

Agenda Order

<b>Tab 1</b>	<b>CS/SB 468</b> by <b>CJ, Collins</b> ; Similar to CS/CS/H 00113 Fleeing or Attempting to Elude a Law Enforcement Officer					
<b>Tab 2</b>	<b>CS/SB 612</b> by <b>CJ, Burgess</b> ; Similar to CS/H 00457 Murder					
<b>Tab 3</b>	<b>CS/SB 716</b> by <b>CJ, Martin</b> ; Similar to CS/CS/H 01455 Sexual Offenses by Persons Previously Convicted of Sexual Offenses					
<b>Tab 4</b>	<b>SB 776</b> by <b>Ingoglia</b> ; Identical to H 00653 Aggravating Factors for Capital Felonies					
<b>Tab 5</b>	<b>SB 964</b> by <b>Bernard</b> ; Similar to CS/H 00181 Objective Parole Guidelines					
347946	D	S	RCS	ACJ, Bernard	Delete everything after	04/16 09:28 AM
<b>Tab 6</b>	<b>CS/SB 1136</b> by <b>CJ, Collins</b> ; Similar to CS/1ST ENG/H 00777 Age as an Element of a Criminal Offense					
467116	A	S	RCS	ACJ, Collins	Delete L.33 - 206:	04/16 09:30 AM
<b>Tab 7</b>	<b>CS/SB 1360</b> by <b>CJ, Leek</b> ; Similar to CS/H 00057 Controlled Substances					
<b>Tab 8</b>	<b>CS/SB 1444</b> by <b>CJ, Collins</b> ; Compare to CS/CS/CS/H 01371 Criminal Justice					
633166	A	S	RS	ACJ, Collins	Delete L.70 - 223:	04/16 09:32 AM
130156	SA	S	RCS	ACJ, Collins	Delete L.70 - 223:	04/16 09:32 AM
<b>Tab 9</b>	<b>CS/SB 1450</b> by <b>CJ, Burgess</b> ; Identical to CS/H 01099 Arrest and Detention of Individuals with Significant Medical Conditions					
<b>Tab 10</b>	<b>CS/SB 1604</b> by <b>CJ, Martin</b> ; Similar to CS/CS/H 00903 Corrections					
317706	D	S	RCS	ACJ, Martin	Delete everything after	04/16 09:34 AM
389612	AA	S	WD	ACJ, Martin	btw L.264 - 265:	04/16 09:34 AM
<b>Tab 11</b>	<b>CS/SB 1782</b> by <b>TR, Pizzo</b> ; Similar to CS/CS/CS/H 00351 Dangerous Excessive Speeding					
<b>Tab 12</b>	<b>SB 1804</b> by <b>Martin</b> ; Similar to CS/CS/H 01283 Capital Sex Trafficking					
558694	D	S	RCS	ACJ, Martin	Delete everything after	04/16 09:35 AM
<b>Tab 13</b>	<b>CS/SB 1838</b> by <b>CJ, Martin</b> ; Similar to CS/H 01049 Tampering With, Harassing, or Retaliating Against Court Officials					

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

**MEETING DATE:** Tuesday, April 15, 2025

**TIME:** 12:30—4:00 p.m.

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

**MEMBERS:** Senator Garcia, Chair; Senator Martin, Vice Chair; Senators Ingoglia, Osgood, Polsky, Rouson, Simon, Wright, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 468</b> Criminal Justice / Collins (Similar CS/CS/H 113, Compare H 779, S 1824)	Fleeing or Attempting to Elude a Law Enforcement Officer; Revising the law enforcement patrol vehicle marking requirements for specified offenses; authorizing the impoundment of a motor vehicle involved in certain violations for a specified period, etc.  CJ 03/25/2025 Fav/CS ACJ 04/15/2025 Favorable FP	Favorable Yeas 9 Nays 0
2	<b>CS/SB 612</b> Criminal Justice / Burgess (Similar CS/H 457)	Murder; Creating the offense of murder in the third degree; providing criminal penalties, etc.  CJ 03/25/2025 Fav/CS ACJ 04/15/2025 Favorable FP	Favorable Yeas 8 Nays 1
3	<b>CS/SB 716</b> Criminal Justice / Martin (Similar CS/CS/H 1455)	Sexual Offenses by Persons Previously Convicted of Sexual Offenses; Providing mandatory minimum terms of imprisonment for specified sexual offenses when committed by registered sexual offenders or sexual predators; providing requirements for such sentences, etc.  CJ 03/11/2025 Fav/CS ACJ 04/15/2025 Favorable FP	Favorable Yeas 9 Nays 0
4	<b>SB 776</b> Ingoglia (Identical H 653)	Aggravating Factors for Capital Felonies; Adding as an aggravating factor that the capital felony was committed against the head of a state, or in an attempt to commit such crime a capital felony was committed against another individual, etc.  CJ 03/18/2025 Favorable ACJ 04/15/2025 Favorable FP	Favorable Yeas 6 Nays 3

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Committee on Criminal and Civil Justice  
Tuesday, April 15, 2025, 12:30—4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 964</b> Bernard (Similar CS/H 181)	Objective Parole Guidelines; Revising requirements for objective parole guidelines; requiring the Commission on Offender Review to submit a specified statistical analysis to the Legislature, etc.  CJ 03/25/2025 Favorable ACJ 04/15/2025 Fav/CS FP	Fav/CS Yeas 9 Nays 0
6	<b>CS/SB 1136</b> Criminal Justice / Collins (Similar CS/H 777, Compare H 1503, S 1718)	Age as an Element of a Criminal Offense; Providing that ignorance of a victim's age, misrepresentation of a victim's age, and a bona fide belief concerning a victim's age are not defenses to certain offenses in which the victim's age is an element of the offense; providing an exception; revising the age requirements for committing the offenses relating to luring or enticing a child, etc.  CJ 03/25/2025 Fav/CS ACJ 04/15/2025 Fav/CS FP	Fav/CS Yeas 9 Nays 0
7	<b>CS/SB 1360</b> Criminal Justice / Leek (Similar CS/H 57)	Controlled Substances; Excepting from the Schedule I controlled substance xylazine drug products approved by the United States Food and Drug Administration for certain use; creating the offense of trafficking in xylazine, etc.  CJ 03/18/2025 Fav/CS ACJ 04/15/2025 Favorable FP	Favorable Yeas 8 Nays 0
8	<b>CS/SB 1444</b> Criminal Justice / Collins (Compare CS/CS/H 1371, S 1042, S 1100)	Criminal Justice; Prohibiting the use of motor vehicle kill switches; providing exceptions; providing a minimum mandatory sentence for attempted murder of specified justice system personnel; providing correctional probation officers with the same firearms rights as law enforcement officers; prohibiting a person from depriving certain officers of digital recording devices or restraint devices, etc.  CJ 04/01/2025 Fav/CS ACJ 04/15/2025 Fav/CS FP	Fav/CS Yeas 9 Nays 0
9	<b>CS/SB 1450</b> Criminal Justice / Burgess (Identical CS/H 1099)	Arrest and Detention of Individuals with Significant Medical Conditions; Defining the term "person with a significant medical condition"; providing that a law enforcement officer may use his or her discretion in determining whether to make an immediate arrest of such person, etc.  CJ 04/01/2025 Fav/CS ACJ 04/15/2025 Favorable RC	Favorable Yeas 9 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Committee on Criminal and Civil Justice  
Tuesday, April 15, 2025, 12:30—4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	<b>CS/SB 1604</b> Criminal Justice / Martin (Similar CS/CS/H 903)	Corrections; Revising provisions relating to deferral of prepayment of court costs and fees for indigent prisoners for actions involving challenges to prison disciplinary reports; requiring exhaustion of administrative remedies before certain actions concerning confinement of prisoners may be brought; providing that prison terms for certain offenses committed in conjunction with another felony offense may be sentenced to be served consecutively; revising provisions concerning methods of execution of death sentences, etc.  CJ 03/25/2025 Fav/CS ACJ 04/15/2025 Fav/CS FP	Fav/CS Yeas 6 Nays 2
11	<b>CS/SB 1782</b> Transportation / Pizzo (Similar CS/CS/H 351)	Dangerous Excessive Speeding; Specifying conduct that constitutes dangerous excessive speeding; authorizing the revocation of a person's driving privilege for a specified period upon a second or subsequent conviction of dangerous excessive speeding; providing exceptions to the requirement that an officer indicate the applicable civil penalty on a specified traffic citation, etc.  TR 04/01/2025 Fav/CS ACJ 04/15/2025 Favorable FP	Favorable Yeas 9 Nays 0
12	<b>SB 1804</b> Martin (Similar CS/CS/H 1283)	Capital Sex Trafficking; Providing penalties for persons convicted of the capital felony of human trafficking by use of physical force upon certain persons for sex; providing requirements for separate sentencing proceedings in certain capital felony cases; providing requirements for imposition of a sentence of life imprisonment or a sentence of death; authorizing the state to appeal from a sentence on the ground that it resulted from the failure of the circuit court to comply with specified sentencing procedure requirements, etc.  CJ 04/01/2025 Favorable ACJ 04/15/2025 Fav/CS FP	Fav/CS Yeas 5 Nays 4



