~the provisions of~~ subsection (2), if  
36 the victim or intervenor was under the age of 18 at the time the  
37 crime upon which the claim is based occurred, a claim may be  
38 filed in accordance with this subsection.

39 1. (a) The victim's or intervenor's parent or guardian may



674522

40 file a claim on behalf of the victim or intervenor while the  
41 victim or intervenor is less than 18 years of age;

42 2.~~(b)~~ For a claim arising from a crime that occurred before  
43 October 1, 2019, when a victim or intervenor who was under the  
44 age of 18 at the time the crime occurred reaches the age of 18,  
45 the victim or intervenor has 1 year to file a claim; or

46 3.~~(e)~~ For a claim arising from a crime occurring on or  
47 after October 1, 2019, when a victim or intervenor who was under  
48 the age of 18 at the time the crime occurred reaches the age of  
49 18, the victim or intervenor has 3 years to file a claim.

50 (b) Upon a showing that a delay in filing a claim occurred  
51 because of a delay in the testing of, or delay in the DNA  
52 profile matching from, a sexual assault forensic examination kit  
53 or biological material collected as evidence related to a sexual  
54 offense, a person who is eligible for compensation under  
55 paragraph (a) may receive a waiver from the department of any  
56 claim filing deadline.

57 (c) For good cause, ~~7~~ based on a reason other than a delay as

By Senator Wright

8-01231-23

20231104\_\_

A bill to be entitled

An act relating to victim compensation claims; amending s. 960.07, F.S.; authorizing the Department of Legal Affairs to issue waivers of any claim filing deadlines for specified victim claims for compensation upon a showing that a delay in filing the application occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense; conforming provisions to changes made by the act; making technical changes; providing an effective date.

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

Section 1. Subsections (2), (3), and (4) of section 960.07, Florida Statutes, are amended to read:

960.07 Filing of claims for compensation.—

(2) Except as provided in subsections (3) and (4), a claim must be filed in accordance with this subsection.

(a)1. A claim arising from a crime occurring before October 1, 2019, must be filed within 1 year after:

a. The occurrence of the crime upon which the claim is based.

b. The death of the victim or intervenor.

c. The death of the victim or intervenor is determined to be the result of a crime, and the crime occurred after June 30, 1994.

Page 1 of 4

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

8-01231-23

20231104\_\_

2. Upon a showing that a delay in filing a claim occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, a person who is eligible for compensation under subparagraph 1. may receive a waiver from the department of any claim filing deadline.

3. For good cause based on a reason other than a delay as described in subparagraph 2., the department may extend the time for filing a claim under subparagraph 1. for a period not exceeding 2 years after such occurrence.

(b)1. A claim arising from a crime occurring on or after October 1, 2019, must be filed within 3 years after the later of:

a. The occurrence of the crime upon which the claim is based;

b. The death of the victim or intervenor; or

c. The death of the victim or intervenor is determined to be the result of the crime.

2. Upon a showing that a delay in filing a claim occurred because of a delay in the testing of, or delay in the DNA profile matching from, a sexual assault forensic examination kit or biological material collected as evidence related to a sexual offense, a person who is eligible for compensation under subparagraph 1. may receive a waiver from the department of any claim filing deadline.

3. For good cause based on a reason other than a delay as described in subparagraph 2., the department may extend the time for filing a claim under subparagraph 1. for a period not to

Page 2 of 4

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

8-01231-23

20231104\_\_

59 exceed 5 years after such occurrence.

60 (3) ~~(a)~~ Notwithstanding ~~the provisions of~~ subsection (2), if  
61 the victim or intervenor was under the age of 18 at the time the  
62 crime upon which the claim is based occurred, a claim may be  
63 filed in accordance with this subsection.

64 ~~1.(a)~~ The victim's or intervenor's parent or guardian may  
65 file a claim on behalf of the victim or intervenor while the  
66 victim or intervenor is less than 18 years of age;

67 ~~2.(b)~~ For a claim arising from a crime that occurred before  
68 October 1, 2019, when a victim or intervenor who was under the  
69 age of 18 at the time the crime occurred reaches the age of 18,  
70 the victim or intervenor has 1 year to file a claim; or

71 ~~3.(c)~~ For a claim arising from a crime occurring on or  
72 after October 1, 2019, when a victim or intervenor who was under  
73 the age of 18 at the time the crime occurred reaches the age of  
74 18, the victim or intervenor has 3 years to file a claim.

75 (b) Upon a showing that a delay in filing a claim occurred  
76 because of a delay in the testing of, or delay in the DNA  
77 profile matching from, a sexual assault forensic examination kit  
78 or biological material collected as evidence related to a sexual  
79 offense, a person who is eligible for compensation under  
80 paragraph (a) may receive a waiver from the department of any  
81 claim filing deadline.

82 (c) For good cause, based on a reason other than a delay as  
83 described in paragraph (b), the department may extend the time  
84 period allowed for filing a claim under subparagraph (a)2.  
85 ~~paragraph (b)~~ for an additional period not to exceed 1 year or  
86 under subparagraph (a)3. ~~paragraph (c)~~ for an additional period  
87 not to exceed 2 years.

Page 3 of 4

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

8-01231-23

20231104\_\_

88 (4) ~~Notwithstanding The provisions of~~ subsection (2)  
89 ~~notwithstanding~~, a victim of a sexually violent offense as  
90 defined in s. 394.912, may file a claim for compensation for  
91 counseling or other mental health services within:

92 (a) One year after the filing of a petition under s.  
93 394.914, to involuntarily civilly commit the individual who  
94 perpetrated the sexually violent offense, if the claim arises  
95 from a crime committed before October 1, 2019; or

96 (b) Three years after the filing of a petition under s.  
97 394.914, to involuntarily civilly commit the individual who  
98 perpetrated the sexually violent offense, if the claim arises  
99 from a crime committed on or after October 1, 2019.

100  
101 Upon a showing that a delay in filing a claim occurred because  
102 of a delay in the testing of, or delay in the DNA profile  
103 matching from, a sexual assault forensic examination kit or  
104 biological material collected as evidence related to a sexual  
105 offense, a person who is eligible for compensation under this  
106 subsection may receive a waiver from the department of any claim  
107 filing deadline.

108 Section 2. This act shall take effect July 1, 2023.

Page 4 of 4

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Jennifer Bradley, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** March 28, 2023

---

I respectfully request that **Senate Bill 1104**, relating to Victim Compensation Claims, be placed on the:

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

Thank you for your consideration.

A handwritten signature in black ink that reads "Tom A. Wright". The signature is written in a cursive style.

---

Senator Tom A. Wright  
Florida Senate, District 8



4/12/23

Meeting Date

# The Florida Senate APPEARANCE RECORD

SB 1104

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Appropriations on  
Criminal & Civil Justice

Committee

Amendment Barcode (if applicable)

Name Laurette Philipson - Florida Cares Phone 561-855-0833

Address 2418 Ponce De Leon Ave Email laurette@floridacares  
*Street* *Charity.org*

West Palm Beach, FL 33407  
*City State Zip*

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/12/23  
Meeting Date

SB 1104  
Bill Number or Topic

ACJ  
Committee

Amendment Barcode (if applicable)

Name LIBBY GUZZO

Phone 980 245 0155

Address CAPITOL - PL-01  
Street

Email LIBBY.GUZZO@  
MYTORNDALEGAL.COM

TLH  
City

FL  
State

32319  
Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

OFFICE OF ATTORNEY GENERAL

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules. [df.flsenate.gov](https://www.flsenate.gov)

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

S-001 (08/10/2021)

April 12, 2023

Meeting Date

CJ Approps

Committee

Name Barney Bishop III

Address 1454 Vieux Carre Drive

Street

Tallahassee

City

FL

State

32308

Zip

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1104

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 850-510-9922

Email Barney@BarneyBishop.com

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Fla. Smart Justice

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf flsenate.gov

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 Committee on Criminal and Civil Justice

---

BILL: CS/SB 1140

INTRODUCER: Appropriations Committee on Criminal and Civil Justice and Senator Ingoglia

SUBJECT: Rapid DNA Grant Program

DATE: April 13, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Fav/CS</b>
3.	_____	_____	<u>FP</u>	_____

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1140 creates s. 943.324, F.S., to establish the Rapid DNA Grant Program within the Florida Department of Law Enforcement (FDLE) to award grants to county jails or sheriffs' offices to procure Rapid DNA machines and other necessary supplies required to rapidly process DNA samples in support of the statewide DNA database under s. 943.325, F.S.

The bill requires the FDLE to annually award funds specifically appropriated for the grant program to county jails and sheriffs' offices. The FDLE may establish criteria and set specific time periods for the acceptance of applications and for the selection process for awarding grant funds.

The total amount of grants awarded may not exceed funding appropriated for the grant program.

The cost associated with procuring the technology varies. The cost for future years is subject to appropriation. See Section V. Fiscal Impact Statement.

The bill provides an effective date of July 1, 2023.

## II. Present Situation:

The FDLE is the administrator of Florida's statewide DNA database.<sup>1</sup> The database is an automated personal identification system capable, in part, of classifying, matching, and storing analyses of DNA and other biological molecules and related data.<sup>2</sup> All accredited local government crime laboratories within the state have access through CODIS to the statewide DNA database in accordance with the rules and agreements established by FDLE.<sup>3</sup>

“CODIS” means the Federal Bureau of Investigation’s (FBI) Combined DNA Index System that allows the storage and exchange of DNA records submitted by federal, state, and local forensic DNA laboratories.<sup>4</sup> CODIS blends forensic science and computer technology into a tool that enables federal, state, and local forensic laboratories to exchange and compare DNA profiles electronically, thereby linking serial violent crimes to each other and to known offenders.<sup>5</sup>

Rapid DNA is the fully automated (hands free) process of generating a DNA profile from a person’s cheek swab in less than two hours.<sup>6</sup> States with laws that allow DNA analysis upon arrest will be able to submit a qualifying arrestee DNA profile to the CODIS database from the booking station at a county jail.<sup>7</sup> Florida law requires all persons arrested for a felony or attempted felony in this state to submit a DNA sample at the time they are booked into a jail.<sup>8</sup>

The qualifying arrestee DNA profile will be immediately enrolled and searched in CODIS against DNA profiles from unsolved crimes of special concern.<sup>9</sup> The “Wants and Warrants” system will immediately send a message involving any exact DNA matches to the booking and investigating agencies.<sup>10</sup> The Rapid DNA system has the ability to provide information on any “hits” on the arrestee’s DNA sample, likely while the arrestee is still in the booking station.<sup>11</sup>

The FDLE and the Leon County Sheriff’s Office implemented the country’s first fully automated Rapid DNA collection process in 2020.<sup>12</sup> Florida is one of five states selected by the FBI to participate in the Rapid DNA project and the only one to use a fully automated process.<sup>13</sup> The

---

<sup>1</sup> Section 943.325(4), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Section 943.325(2)(b), F.S.

<sup>5</sup> FBI Law Enforcement Resources, Biometrics and Fingerprints, Combined DNA Index System (CODIS), available at <https://le.fbi.gov/science-and-lab-resources/biometrics-and-fingerprints/codis>, (last visited March 21, 2023).

<sup>6</sup> FBI’s Vision of Rapid DNA, September 20, 2017, available at <http://www.fbi.gov/services/laboratory/biometric-analysis/codis/rapid-dna-analysis>, (last visited March 21, 2023).

<sup>7</sup> *Id.*

<sup>8</sup> Section 943.325(7)(b), F.S.

<sup>9</sup> Unsolved crimes of special concern are crimes involving a significant public safety threat and are determined by state-wide policies. *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> FDLE News, FDLE, LCSO unveil nation’s first automated rapid DNA collection, February 26, 2020, available at <https://www.fdle.state.fl.us/News/2020/February/FDLE,-LCSO-unveils-nation%E2%80%99s-first-automated-rapid>, (last visited March 21, 2023).

<sup>12</sup> *Id.*

<sup>13</sup> Forensic, Nation’s First Automated Rapid DNA Collection, March 18, 2023, available at <https://www.forensicmag.com/561947-Nation-s-First-Automated-Rapid-DNA-Collection/>, (last visited March 21, 2023).

FDLE's technology was approved by the FBI in March 2020.<sup>14</sup> The FBI will use data from the pilots to establish national standards for Rapid DNA.<sup>15</sup>

### **III. Effect of Proposed Changes:**

The bill creates s. 943.324, F.S., to establish the Rapid DNA Grant Program within FDLE to award grants to county jails or sheriffs' offices to cover expenses, including the procurement of Rapid DNA testing machines and other necessary supplies required to rapidly process DNA samples in support of the statewide DNA database under s. 943.325, F.S.

The bill requires FDLE to annually award funds received from appropriations specific to the grant program to county jails and sheriffs' offices. The total amount of grants awarded may not exceed funding appropriated for the grant program. The FDLE may establish criteria and set specific time periods for the acceptance of applications and for the selection process for awarding grant funds.

The bill provides an effective date of July 1, 2023.

### **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.

---

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

According to the Florida Sheriffs Association, the cost of the new technology varies by vendor as well as the number of samples an agency collects. In short, the cost of a Rapid DNA machine can range from \$150,000 to \$250,000 and the cost per sample can range from approximately \$140 per sample to \$250 per sample. There are also additional one-time expenses such as installation, IT integration, training, and shipping, and the on-going expense of a service contract. These vary considerably depending on the vendor.

While there may be some opportunities available for federal grant money for the Rapid DNA roll-out, the opportunities tend to vary each year, and so are unpredictable.<sup>16</sup> FDLE's ability to award grants using state funds in future years is subject to appropriation.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 943.324 of the Florida Statutes.

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

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

**CS by Appropriations Committee on Criminal and Civil Justice on April 12, 2023:**

- Deletes the appropriation in Section 2 of the bill designated for the Florida Department of Law Enforcement for implementing the Rapid DNA Grant Program under s. 943.324, F.S.
- Provides that the Florida Department of Law Enforcement will annually award county jails or sheriffs' offices funds specifically appropriated for the Rapid DNA Grant Program to cover expenses related to purchasing DNA testing machines and supplies.

---

<sup>16</sup> E-mail from the Florida Sheriffs Association, received March 22, 2023, on file with the Senate Criminal Justice Committee.

B. Amendments:

None.

---

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

---





839280

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

---

The Appropriations Committee on Criminal and Civil Justice  
(Ingolia) recommended the following:

**Senate Amendment**

Delete lines 26 - 29  
and insert:  
sheriffs' offices any funds specifically appropriated for the  
grant program to cover expenses related to the purchasing of DNA  
testing machines and other necessary supplies. Grants must be  
provided



969332

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

---

The Appropriations Committee on Criminal and Civil Justice  
(Ingolia) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 36 - 40.

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

And the title is amended as follows:

Delete line 11

and insert:

for awarding grant funds;

By Senator Ingoglia

11-00657C-23

20231140\_\_

1 A bill to be entitled  
 2 An act relating to the Rapid DNA Grant Program;  
 3 creating s. 943.324, F.S.; creating the Rapid DNA  
 4 Grant Program within the Department of Law Enforcement  
 5 for county jails or sheriffs' offices; requiring the  
 6 department to annually award grant funds to county  
 7 jails or sheriffs' offices; providing funding  
 8 requirements; authorizing the department to establish  
 9 criteria and set specific time periods for the  
 10 acceptance of applications and the selection process  
 11 for awarding grant funds; providing an appropriation;  
 12 providing an effective date.

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

16 Section 1. Section 943.324, Florida Statutes, is created to  
 17 read:

18 943.324 Rapid DNA Grant Program for county jails or  
 19 sheriffs' offices.-

20 (1) There is created within the department the Rapid DNA  
 21 Grant Program to award grants to county jails or sheriffs'  
 22 offices to support local law enforcement agencies in the  
 23 processing and expediting of DNA samples as defined in, and in  
 24 support of the statewide DNA database under, s. 943.325.

25 (2) The department shall annually award to county jails or  
 26 sheriffs' offices funds received from the Federal Government and  
 27 any funds specifically appropriated for the grant program to  
 28 cover all expenses, including for the purchasing of DNA testing  
 29 machines and other necessary supplies. Grants must be provided

Page 1 of 2

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

11-00657C-23

20231140\_\_

30 to county jails or sheriffs' offices if funds are appropriated  
 31 for that purpose by law. The total amount of grants awarded may  
 32 not exceed funding appropriated for the grant program.

33 (3) The department may establish criteria and set specific  
 34 time periods for the acceptance of applications and for the  
 35 selection process for awarding grant funds.

36 Section 2. For the 2023-2024 fiscal year, the sum of  
 37 \$200,000 in nonrecurring funds is appropriated from the General  
 38 Revenue Fund to the Department of Law Enforcement for the  
 39 purpose of implementing the Rapid DNA Grant Program under s.  
 40 943.324, Florida Statutes.

41 Section 3. This act shall take effect July 1, 2023.

Page 2 of 2

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



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**SENATOR BLAISE INGOGLIA**  
11th District

**COMMITTEES:**  
Finance and Tax, *Chair*  
Appropriations  
Appropriations Committee on Criminal  
and Civil Justice  
Banking and Insurance  
Children, Families, and Elder Affairs  
Criminal Justice  
Ethics and Elections

**SELECT COMMITTEE:**  
Select Committee on Resiliency

**JOINT COMMITTEE:**  
Joint Administrative Procedures Committee, *Alternating  
Chair*

March 27, 2023

The Honorable Jennifer Bradley, Chair  
Appropriation Committee on Criminal and Civil Justice  
410 Senate Office Building  
402 South Monroe Street  
Tallahassee, FL 32399

## **Re: SB 1140 Rapid DNA Grant Fund**

Chair Bradley,

SB 1140 has been referred to the Appropriation Committee on Criminal and Civil Justice as its second committee of reference. I respectfully request that it be placed on the agenda at your earliest convenience.