**COMMITTEE MEETING EXPANDED AGENDA**

Appropriations Committee on Criminal and Civil Justice  
Tuesday, April 15, 2025, 12:30—4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	<b>CS/SB 1838</b> Criminal Justice / Martin (Similar CS/H 1049)	Tampering With, Harassing, or Retaliating Against Court Officials; Providing criminal penalties for persons who knowingly and willfully threaten specified court personnel; providing criminal penalties for persons who knowingly and willfully harass specified court personnel with certain intent; providing criminal penalties for persons who intentionally harass court officials when such harassment has a specified outcome; providing criminal penalties for persons who retaliate against court officials for their participation in official investigations or proceedings, etc.  CJ      03/18/2025 Fav/CS ACJ     04/15/2025 Favorable FP	Favorable Yeas 9 Nays 0

Other Related Meeting Documents

By the Committee on Criminal Justice; and Senator Collins

591-02828-25

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A bill to be entitled

An act relating to fleeing or attempting to elude a law enforcement officer; amending s. 316.1935, F.S.; revising the law enforcement patrol vehicle marking requirements for specified offenses; authorizing the impoundment of a motor vehicle involved in certain violations for a specified period; specifying requirements for such impoundment; amending s. 921.0022, F.S.; reclassifying offenses for purposes of the offense severity ranking chart of the Criminal Punishment Code; amending s. 921.0024, F.S.; providing a sentencing multiplier for specified offenses; providing an effective date.

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

Section 1. Subsections (2), (3), (4), and (7) of section 316.1935, Florida Statutes, are amended, subsection (8) is added to that section, and subsection (1) of that section is republished, to read:

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

(1) It is unlawful for the operator of any vehicle, having knowledge that he or she has been ordered to stop such vehicle by a duly authorized law enforcement officer, willfully to refuse or fail to stop the vehicle in compliance with such order or, having stopped in knowing compliance with such order, willfully to flee in an attempt to elude the officer, and a person who violates this subsection commits a felony of the

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third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with agency ~~insignia and other~~ jurisdictional markings prominently displayed on the vehicle, with siren and lights activated commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with agency ~~insignia and other~~ jurisdictional markings prominently displayed on the vehicle, with siren and lights activated, and during the course of the fleeing or attempted eluding:

(a) Drives at high speed, or in any manner which demonstrates a wanton disregard for the safety of persons or property, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Drives at high speed, or in any manner which demonstrates a wanton disregard for the safety of persons or property, and causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle, commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Notwithstanding any other provision of law, the court shall sentence any person convicted of committing the offense described in this paragraph to a mandatory minimum sentence of 3 years imprisonment. ~~Nothing in~~ This paragraph does not shall

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prevent a court from imposing a greater sentence of incarceration as authorized by law.

(4) Any person who, in the course of unlawfully leaving or attempting to leave the scene of a crash in violation of s. 316.027 or s. 316.061, having knowledge of an order to stop by a duly authorized law enforcement officer, willfully refuses or fails to stop in compliance with such an order, or having stopped in knowing compliance with such order, willfully flees in an attempt to elude such officer and, as a result of such fleeing or eluding:

(a) Causes injury to another person or causes damage to any property belonging to another person, commits aggravated fleeing or eluding, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle, commits aggravated fleeing or eluding with serious bodily injury or death, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The felony of aggravated fleeing or eluding and the felony of aggravated fleeing or eluding with serious bodily injury or death constitute separate offenses for which a person may be charged, in addition to the offenses under ss. 316.027 and 316.061, relating to unlawfully leaving the scene of a crash, which the person had been in the course of committing or attempting to commit when the order to stop was given. Notwithstanding any other provision of law, the court shall

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sentence any person convicted of committing aggravated fleeing or eluding with serious bodily injury or death to a mandatory minimum sentence of 3 years imprisonment. ~~Nothing in~~ This subsection ~~does not shall~~ prevent a court from imposing a greater sentence of incarceration as authorized by law.

(7) Any motor vehicle involved in a violation of this section may be impounded for a period of 30 business days. The impounding law enforcement agency shall make a diligent effort to notify the registered owner of the impoundment. The law enforcement officer shall notify the department of any impoundment for violation of this section in accordance with procedures established by the department.

(a) A warrant is required to impound a vehicle from a constitutionally protected area.

(b) The impounding law enforcement agency must release an impounded motor vehicle if the owner or the owner's agent presents a valid driver license at the time of vehicle pickup and one of the following conditions is met:

1. Notwithstanding any provision to the contrary, any conditions provided in s. 316.193(6)(e)-(h).

2. The vehicle was, at the time of the violation, in the care, custody, or control of another person, the vehicle owner identifies that person in a statement made under oath, and a witness observed the other person driving the vehicle and corroborates the vehicle owner's statement.

(c) All costs and fees for impoundment or immobilization, including the cost of notification, must be paid by the owner of the motor vehicle or, if the motor vehicle is leased or rented, by the person leasing or renting the motor vehicle, unless the

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impoundment or immobilization order is dismissed. All provisions of s. 713.78 shall apply.

(8) Notwithstanding subsection (7), any motor vehicle involved in a violation of this section is deemed to be contraband, which may be seized by a law enforcement agency and is subject to forfeiture pursuant to ss. 932.701-932.704. Any vehicle not required to be titled under the laws of this state is presumed to be the property of the person in possession of the vehicle.

Section 2. Paragraphs (d), (e), and (f) of subsection (3) of section 921.0022, Florida Statutes, as amended by section 24 of chapter 2025-1, Laws of Florida, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(d) LEVEL 4

Florida Statute	Felony Degree	Description
104.155	3rd	Unqualified noncitizen electors voting; aiding or soliciting noncitizen electors in voting.
<del>316.1935(3)(a)</del>	2nd	<del>Driving at high speed or with wanton disregard for safety while fleeing or attempting to</del>

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~~clude law enforcement officer who is in a patrol vehicle with siren and lights activated.~~

499.0051(1) 3rd Failure to maintain or deliver transaction history, transaction information, or transaction statements.

499.0051(5) 2nd Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.

517.07(1) 3rd Failure to register securities.

517.12(1) 3rd Failure of dealer or associated person of a dealer of securities to register.

784.031 3rd Battery by strangulation.

784.07(2)(b) 3rd Battery of law enforcement officer, firefighter, etc.

784.074(1)(c) 3rd Battery of sexually violent predators facility staff.

784.075 3rd Battery on detention or commitment facility staff.

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784.078 3rd Battery of facility employee by  
throwing, tossing, or expelling  
certain fluids or materials.

147

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

148

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

149

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

150

784.083(3) 3rd Battery on code inspector.

151

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

152

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

153

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

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

155

787.07 3rd Human smuggling.

156

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

157

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

158

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

159

794.051(1) 3rd Indecent, lewd, or lascivious  
touching of certain minors.

160

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

161

806.135 2nd Destroying or demolishing a  
memorial or historic property.

162

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

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

810.06 3rd Burglary; possession of tools.

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

810.145(3)(b) 3rd Digital voyeurism  
dissemination.

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

812.014 3rd Grand theft, 3rd degree;  
(2)(c)4. &  
6.-10. specified items.

812.014(2)(d)2. 3rd Grand theft, 3rd degree; \$750  
or more taken from dwelling or  
its unenclosed curtilage.

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812.014(2)(e)3. 3rd Petit theft, 1st degree; less  
than \$40 taken from dwelling or  
its unenclosed curtilage with  
two or more prior theft  
convictions.

812.0195(2) 3rd Dealing in stolen property by  
use of the Internet; property  
stolen \$300 or more.

817.505(4)(a) 3rd Patient brokering.

817.563(1) 3rd Sell or deliver substance other  
than controlled substance  
agreed upon, excluding s.  
893.03(5) drugs.

817.568(2)(a) 3rd Fraudulent use of personal  
identification information.

817.5695(3)(c) 3rd Exploitation of person 65 years  
of age or older, value less  
than \$10,000.

817.625(2)(a) 3rd Fraudulent use of scanning  
device, skimming device, or  
reencoder.

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178 817.625(2)(c) 3rd Possess, sell, or deliver  
skimming device.

179 828.125(1) 2nd Kill, maim, or cause great  
bodily harm or permanent  
breeding disability to any  
registered horse or cattle.

180 836.14(2) 3rd Person who commits theft of a  
sexually explicit image with  
intent to promote it.

181 836.14(3) 3rd Person who willfully possesses  
a sexually explicit image with  
certain knowledge, intent, and  
purpose.

182 837.02(1) 3rd Perjury in official  
proceedings.

183 837.021(1) 3rd Make contradictory statements  
in official proceedings.

184 838.022 3rd Official misconduct.

185 839.13(2)(a) 3rd Falsifying records of an  
individual in the care and  
custody of a state agency.

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186 839.13(2)(c) 3rd Falsifying records of the  
Department of Children and  
Families.

187 843.021 3rd Possession of a concealed  
handcuff key by a person in  
custody.

188 843.025 3rd Deprive law enforcement,  
correctional, or correctional  
probation officer of means of  
protection or communication.

189 843.15(1)(a) 3rd Failure to appear while on bail  
for felony (bond estreature or  
bond jumping).

190 843.19(2) 2nd Injure, disable, or kill  
police, fire, or SAR canine or  
police horse.

191 847.0135(5)(c) 3rd Lewd or lascivious exhibition  
using computer; offender less  
than 18 years.

192 870.01(3) 2nd Aggravated rioting.

193 870.01(5) 2nd Aggravated inciting a riot.

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874.05(1)(a) 3rd Encouraging or recruiting another to join a criminal gang.

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).

914.14(2) 3rd Witnesses accepting bribes.

914.22(1) 3rd Force, threaten, etc., witness, victim, or informant.

914.23(2) 3rd Retaliation against a witness, victim, or informant, no bodily injury.

916.1085 3rd Introduction of specified contraband into certain DCF facilities.

(2)(c)1.

918.12 3rd Tampering with jurors.

934.215 3rd Use of two-way communications device to facilitate commission of a crime.

944.47(1)(a)6. 3rd Introduction of contraband

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(cellular telephone or other portable communication device) into correctional institution.

951.22(1)(h), 3rd Intoxicating drug, instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

(j) & (k)

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
<u>316.1935(3)(a)</u>	<u>2nd</u>	<u>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.</u>



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210

~~316.1935(4)(a)~~ 2nd ~~Aggravated fleeing or eluding.~~

211

316.80(2) 2nd Unlawful conveyance of fuel;  
obtaining fuel fraudulently.

212

322.34(6) 3rd Careless operation of motor  
vehicle with suspended license,  
resulting in death or serious  
bodily injury.

213

327.30(5) 3rd Vessel accidents involving  
personal injury; leaving scene.

214

379.365(2)(c)1. 3rd Violation of rules relating to:  
willful molestation of stone  
crab traps, lines, or buoys;  
illegal bartering, trading, or  
sale, conspiring or aiding in  
such barter, trade, or sale, or  
supplying, agreeing to supply,  
aiding in supplying, or giving  
away stone crab trap tags or  
certificates; making, altering,  
forging, counterfeiting, or  
reproducing stone crab trap  
tags; possession of forged,  
counterfeit, or imitation stone  
crab trap tags; and engaging in

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the commercial harvest of stone  
crabs while license is  
suspended or revoked.

215

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

216

379.407(5)(b)3. 3rd Possession of 100 or more  
undersized spiny lobsters.

217

381.0041(11)(b) 3rd Donate blood, plasma, or organs  
knowing HIV positive.

218

440.10(1)(g) 2nd Failure to obtain workers'  
compensation coverage.

219

440.105(5) 2nd Unlawful solicitation for the  
purpose of making workers'  
compensation claims.

220

440.381(2) 3rd Submission of false,  
misleading, or incomplete  
information with the purpose of  
avoiding or reducing workers'  
compensation premiums.

221

624.401(4)(b)2. 2nd Transacting insurance without a  
certificate or authority;

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premium collected \$20,000 or  
more but less than \$100,000.

222

626.902(1)(c)

2nd

Representing an unauthorized  
insurer; repeat offender.

223

790.01(3)

3rd

Unlawful carrying of a  
concealed firearm.

224

790.162

2nd

Threat to throw or discharge  
destructive device.

225

790.163(1)

2nd

False report of bomb,  
explosive, weapon of mass  
destruction, or use of firearms  
in violent manner.

226

790.221(1)

2nd

Possession of short-barreled  
shotgun or machine gun.

227

790.23

2nd

Felons in possession of  
firearms, ammunition, or  
electronic weapons or devices.

228

796.05(1)

2nd

Live on earnings of a  
prostitute; 1st offense.

229

800.04(6)(c)

3rd

Lewd or lascivious conduct;  
offender less than 18 years of

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age.

230

800.04(7)(b)

2nd

Lewd or lascivious exhibition;  
offender 18 years of age or  
older.

231

806.111(1)

3rd

Possess, manufacture, or  
dispense fire bomb with intent  
to damage any structure or  
property.

232

810.145(4)(c)

3rd

Commercial digital voyeurism  
dissemination.

233

810.145(7)(a)

2nd

Digital voyeurism; 2nd or  
subsequent offense.

234

810.145(8)(a)

2nd

Digital voyeurism; certain  
minor victims.

235

812.014(2)(d)3.

2nd

Grand theft, 2nd degree; theft  
from 20 or more dwellings or  
their unenclosed curtilage, or  
any combination.

236

812.0145(2)(b)

2nd

Theft from person 65 years of  
age or older; \$10,000 or more  
but less than \$50,000.

237

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238	812.015 (8) (a) & (c) - (e)	3rd	Retail theft; property stolen is valued at \$750 or more and one or more specified acts.
239	812.015(8) (f)	3rd	Retail theft; multiple thefts within specified period.
240	812.015(8) (g)	3rd	Retail theft; committed with specified number of other persons.
241	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
242	812.081(3)	2nd	Trafficking in trade secrets.
243	812.131(2) (b)	3rd	Robbery by sudden snatching.
244	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
245	817.034(4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
246	817.234(11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
	817.2341(1),	3rd	Filing false financial

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247	(2) (a) & (3) (a)		statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
248	817.568(2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.
249	817.611(2) (a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
250	817.625(2) (b)	2nd	Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.
251	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
	828.12(2)	3rd	Tortures any animal with intent

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to inflict intense pain,  
serious physical injury, or  
death.