If I may answer questions or be of assistance, please do not hesitate to contact me. Thank you for your leadership and consideration.

Regards,

A handwritten signature in blue ink, appearing to read "Blaise Ingoglia". The signature is stylized with long, sweeping strokes.

Blaise Ingoglia  
State Senator, District 11

Cc: Marti Harkness, Staff Director  
Rebecca Henderson, Staff Assistant

April 12, 2023

Meeting Date

CJ Approps

Committee

Name Barney Bishop III

Address 1454 Vieux Carre Drive

Street

Tallahassee

City

FL

State

32308

Zip

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1140

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 850-510-9922

Email Barney@BarneyBishop.com

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Fla. Smart Justice

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

The Florida Senate

# APPEARANCE RECORD

4/12/2023

1140

Meeting Date

Bill Number or Topic

Appropriations Committee on Criminal and Civil Justice

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name **Matt Dunagan**

Phone **(850) 877-2165**

Address **2617 Mahan Drive**

Email **mdunagan@flsheriffs.org**

Street

**Tallahassee**

**FL**

**32308**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Florida Sheriffs Association**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) ([flsenate.gov](#))*

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 Committee on Criminal and Civil Justice

---

BILL: SB 1198

INTRODUCER: Senators Simon and Davis

SUBJECT: Operation New Hope

DATE: April 11, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Stokes</u>	<u>CJ</u>	<b>Favorable</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	_____	_____	<u>FP</u>	_____

---

## I. Summary:

SB 1198 authorizes the Department of Corrections (DOC) to contract with Operation New Hope (ONH), a nonprofit organization exempt from taxation pursuant to s. 501(c)(3) of the Internal Revenue Code, to provide reentry services to inmates both before and after release from incarceration. A contract with ONH must be authorized by and consistent with funding appropriated in the General Appropriations Act.

The bill does not result in a fiscal impact to the DOC. It simply authorizes the DOC to contract with ONH, contingent upon appropriated funding. The DOC currently contracts with ONH and with other organizations to provide pre-release and post-release reintegration services. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

## II. Present Situation:

### Operation New Hope (ONH)

ONH is a nonprofit organization exempt from taxation pursuant to s. 501(c)(3) of the Internal Revenue Code.<sup>1</sup> The organization was founded in 1999 in Jacksonville, Florida.<sup>2</sup> Since its

---

<sup>1</sup> Operation New Hope, *Annual Report 2022*, available at <https://operationnewhope.org/wp-content/uploads/2022/07/Annual-Report-2022-updated-7.21.22.pdf> (last visited on March 2023). A nonprofit organization, as defined in 26 U.S.C.

s. 501(c)(3), is an organization that is organized and operated exclusively for religious, charitable, scientific, public safety, literary, or educational purposes, or to foster specified national or international amateur sports competition, or for the prevention of cruelty to children or animals. None of such an organizations earnings may benefit any private shareholder or individual. No substantial part of the organizations activities may be directed towards attempting to influence legislation or any political campaign.

<sup>2</sup> Operation New Hope, *Our History*, available at <https://operationnewhope.org/our-stories/our-history/> (last visited on March 30, 2023).

founding, ONH has served over 9,000 people impacted by the criminal justice system.<sup>3</sup> The following information about the ONH's mission and programs is provided on the ONH's website:

- ONH's mission is to provide "support, life and job skills training for people with a history of involvement with the criminal justice system, and places them in employment that offers a sustainable quality of life."<sup>4</sup>
- ONH offers the Ready4Release program, Ready4Work program, and Ready4Success program.<sup>5</sup> It also hosts "parenting and family reunification workshops featuring subject matter experts," and delivers "the National Fatherhood Initiatives' InsideOut Dads program within prisons to help incarcerated fathers become better dads." ONH's programs also "support continued growth as moms and dads transition home."<sup>6</sup>
- In implementing the Ready4Release program, the ONH works "in collaboration" with the DOC to deliver "pre-release services to 30 facilities in Florida." The "Ready4Release team targets qualified inmates and presents Ready4Work program details. Experienced Case Managers enroll interested clients and build an individualized release plan to facilitate a smooth transition back into the community." The ONH states that "[b]y meeting with clients monthly during the 90 days prior to their release, we bridge the reentry divide to ensure adequate housing, transportation, and job training."<sup>7</sup>
- The Ready4Work program implements "a comprehensive 4-pronged approach (case management and mental health, supportive services, job training, and job placement assistance). The ONH states that the program "ensures each client succeeds at reconnecting to the workforce, their families, and community."<sup>8</sup>
- The Ready4Success program is ONH's newest program and it delivers "case management, career development, and other crucial program services in a blended service model that is primarily virtual." The ONH states that this program "builds on lessons learned over the many years and most recently during the COVID pandemic, where we learned that we can successfully deliver critical support services to individuals through a predominately virtual platform."<sup>9</sup>

---

<sup>3</sup> Operation New Hope, *Hope Starts Here!*, available at <https://operationnewhope.org/wp-content/uploads/2022/08/Operation-New-Hope-Overview.pdf> (last visited on March 30, 2023).

<sup>4</sup> Operation New Hope, *Our Mission*, available at <https://operationnewhope.org/find-hope/our-mission/> (last visited on March 30, 2023).

<sup>5</sup> Operation New Hope, *Our Programs*, available at <https://operationnewhope.org/our-programs/> (last visited on March 30, 2023).

<sup>6</sup> Operation New Hope, *Hope Starts Here!*, *supra*.

<sup>7</sup> Operation New Hope, *Ready4Release*, available at <https://operationnewhope.org/our-programs/ready4release/> (last visited on March 30, 2023).

<sup>8</sup> Operation New Hope, *Ready4Work*, available at <https://operationnewhope.org/our-programs/ready4work/> (last visited on March 30, 2023). "Participants are required to remain drug-free and attend a comprehensive job training program featuring personal and professional development. Clients are paired with a Licensed Mental Health Counselor, Case Manager, and Job Coach to provide guidance and support, leading to job placement with targeted employment partners." ONH also offers career and technical training courses. Operation New Hope, *Hope Starts Here!*, *supra*.

<sup>9</sup> Operation New Hope, *Ready4Success*, available at <https://operationnewhope.org/our-programs/ready4success/> (last visited on March 30, 2023).



## Reentry Programming

The Transition Assistance Program Act<sup>10</sup> directs the DOC to assist incarcerated individuals who are re-entering society, and in accordance with adopted administrative rules.<sup>11</sup> The DOC is authorized to pay contractual services in support of such re-entry programs and activities that address the needs of individuals re-entering society, subject to the requirements of chs. 215, 216, and 287, F.S.<sup>12</sup>

Section 944.706, F.S., provides that any inmate eligible for release is eligible for transition assistance.

The DOC may contract with the Department of Children and Families, the Salvation Army, and other public or private organizations, including faith-based service groups, for the provision of basic support services for releasees.<sup>13</sup>

The DOC currently contracts with a number of organizations, including ONH, to provide pre-release and post-release reintegration services.<sup>14</sup> Funding is provided for these programs through recurring and nonrecurring appropriations provided in the General Appropriations Act (GAA).<sup>15</sup>

## Procurement of Contractual Services with ONH

The DOC has provided the following information regarding its current contract with ONH:

Presently, the Department contracts with ONH to facilitate delivery of pre-release services to incarcerated individuals and post-release services to ex-offenders. This contractual relationship was authorized pursuant to Specific Appropriation 726 of the 2022-2023 General Appropriations Act, and the Department received non-recurring funds for this purpose.

Through Contractual Purchase Order PO C03D83, ONH provides case management, career development, life skills training, job skills training, family reunification, financial assistance, and job placement assistance. Case management includes referrals to resources and services that assist with re-integration to society. Pre-release services can be provided to incarcerated individuals within 12 months of release and housed in any

---

<sup>10</sup> Sections 944.701-944.708, F.S.

<sup>11</sup> Rule 33-601.504, F.A.C.

<sup>12</sup> Chapter 215, F.S., provides general provisions related to financial matters, including transparency in government spending requirements; ch. 216, F.S., provides provisions related to overall state planning and budgeting; and ch. 287, F.S., provides provisions related to the procurement of personal property and services, including competitive procurement requirements.

<sup>13</sup> Section 944.706, F.S.

<sup>14</sup> 2023 Agency Legislative Bill Analysis (SB 1198) (March 15, 2023), Florida Department of Corrections (on file with the Senate Committee on Criminal Justice). This analysis is further referenced as "DOC Analysis." The other organizations identified by the DOC include: Re-Entry Alliance Pensacola, Inc. (REAP), serving Escambia and Santa Rosa Counties; WestCare GulfCoast - Florida, Inc. (mental health overlay) serving Pinellas County; Abe Brown Ministries, Inc., serving Hillsborough and Polk Counties; The Re-Entry Center of Brevard (Brevard County Re-Entry Portal), serving Brevard County; Regional & State Transition Offender Re-Entry (Restore) Initiative of Palm Beach, serving Palm Beach County; South Florida Behavioral Health Network, dba Thriving Mind, serving Miami-Dade County; and Home Builders Institute, Inc., serving Palm Beach County. *Id.*

<sup>15</sup> *DOC Analysis, supra.*

Department facility. Post-release services can be provided to any ex-offender within travel distance of ONH locations. “Ex-offender” includes ex-offenders on felony supervision, ex-offenders who have served time in a Department facility, participants of any State Attorney’s Office Diversion or Pretrial Intervention Program, or adult ex-offenders who served time in a Department of Juvenile Justice facility. ONH currently serves Duval, Columbia, Gadsden, Volusia, Putnam, and St. Johns Counties.<sup>16</sup>

### **State Funding for ONH**

Beginning in FY 2015-16, ONH received a recurring appropriation of \$2,225,000 in the GAA.<sup>17</sup> Prior to FY 2015-16, ONH had received different recurring appropriation amounts. Contracts for commodities or services may be awarded without competitive procurement if state or federal law prescribes with whom the agency must contract or if the rate of payment or recipient of funds is established during the appropriations process.<sup>18</sup>

Additionally, ONH requested and received \$3,450,000 in nonrecurring funding as appropriations projects in the FY 2022-23 GAA.<sup>19</sup> Legislative Joint Rules require, for an “appropriations project” to be included in a budget conference committee report, the project must be included in a bill or an amendment placed into a budget conference and specified information about the project must have been published online.<sup>20</sup> Funding of an “appropriations project” is limited to nonrecurring funds. Appropriations for projects are not subject to the “appropriations project” requirements and limitations if specifically authorized by statute.<sup>21</sup>

### **III. Effect of Proposed Changes:**

The bill authorizes<sup>22</sup> the DOC to contract with ONH, a nonprofit organization exempt from taxation pursuant to s. 501(c)(3) of the Internal Revenue Code, to provide reentry services to inmates both before and after release from incarceration. A contract with ONH must be authorized by and consistent with funding appropriated in the GAA.

The bill takes effect July 1, 2023.

---

<sup>16</sup> *Id.*

<sup>17</sup> Specific Appropriation 766, ch. 15-232, L.O.F.

<sup>18</sup> Section 287.057(10), F.S.

<sup>19</sup> Specific Appropriation 726, ch. 22-156, L.O.F.

<sup>20</sup> Joint Rule 2.3, Joint Rules of the Florida Legislature (2022-2024).

<sup>21</sup> Joint Rule 2.2(4)(b), Joint Rules of the Florida Legislature (2022-2024).

<sup>22</sup> The DOC notes: “Presently, substance abuse and mental health (medical services) providers can contract with the State of Florida outside of the competitive-solicitation requirements listed in s. 287.057, F.S. More specifically, s. 287.057 (3)(e)5, F.S., provides the competitive-solicitation exemption related to substance abuse programs. The current proposed language in SB 1198 Line 14 which states “may” minimizes the risk of contract challenge.” *DOC Analysis, supra.*

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

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State 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:**

The bill may positively impact ONH if the organization becomes eligible for additional funding.

**C. Government Sector Impact:**

The bill has no fiscal impact on the DOC. The bill provides that a contract with ONH must be authorized by and consistent with funding appropriated in the GAA.

The DOC states the bill:

[a]uthorizes the Department to contract with ONH, a non-profit organization, contingent on appropriated funding. The bill does not require the Department to contract with ONH. Additionally, the Department is currently in a contractual relationship with ONH. The bill does not exempt the Department from the provisions of s. 287.057, F.S.<sup>23</sup>

---

<sup>23</sup> *Id.* See “Present Situation” section of this analysis for a discussion of that contract.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 944.7071 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.

By Senator Simon

3-01042-23

20231198\_\_

1                           A bill to be entitled  
2           An act relating to Operation New Hope; creating s.  
3           944.7071, F.S.; authorizing the Department of  
4           Corrections, contingent upon appropriation, to  
5           contract with Operation New Hope for specified  
6           services; providing an effective date.  
7

8 Be It Enacted by the Legislature of the State of Florida:  
9

10           Section 1. Section 944.7071, Florida Statutes, is created  
11 to read:

12           944.7071 Operation New Hope; reentry services.-As  
13 authorized by and consistent with funding appropriated in the  
14 General Appropriations Act, the department may contract with  
15 Operation New Hope, a nonprofit organization exempt from  
16 taxation pursuant to s. 501(c)(3) of the Internal Revenue Code,  
17 to provide reentry services to inmates both before and after  
18 release from incarceration.

19           Section 2. This act shall take effect July 1, 2023.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jennifer Bradley, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** April 4, 2023

---

I respectfully request that **Senate Bill # 1198**, relating to Operation New Hope, be placed on the:

- Committee agenda at your earliest possible convenience.
- Next committee agenda.

*Corey Simon*

---

Senator Corey Simon  
Florida Senate, District 3

The Florida Senate

APPEARANCE RECORD

SB1198

4/12/23

Meeting Date

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

Appropriations on Criminal Justice Committee

Amendment Barcode (if applicable)

Name Laurette Philipsen - Florida Cares Phone 561-855-0833

Address 2048 Ponce De Leon Ave Street

Email laurette@floridacares.org

West Palm Beach FL 33407 City State Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[ ] I am a registered lobbyist, representing:

[ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)

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

April 12, 2023

# The Florida Senate APPEARANCE RECORD

1198

Meeting Date  
Appropriations Subcommittee on Criminal and Civil Justice

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Bill Number or Topic

Committee  
Name **Darrick D. McGhee, Sr.**

Amendment Barcode (if applicable)  
Phone **(850) 321-6489**

Address **537 East Park Avenue**

Email **darrick@teamjrb.com**

Street  
**Tallahassee** **FL** **32301**  
City State Zip

**Reset Form**

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

**Operation New Hope**

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)*

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

S-001 (08/10/2021)



April 12, 2023

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

1198

Bill Number or Topic

**CJ Approps**

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

**Tallahassee**

**FL**

**32308**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

**Fla. Smart Justice**

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf (flsenate.gov)*

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

S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/12/23

Meeting Date

SB 2198

Bill Number or Topic

SC Approps

Committee

Amendment Barcode (if applicable)

Name Katie Bonnett

Phone 850.329.9599

Address 1173 Seminole Dr

Email kbbonnett@state  
andjust.org

Street

City Ft State FL Zip 32301

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

Alliance for Safety and Justice

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) [flsenate.gov](#)

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 Committee on Criminal and Civil Justice

---

BILL: CS/CS/SB 1226

INTRODUCER: Appropriations Committee on Criminal and Civil Justice; Criminal Justice Committee;  
and Senator Burgess

SUBJECT: Controlled Substances

DATE: April 14, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/CS/SB 1226 punishes selling, trafficking, and other acts involving fentanyl and fentanyl-related substances or mixtures that are sold, etc., in a form that resembles or is combined with a product and the product or packaging contains any specified attribute. For example, one specified attribute is that the product or packaging resembles cereal, candy, a vitamin, a gummy, or a chewable product, such as a gum or gelatin-based product.

The bill amends s. 893.13, F.S. (sale and other acts), to provide the new offense is punishable as a first degree felony with a 3-year mandatory minimum term. The bill amends s. 893.135, F.S., the trafficking statute, which only applies if a 4 gram threshold is reached, to provide the new offense is a first degree felony with a mandatory minimum term of imprisonment of 25 years to life imprisonment and a mandatory fine of \$1 million.

The bill would address the problem of “rainbow” fentanyl, which is a descriptive term that is generally used to apply to a pill, powder, or block that contains fentanyl or fentanyl-related substances or mixtures and that are produced or packaged in a variety of bright colors, shapes, and sizes in order to attract young people.

The bill may have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds) on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2023.

## II. Present Situation:

### “Rainbow” Fentanyl

The U.S. Drug Enforcement Administration (DEA) provided the following information regarding “rainbow” fentanyl:

The Drug Enforcement Administration is advising the public of an alarming emerging trend of colorful fentanyl available across the United States. Since August 2022, DEA and our law enforcement partners seized brightly-colored fentanyl and fentanyl pills in 26 states. Dubbed “rainbow fentanyl” in the media, this trend appears to be a new method used by drug cartels to sell highly addictive and potentially deadly fentanyl made to look like candy to children and young people.

“Rainbow fentanyl—fentanyl pills and powder that come in a variety of bright colors, shapes, and sizes—is a deliberate effort by drug traffickers to drive addiction amongst kids and young adults,” said DEA Administrator Anne Milgram. “The men and women of the DEA are relentlessly working to stop the trafficking of rainbow fentanyl and defeat the Mexican drug cartels that are responsible for the vast majority of the fentanyl that is being trafficked in the United States.”

Brightly-colored fentanyl is being seized in multiple forms, including pills, powder, and blocks that resembles sidewalk chalk. Despite claims that certain colors may be more potent than others, there is no indication through DEA’s laboratory testing that this is the case. Every color, shape, and size of fentanyl should be considered extremely dangerous.<sup>1</sup>

### Scheduling of Fentanyl as a Controlled Substance

Section 893.03, F.S., classifies controlled substances into five categories or classifications, known as schedules. The schedules regulate the manufacture, distribution, preparation, and dispensing of substances listed in the schedules. The most important factors in determining which schedule may apply to a substance are the “potential for abuse”<sup>2</sup> of the substance and whether there is a currently accepted medical use for the substance. The controlled substance schedules are described as follows:

- Schedule I substances (s. 893.03(1), F.S.) have a high potential for abuse and no currently accepted medical use in treatment in the United States. Use of these substances under medical supervision does not meet accepted safety standards.

---

<sup>1</sup> *DEA Warns of Brightly-Colored Fentanyl Used to Target Young Americans* (August 30, 2023), U.S. Drug Enforcement Administration, available at <https://www.dea.gov/press-releases/2022/08/30/dea-warns-brightly-colored-fentanyl-used-target-young-americans> (last visited on March 10, 2023).

<sup>2</sup> Section 893.035(3)(a), F.S., defines “potential for abuse” as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: used in amounts that create a hazard to the user’s health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user’s own initiative rather than on the basis of professional medical advice.

- Schedule II substances (s. 893.03(2), F.S.) have a high potential for abuse and a currently accepted but severely restricted medical use in treatment in the United States. Abuse of these substances may lead to severe psychological or physical dependence.
- Schedule III substances (s. 893.03(3), F.S.) have a potential for abuse less than the Schedule I and Schedule II substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of anabolic steroids may lead to physical damage.
- Schedule IV substances (s. 893.03(4), F.S.) have a low potential for abuse relative to Schedule III substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule III substances.
- Schedule V substances (s. 893.03(5), F.S.) have a low potential for abuse relative to Schedule IV substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule IV substances.

“Fentanyl is a powerful synthetic opioid that is similar to morphine but is 50 to 100 times more potent. It is a prescription drug that is also used and made illegally.”<sup>3</sup> “Synthetic opioids, including fentanyl, are now the most common drugs involved in drug overdose deaths in the United States.”<sup>4</sup> According to Florida’s Statewide Drug Policy Advisory Council, the majority of overdose deaths in Florida in 2021 were related to opioids, and “[t]he most significant increases [in overdose deaths relative to the previous year] were deaths involving fentanyl which increased by 11 percent, and deaths caused by fentanyl increased by 9 percent.”<sup>5</sup>

Fentanyl and fentanyl-related substances (e.g., alfentanil, carfentanil, and sufentanil) are Schedule (2)(b) controlled substances.<sup>6</sup>

### **Controlled Substance Analog**

A “controlled substance analog” is a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

- The substance is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.; and
- The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.<sup>7</sup>

---

<sup>3</sup> *Fentanyl DrugFacts*, National Institute on Drug Abuse (footnotes omitted), available at <https://nida.nih.gov/publications/drugfacts/fentanyl> (last visited on March 10, 2023). As a medicine, fentanyl is “typically used to treat patients with severe pain, especially after surgery[,]” and “is also sometimes used to treat patients with chronic pain who are physically tolerant to other opioids.” *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *2020 Annual Report* (Dec. 1, 2022), p. 8, Statewide Drug Policy Advisory Council, available at [https://www.floridahealth.gov/provider-and-partner-resources/dpac/ documents/2022\\_DPAC\\_Annual\\_Report.pdf](https://www.floridahealth.gov/provider-and-partner-resources/dpac/ documents/2022_DPAC_Annual_Report.pdf) (last visited on March 10, 2023).

<sup>6</sup> Section 893.03(2)(b)1., 6., 9., and 30., F.S.

<sup>7</sup> Section 893.0356(2)(a), F.S.

## **Punishment for Acts Involving Fentanyl and Fentanyl-related Substances**

Section 893.13, F.S., punishes various unlawful acts involving Schedule (2)(b) controlled substances:

- Selling, manufacturing, or delivering the substance, or possessing the substance with intent to sell, manufacture, or deliver<sup>8</sup> it are generally second degree felonies;<sup>9</sup>
- Purchasing or possessing the substance with intent to purchase it are generally second degree felonies;<sup>10</sup>
- Bringing the substance into this state (importing) is generally a second degree felony;<sup>11</sup>
- Possessing 10 grams of more of the substance is generally a first degree felony<sup>12</sup> but possessing a lesser amount is generally a third degree felony;<sup>13</sup> and
- Distributing<sup>14</sup> the substance, except through an authorized order form, is generally a first degree misdemeanor.<sup>15</sup>

Section 893.135, F.S., punishes drug trafficking, which consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importing), or knowingly being in actual or constructive possession of, certain Schedule I or Schedule II controlled substances, in a statutorily-specified quantity. The statute only applies to a limited number of such controlled substances, including fentanyl and fentanyl-related substances. The controlled substance involved in the trafficking must meet a specified weight or quantity threshold. Most drug trafficking offenses are first degree felonies and are subject to a mandatory minimum term of imprisonment and a mandatory fine, which is determined by the weight or quantity range applicable to the weight or quantity of the substance involved in the trafficking.

Trafficking in 4 grams or more of the following is a first degree felony:

- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;

---

<sup>8</sup> “Deliver” means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship. Section 893.02(6), F.S.

<sup>9</sup> Section 893.13(1)(a)1., F.S. A second degree felony is punishable by not more than 15 years in state prison and a fine not exceeding \$10,000. Section 775.082 and 775.083, F.S.

<sup>10</sup> Section 893.13(2)(a)1., F.S.

<sup>11</sup> Section 893.13(5)(a)1., F.S.

<sup>12</sup> Section 893.13(6)(c), F.S. A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

<sup>13</sup> Section 893.13(6)(a), F.S. A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S. *But see* ss. 775.082(10) and 921.00241, F.S. (prison diversion).

<sup>14</sup> “Distribute” means to deliver, other than by administering or dispensing, a controlled substance. Section 893.02(8), F.S.

“Dispense” means the transfer of possession of one or more doses of a medicinal drug by a pharmacist or other licensed practitioner to the ultimate consumer thereof or to one who represents that it is his or her intention not to consume or use the same but to transfer the same to the ultimate consumer or user for consumption by the ultimate consumer or user. Section 893.02(7), F.S. “Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a person or animal. Section 893.02(1), F.S.

<sup>15</sup> Section 893.13(7)(a)4., F.S.

- A fentanyl derivative;<sup>16</sup>
- A controlled substance analog<sup>17</sup> of any previously-described substance or a fentanyl derivative; or
- A mixture containing any previously-described substance or a fentanyl derivative or analog.<sup>18</sup>

If the quantity involved in the drug trafficking violation is:

- 4 grams or more, but less than 14 grams, the person must be sentenced to a mandatory minimum term of imprisonment of 7 years, and must be ordered to pay a fine of \$50,000;
- 14 grams or more, but less than 28 grams, the person must be sentenced to a mandatory minimum term of imprisonment of 20 years, and must be ordered to pay a fine of \$100,000; or
- 28 grams or more, the person must be sentenced to a mandatory minimum term of imprisonment of 25 years, and must be ordered to pay a fine of \$500,000.<sup>19</sup>

### III. Effect of Proposed Changes:

The bill amends s. 893.13, F.S., to provide that it is a first degree felony<sup>20</sup> with a 3-year mandatory minimum term to:

- Sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, any of the following:
  - Alfentanil, as described in s. 893.03(2)(b)1., F.S.;
  - Carfentanil, as described in s. 893.03(2)(b)6., F.S.;
  - Fentanyl, as described in s. 893.03(2)(b)9., F.S.;
  - Sufentanil, as described in s. 893.03(2)(b)30., F.S.;
  - A fentanyl derivative, as described in s. 893.03(1)(a)62., F.S.;
  - A controlled substance analog, as described in s. 893.0356, F.S., of any substance previously described; or
  - A mixture containing any substance previously described or an analog of the substance;
- AND**
- The substance or mixture previously described is in a form that resembles, or is mixed, granulated, absorbed, spray dried, or aerosolized as or onto, coated on, in whole or in part, or solubilized with or into, a product, when such product or its packaging further has at least one of the following attributes:
  - Resembles the trade dress of a consumer food product, branded food product, or logo food product;
  - Incorporates an actual or fake registered trademark, service mark, or copyright;
  - Resembles cereal, candy, a vitamin, a gummy, or a chewable product, such as a gum or gelatin-based product; or
  - Contains a cartoon character imprint.

<sup>16</sup> See s. 893.03(1)(a)62., F.S.

<sup>17</sup> See s. 893.0356(2)(a), F.S.

<sup>18</sup> Section 893.135(1)(c)4.a.(I)-(VII), F.S.

<sup>19</sup> Section 893.135(1)(c)4.b.(I)-(III), F.S.

<sup>20</sup> The first degree felony is not ranked in s. 921.0022, F.S., the Criminal Punishment Code (Code) offense severity level ranking, so it defaults to a level 7 ranking pursuant to s. 921.0023, F.S. The mandatory minimum term may supersede the minimum prison sentence scored under the Code.

The bill also amends s. 893.135, F.S., the trafficking statute, to provide that it is a first degree felony with a mandatory minimum term of 25 years to life imprisonment<sup>21</sup> and a mandatory fine of \$1 million to:

- Knowingly sell, purchase, manufacture, deliver, or bring into this state, or knowingly be in actual or constructive possession of, 4 grams or more of any fentanyl or any other fentanyl-related substance or mixture as previously described (see description of changes to s. 893.13, F.S.); **AND**
- The substance or mixture previously described is in a form that resembles, or is mixed, granulated, absorbed, spray dried, or aerosolized as or onto, coated on, in whole or in part, or solubilized with or into, a product, when such product or its packaging further has at least one of the attributes previously described (see description of changes to s. 893.13, F.S.).

As previously noted, the bill would address the problem of “rainbow” fentanyl, which is a descriptive term that is generally used to apply to a pill, powder, or block that contains fentanyl or fentanyl-related substances or mixtures and that are produced or packaged in a variety of bright colors, shapes, and sizes in order attract young people.

The bill takes effect October 1, 2023.

#### **IV. Constitutional Issues:**

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

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State 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.

---

<sup>21</sup> The trafficking provisions of the bill relating to trafficking do not impact the ranking of trafficking in fentanyl in the Code offense severity level ranking chart (level 7, 8, or 9, depending on the quantity trafficked). See s. 921.0022(3)(g), (h), and (i), F.S. The trafficking provisions of the bill are only relevant to the applicable mandatory minimum term and fine.



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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have an indeterminate prison bed impact (an unquantifiable increase in prison beds). The CJIC provides the following additional information regarding its estimate:

Per [Department of Corrections], in FY 18-19, there were 766 new commitments to prison for sale/manufacture/delivery drug violations, of which fentanyl offenses represent an unknown share of that total. In FY 19-20, there were 443 new commitments, and there were 426 new commitments in FY 20-21. There were 520 new commitments in FY 21- 22. There were 19 new commitments to prison for fentanyl trafficking violations in FY 18-19, and there were 35 new commitments in FY 19-20. There were 63 new commitments in FY 20-21, and there were 169 new commitments in FY 21-22. It is not known how many of these offenders would fit the newly added language in this bill.<sup>22</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 893.13 and 893.135.

---

<sup>22</sup> *SB 1226 – Controlled Substances*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

**IX. Additional Information:**

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

**CS/CS by Appropriations Committee on Criminal and Civil Justice on April 12, 2023:**

The committee substitute:

- Revises attributes of product or packaging containing fentanyl or fentanyl-related substance or mixture to remove reference to a bright color or color scheme.
- Replaces the life imprisonment penalty for the trafficking offense with a penalty of 25 years to life imprisonment.

**CS by Criminal Justice on March 20, 2023:**

The committee substitute:

- Revises attributes of product or packaging containing fentanyl or fentanyl-related substance or mixture to include a bright color or coloring scheme.
- Provides that the new fentanyl trafficking offense is punishable by a mandatory minimum term of imprisonment of life imprisonment and a mandatory fine of \$1 million.

- B. **Amendments:**

None.



829160

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
	.	
	.	
	.	

---

The Appropriations Committee on Criminal and Civil Justice  
(Burgess) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (i) is added to subsection (1) of  
section 893.13, Florida Statutes, to read:

893.13 Prohibited acts; penalties.—

(1)

(i) Except as authorized by this chapter, a person commits  
a felony of the first degree, punishable as provided in s.



829160

11 775.082, s. 775.083, or s. 775.084, and must be sentenced to a  
12 mandatory minimum term of imprisonment of 3 years, if:

13 1. The person sells, manufactures, or delivers, or  
14 possesses with intent to sell, manufacture, or deliver, any of  
15 the following:

16 a. Alfentanil, as described in s. 893.03(2)(b)1.;

17 b. Carfentanil, as described in s. 893.03(2)(b)6.;

18 c. Fentanyl, as described in s. 893.03(2)(b)9.;

19 d. Sufentanil, as described in s. 893.03(2)(b)30.;

20 e. A fentanyl derivative, as described in s.

21 893.03(1)(a)62.;

22 f. A controlled substance analog, as described in s.

23 893.0356, of any substance described in sub-subparagraphs a.-e.;

24 or

25 g. A mixture containing any substance described in sub-  
26 paragraphs a.-f.; and

27 2. The substance or mixture listed in subparagraph 1. is in  
28 a form that resembles, or is mixed, granulated, absorbed, spray-  
29 dried, or aerosolized as or onto, coated on, in whole or in  
30 part, or solubilized with or into, a product, when such product  
31 or its packaging further has at least one of the following  
32 attributes:

33 a. Resembles the trade dress of a branded food product,  
34 consumer food product, or logo food product;

35 b. Incorporates an actual or fake registered copyright,  
36 service mark, or trademark;

37 c. Resembles candy, cereal, a gummy, a vitamin, or a  
38 chewable product, such as a gum or gelatin-based product; or

39 d. Contains a cartoon character imprint.



829160

40 Section 2. Paragraph (c) of subsection (1) of section  
41 893.135, Florida Statutes, is amended to read:

42 893.135 Trafficking; mandatory sentences; suspension or  
43 reduction of sentences; conspiracy to engage in trafficking.—

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

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

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

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

64 c. Is 28 grams or more, but less than 30 kilograms, such  
65 person shall be sentenced to a mandatory minimum term of  
66 imprisonment of 25 years and shall be ordered to pay a fine of  
67 \$500,000.

68 2. A person who knowingly sells, purchases, manufactures,



829160

69 delivers, or brings into this state, or who is knowingly in  
70 actual or constructive possession of, 28 grams or more of  
71 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as  
72 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28  
73 grams or more of any mixture containing any such substance,  
74 commits a felony of the first degree, which felony shall be  
75 known as "trafficking in hydrocodone," punishable as provided in  
76 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

80       b. Is 50 grams or more, but less than 100 grams, such  
81 person shall be sentenced to a mandatory minimum term of  
82 imprisonment of 7 years and shall be ordered to pay a fine of  
83 \$100,000.

84       c. Is 100 grams or more, but less than 300 grams, such  
85 person shall be sentenced to a mandatory minimum term of  
86 imprisonment of 15 years and shall be ordered to pay a fine of  
87 \$500,000.

88       d. Is 300 grams or more, but less than 30 kilograms, such  
89 person shall be sentenced to a mandatory minimum term of  
90 imprisonment of 25 years and shall be ordered to pay a fine of  
91 \$750,000.

92       3. A person who knowingly sells, purchases, manufactures,  
93 delivers, or brings into this state, or who is knowingly in  
94 actual or constructive possession of, 7 grams or more of  
95 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt  
96 thereof, or 7 grams or more of any mixture containing any such  
97 substance, commits a felony of the first degree, which felony



829160

98 shall be known as "trafficking in oxycodone," punishable as  
99 provided in s. 775.082, s. 775.083, or s. 775.084. If the  
100 quantity involved:

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

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

107 c. Is 25 grams or more, but less than 100 grams, such  
108 person shall be sentenced to a mandatory minimum term of  
109 imprisonment of 15 years and shall be ordered to pay a fine of  
110 \$500,000.

111 d. Is 100 grams or more, but less than 30 kilograms, such  
112 person shall be sentenced to a mandatory minimum term of  
113 imprisonment of 25 years and shall be ordered to pay a fine of  
114 \$750,000.

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

118 (I) Alfentanil, as described in s. 893.03(2)(b)1.;

119 (II) Carfentanil, as described in s. 893.03(2)(b)6.;

120 (III) Fentanyl, as described in s. 893.03(2)(b)9.;

121 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;

122 (V) A fentanyl derivative, as described in s.

123 893.03(1)(a)62.;

124 (VI) A controlled substance analog, as described in s.

125 893.0356, of any substance described in sub-sub-subparagraphs

126 (I)-(V); or



829160

127 (VII) A mixture containing any substance described in sub-  
128 sub-subparagraphs (I)-(VI),  
129  
130 commits a felony of the first degree, which felony shall be  
131 known as "trafficking in dangerous fentanyl or fentanyl  
132 analogues," punishable as provided in s. 775.082, s. 775.083, or  
133 s. 775.084.

134 b. If the quantity involved under sub-subparagraph a.:

135 (I) Is 4 grams or more, but less than 14 grams, such person  
136 shall be sentenced to a mandatory minimum term of imprisonment  
137 of 7 years, and shall be ordered to pay a fine of \$50,000.