836.14(4)

2nd

Person who willfully promotes  
for financial gain a sexually  
explicit image of an  
identifiable person without  
consent.

839.13(2)(b)

2nd

Falsifying records of an  
individual in the care and  
custody of a state agency  
involving great bodily harm or  
death.

843.01(1)

3rd

Resist officer with violence to  
person; resist arrest with  
violence.

847.0135(5)(b)

2nd

Lewd or lascivious exhibition  
using computer; offender 18  
years or older.

847.0137  
(2) & (3)

3rd

Transmission of pornography by  
electronic device or equipment.

847.0138  
(2) & (3)

3rd

Transmission of material  
harmful to minors to a minor by

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electronic device or equipment.

874.05(1)(b)

2nd

Encouraging or recruiting  
another to join a criminal  
gang; second or subsequent  
offense.

874.05(2)(a)

2nd

Encouraging or recruiting  
person under 13 years of age to  
join a criminal gang.

893.13(1)(a)1.

2nd

Sell, manufacture, or deliver  
cocaine (or other s.  
893.03(1)(a), (1)(b), (1)(d),  
(2)(a), (2)(b), or (2)(c)5.  
drugs).

893.13(1)(c)2.

2nd

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

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262

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

263

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

264

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

265

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

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266

893.1351(1) 3rd Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.

267

268

269

270

271

(f) LEVEL 6

Florida Statute	Felony Degree	Description
-----------------	---------------	-------------

272

316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
---------------	-----	---

273

316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
---------------	-----	---

274

<u>316.1935(4)(a)</u>	<u>2nd</u>	<u>Aggravated fleeing or eluding.</u>
-----------------------	------------	---------------------------------------

275

400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
----------------	-----	--

276

499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
-------------	-----	--

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277

499.0051(3) 2nd Knowing purchase or receipt of  
prescription drug from  
unauthorized person.

278

499.0051(4) 2nd Knowing sale or transfer of  
prescription drug to  
unauthorized person.

279

775.0875(1) 3rd Taking firearm from law  
enforcement officer.

280

784.021(1)(a) 3rd Aggravated assault; deadly  
weapon without intent to kill.

281

784.021(1)(b) 3rd Aggravated assault; intent to  
commit felony.

282

784.041 3rd Felony battery; domestic  
battery by strangulation.

283

784.048(3) 3rd Aggravated stalking; credible  
threat.

284

784.048(5) 3rd Aggravated stalking of person  
under 16.

285

784.07(2)(c) 2nd Aggravated assault on law  
enforcement officer.

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286

784.074(1)(b) 2nd Aggravated assault on sexually  
violent predators facility  
staff.

287

784.08(2)(b) 2nd Aggravated assault on a person  
65 years of age or older.

288

784.081(2) 2nd Aggravated assault on specified  
official or employee.

289

784.082(2) 2nd Aggravated assault by detained  
person on visitor or other  
detainee.

290

784.083(2) 2nd Aggravated assault on code  
inspector.

291

787.02(2) 3rd False imprisonment; restraining  
with purpose other than those  
in s. 787.01.

292

790.115(2)(d) 2nd Discharging firearm or weapon  
on school property.

293

790.161(2) 2nd Make, possess, or throw  
destructive device with intent  
to do bodily harm or damage  
property.

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294

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

295

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

296

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

297

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

298

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

299

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

300

806.031(2) 2nd Arson resulting in great bodily

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301

harm to firefighter or any  
other person.

302

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

303

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

304

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

305

812.014(2)(c)5. 3rd Grand theft; third degree;  
firearm.

306

812.014(6) 2nd Theft; property stolen \$3,000  
or more; coordination of  
others.

307

812.015(9)(a) 2nd Retail theft; property stolen  
\$750 or more; second or  
subsequent conviction.

812.015(9)(b) 2nd Retail theft; aggregated  
property stolen within 120 days  
is \$3,000 or more; coordination  
of others.

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308

812.015(9)(d) 2nd Retail theft; multiple thefts  
within specified period.

309

812.015(9)(e) 2nd Retail theft; committed with  
specified number of other  
persons and use of social media  
platform.

310

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

311

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

312

817.49(2)(b)2. 2nd Willful making of a false  
report of a crime resulting in  
death.

313

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

314

817.5695(3)(b) 2nd Exploitation of person 65 years  
of age or older, value \$10,000  
or more, but less than \$50,000.

315

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

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316

825.102(3)(c) 3rd Neglect of an elderly person or  
disabled adult.

317

825.1025(3) 3rd Lewd or lascivious molestation  
of an elderly person or  
disabled adult.

318

825.103(3)(c) 3rd Exploiting an elderly person or  
disabled adult and property is  
valued at less than \$10,000.

319

827.03(2)(c) 3rd Abuse of a child.

320

827.03(2)(d) 3rd Neglect of a child.

321

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

322

828.126(3) 3rd Sexual activities involving  
animals.

323

836.05 2nd Threats; extortion.

324

836.10 2nd Written or electronic threats  
to kill, do bodily injury, or

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conduct a mass shooting or an  
act of terrorism.

325

843.12

3rd

Aids or assists person to  
escape.

326

847.011

3rd

Distributing, offering to  
distribute, or possessing with  
intent to distribute obscene  
materials depicting minors.

327

847.012

3rd

Knowingly using a minor in the  
production of materials harmful  
to minors.

328

847.0135(2)

3rd

Facilitates sexual conduct of  
or with a minor or the visual  
depiction of such conduct.

329

893.131

2nd

Distribution of controlled  
substances resulting in  
overdose or serious bodily  
injury.

330

914.23

2nd

Retaliation against a witness,  
victim, or informant, with  
bodily injury.

331

918.13(2) (b)

2nd

Tampering with or fabricating

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physical evidence relating to a  
capital felony.

332

944.35(3) (a)2.

3rd

Committing malicious battery  
upon or inflicting cruel or  
inhuman treatment on an inmate  
or offender on community  
supervision, resulting in great  
bodily harm.

333

944.40

2nd

Escapes.

334

944.46

3rd

Harboring, concealing, aiding  
escaped prisoners.

335

944.47(1) (a)5.

2nd

Introduction of contraband  
(firearm, weapon, or explosive)  
into correctional facility.

336

951.22(1) (i)

3rd

Firearm or weapon introduced  
into county detention facility.

337

338

339

Section 3. Paragraph (b) of subsection (1) of section  
921.0024, Florida Statutes, is amended to read:

340

921.0024 Criminal Punishment Code; worksheet computations;  
scoresheets.—

341

342

343

(1)

344

(b) WORKSHEET KEY:

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

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

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

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

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

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

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

b. Twenty-four (24) community sanction violation points are assessed for the violation and for each successive violation of

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felony probation or community control where the violation includes a new felony conviction.

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

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

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

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jurisdiction, or would be a capital felony if the offense were committed in this state.

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

Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).  
Violent offenses committed against specified justice system personnel: If the primary offense is a violation of s. 775.0823(2), (3), or (4), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points

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are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or s. 775.0823(10) or (11), the subtotal sentence points are multiplied by 1.5.

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

Fleeing or attempting to elude a law enforcement officer: If the primary offense is fleeing or attempting to elude a law enforcement officer or aggravated fleeing or eluding in violation of s. 316.1935 and, in the offender's prior record, there is one or more violations of s. 316.1935, the subtotal sentence points are multiplied by 1.5.

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

Domestic violence in the presence of a child: If the offender is convicted of the primary offense and the primary offense is a

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

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

Section 4. This act shall take effect October 1, 2025.

## The Florida Senate COMMITTEE VOTE RECORD

**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** CS/SB 468  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



The Florida Senate

## Committee Agenda Request

**To:** Senator Ileana Garcia, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** March 25, 2025

---

I respectfully request that **Senate Bill #468**, relating to Fleeing or Attempting to Elude a Law Enforcement Officer, be placed on the:

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

A handwritten signature in blue ink, which appears to read "Jay Collins", is written over a horizontal line.

Senator Jay Collins  
Florida Senate, District 14

4-15-2025

Meeting Date

Appropriations on Criminal & Civil Justice

Committee

Name **Sam Wagoner**

Address **301 S Bronough St. Suite 300**

Street

**TLH**

City

**FL**

State

**32302**

Zip

Phone **850-701-3603**

Email **swagoner@flcities.com**

The Florida Senate  
**APPEARANCE RECORD**

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

468

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:

☐ 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 15 2025

Meeting Date

Approp Criminal and Civil Justice

Committee

Name Jennifer Cook Pritt

Phone 850-219-3631

Address 2636 Mitcham Drive

Email jpritt@fpca.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:

Florida Police Chiefs 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.

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

0468

Bill Number or Topic

Amendment Barcode (if applicable)

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The Florida Senate

# APPEARANCE RECORD

4/15/25

Meeting Date

468

Bill Number or Topic

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Approps Comm. Crim. & Civil Just.  
Committee

Amendment Barcode (if applicable)

Name William B. Smith

Phone 305-333-4344

Address 300 E. BREVARD ST.  
Street

Email WBSMITH@FLPBA.ORG

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:

FL PBA

☐ I am not a lobbyist, but received  
something of value for my appearance  
(travel, meals, lodging, etc.),  
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This form is part of the public record for this meeting.

S-001 (08/10/2021)

The Florida Senate

# APPEARANCE RECORD

4-15-25

Meeting Date

APP. ON CIVIL & CRIMINAL JUSTICE

Committee

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SB 0468

Bill Number or Topic

Amendment Barcode (if applicable)

Name CAPTAIN ANTONARIO WRIGHT

Phone 407-254-7000

Address 2500 W COLONIAL DR  
Street

Email ANTONARIO.WRIGHT@OC.SOFL.COM

ORLANDO  
City

FL  
State

32804  
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:

ORANGE COUNTY SHERIFF'S  
OFFICE

☐ 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  
**APPEARANCE RECORD**

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

4/15/25

Meeting Date

CJ APPROP

Committee

468

Bill Number or Topic

Amendment Barcode (if applicable)

Name AARON WAYT  
FL ASSN OF CRIMINAL DEF LAWYERS

Phone (407) 435-3194

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:

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

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

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BILL: CS/SB 468

INTRODUCER: Criminal Justice Committee and Senator Collins

SUBJECT: Fleeing or Attempting to Elude a Law Enforcement Officer

DATE: April 14, 2025

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>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 468 amends s. 316.1935, F.S., to remove the requirement that a law enforcement vehicle have agency insignia for the crime of fleeing or attempting to elude a law enforcement officer.

The bill provides that any motor vehicle involved in a violation of the offense of fleeing or attempting to elude a law enforcement officer may be impounded, and provides conditions for release of impoundment and costs.

The bill amends s. 921.0022, F.S., to increase the ranking for specified fleeing or attempting to elude offenses in the offense severity ranking chart (OSRC) of the Criminal Punishment Code.

The bill amends s. 921.0024, F.S., to create a sentencing multiplier for second or subsequent fleeing or attempting to elude offenses.

The bill may have a positive indeterminate fiscal impact (unquantifiable increase in prison and jail beds) on the Department of Corrections and local jails. See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2025.

## **II. Present Situation:**

### **Fleeing or Attempting to Elude a Law Enforcement Officer**

#### ***Fleeing or attempting to elude a LEO***

Section 316.1935, F.S., provides that it is unlawful for the operator of any vehicle, having knowledge that he or she has been ordered to stop such vehicle by a duly authorized law enforcement officer, willfully to refuse or fail to stop the vehicle in compliance with such order or, having stopped in knowing compliance with such order, willfully to flee in an attempt to elude the officer. A person who flees or attempts to elude a law enforcement officer commits a third degree felony.<sup>1</sup>

#### ***Fleeing or attempting to elude a LEO in a patrol vehicle with siren and lights activated***

Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with agency insignia and other jurisdictional markings prominently displayed on the vehicle, with siren and lights activated commits a third degree felony.<sup>2</sup>

#### ***Driving at a high speed or with wanton disregard for safety while fleeing or attempting to elude a LEO***

Any person who willfully flees or attempts to elude a law enforcement officer in an authorized law enforcement patrol vehicle, with agency insignia and other jurisdictional markings prominently displayed on the vehicle, with siren and lights activated, and during the course of the fleeing or attempted eluding:

- Drives at a high speed, in a manner which demonstrates a wanton disregard for the safety of persons or property commits a second degree felony.<sup>3,4</sup>
- Drives at a high speed, or in a manner which demonstrates a wanton disregard for the safety of persons or property and causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle, commits a first degree felony.<sup>5,6</sup>

The court must sentence any person convicted of committing this offense that causes serious bodily injury or death, to a mandatory minimum sentence of 3 years.

#### ***Aggravated fleeing or attempting to elude when leaving the scene of a crash***

Any person who in the course of unlawfully leaving or attempting to leave the scene of a crash, having knowledge of an order to stop by a duly authorized law enforcement officer, willfully

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<sup>1</sup> A third degree felony is punishable by up to five years in prison and a fine of \$5,000 as provided in ss. 775.082, 775.083, and 775.084, F.S.

<sup>2</sup> Section 316.1935(2), F.S.

<sup>3</sup> Section 316.1935(3)(a), F.S.

<sup>4</sup> A second degree felony is punishable by a term of imprisonment of 15 years and a \$10,000 fine as provided in ss. 775.082, 775.083, and 775.084, F.S.

<sup>5</sup> Section 316.1935(3)(b), F.S.

<sup>6</sup> A first degree felony is punishable by a term of imprisonment of 30 years and a \$10,000 fine as provided in ss. 775.082, 775.083, and 775.084, F.S.

refuses or fails to stop in compliance with such an order, or having stopped in knowing compliance with such order, willfully flees in an attempt to elude such officer and, as a result of such fleeing or eluding:

- Causes injury to another person or causes damage to any property belonging to another person commits aggravated fleeing or eluding, a second degree felony.<sup>7</sup>
- Causes serious bodily injury or death to another person, including any law enforcement officer involved in pursuing or otherwise attempting to effect a stop of the person's vehicle, commits aggravated fleeing or eluding with serious bodily injury or death, a first degree felony.<sup>8</sup>

The felony of aggravated fleeing or eluding and the felony of aggravated fleeing or eluding with serious bodily injury or death constitute separate offenses for which a person may be charged, in addition to unlawfully leaving the scene of a crash, which the person had been in the course of committing or attempting to commit when the order to stop was given.

The court must sentence any person convicted of committing aggravated fleeing or eluding with serious bodily injury or death to a mandatory minimum sentence of 3 years imprisonment.

### **Agency Insignia and Other Jurisdictional Markings**

To prove the crime of Fleeing to Elude a Law Enforcement Officer, the State must prove that the law enforcement officer was in an authorized law enforcement patrol vehicle with agency insignia and other jurisdictional markings prominently displayed on the vehicle and with siren and lights activated.<sup>9</sup>

The Third District Court of Appeal (DCA) has held that there was no evidence of such “agency insignia” during a high-speed chase when two officers were driving unmarked vehicles, and a third officer’s vehicle was marked with a 15-inch “City of Miami” seal on the car's door.<sup>10</sup>

Similarly, the First DCA has held that an officer’s testimony that he was driving a “marked patrol car” with “lights on top” was insufficient evidence of such “agency insignia and other jurisdictional markings prominently displayed on [his] vehicle” because “not all markings on law enforcement vehicles constitute agency insignia.”<sup>11</sup>

More recently, the First DCA held that because “the word ‘insignia’ is not defined by the statute ... we give the term its plain and ordinary meaning, resorting to dictionaries where necessary and helpful.”<sup>12</sup> After surveying dictionary definitions of “insignia,” the court concluded: [A]gency insignia were prominently displayed on [the officer’s patrol vehicle] insofar as the vehicle was

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<sup>7</sup> Section 316.1935(4)(a), F.S.