138 (II) Is 14 grams or more, but less than 28 grams, such  
139 person shall be sentenced to a mandatory minimum term of  
140 imprisonment of 20 years, and shall be ordered to pay a fine of  
141 \$100,000.

142 (III) Is 28 grams or more, such person shall be sentenced  
143 to a mandatory minimum term of imprisonment of 25 years, and  
144 shall be ordered to pay a fine of \$500,000.

145 c. A person who violates sub-subparagraph a. shall be  
146 sentenced to a mandatory minimum term of not less than 25 years  
147 and not exceeding life imprisonment, and shall be ordered to pay  
148 a fine of \$1 million if the substance or mixture listed in sub-  
149 paragraph a. is in a form that resembles, or is mixed,  
150 granulated, absorbed, spray-dried, or aerosolized as or onto,  
151 coated on, in whole or in part, or solubilized with or into, a  
152 product, when such product or its packaging further has at least  
153 one of the following attributes:

154 (I) Resembles the trade dress of a branded food product,  
155 consumer food product, or logo food product;





829160

156 (II) Incorporates an actual or fake registered copyright,  
157 service mark, or trademark;

158 (III) Resembles candy, cereal, a gummy, a vitamin, or a  
159 chewable product, such as a gum or gelatin-based product; or

160 (IV) Contains a cartoon character imprint.

161 5. A person who knowingly sells, purchases, manufactures,  
162 delivers, or brings into this state, or who is knowingly in  
163 actual or constructive possession of, 30 kilograms or more of  
164 any morphine, opium, oxycodone, hydrocodone, codeine,  
165 hydromorphone, or any salt, derivative, isomer, or salt of an  
166 isomer thereof, including heroin, as described in s.  
167 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or  
168 more of any mixture containing any such substance, commits the  
169 first degree felony of trafficking in illegal drugs. A person  
170 who has been convicted of the first degree felony of trafficking  
171 in illegal drugs under this subparagraph shall be punished by  
172 life imprisonment and is ineligible for any form of  
173 discretionary early release except pardon or executive clemency  
174 or conditional medical release under s. 947.149. However, if the  
175 court determines that, in addition to committing any act  
176 specified in this paragraph:

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

181 b. The person's conduct in committing that act led to a  
182 natural, though not inevitable, lethal result,  
183  
184 such person commits the capital felony of trafficking in illegal



829160

185 drugs, punishable as provided in ss. 775.082 and 921.142. A  
186 person sentenced for a capital felony under this paragraph shall  
187 also be sentenced to pay the maximum fine provided under  
188 subparagraph 1.

189         6. A person who knowingly brings into this state 60  
190 kilograms or more of any morphine, opium, oxycodone,  
191 hydrocodone, codeine, hydromorphone, or any salt, derivative,  
192 isomer, or salt of an isomer thereof, including heroin, as  
193 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or  
194 60 kilograms or more of any mixture containing any such  
195 substance, and who knows that the probable result of such  
196 importation would be the death of a person, commits capital  
197 importation of illegal drugs, a capital felony punishable as  
198 provided in ss. 775.082 and 921.142. A person sentenced for a  
199 capital felony under this paragraph shall also be sentenced to  
200 pay the maximum fine provided under subparagraph 1.

201         Section 3. This act shall take effect October 1, 2023.

202  
203 ===== T I T L E   A M E N D M E N T =====

204 And the title is amended as follows:

205         Delete everything before the enacting clause  
206 and insert:

207                                 A bill to be entitled  
208         An act relating to controlled substances; amending s.  
209         893.13, F.S.; providing criminal penalties; providing  
210         for a mandatory minimum term of imprisonment if a  
211         person sells, manufactures, or delivers or possesses  
212         with intent to sell, manufacture, or deliver specified  
213         substances or mixtures, and such substance or mixture



829160

214 has at least one specified attribute; amending s.  
215 893.135, F.S.; providing enhanced criminal penalties;  
216 providing for a mandatory minimum term of imprisonment  
217 if a person commits specified prohibited acts relating  
218 to controlled substances, and such substance or  
219 mixture has at least one specified attribute;  
220 providing an effective date.

By the Committee on Criminal Justice; and Senator Burgess

591-02790-23

20231226c1

1 A bill to be entitled  
 2 An act relating to controlled substances; amending s.  
 3 893.13, F.S.; providing criminal penalties; providing  
 4 for a mandatory minimum term of imprisonment if a  
 5 person sells, manufactures, or delivers or possesses  
 6 with intent to sell, manufacture, or deliver specified  
 7 substances or mixtures, and such substance or mixture  
 8 has at least one specified attribute; amending s.  
 9 893.135, F.S.; providing enhanced criminal penalties;  
 10 providing for a mandatory minimum term of imprisonment  
 11 if a person commits specified prohibited acts relating  
 12 to controlled substances, and such substance or  
 13 mixture has at least one specified attribute;  
 14 providing an effective date.  
 15  
 16 Be It Enacted by the Legislature of the State of Florida:  
 17  
 18 Section 1. Paragraph (i) is added to subsection (1) of  
 19 section 893.13, Florida Statutes, to read:  
 20 893.13 Prohibited acts; penalties.—  
 21 (1)  
 22 (i) Except as authorized by this chapter, a person commits  
 23 a felony of the first degree, punishable as provided in s.  
 24 775.082, s. 775.083, or s. 775.084, and must be sentenced to a  
 25 mandatory minimum term of imprisonment of 3 years, if:  
 26 1. The person sells, manufactures, or delivers, or  
 27 possesses with intent to sell, manufacture, or deliver, any of  
 28 the following:  
 29 a. Alfentanil, as described in s. 893.03(2)(b)1.;

Page 1 of 8

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

591-02790-23

20231226c1

30 b. Carfentanil, as described in s. 893.03(2)(b)6.;  
 31 c. Fentanyl, as described in s. 893.03(2)(b)9.;  
 32 d. Sufentanil, as described in s. 893.03(2)(b)30.;  
 33 e. A fentanyl derivative, as described in s.  
 34 893.03(1)(a)62.;  
 35 f. A controlled substance analog, as described in s.  
 36 893.0356, of any substance described in sub-subparagraphs a.-e.;  
 37 or  
 38 g. A mixture containing any substance described in sub-  
 39 paragraphs a.-f.; and  
 40 2. The substance or mixture listed in subparagraph 1. is in  
 41 a form that resembles, or is mixed, granulated, absorbed, spray-  
 42 dried, or aerosolized as or onto, coated on, in whole or in  
 43 part, or solubilized with or into, a product, when such product  
 44 or its packaging further has at least one of the following  
 45 attributes:  
 46 a. A bright color or coloring scheme;  
 47 b. Resembles the trade dress of a branded food product,  
 48 consumer food product, or logo food product;  
 49 c. Incorporates an actual or fake registered copyright,  
 50 service mark, or trademark;  
 51 d. Resembles candy, cereal, a gummy, a vitamin, or a  
 52 chewable product, such as a gum or gelatin-based product; or  
 53 e. Contains a cartoon character imprint.  
 54 Section 2. Paragraph (c) of subsection (1) of section  
 55 893.135, Florida Statutes, is amended to read:  
 56 893.135 Trafficking; mandatory sentences; suspension or  
 57 reduction of sentences; conspiracy to engage in trafficking.—  
 58 (1) Except as authorized in this chapter or in chapter 499

Page 2 of 8

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

591-02790-23

20231226c1

59 and notwithstanding the provisions of s. 893.13:

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

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

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

78 c. Is 28 grams or more, but less than 30 kilograms, such  
79 person shall be sentenced to a mandatory minimum term of  
80 imprisonment of 25 years and shall be ordered to pay a fine of  
81 \$500,000.

82 2. A person who knowingly sells, purchases, manufactures,  
83 delivers, or brings into this state, or who is knowingly in  
84 actual or constructive possession of, 28 grams or more of  
85 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as  
86 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28  
87 grams or more of any mixture containing any such substance,

Page 3 of 8

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

591-02790-23

20231226c1

88 commits a felony of the first degree, which felony shall be  
89 known as "trafficking in hydrocodone," punishable as provided in  
90 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

94 b. Is 50 grams or more, but less than 100 grams, such  
95 person shall be sentenced to a mandatory minimum term of  
96 imprisonment of 7 years and shall be ordered to pay a fine of  
97 \$100,000.

98 c. Is 100 grams or more, but less than 300 grams, such  
99 person shall be sentenced to a mandatory minimum term of  
100 imprisonment of 15 years and shall be ordered to pay a fine of  
101 \$500,000.

102 d. Is 300 grams or more, but less than 30 kilograms, such  
103 person shall be sentenced to a mandatory minimum term of  
104 imprisonment of 25 years and shall be ordered to pay a fine of  
105 \$750,000.

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

115 a. Is 7 grams or more, but less than 14 grams, such person  
116 shall be sentenced to a mandatory minimum term of imprisonment

Page 4 of 8

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

591-02790-23 20231226c1

117 of 3 years and shall be ordered to pay a fine of \$50,000.  
 118 b. Is 14 grams or more, but less than 25 grams, such person  
 119 shall be sentenced to a mandatory minimum term of imprisonment  
 120 of 7 years and shall be ordered to pay a fine of \$100,000.  
 121 c. Is 25 grams or more, but less than 100 grams, such  
 122 person shall be sentenced to a mandatory minimum term of  
 123 imprisonment of 15 years and shall be ordered to pay a fine of  
 124 \$500,000.  
 125 d. Is 100 grams or more, but less than 30 kilograms, such  
 126 person shall be sentenced to a mandatory minimum term of  
 127 imprisonment of 25 years and shall be ordered to pay a fine of  
 128 \$750,000.  
 129 4.a. A person who knowingly sells, purchases, manufactures,  
 130 delivers, or brings into this state, or who is knowingly in  
 131 actual or constructive possession of, 4 grams or more of:  
 132 (I) Alfentanil, as described in s. 893.03(2)(b)1.;  
 133 (II) Carfentanil, as described in s. 893.03(2)(b)6.;  
 134 (III) Fentanyl, as described in s. 893.03(2)(b)9.;  
 135 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;  
 136 (V) A fentanyl derivative, as described in s.  
 137 893.03(1)(a)62.;  
 138 (VI) A controlled substance analog, as described in s.  
 139 893.0356, of any substance described in sub-sub-subparagraphs  
 140 (I)-(V); or  
 141 (VII) A mixture containing any substance described in sub-  
 142 sub-subparagraphs (I)-(VI),  
 143  
 144 commits a felony of the first degree, which felony shall be  
 145 known as "trafficking in dangerous fentanyl or fentanyl"

Page 5 of 8

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

591-02790-23 20231226c1

146 analogues," punishable as provided in s. 775.082, s. 775.083, or  
 147 s. 775.084.  
 148 b. If the quantity involved under sub-subparagraph a.:  
 149 (I) Is 4 grams or more, but less than 14 grams, such person  
 150 shall be sentenced to a mandatory minimum term of imprisonment  
 151 of 7 years, and shall be ordered to pay a fine of \$50,000.  
 152 (II) Is 14 grams or more, but less than 28 grams, such  
 153 person shall be sentenced to a mandatory minimum term of  
 154 imprisonment of 20 years, and shall be ordered to pay a fine of  
 155 \$100,000.  
 156 (III) Is 28 grams or more, such person shall be sentenced  
 157 to a mandatory minimum term of imprisonment of 25 years, and  
 158 shall be ordered to pay a fine of \$500,000.  
 159 c. A person who violates sub-subparagraph a. shall be  
 160 sentenced to a mandatory minimum term of life imprisonment, and  
 161 shall be ordered to pay a fine of \$1 million if the substance or  
 162 mixture listed in sub-subparagraph a. is in a form that  
 163 resembles, or is mixed, granulated, absorbed, spray-dried, or  
 164 aerosolized as or onto, coated on, in whole or in part, or  
 165 solubilized with or into, a product, when such product or its  
 166 packaging further has at least one of the following attributes:  
 167 (I) A bright color or coloring scheme;  
 168 (II) Resembles the trade dress of a branded food product,  
 169 consumer food product, or logo food product;  
 170 (III) Incorporates an actual or fake registered copyright,  
 171 service mark, or trademark;  
 172 (IV) Resembles candy, cereal, a gummy, a vitamin, or a  
 173 chewable product, such as a gum or gelatin-based product; or  
 174 (V) Contains a cartoon character imprint.

Page 6 of 8

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

591-02790-23

20231226c1

175 5. A person who knowingly sells, purchases, manufactures,  
 176 delivers, or brings into this state, or who is knowingly in  
 177 actual or constructive possession of, 30 kilograms or more of  
 178 any morphine, opium, oxycodone, hydrocodone, codeine,  
 179 hydromorphone, or any salt, derivative, isomer, or salt of an  
 180 isomer thereof, including heroin, as described in s.  
 181 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or  
 182 more of any mixture containing any such substance, commits the  
 183 first degree felony of trafficking in illegal drugs. A person  
 184 who has been convicted of the first degree felony of trafficking  
 185 in illegal drugs under this subparagraph shall be punished by  
 186 life imprisonment and is ineligible for any form of  
 187 discretionary early release except pardon or executive clemency  
 188 or conditional medical release under s. 947.149. However, if the  
 189 court determines that, in addition to committing any act  
 190 specified in this paragraph:

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

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

197

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

203 6. A person who knowingly brings into this state 60

Page 7 of 8

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

591-02790-23

20231226c1

204 kilograms or more of any morphine, opium, oxycodone,  
 205 hydrocodone, codeine, hydromorphone, or any salt, derivative,  
 206 isomer, or salt of an isomer thereof, including heroin, as  
 207 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or  
 208 60 kilograms or more of any mixture containing any such  
 209 substance, and who knows that the probable result of such  
 210 importation would be the death of a person, commits capital  
 211 importation of illegal drugs, a capital felony punishable as  
 212 provided in ss. 775.082 and 921.142. A person sentenced for a  
 213 capital felony under this paragraph shall also be sentenced to  
 214 pay the maximum fine provided under subparagraph 1.

215 Section 3. This act shall take effect October 1, 2023.

Page 8 of 8

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Jennifer Bradley, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** April 5, 2023

---

I respectfully request that **Senate Bill #1226**, relating to Controlled Substances, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Danny Burgess".

---

Senator Danny Burgess  
Florida Senate, District 23



4/12/23

Meeting Date

# APPEARANCE RECORD

SB 226

Bill Number or Topic

Deliver both copies of this form to Senate professional staff conducting the meeting

APPROPRIATIONS ON CRIMINAL JUSTICE

Committee

Amendment Barcode (if applicable)

Name NATALIE KELLY

Phone 850-895-1313

Address 122 SOUTH CALHOUN STREET

Street

Email NATALIE@FLMANAGINGENTITIES.COM

TALLAHASSEE, FLORIDA

City

State

32301

Zip

Speaking:  For  Against  Information

**OR**

Waive Speaking:  In Support  Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

4/12/23

Meeting Date

# The Florida Senate APPEARANCE RECORD

CS/SB 1226

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Appropriations on  
Criminal & Civil Justice Committee

Name Laurette Philipson - Florida Cares Phone 561-855-0833

Address 2048 Ponce de Leon Ave Email laurette@floridacares  
Street Charity.org

West Palm Beach, FL 33407  
City State Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

- I am appearing without compensation or sponsorship.
- I am a registered lobbyist, representing:
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf](#) ([flsenate.gov](#))

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

# APPEARANCE RECORD

Deliver both copies of this form to  
Senate professional staff conducting the meeting

4/12/23

Meeting Date

SB 1226

Bill Number or Topic

ACJ

Committee

Amendment Barcode (if applicable)

Name LIBBY Guzzo

Phone 850 245 0155

Address CAPITOL PL-01

Email LIBBY.Guzzo@myfloridalegal.com

City FL

State FL

Zip 32379

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

OFFICE OF ATTORNEY GENERAL

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

April 12, 2023

Meeting Date

Criminal & Civil Justice Approp

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

SB 1226 - Controlled Substances

Bill Number or Topic

Amendment Barcode (if applicable)

Name Jonathan Webber

Phone 954-593-4449

Address 400 Washington Ave

Email jonathan.webber@spicactionfund.org

Street

Montgomery

AL

36301

City

State

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

SPLC Action Fund

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

April 12, 2023

Meeting Date

The Florida Senate  
**APPEARANCE RECORD**

1226

Bill Number or Topic

**CJ Approps**

Committee

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

**Tallahassee**

**FL**

**32308**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

**Fla. Smart Justice**

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) (flsenate.gov)*

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 Committee on Criminal and Civil Justice

---

BILL: CS/SB 1334

INTRODUCER: Criminal Justice Committee and Senator Martin

SUBJECT: Battery by Strangulation

DATE: April 12, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1334 creates s. 784.031, F.S., to prohibit battery by strangulation. A person commits battery by strangulation if he or she knowingly and intentionally, against the will of another person, impedes the normal breathing or circulation of the blood of that person, so as to create a risk of or cause great bodily harm by applying pressure on the throat or neck of the other person or by blocking the nose or mouth of the other person.

A person who violates this section commits a third degree felony.

The bill provides an exception for any act of medical diagnosis, treatment, or prescription which is authorized under the laws of this state.

The bill amends s. 921.0022, F.S., ranking the offense on the offense severity chart of the Criminal Punishment Code as a level 4 offense.

The bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill provides an effective date of October 1, 2023.

## II. Present Situation:

Current law does not specifically prohibit battery by strangulation except in domestic situations. Research shows that strangulation is a common tactic of violence used in domestic abuse situations and is considered a gendered crime with victims overwhelmingly female and offenders male.<sup>1</sup> Recent research has highlighted how common the use of strangulation is in abusive relationships, often emerging late in the progression of a violent relationship and occurring multiple times over the course of the relationship.<sup>2</sup> Awareness of the gravity of strangulation has resulted in many states across the USA, including Florida, passing specialized laws making non-fatal strangulation a separate criminal felony.<sup>3</sup> It is reported that shelter women on average experience 5.3 strangulation attacks during the course of an abusive relationship.<sup>4</sup> In 591 baseline cases, 68 cases (11.5 percent) explicitly referenced strangulation and 101 cases (17.1 percent) indicated that possible strangulation may have occurred.<sup>5</sup>

### Domestic Battery by Strangulation

A person commits domestic battery by strangulation if the person knowingly and intentionally, against the will of another, impedes the normal breathing or circulation of the blood of a family or household member<sup>6</sup> or of a person with whom he or she is in a dating relationship<sup>7</sup> so as to create a risk of or cause great bodily harm by applying pressure on the throat or neck of the other person or by blocking the nose or mouth of the other person.<sup>8</sup> There is an exception for any act of medical diagnosis, treatment, or prescription which is authorized under the laws of this state.<sup>9</sup>

A person who commits domestic battery by strangulation commits a third degree felony.<sup>10</sup>

---

<sup>1</sup> Thomas, K.A., Joshi, M. and Sorenson, S.B. (2014), “ ‘Do you know what it feels like to drown?’ Strangulation as coercive control in intimate relationships,” *Psychology of Women Quarterly*, Vol. 38 No. 1, pp. 124-137.

<sup>2</sup> Wilbur, L., Higley, M., Hatfield, J., Surprenant, Z., Taliaferro, E., Smith, D.J. Jr and Paolo, A. (2001), “Survey results of women who have been strangled while in an abusive relationship,” *The Journal of Emergency Medicine*, Vol. 21 No. 3, pp. 297-302.

<sup>3</sup> Pritchard, A.J., Reckdenwald, A., Nordham, C. and Holton, J. (2018), “Improving identification of strangulation injuries in domestic violence: Pilot data from a researcher-practitioner collaboration,” *Feminist Criminology*, Vol. 13 No. 2, pp. 160-181.

<sup>4</sup> *Supra*, Note 2.

<sup>5</sup> *Id.*

<sup>6</sup> Section 784.041(2)(b)1., F.S., defines “family or household member” as having the same meaning as in s. 741.28, F.S. Section 741.28(3) defines “Family or household member” to mean spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit.

<sup>7</sup> Section 784.041(2)(b)2., F.S., defines “dating relationship” as a continuing and significant relationship of a romantic or intimate nature.

<sup>8</sup> *Supra*, Note 3.

<sup>9</sup> Section 784.041(2)(a), F.S.

<sup>10</sup> A third degree felony is punishable by a term of imprisonment not to exceed five years and a \$5,000 fine, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

## **Battery, Felony Battery, and Aggravated Battery**

A battery occurs when a person: actually and intentionally touches or strikes another person against the other person's will; or intentionally causes bodily harm to another person.<sup>11</sup> A person who commits a battery commits a first-degree misdemeanor.<sup>12, 13</sup>

A person who has one prior conviction for battery, aggravated battery, or felony battery and who commits any second or subsequent battery commits a third degree felony.<sup>14, 15</sup> A person who commits a battery in furtherance of a riot or an aggravated riot prohibited under s. 870.01, F.S., commits a third degree felony.<sup>16</sup>

Felony battery occurs when a person actually and intentionally touches or strikes another person against the will of the other and causes great bodily harm, permanent disability, or permanent disfigurement.<sup>17</sup>

A person commits the second-degree felony<sup>18</sup> of aggravated battery if:

- In committing battery, he or she intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement;<sup>19</sup> or
- He or she uses a deadly weapon;<sup>20</sup> or
- The person who was the victim of the battery was pregnant at the time of the offense and the offender knew or should have known that the victim was pregnant.<sup>21</sup>

For the purposes of sentencing under ch. 921, F.S., the crime of aggravated battery, if committed in furtherance of a riot or an aggravated riot prohibited under s. 870.01, F.S., is ranked one level above the ranking under s. 921.0022, F.S., for the offense committed.<sup>22</sup>

## **Criminal Punishment Code**

Felony offenses which are subject to the Criminal Punishment Code<sup>23</sup> are listed in a single offense severity ranking chart (OSRC),<sup>24</sup> which uses 10 offense levels to rank felonies from least severe to most severe. Each felony offense listed in the OSRC is assigned a level according to

<sup>11</sup> Section 784.03(1)(a)1. and 2., F.S.

<sup>12</sup> Section 784.08(1)(b), F.S.

<sup>13</sup> A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year, as provided in s. 775.082 or s. 775.083, F.S.

<sup>14</sup> Section 784.03(2), F.S.

<sup>15</sup> A third degree felony is punishable by a term of imprisonment not to exceed five years and a \$5,000 fine, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

<sup>16</sup> Section 784.03(3), F.S.

<sup>17</sup> Section 784.041(1)(a)-(b), F.S.

<sup>18</sup> A second degree felony is punishable by a term of imprisonment not exceeding fifteen years, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

<sup>19</sup> Section 784.045(1)(a)1., F.S.

<sup>20</sup> Section 784.045(1)(a)2., F.S.

<sup>21</sup> Section 784.045(1)(b), F.S.

<sup>22</sup> Section 784.045(3), F.S.

<sup>23</sup> All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code. Section 921.002, F.S.

<sup>24</sup> Section 921.0022, F.S.



the severity of the offense.<sup>25, 26</sup> A person's primary offense, any other current offenses, and prior convictions are scored using the points designated for the offense severity level of each offense.<sup>27, 28</sup> The final score calculation, following the scoresheet formula, determines the lowest permissible sentence that a trial court may impose, absent a valid reason for departure.<sup>29</sup>

### III. Effect of Proposed Changes:

The bill creates s. 784.031, F.S., to prohibit battery by strangulation. A person commits battery by strangulation if he or she knowingly and intentionally, against the will of another person, impedes the normal breathing or circulation of the blood of that person, so as to create a risk of or cause great bodily harm by applying pressure on the throat or neck of the other person or by blocking the nose or mouth of the other person.

A person who violates this section commits a third degree felony.<sup>30</sup>

The bill provides an exception for an act of medical diagnosis, treatment, or prescription. This newly created offense prohibits battery by strangulation regardless of the offender-victim relationship.

The bill amends s. 921.0022, F.S., ranking the offense on the offense severity chart of the Criminal Punishment Code as a level 4 offense.

The bill provides an effective date of October 1, 2023.

### IV. Constitutional Issues:

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

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the Florida Constitution.

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

None.

---

<sup>25</sup> Section 921.0022(2), F.S.

<sup>26</sup> Felony offenses that are not listed in the OSRC default to statutorily assigned levels, as follows: an unlisted third-degree felony defaults to a level 1; an unlisted second-degree felony defaults to a level 4; an unlisted first-degree felony defaults to a level 7; an unlisted first-degree felony punishable by life defaults to a level 9; and an unlisted life felony defaults to a level 10. Section 921.0023, F.S.

<sup>27</sup> Sections 921.0022 and 921.0024, F.S.

<sup>28</sup> A person may also accumulate points for factors such as victim injury points, community sanction violation points, and certain sentencing multipliers. Section 921.0024(1), F.S.

<sup>29</sup> If a person scores more than 44 points, the lowest permissible sentence is a specified term of months in state prison, determined by a formula. If a person scores 44 points or fewer, the court may impose a nonprison sanction, such as a county jail sentence, probation, or community control. Section 921.0024(2), F.S.

<sup>30</sup> A third degree felony is punishable by a term of imprisonment of five years and a \$5,000 fine, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

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, which provides the final, official estimate of prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections. This bill creates a new felony offense for battery by strangulation, which may result in more prison admissions. Currently, these acts may result in arrests and convictions of misdemeanor battery. Creating the felony offense of battery by strangulation may increase the sentence these offenders would otherwise receive. The CJIC provides the following additional information regarding its estimate:

In FY 18-19, the incarceration rate for a Level 4, 3rd degree felony was 21.9 percent, and in FY 19-20 the incarceration rate was 19.0 percent. In FY 20-21, the incarceration rate for a Level 4, 3rd degree felony was 18.4 percent, and in FY 21-22 the incarceration rate was 19.0 percent.

Per FDLE, in FY 21-22, there were 57,525 arrests for misdemeanor battery, with 10,620 guilty/convicted charges and 4,647 adjudication withheld charges. Per DOC, there were 2,034 new commitments to prison in FY 18-19 for felony battery and aggravated battery offenses, with 193 for domestic battery by strangulation. There were 1,481 new commitments in FY 19-20, with 144 for domestic battery by strangulation. There were 1,316 new commitments in FY 20-21, with 130 for domestic battery by strangulation. There were 1,875 new commitments in FY 21-22, with 175 for domestic battery by strangulation. It is not known how many misdemeanor and felony convictions involved strangulation, though domestic battery by strangulation currently brings in a large number of offenders to prison each year.

Without more detailed data, the impact of this new language on the prison population cannot be quantified.<sup>31</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 784.031 of the Florida Statutes.

This bill substantially amends section 921.0022 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Criminal Justice on March 20, 2023:**

The committee substitute:

- Specifies that the prohibited act must create a risk of or cause great bodily harm.
- Provides that the offense is ranked as a level 4 on the Offense Severity Chart.

- B. **Amendments:**

None.

---

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

---

---

<sup>31</sup> CS/SB 1334 - *Battery by Strangulation*, Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice).

By the Committee on Criminal Justice; and Senator Martin

591-02791-23 20231334c1

1 A bill to be entitled  
 2 An act relating to battery by strangulation; creating  
 3 s. 784.031, F.S.; prohibiting battery by  
 4 strangulation; providing applicability; providing  
 5 criminal penalties; amending s. 921.0022, F.S.;  
 6 ranking the offense on the offense severity ranking  
 7 chart of the Criminal Punishment Code; providing an  
 8 effective date.  
 9  
 10 Be It Enacted by the Legislature of the State of Florida:  
 11  
 12 Section 1. Section 784.031, Florida Statutes, is created to  
 13 read:  
 14 784.031 Battery by strangulation.—  
 15 (1) A person commits battery by strangulation if he or she  
 16 knowingly and intentionally, against the will of another person,  
 17 impedes the normal breathing or circulation of the blood of that  
 18 person, so as to create a risk of, or cause, great bodily harm  
 19 by applying pressure on the throat or neck of the other person  
 20 or by blocking the nose or mouth of the other person. This  
 21 subsection does not apply to any act of medical diagnosis,  
 22 treatment, or prescription which is authorized under the laws of  
 23 this state.  
 24 (2) A person who violates subsection (1) commits a felony  
 25 of the third degree, punishable as provided in s. 775.082, s.  
 26 775.083, or s. 775.084.  
 27 Section 2. Paragraph (d) of subsection (3) of section  
 28 921.0022, Florida Statutes, is amended to read:  
 29 921.0022 Criminal Punishment Code; offense severity ranking

591-02791-23 20231334c1

30 chart.—  
 31 (3) OFFENSE SEVERITY RANKING CHART  
 32 (d) LEVEL 4  
 33  
 34 Florida Felony  
 Statute Degree Description  
 35 316.1935(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.  
 36 499.0051(1) 3rd Failure to maintain or  
 deliver transaction history,  
 transaction information, or  
 transaction statements.  
 37 499.0051(5) 2nd Knowing sale or delivery, or  
 possession with intent to  
 sell, contraband  
 prescription drugs.  
 38 517.07(1) 3rd Failure to register  
 securities.  
 517.12(1) 3rd Failure of dealer,

	591-02791-23		20231334c1	
			associated person, or issuer	
			of securities to register.	
39				
	<u>784.031</u>	<u>3rd</u>	<u>Battery by strangulation.</u>	
40				
	784.07(2)(b)	3rd	Battery of law enforcement	
			officer, firefighter, etc.	
41				
	784.074(1)(c)	3rd	Battery of sexually violent	
			predators facility staff.	
42				
	784.075	3rd	Battery on detention or	
			commitment facility staff.	
43				
	784.078	3rd	Battery of facility employee	
			by throwing, tossing, or	
			expelling certain fluids or	
			materials.	
44				
	784.08(2)(c)	3rd	Battery on a person 65 years	
			of age or older.	
45				
	784.081(3)	3rd	Battery on specified	
			official or employee.	
46				
	784.082(3)	3rd	Battery by detained person	
			on visitor or other	
			detainee.	
47				

Page 3 of 10

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

	591-02791-23		20231334c1	
	784.083(3)	3rd	Battery on code inspector.	
48				
	784.085	3rd	Battery of child by	
			throwing, tossing,	
			projecting, or expelling	
			certain fluids or materials.	
49				
	787.03(1)	3rd	Interference with custody;	
			wrongly takes minor from	
			appointed guardian.	
50				
	787.04(2)	3rd	Take, entice, or remove	
			child beyond state limits	
			with criminal intent pending	
			custody proceedings.	
51				
	787.04(3)	3rd	Carrying child beyond state	
			lines with criminal intent	
			to avoid producing child at	
			custody hearing or	
			delivering to designated	
			person.	
52				
	787.07	3rd	Human smuggling.	
53				
	790.115(1)	3rd	Exhibiting firearm or weapon	
			within 1,000 feet of a	
			school.	
54				

Page 4 of 10

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

	591-02791-23		20231334c1
	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
55	790.115(2)(c)	3rd	Possessing firearm on school property.
56	794.051(1)	3rd	Indecent, lewd, or lascivious touching of certain minors.
57	800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
58	806.135	2nd	Destroying or demolishing a memorial or historic property.
59	810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
60	810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

	591-02791-23		20231334c1
61	810.06	3rd	Burglary; possession of tools.
62	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
63	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
64	812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree; specified items.
65	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
66	817.505(4)(a)	3rd	Patient brokering.
67	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
68	817.568(2)(a)	3rd	Fraudulent use of personal

	591-02791-23		20231334c1	identification information.
69				
	817.625(2)(a)	3rd		Fraudulent use of scanning device, skimming device, or reencoder.
70				
	817.625(2)(c)	3rd		Possess, sell, or deliver skimming device.
71				
	828.125(1)	2nd		Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
72				
	836.14(2)	3rd		Person who commits theft of a sexually explicit image with intent to promote it.
73				
	836.14(3)	3rd		Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose.
74				
	837.02(1)	3rd		Perjury in official proceedings.
75				
	837.021(1)	3rd		Make contradictory statements in official

	591-02791-23		20231334c1	proceedings.
76				
	838.022	3rd		Official misconduct.
77				
	839.13(2)(a)	3rd		Falsifying records of an individual in the care and custody of a state agency.
78				
	839.13(2)(c)	3rd		Falsifying records of the Department of Children and Families.
79				
	843.021	3rd		Possession of a concealed handcuff key by a person in custody.
80				
	843.025	3rd		Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
81				
	843.15(1)(a)	3rd		Failure to appear while on bail for felony (bond estreature or bond jumping).
82				
	847.0135(5)(c)	3rd		Lewd or lascivious exhibition using computer; offender less than 18 years.

83	591-02791-23		20231334c1
84	870.01(3)	2nd	Aggravated rioting.
85	870.01(5)	2nd	Aggravated inciting a riot.
86	874.05(1)(a)	3rd	Encouraging or recruiting another to join a criminal gang.
87	893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)5. drugs).
88	914.14(2)	3rd	Witnesses accepting bribes.
89	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
90	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
91	916.1085 (2)(c)1.	3rd	Introduction of specified contraband into certain DCF facilities.
	918.12	3rd	Tampering with jurors.

Page 9 of 10

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

92	591-02791-23		20231334c1
93	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
94	944.47(1)(a)6.	3rd	Introduction of contraband (cellular telephone or other portable communication device) into correctional institution.
95	951.22(1)(h), (j) & (k)	3rd	Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.
96	Section 3. This act shall take effect October 1, 2023.		

Page 10 of 10

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





# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Criminal Justice, *Chair*  
Appropriations  
Appropriations Committee on Criminal and Civil Justice  
Appropriations Committee on Health and Human Services  
Community Affairs  
Environment and Natural Resources  
Ethics and Elections

## SELECT COMMITTEE:

Select Committee on Resiliency

## SENATOR JONATHAN MARTIN

33rd District

March 23, 2023

The Honorable Jennifer Bradley  
Senate Appropriations Committee on Criminal and Civil Justice, Chair  
201 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399

### RE: SB 1334 - An act relating to Battery by Strangulation

Dear Chair Bradley:

Please allow this letter to serve as my respectful request to place SB 1334, relating to Battery by Strangulation, on the next committee agenda.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Jon Martin".