<sup>8</sup> Section 316.1935(4)(b), F.S.

<sup>9</sup> Criminal Jury Instructions 28.7, *Fleeing to Elude a Law Enforcement Officer (Siren and Lights Activated)* Section 316.1935(2), F.S., available at <https://view.officeapps.live.com/op/view.aspx?src=https%3A%2F%2Fwww-media.floridabar.org%2Fuploads%2F2023%2F02%2F28.7-revised.docx&wdOrigin=BROWSELINK> (visited last April 10, 2025).

<sup>10</sup> *Gorsuch v. State*, 797 So. 2d 649, 651 (Fla. 3<sup>rd</sup> DCA 2001).

<sup>11</sup> *Slack v. State*, 30 So. 3d 684, 687 (Fla. 1<sup>st</sup> DCA 2010) (citing *Gorsuch*, supra note 9).

<sup>12</sup> *Ellis v. State*, 258 So. 3d 491, 492-93 (Fla. 1<sup>st</sup> DCA 2018).

marked to clearly identify it as belonging to the [police department]. Specifically, the words “Pensacola Police Department” and “PENSACOLAPOLICE.COM” would qualify as agency insignia.<sup>13</sup>

### **Offense Severity Ranking Chart**

Felony offenses which are subject to the Criminal Punishment Code<sup>14</sup> are listed in a single OSRC, 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 the severity of the offense.<sup>15,16</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. 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>17</sup>

### **Sentencing Multiplier**

Section 921.0024(1)(b), F.S., provides a worksheet key for a court to use when sentencing a convicted defendant. Specified crimes are subject to sentencing multipliers that apply to a person’s subtotal sentence points, the application of which results in an increased number of total sentencing points, which may result in enhanced punishment in some cases.

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

The bill amends s. 316.1935, F.S., to remove the requirement that a law enforcement vehicle have agency insignia for the crime of fleeing or attempting to elude a law enforcement officer.

The bill provides that any motor vehicle involved in a violation of fleeing or attempting to elude a law enforcement officer may be impounded for a period of 30 business days. The impounding law enforcement agency shall make a diligent effort to notify the registered owner of the impoundment. The law enforcement officer must notify the DHSMV of any impoundment for violation of this offense in accordance with procedures established by the department.

A warrant is required to impound a vehicle from a constitutionally protected area.

The impounding law enforcement agency shall release an impounded motor vehicle if the owner or agent presents a valid driver license at the time of vehicle pickup and one of the following conditions are met:

- Notwithstanding any provision of law to the contrary, any conditions provided in s. 316.193(6)(e), (f), (g), and (h), F.S.; or

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<sup>13</sup> *Id.* at 493.

<sup>14</sup> All felony offenses, with the exception of capital felonies, committed on or after October 1, 1998, are subject to the Criminal Punishment Code.

<sup>15</sup> Section 921.0022, F.S.

<sup>16</sup> Section 921.0022(2), F.S.

<sup>17</sup> Section 921.0024(2), F.S., provides that 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.

- The vehicle was at the time of the violation, in the care, custody, or control of another person; the vehicle owner identifies that person in a statement made under oath; and a witness observed the other person driving the vehicle and corroborates the vehicle owner's statement.

All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the motor vehicle or, if the motor vehicle is leased or rented, by the person leasing or renting the motor vehicle, unless the impoundment or immobilization is dismissed. All provisions of s. 713.78, F.S., shall apply.

The bill increases the ranking for any crime of fleeing or attempting to elude as follows:

- 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 is a second degree felony, ranked a Level 5, rather than a Level 4.
- Aggravated fleeing or eluding is a second degree felony, and ranked a Level 6, rather than a Level 5.

The bill amends s. 921.0024, F.S., to provide if the primary offense is fleeing or attempting to elude a law enforcement officer or aggravated fleeing or eluding in violation of s. 316.1935, F.S., and in the offender's prior record, there is one or more violation of s. 316.1935, F.S., the subtotal sentence points are multiplied by 1.5.

The bill takes effect October 1, 2025.

#### **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.



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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill may have an indeterminate positive impact on the prison bed population by increasing the offense severity ranking for fleeing or attempting to elude offenses and providing a sentencing multiplier, under specified circumstances, for second or subsequent fleeing or attempting to elude offenses, which may result in more offenders being sentenced to prison and for longer prison sentences.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 316.1935, 921.0022, and 921.0024.

**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 25, 2025:**

The committee substitute:

- Provides that any motor vehicle involved in a violation of this offense may be impounded and provides conditions for release and impoundment costs.
- Increases certain offenses of fleeing or attempting to elude for purposes of the offense severity ranking chart.
- Creates a sentencing multiplier for fleeing or attempting to elude a law enforcement officer, if the primary offense is fleeing or attempting to elude or aggravated fleeing.

**B. Amendments:**

None.

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

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By the Committee on Criminal Justice; and Senator Burgess

591-02842-25

2025612c1

A bill to be entitled

An act relating to murder; amending s. 782.04, F.S.;  
creating the offense of murder in the third degree;  
providing criminal penalties; providing an effective  
date.

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

Section 1. Present subsection (5) of section 782.04,  
Florida Statutes, is redesignated as subsection (6), and a new  
subsection (5) is added to that section, to read:

782.04 Murder.—

(5) The unlawful killing of a human being, when perpetrated  
without any design to effect death, by a person engaged in the  
perpetration of, or in the attempt to perpetrate, the unlawful  
distribution of any substance listed in sub-subparagraphs  
(1)(a)3.a.-j. by a person younger than 18 years of age, when  
such substance is proven to have caused or is proven to have  
been a substantial factor in producing the death of the user, is  
murder in the third degree and constitutes a felony of the  
second degree, punishable as provided in s. 775.082, s. 775.083,  
or s. 775.084.

Section 2. This act shall take effect July 1, 2025.

**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** CS/SB 612  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



The Florida Senate

## Committee Agenda Request

**To:** Senator Ileana Garcia, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** April 2, 2025

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I respectfully request that **Senate Bill #612**, relating to Murder, be placed on the:

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

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

Senator Danny Burgess  
Florida Senate, District 23

CC: Marti Harkness, Staff Director  
CC: Sheila Knowles, Committee Administrative Assistant

**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.)

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

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BILL: CS/SB 612

INTRODUCER: Criminal Justice Committee and Senator Burgess

SUBJECT: Murder

DATE: April 14, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</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>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 612 amends s. 782.04(5), F.S., to create a new category of third degree murder for individuals younger than 18 who unlawfully distribute a specified substance that is proven to have caused or proven to have been a substantial factor in producing the death of the user.

Substances include:

- A Schedule I controlled substance;
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;
- Methadone;
- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.<sup>1</sup>

This new third degree murder category constitutes a second degree felony.

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.

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<sup>1</sup> Section 782.04(1)(a)3.a.-j., F.S.

The bill takes effect on July 1, 2025.

## II. Present Situation:

Nationwide, there has been an increase in young adults being charged as the result of distributing a substance that has caused death of another individual. In 2022, a California District Attorney's office charged a sixteen-year-old with murder for distributing Fentanyl that killed a pre-teen.<sup>2</sup> The San Bernardino County District Attorney's Office has utilized this charge twice to in recent years amid a spike in teenager overdose deaths in Southern California.<sup>3</sup>

### **Murder by Unlawful Distribution of Certain Controlled Substances**

Section 782.04(1)(a)3., F.S., provides that first degree murder includes the unlawful killing of a human being which resulted from the unlawful distribution by a person 18 years of age or older of any of the following substances, or a mixture containing any of the following substances, when such substance or mixture is proven to be the *substantial factor* of the death of the user:

- A Schedule I controlled substance;<sup>4</sup>
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;
- Methadone;
- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.