Jonathan Martin  
Senate District 33

Cc: Marti Harkness, Staff Director  
Rebecca Henderson, Administrative Assistant

#### REPLY TO:

- 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**KATHLEEN PASSIDOMO**  
President of the Senate

**DENNIS BAXLEY**  
President Pro Tempore

April 12, 2023

Meeting Date

CJ Approps

Committee

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1334

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

**Tallahassee**

**FL**

**32308**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

**Fla. Smart Justice**

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) [flsenate.gov](#)*

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 Committee on Criminal and Civil Justice

---

BILL: SB 1478

INTRODUCER: Senator Simon

SUBJECT: Criminal Sentencing

DATE: April 11, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Stokes</u>	<u>CJ</u>	<b>Fav/CS</b>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<b>Favorable</b>
3.	_____	_____	<u>FP</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

SB 1478 revises provisions related to probation and the alternative sanctioning program (ASP) under s. 948.06(9), F.S., and scoring of community sanction violation points under the Criminal Punishment Code (Code). The bill:

- Prohibits assessment of community sanction violation points under the Code if the violation is resolved through the ASP. If not resolved, no points are assessed for prior violations that were resolved through the ASP.
- Requires a probation officer to proceed with the ASP in lieu of filing an affidavit of violation with the court if the probationer is eligible for the ASP and the violation is a first or second low-risk violation, unless the probation officer is directed by the court to file an affidavit of violation.
- Provides that a probation violation resulting from an arrest for certain misdemeanor offenses may be considered a technical violation of probation and is eligible to be resolved through the ASP, and provides that these offenses are considered a moderate-risk violation for purposes of determining sanctions under the ASP.
- For a first or second low-risk violation, requires a court to impose the sanction recommended by a probation officer unless the court finds specific, identified risk to public safety, in which case the court may direct the probation officer to submit a probation violation report, affidavit, and warrant to the court.
- Requires a court to modify probation if a person meets criteria for mandatory modification, including that the violation is a low-risk violation and a court has not, on two or more separate occasions, found the probationer in violation of his or her probation. A person who

has previously been found by a court to be in violation of his or her probation is currently excluded from mandatory modification of probation.

- Limits the jail sentence a court may impose for a violation to 90 days for a first violation and 120 days for a second violation.
- Requires a court to release without bail a probationer with a criminal traffic violation or low-risk violation as defined in the mandatory modification of probation criteria if no hearing is held within 20 days after the probationer's arrest. A court may impose nonmonetary conditions of release if the probationer or offender is released without bail.

The bill may have a negative indeterminate prison impact and jail bed impact (a decrease in state prison beds and county jail beds). See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2023.

## II. Present Situation:

### Probation and Community Control

Probation is a form of community supervision requiring specified contacts with a probation officer and other terms and conditions.<sup>1</sup> Community control is a more intensive form of supervision involving an individualized program that restricts the offender's movement within the community, home, or residential placement.<sup>2</sup>

Several standard conditions of probation or community control apply automatically, including requirements to report to a probation officer as directed and to live without violating any law.<sup>3</sup> The court may also impose special conditions, such as community service hours, regular drug or alcohol testing, no contact orders, and treatment programs.<sup>4</sup> Failure to meet any condition of supervision is a violation of probation or community control (VOP).

Generally, upon a finding that an offender violated probation or community control, the court may revoke, modify, or continue supervision.<sup>5</sup> If the court revokes supervision, it may impose any sentence that was permissible at the offender's initial sentencing.<sup>6</sup>

If a violent felony offender of special concern (VFOSC)<sup>7</sup> commits a VOP and the court finds the VFOSC poses a danger to the community, the court must revoke probation and sentence the offender up to the statutory maximum, or longer if permitted by law.<sup>8</sup>

---

<sup>1</sup> Section 948.001(8), F.S.

<sup>2</sup> Section 948.001(3), F.S.

<sup>3</sup> Section 948.03(1), F.S.

<sup>4</sup> Section 948.03(2), F.S.

<sup>5</sup> Section 948.06(2)(a), F.S.

<sup>6</sup> Section 948.06(2)(b), F.S.

<sup>7</sup> A VFOSC is an offender who commits a specified qualifying offense or is in a special status like habitual violent felony offender and meets other specified criteria. Examples of qualified offenses include murder, kidnapping, and sexual battery. For a complete list of criteria, see s. 948.06(8), F.S.

<sup>8</sup> Section 948.06(8)(e)2.a., F.S.

When a person is arrested for committing a crime, he or she is generally entitled to pretrial release on reasonable conditions under the Florida Constitution.<sup>9</sup> However, a person taken into custody for a VOP does not have a constitutional right to release pending the disposition of the VOP.<sup>10</sup> If the offender qualifies as a VFOSC, the court is prohibited from granting pretrial release.<sup>11</sup>

### **Alternative Sanctioning Program**

Section 948.06(9), F.S., requires each judicial circuit to establish an alternative sanctioning program (ASP) as provided in that subsection. The chief judge of each judicial circuit may, by administrative order, define additional sanctions or eligibility criteria and specify the process for reporting technical violations through the alternative sanctioning program. Any sanctions recommended for imposition through an alternative sanctions program must be submitted to the court by the probation officer for approval before imposing the sanction.<sup>12</sup>

If a probationer or offender on community control commits a technical violation, the probation officer must determine whether the probationer or offender on community control is eligible for the ASP. If the probation officer determines that the probationer or offender on community control is eligible, the probation officer may proceed with the ASP in lieu of filing an affidavit of violation with the court. For purposes of s. 948.06, F.S., the term “technical violation” means an alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense.<sup>13</sup>

The ASP identifies eligible offenders, eligible violations, and permissible sanctions. Eligible violations are classified as either low-risk or moderate-risk.

Low-risk violations only apply to probationers, not offenders on community control, and include:

- A positive drug or alcohol test result;
- Failure to report to the probation office;
- Failure to report a change in address or other required information;
- Failure to attend a required class, treatment or counseling session, or meeting;
- Failure to submit to a drug or alcohol test;
- Violation of curfew;
- Failure to meet a monthly quota for any required probation condition, including making restitution payments, paying court costs, and completing community service hours;
- Leaving the county without permission;
- Failure to report a change in employment;
- Associating with people engaged in criminal activity; or
- Any other violation as determined by administrative order of the chief judge of the circuit.<sup>14</sup>

---

<sup>9</sup> Art. I, s. 14, Fla. Const. Exceptions include when a person is charged with a capital offense or offense punishable by life and the proof of guilt is evident or the presumption is great, or if no conditions can reasonably protect the community from risk of physical harm.

<sup>10</sup> *Bernhardt v. State*, 288 So. 2d 490, 497 (Fla. 1974).

<sup>11</sup> Section 903.0351(1)(a), F.S.

<sup>12</sup> Section 948.06(9)(a), F.S.

<sup>13</sup> Section 948.06(1)(c), F.S.

<sup>14</sup> Section 948.06(9)(b), F.S.

Moderate-risk violations include:

- Any violation classified as low-risk when committed by an offender on community control;
- Failure to remain at an approved residence by an offender on community control;
- A third low-risk violation by a probationer; or
- Any other violation as determined by administrative order of the chief judge of the circuit.<sup>15</sup>

Participation in an ASP is voluntary<sup>16</sup> However, in no circumstance does participation in an ASP convert a withhold of adjudication into an adjudication of guilt.<sup>17</sup>

If a probationer or offender on community control is eligible for the ASP, he or she may:

- Waive participation in the program, in which case the probation officer may submit a violation report, affidavit, and warrant to the court; or
- Elect to participate in the ASP after receiving written notice of an alleged technical violation and disclosure of the evidence against him or her, and admit the technical violation, agree to comply with the probation officer's recommended sanction if subsequently ordered by the court, and agree to waive the right to:
  - Be represented by legal counsel.
  - Require the state to prove his or her guilt before a neutral and detached hearing body.
  - Subpoena witnesses and present to a judge evidence in his or her defense.
  - Confront and cross-examine adverse witnesses.
  - Receive a written statement from a judge as to the evidence relied on and the reasons for the sanction imposed.<sup>18</sup>

If the probationer or offender on community control admits to committing the technical violation and agrees with the probation officer's recommended sanction, the probation officer must, before imposing the sanction, submit the recommended sanction to the court with documentation reflecting the probationer's admission to the technical violation and agreement with the recommended sanction.<sup>19</sup>

The court may impose the recommended sanction or direct the department to submit a violation report, affidavit, and warrant to the court.<sup>20</sup>

If a probationer or offender on community control waives or discontinues participation in the program or fails to successfully complete all alternative sanctions within 90 days after imposition or within the timeframe specified in the agreed-upon sanction, the probation officer may submit a violation report, affidavit, and warrant to the court. A prior admission by the probationer or offender on community control to a technical violation may not be used as evidence in subsequent proceedings.<sup>21</sup>

---

<sup>15</sup> Section 948.06(9)(c), F.S.

<sup>16</sup> Section 948.06(9)(g), F.S.

<sup>17</sup> Section 948.06(9)(e)9.b. and (f)7.b., F.S.

<sup>18</sup> Section 948.06(9)(h)1., F.S.

<sup>19</sup> Section 948.06(9)(h)2., F.S.

<sup>20</sup> Section 948.06(9)(i), F.S.

<sup>21</sup> Section 948.06(9)(j), F.S.

The permissible sanctions correspond to the violation risk level. For example, a probation officer may impose sanctions such as additional community service hours, counseling or treatment, drug testing, or curfew in response to a low-risk violation.<sup>22</sup> In response to a moderate-risk violation, examples of additional sanctions include residential treatment or electronic monitoring for up to 90 days or a maximum jail sentence of up to 21 days.<sup>23</sup> Such responses are designed to be proportional to the severity of the technical violation and to directly respond to the nature of the technical violation.

Offenders are disqualified from alternative sanctioning under any of the following circumstances:

- The offender is a VFOSC;
- The violation is a felony, misdemeanor, or criminal traffic offense;
- The violation is absconding;
- The violation is of a stay-away order or no-contact order;
- The violation is not identified as low-risk or moderate-risk by statute or administrative order;
- The offender has a prior moderate-risk level violation during the same term of supervision;
- The offender has three prior low-risk level violations during the same term of supervision;
- The term of probation is scheduled to terminate in less than 90 days; or
- The terms of the sentence prohibit alternative sanctioning.<sup>24</sup>

### **Court Modification of Probation Order and Jail Term for Low-Risk Violation**

Section 948.06(2)(f), F.S., requires a court to modify probation and imposes a 90-day jail cap for specified probationers appearing before a court for committing a low-risk technical violation. Unless waived by a defendant, a court is required to modify or continue a probationary term, when all of the following apply:

- The term of supervision is probation, rather than community control.
- The probationer does not qualify as a violent felony offender of special concern.
- The violation is a low-risk technical violation.
- The court has not previously found the probationer in violation of probation during the current term of supervision.

If a probationer has less than 90 days of supervision remaining on his or her term of probation and meets the criteria for mandatory modification of probation, a court may revoke probation and sentence the probationer to 90 days in county jail.<sup>25</sup>

---

<sup>22</sup> Section 948.06(9)(e), F.S.

<sup>23</sup> Section 948.06(9)(f), F.S.

<sup>24</sup> Section 948.06(9)(d), F.S.

<sup>25</sup> Section 948.06(2)(f)3., F.S.

## Criminal Punishment Code and Community Sanction Violation Points

The Criminal Punishment Code<sup>26</sup> (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10).<sup>27</sup> Points are assigned and accrue based upon the severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates and points may also be added or multiplied for other enumerated factors. The lowest permissible sentence is when the total sentence points are equal to or less than 44 points is any nonstate prison sanction, unless the court determines that a prison sentence is appropriate. If the total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by a specified formula.<sup>28</sup> Absent mitigation,<sup>29</sup> the permissible sentencing range under the Code is generally the lowest permissible sentence up to and including the maximum penalty provided under s. 775.082, F.S.<sup>30</sup>

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

- If the community sanction violation includes a new felony conviction before the sentencing court, 12 community sanction violation points are assessed for the violation, and for each successive community sanction violation involving a new felony conviction.
- If the community sanction violation is committed by a VFOSC:
  - Twelve community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where:
    - The violation does not include a new felony conviction; and
    - The community sanction violation is not based solely on the probationer or offender's failure to pay costs or fines or make restitution payments.
  - Twenty-four 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.<sup>31</sup>

Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.<sup>32</sup>

<sup>26</sup> Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

<sup>27</sup> 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.

<sup>28</sup> Section 921.0024, F.S., provides the formula is the total sentence points minus 28 times 0.75.

<sup>29</sup> The court may "mitigate" or "depart downward" from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

<sup>30</sup> 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.

<sup>31</sup> Section 921.0024(1)(b), F.S.

<sup>32</sup> *Id.*



### III. Effect of Proposed Changes:

#### **Criminal Punishment Code and Community Sanction Violation Points**

The bill amends s. 921.0024, F.S., to prohibit assessment of community sanction violation points under the Code in the following manner:

- If the community sanction violation is resolved through the alternative sanctioning program under s. 948.06(9), F.S., no points are assessed.
- If a community sanction violation not resolved through the ASP is before the court, no points are assessed for prior violations that were resolved through the ASP.

#### **Alternative Sanctioning Program (ASP)**

The bill amends s. 948.06, F.S., to require a probation officer to proceed with the ASP in lieu of filing an affidavit of violation with the court if the probationer or offender on community control commits a first or second low-risk violation, unless the probation officer is directed by the court to file an affidavit of violation.

The bill provides that a probation violation resulting from an arrest for certain misdemeanor offenses may be considered a technical violation of probation and eligible to be resolved through the ASP. An arrest for a misdemeanor offense *other* than the following offenses is considered a technical violation:

- Assault and battery (ch. 784, F.S.);
- Domestic violence (s. 741.28, F.S.);
- Driving under the influence (s. 316.193, F.S.);
- Violating a condition or pretrial release when the original arrest was for an act of domestic violence (s. 741.29, F.S.);
- Violating an injunction for protection against domestic violence (s. 741.31, F.S.);
- Violating a condition of pretrial release when the original arrest was for an act of dating violence (s. 784.046, F.S.);
- Violating an injunction for protection against repeat violence, sexual violence, or dating violence (s. 784.047, F.S.);
- Stalking or cyberstalking (s. 784.048, F.S.);
- Violating an injunction for protection against stalking or cyberstalking (s. 784.0487, F.S.);
- Sexual cyberharassment (s. 784.049, F.S.);
- Luring or enticing a child into a dwelling, structure, or conveyance (s. 787.025, F.S.); or
- A criminal traffic offense *other* than a misdemeanor violation for driving with a suspended license under s. 322.34, F.S.

These offenses are considered a moderate-risk violation for purposes of determining sanctions under the ASP.

For a first or second low-risk violation, a court must impose the sanction recommended by a probation officer unless the court finds specific, identified risk to public safety, in which case the court may direct the probation officer to submit a probation violation report, affidavit, and warrant to the court.

### **Court Modification of Probation Order and Jail Term for Low-Risk Violation**

A court must modify probation if a person otherwise meets the criteria for mandatory modification in s. 948.06(2)(f), F.S., and a court has not, on *two or more* separate occasions, found the probationer in violation of his or her probation. A person who has previously been found by a court to be in violation of his or her probation is currently excluded from mandatory modification of probation.<sup>33</sup>

If a court previously found a probationer in violation of probation and modified probation by sentencing a probationer to up to 90 days in county jail as a special condition of probation, the court may only sentence the probationer to up to 120 days in county jail as a special condition of probation for a second violation of probation. If a probationer has less time on supervision than the number of days which the court is authorized to sentence the probationer, the court may revoke probation and sentence the probationer to a maximum of either 90 days or 120 days in county jail, as applicable.

### **Court Hearing on Violation and Bail**

If a probationer is arrested for a criminal traffic offense or a low-risk violation, a court must, within 20 days of such arrest, give the probationer an opportunity to be fully heard on his or her behalf in person or by counsel. If no hearing is held within 20 days after the probationer's arrest, the court must release the probationer without bail. A court may impose nonmonetary conditions of release if the probationer or offender is released without bail.

The bill takes effect October 1, 2023.

## **IV. Constitutional Issues:**

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

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

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

None.

### **C. Trust Funds Restrictions:**

None.

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

None.

---

<sup>33</sup> Section 948.06(9)(f)1.d., F.S.

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, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill.

The bill may have a negative indeterminate prison impact and jail bed impact (a decrease in state prison beds and county jail beds). The bill contains changes which appear to ameliorate prison and jail sentencing.

In regard to state prison beds, the bill prohibits assessment of community sanction violation points under the Code if the violation is resolved through the ASP. If not resolved, no points are assessed for prior violations that were resolved through the ASP.

In regard to jail bed impact, the bill:

- Increases eligibility to resolve a probation violation through the ASP;
- Requires a court to modify a person's probation if he or she commits a second violation of probation and meets specified criteria and caps a probationer's jail sentence if a person commits such a violation at 120 days; and
- Requires a probationer who commits a low-risk violation to be released within 20 days if a violation hearing does not occur.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 921.0024 and 948.06.

**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 the Committee on Criminal Justice; and Senator Simon

591-03475-23

20231478c1

1 A bill to be entitled  
 2 An act relating to criminal sentencing; amending s.  
 3 921.0024, F.S.; prohibiting points from being assessed  
 4 for violations of community sanctions which are  
 5 resolved under an alternative sanctioning program for  
 6 purposes of calculations under the Criminal Punishment  
 7 Code; amending s. 948.06, F.S.; providing for the  
 8 resolution of low-risk violations of probation through  
 9 an alternative sanctioning program in certain  
 10 circumstances; revising the definition of the term  
 11 "technical violation"; correcting provisions  
 12 concerning limiting prison sentences for first-time  
 13 revocations for technical violations; providing for  
 14 structured sentences when technical violations result  
 15 in prison terms in certain circumstances; providing  
 16 time periods for hearing and release of a probationer  
 17 or offender concerning alleged violations that are  
 18 low-risk violations; revising the definition of the  
 19 term "moderate-risk violation"; providing that an  
 20 alternative sanction is the required method for  
 21 resolving certain low-risk violations; requiring the  
 22 state attorney to consent to the offering of an  
 23 alternative sanction under certain circumstances;  
 24 requiring a court to impose the recommended sanction  
 25 for certain low-risk violations; providing an  
 26 exception; providing an effective date.

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

Page 1 of 15

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

591-03475-23

20231478c1

30 Section 1. Paragraph (b) of subsection (1) of section  
 31 921.0024, Florida Statutes, is amended to read:  
 32 921.0024 Criminal Punishment Code; worksheet computations;  
 33 scoresheets.—  
 34 (1)  
 35 (b) WORKSHEET KEY:  
 36  
 37 Legal status points are assessed when any form of legal status  
 38 existed at the time the offender committed an offense before the  
 39 court for sentencing. Four (4) sentence points are assessed for  
 40 an offender's legal status.  
 41  
 42 Community sanction violation points are assessed when a  
 43 community sanction violation is before the court for sentencing.  
 44 Six (6) sentence points are assessed for each community sanction  
 45 violation and each successive community sanction violation,  
 46 unless any of the following apply:  
 47 1. If the community sanction violation includes a new  
 48 felony conviction before the sentencing court, twelve (12)  
 49 community sanction violation points are assessed for the  
 50 violation, and for each successive community sanction violation  
 51 involving a new felony conviction.  
 52 2. If the community sanction violation is committed by a  
 53 violent felony offender of special concern as defined in s.  
 54 948.06:  
 55 a. Twelve (12) community sanction violation points are  
 56 assessed for the violation and for each successive violation of  
 57 felony probation or community control where:  
 58 I. The violation does not include a new felony conviction;

Page 2 of 15

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

591-03475-23 20231478c1

59 and

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

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

67

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

71

72 If the community sanction violation is resolved through the  
73 alternative sanctioning program under s. 948.06(9), no points  
74 are assessed. If a community sanction violation not resolved  
75 through the alternative sanctioning program is before the court,  
76 no points are assessed for prior violations that were resolved  
77 through the alternative sanctioning program.

78

79 Prior serious felony points: If the offender has a primary  
80 offense or any additional offense ranked in level 8, level 9, or  
81 level 10, and one or more prior serious felonies, a single  
82 assessment of thirty (30) points shall be added. For purposes of  
83 this section, a prior serious felony is an offense in the  
84 offender's prior record that is ranked in level 8, level 9, or  
85 level 10 under s. 921.0022 or s. 921.0023 and for which the  
86 offender is serving a sentence of confinement, supervision, or  
87 other sanction or for which the offender's date of release from

Page 3 of 15

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

591-03475-23 20231478c1

88 confinement, supervision, or other sanction, whichever is later,  
89 is within 3 years before the date the primary offense or any  
90 additional offense was committed.

91

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

103

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

115

116 Sentencing multipliers:

Page 4 of 15

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

591-03475-23

20231478c1

117  
 118 Drug trafficking: If the primary offense is drug trafficking  
 119 under s. 893.135, the subtotal sentence points are multiplied,  
 120 at the discretion of the court, for a level 7 or level 8  
 121 offense, by 1.5. The state attorney may move the sentencing  
 122 court to reduce or suspend the sentence of a person convicted of  
 123 a level 7 or level 8 offense, if the offender provides  
 124 substantial assistance as described in s. 893.135(4).  
 125

126 Law enforcement protection: If the primary offense is a  
 127 violation of the Law Enforcement Protection Act under s.  
 128 775.0823(2), (3), or (4), the subtotal sentence points are  
 129 multiplied by 2.5. If the primary offense is a violation of s.  
 130 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points  
 131 are multiplied by 2.0. If the primary offense is a violation of  
 132 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement  
 133 Protection Act under s. 775.0823(10) or (11), the subtotal  
 134 sentence points are multiplied by 1.5.  
 135

136 Grand theft of a motor vehicle: If the primary offense is grand  
 137 theft of the third degree involving a motor vehicle and in the  
 138 offender's prior record, there are three or more grand thefts of  
 139 the third degree involving a motor vehicle, the subtotal  
 140 sentence points are multiplied by 1.5.  
 141

142 Offense related to a criminal gang: If the offender is convicted  
 143 of the primary offense and committed that offense for the  
 144 purpose of benefiting, promoting, or furthering the interests of  
 145 a criminal gang as defined in s. 874.03, the subtotal sentence

Page 5 of 15

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

591-03475-23

20231478c1

146 points are multiplied by 1.5. If applying the multiplier results  
 147 in the lowest permissible sentence exceeding the statutory  
 148 maximum sentence for the primary offense under chapter 775, the  
 149 court may not apply the multiplier and must sentence the  
 150 defendant to the statutory maximum sentence.  
 151

152 Domestic violence in the presence of a child: If the offender is  
 153 convicted of the primary offense and the primary offense is a  
 154 crime of domestic violence, as defined in s. 741.28, which was  
 155 committed in the presence of a child under 16 years of age who  
 156 is a family or household member as defined in s. 741.28(3) with  
 157 the victim or perpetrator, the subtotal sentence points are  
 158 multiplied by 1.5.  
 159

160 Adult-on-minor sex offense: If the offender was 18 years of age  
 161 or older and the victim was younger than 18 years of age at the  
 162 time the offender committed the primary offense, and if the  
 163 primary offense was an offense committed on or after October 1,  
 164 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the  
 165 violation involved a victim who was a minor and, in the course  
 166 of committing that violation, the defendant committed a sexual  
 167 battery under chapter 794 or a lewd act under s. 800.04 or s.  
 168 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.  
 169 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.  
 170 800.04; or s. 847.0135(5), the subtotal sentence points are  
 171 multiplied by 2.0. If applying the multiplier results in the  
 172 lowest permissible sentence exceeding the statutory maximum  
 173 sentence for the primary offense under chapter 775, the court  
 174 may not apply the multiplier and must sentence the defendant to

Page 6 of 15

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

591-03475-23

20231478c1

175 the statutory maximum sentence.

176 Section 2. Paragraph (c) of subsection (1), paragraph (f)  
177 of subsection (2), subsection (4), and paragraphs (c) through  
178 (f) and (i) of subsection (9) of section 948.06, Florida  
179 Statutes, are amended to read:

180 948.06 Violation of probation or community control;  
181 revocation; modification; continuance; failure to pay  
182 restitution or cost of supervision.—

183 (1)

184 (c) If a probationer or offender on community control  
185 commits a technical violation, the probation officer shall  
186 determine whether the probationer or offender on community  
187 control is eligible for the alternative sanctioning program  
188 under subsection (9). If the probation officer determines that  
189 the probationer or offender on community control is eligible,  
190 the probation officer may proceed with the alternative  
191 sanctioning program in lieu of filing an affidavit of violation  
192 with the court. If the probationer or offender on community  
193 control is eligible for the alternative sanctioning program and  
194 the violation is a low-risk violation as defined in paragraph  
195 (9) (b), the probation officer must proceed with the alternative  
196 sanctioning program in lieu of filing an affidavit of violation  
197 with the court unless directed by the court to submit or file an  
198 affidavit of violation pursuant to paragraph (9) (i). For  
199 purposes of this section, the term "technical violation" means  
200 an alleged violation of supervision that is not a new felony  
201 offense, a misdemeanor violation of chapter 784, a misdemeanor  
202 crime of domestic violence as defined in s. 741.28, or a  
203 misdemeanor under s. 316.193, s. 741.29, s. 741.31, s. 784.046,

Page 7 of 15

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

591-03475-23

20231478c1

204 s. 784.047, s. 784.048, s. 784.0487, s. 784.049, or s. 787.025  
205 ~~misdemeanor offense~~, or criminal traffic offense other than a  
206 misdemeanor violation of s. 322.34.

207 (2)

208 (f)1. Except as provided in subparagraph 4. 3- or upon  
209 waiver by the probationer, the court shall modify or continue a  
210 probationary term upon finding a probationer in violation when  
211 all of the following apply:

212 a. The term of supervision is probation.

213 b. The probationer does not qualify as a violent felony  
214 offender of special concern, as defined in paragraph (8) (b).

215 c. The violation is a low-risk technical violation, as  
216 defined in paragraph (9) (b).

217 d. The court has not, on two or more separate occasions,  
218 previously found the probationer in violation of his or her  
219 probation pursuant to a filed violation of probation affidavit  
220 during the current term of supervision. A probationer who has  
221 successfully completed sanctions through the alternative  
222 sanctioning program is eligible for mandatory modification or  
223 continuation of his or her probation.

224 2. Upon modifying probation under subparagraph 1., the  
225 court may include in the sentence a maximum of 90 days in county  
226 jail as a special condition of probation. If the court has  
227 previously found the probationer in violation of his or her  
228 probation and modified probation with up to 90 days in county  
229 jail as a special condition of probation, it may, upon  
230 modification of probation under subparagraph 1., include in the  
231 sentence a maximum of 120 days in county jail as a special  
232 condition of probation.

Page 8 of 15

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



591-03475-23

20231478c1

233 ~~3.2-~~ Upon modifying probation under subparagraph 1., the  
 234 court may include in the sentence a maximum of 90 days in county  
 235 jail as a special condition of probation.

236 ~~4.3-~~ Notwithstanding s. 921.0024, if a probationer meets  
 237 the criteria for mandatory modification in subparagraph 1. but  
 238 has less time under supervision remaining than the number of  
 239 days in jail authorized in subparagraph 2. than 90 days of  
 240 supervision remaining on his or her term of probation and meets  
 241 the criteria for mandatory modification or continuation in  
 242 subparagraph 1., the court may revoke probation and sentence the  
 243 probationer to a maximum of 90 or 120 days in county jail as  
 244 provided in subparagraph 2.

245 ~~5.4-~~ For purposes of imposing a jail sentence under this  
 246 paragraph only, the court may grant credit only for time served  
 247 in the county jail since the probationer's most recent arrest  
 248 for the violation. However, the court may not order the  
 249 probationer to a total term of incarceration greater than the  
 250 maximum provided by s. 775.082.

251 (4) Notwithstanding any other provision of this section, a  
 252 felony probationer or an offender in community control who is  
 253 arrested for violating his or her probation or community control  
 254 in a material respect may be taken before the court in the  
 255 county or circuit in which the probationer or offender was  
 256 arrested. That court shall advise him or her of the charge of a  
 257 violation and, if such charge is admitted, shall cause him or  
 258 her to be brought before the court that granted the probation or  
 259 community control. If the violation is not admitted by the  
 260 probationer or offender, the court may commit him or her or  
 261 release him or her with or without bail to await further

591-03475-23

20231478c1

262 hearing. However, if the probationer or offender is under  
 263 supervision for any criminal offense proscribed in chapter 794,  
 264 s. 800.04(4), (5), (6), s. 827.071, or s. 847.0145, or is a  
 265 registered sexual predator or a registered sexual offender, or  
 266 is under supervision for a criminal offense for which he or she  
 267 would meet the registration criteria in s. 775.21, s. 943.0435,  
 268 or s. 944.607 but for the effective date of those sections, the  
 269 court must make a finding that the probationer or offender is  
 270 not a danger to the public prior to release with or without  
 271 bail. In determining the danger posed by the offender's or  
 272 probationer's release, the court may consider the nature and  
 273 circumstances of the violation and any new offenses charged; the  
 274 offender's or probationer's past and present conduct, including  
 275 convictions of crimes; any record of arrests without conviction  
 276 for crimes involving violence or sexual crimes; any other  
 277 evidence of allegations of unlawful sexual conduct or the use of  
 278 violence by the offender or probationer; the offender's or  
 279 probationer's family ties, length of residence in the community,  
 280 employment history, and mental condition; his or her history and  
 281 conduct during the probation or community control supervision  
 282 from which the violation arises and any other previous  
 283 supervisions, including disciplinary records of previous  
 284 incarcerations; the likelihood that the offender or probationer  
 285 will engage again in a criminal course of conduct; the weight of  
 286 the evidence against the offender or probationer; and any other  
 287 facts the court considers relevant. The court, as soon as is  
 288 practicable, shall give the probationer or offender an  
 289 opportunity to be fully heard on his or her behalf in person or  
 290 by counsel. If the alleged violation is a low-risk violation as

591-03475-23 20231478c1

291 defined in paragraph (9)(b), the court must, within 20 days  
 292 after arrest, give the probationer or offender an opportunity to  
 293 be fully heard on his or her behalf in person or by counsel. If  
 294 no hearing is held within 20 days after arrest, the court must  
 295 release the probationer or offender without bail. The court may  
 296 impose nonmonetary conditions of release. After the hearing, the  
 297 court shall make findings of fact and forward the findings to  
 298 the court that granted the probation or community control and to  
 299 the probationer or offender or his or her attorney. The findings  
 300 of fact by the hearing court are binding on the court that  
 301 granted the probation or community control. Upon the probationer  
 302 or offender being brought before it, the court that granted the  
 303 probation or community control may revoke, modify, or continue  
 304 the probation or community control or may place the probationer  
 305 into community control as provided in this section. However, the  
 306 probationer or offender shall not be released and shall not be  
 307 admitted to bail, but shall be brought before the court that  
 308 granted the probation or community control if any violation of  
 309 felony probation or community control other than a failure to  
 310 pay costs or fines or make restitution payments is alleged to  
 311 have been committed by:

312 (a) A violent felony offender of special concern, as  
 313 defined in this section;

314 (b) A person who is on felony probation or community  
 315 control for any offense committed on or after the effective date  
 316 of this act and who is arrested for a qualifying offense as  
 317 defined in this section; or

318 (c) A person who is on felony probation or community  
 319 control and has previously been found by a court to be a

591-03475-23 20231478c1

320 habitual violent felony offender as defined in s. 775.084(1)(b),  
 321 a three-time violent felony offender as defined in s.  
 322 775.084(1)(c), or a sexual predator under s. 775.21, and who is  
 323 arrested for committing a qualifying offense as defined in this  
 324 section on or after the effective date of this act.

325 (9)

326 (c) As used in this subsection, the term "moderate-risk  
 327 violation" means any of the following:

328 1. A violation identified in paragraph (b), when committed  
 329 by an offender on community control.

330 2. Failure to remain at an approved residence by an  
 331 offender on community control.

332 3. A third violation identified in paragraph (b) by a  
 333 probationer within the current term of supervision.

334 4. A new misdemeanor offense that is not a misdemeanor  
 335 violation of chapter 784, a misdemeanor crime of domestic  
 336 violence as defined in s. 741.28, or a misdemeanor under s.  
 337 316.193, s. 741.29, s. 741.31, s. 784.046, s. 784.047, s.  
 338 784.048, s. 784.0487, s. 784.049, or s. 787.025.

339 ~~5.4-~~ Any other violation as determined by administrative  
 340 order of the chief judge of the circuit.

341 (d) A probationer or offender on community control is not  
 342 eligible for an alternative sanction if:

343 1. He or she is a violent felony offender of special  
 344 concern as defined in paragraph (8)(b);

345 2. The violation is a felony, a misdemeanor violation of  
 346 chapter 784, a misdemeanor crime of domestic violence as defined  
 347 in s. 741.28, or a misdemeanor under s. 316.193, s. 741.29, s.  
 348 741.31, s. 784.046, s. 784.047, s. 784.048, s. 784.0487, s.

591-03475-23

20231478c1

349 784.049, or s. 787.025 ~~misdemeanor~~, or criminal traffic offense  
 350 other than a misdemeanor violation of s. 322.34;  
 351 3. The violation is absconding;  
 352 4. The violation is of a stay-away order or no-contact  
 353 order;  
 354 5. The violation is not identified as low-risk or moderate-  
 355 risk under this subsection or by administrative order;  
 356 6. He or she has a prior moderate-risk level violation  
 357 during the current term of supervision;  
 358 7. He or she has three prior low-risk level violations  
 359 during the same term of supervision;  
 360 8. The term of supervision is scheduled to terminate in  
 361 less than 90 days; or  
 362 9. The terms of the sentence prohibit alternative  
 363 sanctioning.  
 364 (e) For a first or second low-risk violation, as defined in  
 365 paragraph (b), within the current term of supervision, a  
 366 probation officer shall ~~may~~ offer an eligible probationer one or  
 367 more of the following as an alternative sanction:  
 368 1. Up to 5 days in the county jail.  
 369 2. Up to 50 additional community service hours.  
 370 3. Counseling or treatment.  
 371 4. Support group attendance.  
 372 5. Drug testing.  
 373 6. Loss of travel or other privileges.  
 374 7. Curfew for up to 30 days.  
 375 8. House arrest for up to 30 days.  
 376 9.a. Any other sanction as determined by administrative  
 377 order of the chief judge of the circuit.

Page 13 of 15

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

591-03475-23

20231478c1

378 b. However, in no circumstance shall participation in an  
 379 alternative sanctioning program convert a withheld adjudication  
 380 to an adjudication of guilt.  
 381 (f) 1. For a first moderate-risk violation, as defined in  
 382 paragraph (c), within the current term of supervision, a  
 383 probation officer, with a supervisor's approval, may offer an  
 384 eligible probationer or offender on community control one or  
 385 more of the following as an alternative sanction:  
 386 a.1- Up to 21 days in the county jail.  
 387 b.2- Curfew for up to 90 days.  
 388 c.3- House arrest for up to 90 days.  
 389 d.4- Electronic monitoring for up to 90 days.  
 390 e.5- Residential treatment for up to 90 days.  
 391 f.6- Any other sanction available for a low-risk violation.  
 392 g.7.a- Any other sanction as determined by administrative  
 393 order of the chief judge of the circuit.  
 394 ~~b-~~ However, in no circumstance shall participation in an  
 395 alternative sanctioning program convert a withheld adjudication  
 396 to an adjudication of guilt.  
 397 2. If the violation of subparagraph 1. is a moderate-risk  
 398 violation of an offense specified in subparagraph (c)4., the  
 399 state attorney must consent to the offer of an alternative  
 400 sanction.  
 401 (i) If the violation is a low-risk violation under  
 402 paragraph (b), the court must impose the recommended sanction  
 403 unless it records a finding of specific, identified risk to  
 404 public safety, in which case it may direct the department to  
 405 submit a violation report, affidavit, and warrant to the court.  
 406 In all other cases, the court may impose the recommended

Page 14 of 15

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

591-03475-23

20231478c1

407 sanction or direct the department to submit a violation report,  
408 affidavit, and warrant to the court.