“Substantial factor” means that the use of a substance or mixture alone is sufficient to cause an overdose or serious bodily injury, regardless of whether any other substance or mixture used is also sufficient to cause an overdose or serious bodily injury.<sup>5</sup>

First degree murder is a capital felony,<sup>6</sup> punishable by death or life imprisonment.<sup>7</sup>

### ***Third Degree Murder – Exclusion of Unlawful Distribution of Certain Controlled Substances***

Section 782.04(4), F.S., provides that it is third degree murder, a second degree felony, when an unlawful killing of a human being, was perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate any felony *other than* any

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<sup>2</sup> ABC News, *Mother reacts to murder charge against teen accused in her 12-year-old's fatal overdose*, available at <https://abc7news.com/san-jose-teen-od-death-girl-drug-overdose-fentanyl/11509568/>, (last visited March 18, 2025).

<sup>3</sup> Fox News, *California teen charged with murder for providing fentanyl to drug overdose victim*, available at <https://www.foxnews.com/us/california-teen-charged-murder-providing-fentanyl-drug-overdose-victim?msocid=1aa65dbe159a63171107495a14b362c4>, (last visited March 18, 2025).

<sup>4</sup> Section 893.03(1), F.S., provides a list of controlled substances.

<sup>5</sup> Section 782.04(5)(a), F.S.

<sup>6</sup> Section 782.04(1)(a)3., F.S.

<sup>7</sup> Section 782.082, F.S.

felony listed in subsection (4). This list of excluded felonies includes unlawful distribution by a person 18 years of age or older of any of the following substances when such substance is proven to be the *substantial cause* of the death of the user:

- A Schedule I controlled substance;
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;
- Methadone;
- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.<sup>8</sup>

Currently, persons under 18 years of age are excluded from the capital crime of murder for the unlawful distribution of the above listed substances:

A person less than 18 years of age who distributes such substance and such distribution causes death may be charged with the second degree felony of third degree murder depending on the circumstances.

### **Capital Felonies**

Under current Florida law, the term “capital felony” means a crime for which a person may be sentenced to death or life imprisonment.<sup>9</sup> Among these crimes are:

- The unlawful killing of a human being:
  - When perpetrated from a premeditated design to effect the death of the person killed or any human being;<sup>10</sup>
  - When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any specified offense;<sup>11</sup> or
  - Which resulted from the unlawful distribution by a person 18 years of age or older of any specified substances, or mixture containing any specified substance, when such substance or mixture is proven to have caused, or is proven to have been a substantial factor in producing, the death of the user.
- Sexual battery, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age.<sup>12</sup>
- Trafficking in specified controlled substances.<sup>13</sup>

A person under the age of 18 at the time of the offense will receive a sentence of life in prison as specified in s. 775.082(1)(b)1., F.S. If after sentencing the court finds that life imprisonment is

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<sup>8</sup> Section 782.04(4)(l), F.S.

<sup>9</sup> See Sections 921.141, 921.142, and 921.1425, F.S.

<sup>10</sup> Section 782.04(1)(a)1., F.S.

<sup>11</sup> Section 782.04(1)(a)2., F.S.

<sup>12</sup> Section 794.011(2), F.S.

<sup>13</sup> See s. 893.135, F.S.



not an appropriate sentence, such person shall be punished by a term of imprisonment of at least 40 years.<sup>14</sup>

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

The bill amends s. 782.04(5), F.S., to create a new category of third degree murder for individuals younger than 18 who unlawfully distribute a specified substance that is proven to have caused or proven to have been a substantial factor in producing the death of the user.

Substances include:

- A Schedule I controlled substance;
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium;
- Methadone;
- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- Methamphetamine; or
- A controlled substance analog of any of the above-listed controlled substances.<sup>15</sup>

This new third degree murder category constitutes a second degree felony, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.

The bill takes effect on July 1, 2025.

### **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.

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<sup>14</sup> Section 775.082(1)(b)1., F.S.

<sup>15</sup> Section 782.04(1)(a)3.a.-j., F.S.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and 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 (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per the DOC, in FY 23-24, there were 19 new commitments to prison under s. 782.04(4), F.S. However, it is not known how many of these commitments were due to the unlawful distribution of specific controlled substances leading to the death of a user.<sup>16</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 782.04 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 25, 2025:**

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<sup>16</sup> Office of Economic and Demographic Research, *SB 612 - Murder*, (on file with the Senate Committee on Criminal Justice).

The substitute amendment establishes third degree murder, classified as a second degree felony, for individuals under 18 who distribute a substance proven to have caused or significantly contributed to someone's death.

**B. Amendments:**

None.

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

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By the Committee on Criminal Justice; and Senator Martin

591-02288-25

2025716c1

A bill to be entitled

An act relating to sexual offenses by persons previously convicted of sexual offenses; creating s. 794.0116, F.S.; providing mandatory minimum terms of imprisonment for specified sexual offenses when committed by registered sexual offenders or sexual predators; providing requirements for such sentences; providing an effective date.

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

Section 1. Section 794.0116, Florida Statutes, is created to read:

794.0116 Sexual offenses by registered sexual offenders or sexual predators; mandatory sentencing.—

(1) A person who was previously convicted of or had adjudication withheld for any offense listed in s. 775.21 or s. 943.0435 and commits a violation of s. 787.025(2)(c); s. 794.011, excluding s. 794.011(10); s. 800.04(4) or (5); s. 825.1025(2) or (3); s. 827.071; or s. 847.0145 shall be sentenced to a mandatory minimum term of imprisonment as follows:

Statute	Mandatory Minimum
<u>787.025(2)(c)</u>	<u>10 years</u>
<u>794.011, excluding s. 794.011(10)</u>	<u>10 years</u>

Page 1 of 3

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

591-02288-25

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<u>800.04(4) or (5)</u>	<u>10 years</u>
<u>825.1025(2) or (3)</u>	<u>10 years</u>
<u>827.071 (victims older than 12 years of age)</u>	<u>10 years</u>
<u>827.071 (victim 12 years of age or younger)</u>	<u>20 years</u>
<u>847.0145</u>	<u>10 years</u>

(2) Notwithstanding s. 775.082(3), chapter 958, any other law, or any interpretation or construction thereof, a person subject to sentencing under this section must be sentenced to the mandatory term of imprisonment provided under this section. If the mandatory minimum term of imprisonment imposed under this section exceeds the maximum sentence authorized under s. 775.082, s. 775.084, or chapter 921, the mandatory minimum term of imprisonment under this section must be imposed. If the mandatory minimum term of imprisonment under this section is less than the sentence that could be imposed under s. 775.082, s. 775.084, or chapter 921, the sentence imposed must include the mandatory minimum term of imprisonment under this section.

(3) A defendant sentenced to a mandatory minimum term of imprisonment under this section is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional

Page 2 of 3

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

591-02288-25

2025716c1

48 medical release under s. 947.149, before serving the minimum  
49 sentence.

50 Section 2. This act shall take effect October 1, 2025.

**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** CS/SB 716  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



# THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

## COMMITTEES:

Criminal Justice, *Chair*  
Appropriations Committee on Criminal and Civil  
Justice, *Vice Chair*  
Appropriations  
Appropriations Committee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Rules  
Transportation

## SENATOR JONATHAN MARTIN

33rd District

April 15, 2025

### RE: SB 716: Sexual Offenses by Persons Previously Convicted of Sexual Offenses

Dear Chair Garcia,

Please allow this letter to serve as my respectful request to place SB 716, relating to Sexual Offenses by Persons Previously Convicted of Sexual Offenses, 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", with a stylized flourish at the end.