409 Section 3. This act shall take effect October 1, 2023.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jennifer Bradley, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** April 4, 2023

---

I respectfully request that **Senate Bill # 1478**, relating to Criminal Sentencing, be placed on the:

- Committee agenda at your earliest possible convenience.
- Next committee agenda.

*Corey Simon*

---

Senator Corey Simon  
Florida Senate, District 3

4/12/23

Meeting Date

CJ APPROP

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to Senate professional staff conducting the meeting

1478

Bill Number or Topic

Amendment Barcode (if applicable)

Name AARON WAYT

FL ASSN OF CRIMINAL DEFENSE LAWYERS

Phone (407) 435-3194

Address 553 E TENN ST

Street

Email AARON@DONPUMPHREY.COM

TLH

City

FL

State

32308

Zip

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) [flsenate.gov](#)

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

The Florida Senate

**APPEARANCE RECORD**

SB 1478

Bill Number or Topic

Amendment Barcode (if applicable)

4/12/2023

Meeting Date

Deliver both copies of this form to  
Senate professional staff conducting the meeting

Appropriations for Criminal Justice

Committee

Name Frank Russo - American Conservative Union Phone 678-708-6727

Address 1199 N Fairfax St Email frusso@conservative.org

Street

Alexandria VA 22314

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf](#) [flsenate.gov](#)

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

S-001 (08/10/2021)

4/12/23

Meeting Date

# The Florida Senate APPEARANCE RECORD

SB 1478

Bill Number or Topic

Deliver both copies of this form to  
Senate professional staff conducting the meeting

SCJ Approps

Committee

Amendment Barcode (if applicable)

Name

Katie Bonnett

Phone

850.339.9599

Address

1173 Seminole Dr

Email

kbahnetta@  
stateandjust.org

Street

TuH, FL 32302

City

State

Zip

Speaking:

For

Against

Information

**OR**

Waive Speaking:

In Support

Against

### PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without  
compensation or sponsorship.

I am a registered lobbyist,  
representing:

Alliance for  
Safety & Justice

I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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



April 12, 2023

Meeting Date

Criminal & Civil Justice Approp

Committee

Name Jonathan Webber

Phone 954-593-4449

Address 400 Washington Ave

Email jonathan.webber@splcactionfund.org

Street

Montgomery

AL

36301

City

State

Zip

SB 1478 - Criminal Sentencing

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking:  For  Against  Information OR Waive Speaking:  In Support  Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

SPLC Action Fund

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

April 12, 2023

Meeting Date

CJ Approps

Committee

The Florida Senate  
**APPEARANCE RECORD**

Deliver both copies of this form to  
Senate professional staff conducting the meeting

1478

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

**Tallahassee**

**FL**

**32308**

City

State

Zip

Speaking:  For  Against  Information **OR** Waive Speaking:  In Support  Against

**PLEASE CHECK ONE OF THE FOLLOWING:**

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

**Fla. Smart Justice**

*While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)*

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

The Florida Senate

APPEARANCE RECORD

4/12/23

Meeting Date

1478

Bill Number or Topic

Criminal and Civil Justice

Committee

Deliver both copies of this form to Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name Michael Dobson, The Dream Foundation Phone (850) 241-5896

Address 310 W. College Ave, Suite 208 Email Michael@dobsonandcraig.com

Street

Tallahassee FL 32301

City

State

Zip

Speaking: [ ] For [ ] Against [ ] Information OR Waive Speaking: [x] In Support [ ] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [ ] I am appearing without compensation or sponsorship. [ ] I am a registered lobbyist, representing: [ ] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. 2020-2022 Joint Rules.pdf flsenate.gov

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

# CourtSmart Tag Report

Room: SB 37

Case No.:

Type:

Caption: Senate Appropriations Committee on Criminal and Civil Justice

Judge:

Started: 4/12/2023 11:31:58 AM

Ends: 4/12/2023 1:48:39 PM

Length: 02:16:42

11:31:57 AM Sen. Bradley (Chair)  
11:33:08 AM S 8  
11:33:19 AM Sen. Jones  
11:34:03 AM Aaron Wayt, FL Association of Criminal Defense Lawyers (waives in support)  
11:34:13 AM Sen. Jones  
11:34:52 AM S 676  
11:35:01 AM Sen. Grall  
11:36:32 AM Michele Watson, Florida Alliance of Children's Councils & Trusts (waives in support)  
11:37:20 AM Barney Bishop III, Florida Smart Justice (waives in support)  
11:37:26 AM Karen Mazzola, Florida PTA (waives in support)  
11:37:35 AM Sen. Grall  
11:38:17 AM S 504  
11:38:22 AM Sen. Rodriguez  
11:39:07 AM Am. 912200  
11:39:09 AM Am. 150002  
11:39:37 AM Sen. Rodriguez  
11:39:57 AM S 504 (cont.)  
11:40:08 AM Christian Minor, Florida Juvenile Justice Association (waives in support)  
11:40:14 AM Nick Millar, Am I Kids (waives in support)  
11:40:18 AM Aaron Wayt, FL Association of Criminal Defense Lawyers (waives in support)  
11:40:25 AM Laurette Philipsen, Florida Cares (waives in support)  
11:40:29 AM Chris Stranburg, Americans for Prosperity (waives in support)  
11:40:35 AM Barney Bishop III, Florida Smart Justice (waives in support)  
11:40:40 AM Gus Corbella, Florida Rights Restoration Coalition (waives in support)  
11:40:45 AM Karen Mazzola, Florida PTA (waives in support)  
11:40:50 AM Christian Camara, Institute for Justice (waives in support)  
11:41:01 AM Sen. Rodriguez  
11:42:09 AM S 1198  
11:42:16 AM Sen. Simon  
11:43:25 AM Sen. Torres  
11:44:00 AM Sen. Simon  
11:44:14 AM Sen. Torres  
11:44:22 AM Sen. Simon  
11:44:32 AM Sen. Rouson  
11:44:42 AM Sen. Simon  
11:45:03 AM Laurette Philipsen, Florida Cares (waives in support)  
11:45:09 AM Darrick D. McGhee Sr., Operation New Hope  
11:45:53 AM Barney Bishop III, Florida Smart Justice (waives in support)  
11:45:57 AM Katie Bohnett, Alliance for Safety and Justice (waives in support)  
11:46:06 AM Sen. Baxley  
11:46:55 AM Sen. Torres  
11:47:33 AM Sen. Simon  
11:48:25 AM S 1478  
11:48:32 AM Sen. Simon  
11:50:23 AM Aaron Wayt, FL Association of Criminal Defense Lawyers (waives in support)  
11:50:28 AM Frank Russo, American Conservative Union (waives in support)  
11:50:34 AM Katie Bohnett, Alliance for Safety and Justice (waives in support)  
11:50:40 AM Jonathan Webber, SPLC Action Fund (waives in support)  
11:50:45 AM Barney Bishop III, Florida Smart Justice (waives in support)  
11:50:54 AM Sen. Simon  
11:51:29 AM S 516  
11:51:36 AM Sen. DiCeglie

11:52:17 AM Linda Allen  
11:53:56 AM Sen. Rouson  
11:54:10 AM L. Allen  
11:54:40 AM Sen. Martin  
11:54:52 AM L. Allen  
11:55:10 AM Sen. Martin  
11:55:35 AM L. Allen  
11:55:58 AM Lewie Pugh  
11:58:16 AM Sen. Ingoglia  
11:59:06 AM L. Pugh  
11:59:47 AM Sen. Ingoglia  
12:00:00 PM L. Pugh  
12:00:04 PM Sen. Ingoglia  
12:00:46 PM L. Pugh  
12:01:18 PM Sen. Ingoglia  
12:01:39 PM L. Pugh  
12:01:54 PM Sen. Ingoglia  
12:02:07 PM L. Pugh  
12:02:13 PM Sen. Ingoglia  
12:02:19 PM L. Pugh  
12:02:32 PM Sen. Ingoglia  
12:02:51 PM L. Pugh  
12:02:59 PM Sen. Ingoglia  
12:03:27 PM L. Pugh  
12:03:59 PM Sen. Ingoglia  
12:04:31 PM L. Pugh  
12:04:56 PM Sen. Pizzo  
12:05:13 PM L. Pugh  
12:05:16 PM Sen. Pizzo  
12:05:24 PM L. Pugh  
12:05:39 PM Sen. Pizzo  
12:05:50 PM L. Pugh  
12:06:09 PM Sen. Pizzo  
12:06:25 PM L. Pugh  
12:06:31 PM Sen. Pizzo  
12:06:41 PM L. Pugh  
12:06:50 PM Sen. Pizzo  
12:06:59 PM L. Pugh  
12:07:01 PM Sen. Pizzo  
12:07:05 PM L. Pugh  
12:07:07 PM Sen. Pizzo  
12:07:30 PM L. Pugh  
12:07:41 PM Sen. Pizzo  
12:07:45 PM L. Pugh  
12:07:58 PM Robert Reyes, American Contractors Insurance Group (waives in support)  
12:09:25 PM Sen. Pizzo  
12:09:30 PM R. Reyes  
12:09:41 PM Sen. Pizzo  
12:09:45 PM R. Reyes  
12:09:54 PM Sen. Pizzo  
12:10:10 PM R. Reyes  
12:10:26 PM Sen. Pizzo  
12:10:30 PM R. Reyes  
12:10:53 PM Sen. Pizzo  
12:11:07 PM R. Reyes  
12:11:09 PM Sen. Pizzo  
12:11:42 PM R. Reyes  
12:12:08 PM Sen. Pizzo  
12:12:12 PM R. Reyes  
12:12:18 PM Sen. Pizzo  
12:12:28 PM R. Reyes  
12:12:38 PM Sen. Ingoglia

12:12:46 PM R. Reyes  
12:12:48 PM Sen. Ingoglia  
12:13:06 PM R. Reyes  
12:13:16 PM Sen. Ingoglia  
12:13:32 PM R. Reyes  
12:13:38 PM Sen. Ingoglia  
12:13:46 PM R. Reyes  
12:14:03 PM Sen. Ingoglia  
12:14:08 PM R. Reyes  
12:14:12 PM Sen. Ingoglia  
12:14:30 PM R. Reyes  
12:14:31 PM Sen. Ingoglia  
12:14:41 PM R. Reyes  
12:14:50 PM Sen. Ingoglia  
12:14:53 PM R. Reyes  
12:14:55 PM Sen. Ingoglia  
12:15:25 PM R. Reyes  
12:15:38 PM B.G. Murphy, FL Association of Insurance Agents (waives in support)  
12:15:51 PM Sen. Pizzo  
12:17:19 PM Sen. Ingoglia  
12:19:18 PM Sen. Rouson  
12:19:41 PM Sen. Torres  
12:20:26 PM Sen. Baxley  
12:22:22 PM Sen. DiCeglie  
12:23:41 PM S 496  
12:23:47 PM Sen. Burgess  
12:24:31 PM Barney Bishop III, Florida Smart Justice (waives in support)  
12:24:44 PM Sen. Burgess  
12:25:19 PM S 994  
12:25:23 PM Sen. Calatayud  
12:27:17 PM Sen. Pizzo  
12:27:30 PM Sen. Calatayud  
12:28:03 PM Barney Bishop III, Florida Smart Justice (waives in support)  
12:28:10 PM Karen Mazzola, Florida PTA (waives in support)  
12:28:12 PM Molly Hudson, Volusia Sheriffs Office (waives in support)  
12:28:17 PM Ellyn Bogdanoff (waives in support)  
12:28:28 PM Sen. Calatayud  
12:29:32 PM S 618  
12:29:48 PM Sen. Yarborough  
12:31:20 PM Am. 971074  
12:31:54 PM Ron LaFace, FL Prosecuting Attorney Association (waives in support)  
12:32:15 PM Sen. Yarborough  
12:32:22 PM S 618 (cont.)  
12:32:27 PM Sen. Rouson  
12:32:48 PM Sen. Yarborough  
12:33:06 PM Laurette Philipsen (waives in opposition)  
12:33:12 PM Barney Bishop III, Florida Smart Justice (waives in support)  
12:33:17 PM Lisa Henning, Fraternal Order of Police (waives in support)  
12:33:26 PM Sen. Pizzo  
12:34:53 PM Sen. Torres  
12:37:27 PM Sen. Wright  
12:37:48 PM Sen. Yarborough  
12:38:29 PM S 528  
12:38:33 PM Sen. Davis  
12:43:26 PM Sen. Pizzo  
12:43:47 PM Sen. Davis  
12:43:51 PM Sen. Pizzo  
12:44:22 PM Sen. Davis  
12:44:45 PM Sen. Baxley  
12:45:08 PM Sen. Davis  
12:45:44 PM Ann Salamone  
12:48:01 PM Barney Bishop III, Florida Smart Justice (waives in support)

12:48:12 PM Ron Book, Lauren's Kids  
12:52:52 PM Sen. Pizzo  
12:55:39 PM Sen. Hooper  
12:57:01 PM Sen. Rouson  
12:58:06 PM Sen. Davis  
12:59:58 PM S 836  
1:00:08 PM Sen. Powell  
1:01:22 PM Barney Bishop III, Florida Smart Justice (waives in support)  
1:01:30 PM Michael Dobson, The Dream Foundation (waives in support)  
1:01:40 PM Sen. Powell  
1:02:27 PM S 1012  
1:02:35 PM Sen. Rouson  
1:03:52 PM Sen. Powell (Chair)  
1:04:03 PM Natalie Kelly, Florida Association of Managing Entities (waives in support)  
1:04:09 PM Laurette Philipsen, Florida Cares (waives in support)  
1:04:18 PM Jeffrey Sharkey, Gateway Foundation (waives in support)  
1:04:26 PM Michael Dobson, The Dream Foundation (waives in support)  
1:04:40 PM Sen. Rouson  
1:05:13 PM S 1104  
1:05:16 PM Sen. Wright  
1:06:23 PM Am. 674522  
1:06:39 PM Sen. Wright  
1:07:02 PM S 1104 (cont.)  
1:07:14 PM Laurette Philipsen, Florida Cares (waives in support)  
1:07:21 PM Libby Guzzo, Office of Attorney General (waives in support)  
1:07:27 PM Barney Bishop III, Florida Smart Justice (waives in support)  
1:07:41 PM Sen. Wright  
1:08:15 PM Sen. Bradley (Chair)  
1:08:24 PM S 1140  
1:08:26 PM Sen. Ingoglia  
1:09:12 PM Am. 839280  
1:09:23 PM Sen. Ingoglia  
1:09:35 PM Am. 969332  
1:10:11 PM S 1140 (cont.)  
1:10:19 PM Barney Bishop III, FL Smart Justice (waives in support)  
1:10:22 PM Matt Dunagan, Florida Sheriffs Association (waives in support)  
1:10:30 PM Sen. Wright  
1:11:02 PM Sen. Ingoglia  
1:11:58 PM S 1226  
1:12:01 PM Sen. Burgess  
1:12:20 PM Am. 829160  
1:12:30 PM Sen. Burgess  
1:14:11 PM S 1226 (Cont.)  
1:14:27 PM Natalie Kelly (waives in support)  
1:14:32 PM Laurette Philipsen, Florida Cares (waives in opposition)  
1:14:37 PM Libby Guzzo, Office of Attorney General (waives in support)  
1:14:45 PM Jonathan Webber, SPLC Action Fund  
1:16:19 PM Sen. Martin  
1:16:28 PM J. Webber  
1:16:49 PM Sen. Martin  
1:17:02 PM J. Webber  
1:17:41 PM Sen. Martin  
1:17:59 PM J. Webber  
1:18:07 PM Sen. Martin  
1:18:21 PM J. Webber  
1:18:41 PM Sen. Martin  
1:18:56 PM J. Webber  
1:19:06 PM Sen. Martin  
1:19:10 PM J. Webber  
1:20:04 PM Sen. Martin  
1:20:25 PM J. Webber  
1:20:31 PM Sen. Martin

1:20:44 PM J. Webber  
1:21:07 PM Sen. Martin  
1:22:52 PM J. Webber  
1:23:41 PM Sen. Martin  
1:23:57 PM J. Webber  
1:24:28 PM Sen. Baxley  
1:25:09 PM Barney Bishop III, Florida Smart Justice (waives in support)  
1:25:16 PM Sen. Pizzo  
1:28:41 PM Sen. Torres  
1:30:55 PM Sen. Rouson  
1:32:48 PM Sen. Martin  
1:36:27 PM Sen. Powell  
1:39:52 PM Sen. Burgess  
1:43:20 PM S 1334  
1:43:25 PM Sen. Martin  
1:44:05 PM Sen. Pizzo  
1:44:52 PM Sen. Martin  
1:44:54 PM Sen. Bradley  
1:45:00 PM Sen. Martin  
1:45:03 PM Sen. Pizzo  
1:45:53 PM Sen. Martin  
1:46:13 PM Sen. Powell  
1:46:28 PM Sen. Martin  
1:46:40 PM Sen. Bradley  
1:46:42 PM Barney Bishop III, Florida Smart Justice (waives in support)  
1:46:53 PM Sen. Martin  
1:47:27 PM Sen. Pizzo  
1:47:35 PM Sen. Martin  
1:47:41 PM Sen. Burgess  
1:47:53 PM Sen. Powell  
1:48:03 PM Sen. Wright  
1:48:16 PM Sen. Hooper  
1:48:20 PM Sen. Bradley