Jonathan Martin  
Senate District 33

#### REPLY TO:

- ☐ 2000 Main Street, Suite 401, Fort Myers, Florida 33901 (239) 338-2570
- ☐ 315 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BEN ALBRITTON**  
President of the Senate

**JASON BRODEUR**  
President Pro Tempore

The Florida Senate

**APPEARANCE RECORD**

4/15/2023

Meeting Date

Criminal

Committee

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

5130716

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Thomas Williamson

Phone

Address

Street

Winter Garden

FL

34787

City

State

Zip

Email

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

**APPEARANCE RECORD**

Deliver both copies of this form to  
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April 15, 2025  
Meeting Date

Appropriations  
Committee

SB 0716

Bill Number or Topic

Amendment Barcode (if applicable)

Name Hali Emerson Phone 775-657-1068

Address 5051 Lakewalk Dr. #301 Email \_\_\_\_\_  
Street

Winter Garden FL 34787  
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:

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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

6/15/25  
Meeting Date

Commission  
Committee

58 7/16  
Bill Number or Topic

708  
Amendment Barcode (if applicable)

Name ED. Bradford Phone \_\_\_\_\_

Address 8902 Bunea PL Email \_\_\_\_\_  
Street

WINDERMERE FL 34786  
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)

The Florida Senate

**APPEARANCE RECORD**

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

4/15/2025

Meeting Date

SB 0716

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Bekki Kozak

Phone

863-251-7948

Address

7035 Broad way

Email

Street

Davenport

City

FL

State

33837

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.)

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

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BILL: CS/SB 716

INTRODUCER: Criminal Justice Committee and Senator Martin

SUBJECT: Sexual Offenses by Persons Previously Convicted of Sexual Offenses

DATE: April 14, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</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>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 716 creates s. 794.0116, F.S., to provide that certain sexual offenses will carry mandatory minimum sentences if committed by a registered sexual offender or sexual predator. The bill also sets forth that a defendant sentenced under this section is not eligible for gain-time or any other form of discretionary early release, other than pardon or executive clemency, before serving the minimum sentence.

A person who was previously convicted of, or had adjudication withheld for, a crime listed in ss. 943.0435 or 775.21, F.S., and commits a violation of any of the following shall be sentenced to a mandatory minimum term of imprisonment of 10 years:

- Luring or enticing a child under s. 787.025(2)(c), F.S.;
- Lewd or lascivious battery or molestation under s. 800.04(4) or (5), F.S.;
- Lewd or lascivious battery or molestation upon an elderly or disabled person under s. 825.1025(2) or (3), F.S.;
- Sexual performance by a child or child pornography (victims older than 12 years of age) under s. 827.071, F.S.;
- Selling or buying of minors under s. 847.0145, F.S.; or,
- Sexual battery under s. 794.011, excluding 794.011(10), F.S.

Sexual offenders and sexual predators who were previously convicted of, or had adjudication withheld for, a crime listed in ss. 943.0435 or 775.21, F.S., and subsequently are convicted of a new crime of sexual performance by a child or child pornography (victims 12 years of age or

younger) under s. 827.071, F.S., shall be sentenced to a minimum mandatory term of imprisonment of 20 years.

The bill specifies that if the mandatory minimum term of imprisonment imposed exceeds the maximum sentence authorized under ss. 775.082, 775.084, or ch. 921, F.S., the mandatory minimum term of imprisonment must be imposed. If the mandatory minimum term of imprisonment is less than the sentence that could be imposed under ss. 775.082, 775.084, or ch. 921, F.S., the sentence imposed must include the minimum term of imprisonment under the bill.

The bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) for the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill takes effect on October 1, 2025.

## **II. Present Situation:**

### **Sexual Predators and Offenders**

The Florida Department of Law Enforcement (FDLE) is the state agency responsible for Florida's sex offender registry. The information contained in the sex offender registry is reported directly to FDLE by the Florida Department of Corrections (DOC), the Florida Department of Highway Safety and Motor Vehicles (DHSMV), and law enforcement officials. Florida's sexual offender and sexual predator registration laws were implemented in 1993 and 1997.<sup>1</sup> The sex offender registry database is a statewide system that collects and disseminates sex offender information to the public and law enforcement agencies through the Sexual Offender Predator System (SOPS). The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.<sup>2</sup>

#### ***Florida's Sexual Predator and Sexual Offender Registration Laws***

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.<sup>3</sup> The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. The laws span several different chapters and numerous statutes<sup>4</sup> and are implemented through the combined efforts of law enforcement, the DOC, the Department of Juvenile Justice, the DSHMV, and the Department of Children and Families.

A person is designated as a sexual predator by a court if the person:<sup>5</sup>

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<sup>1</sup> Sections 775.21 and 943.0435, F.S.

<sup>2</sup> *State v. McKenzie*, 331 So.3d 666 (Fla. 2021).

<sup>3</sup> Sections 775.21 and 943.0435, F.S.

<sup>4</sup> Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

<sup>5</sup> Section 775.21, F.S.

- Has been convicted of a qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;<sup>6</sup>
- Has been convicted of a qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.<sup>7</sup>

A person is classified as a sexual offender if the person:<sup>8</sup>

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.

### ***Sex Offender Recidivism***

Sex crimes have historically been difficult to measure due to the nature of the crimes, underreporting and timeframes surrounding the crimes. These factors contribute to the complex nature of measuring offenses and rates of recidivism. Sexual recidivism rates vary widely, ranging from 5% after three years to 24% after 15 years.<sup>9</sup>

The Department of Corrections defines recidivism as a return to prison, as the result of either a new conviction or a violation of post-prison supervision, within three years of their prison release date. Inmates incarcerated with the primary offense of a sexual/lewd behavior reactivated at a rate of:

- 11.4% within 12 months of release,
- 8.5% within 24 months of release,
- 6.3% within 36 months of release.<sup>10</sup>

### ***Jessica Lunsford Act***

The Jessica Lunsford Act was enacted in Florida in 2005 following the tragic abduction, rape, and murder of nine-year-old Jessica Lunsford by a repeat sex offender. Individuals convicted of lewd or lascivious molestation of a child under 12 years old face a mandatory minimum sentence of 25

<sup>6</sup> Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

<sup>7</sup> Sections 775.21(4) and (5), F.S., The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

<sup>8</sup> Section 943.0435, F.S.

<sup>9</sup> U.S. Department of Justice, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking, *Chapter 5: Adult Sex Offender Recidivism*, available at <https://smart.ojp.gov/somapi/chapter-5-adult-sex-offender-recidivism> (last visited April 10, 2025).

<sup>10</sup> Florida Department of Corrections, *Florida Prison Recidivism Report: Releases from 2009 to 2021*, available at <https://fdc-media.ccplatform.net/content/download/25944/file/FDC%20Recidivism%20Report%202019%20Cohort%20July%202024.pdf> (last visited April 10, 2025).

years in prison,<sup>11</sup> with the exception of a life felony committed on or after September 1, 2005 which is punishable by life imprisonment or at least 25 years in prison followed by probation or community control for the offenders natural life.<sup>12</sup>

### ***Dangerous Sexual Felony Offender***

The Dangerous Sexual Felony Offender Act provides that a person is a “dangerous sexual felony offender” if he or she is convicted of violations specified in s. 794.0115, F.S.. Dangerous sexual felony offenders must be sentenced to a mandatory minimum term of 25 years of imprisonment. They may be sentenced above that threshold up to, and including, life imprisonment.

### **Sex Offenses and Crimes Against Children**

#### ***Luring or Enticing a Child***

Section 787.025(2)(c), F.S., provides that it is a third degree felony to commit the offense of luring or enticing a child, after having been previously convicted of a specified offense. A person 18 years of age or older commits such offense if he or she:

- Was previously been convicted of a sexual battery offense under ch. 794, F.S., or a lewd or lascivious offense under s. 800.04, F.S., or s.847.0135(5), F.S., or a violation of a similar law of another jurisdiction; and
- Intentionally lures or entices, or attempt to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose.

The Florida Supreme Court has interpreted “for other than a lawful purpose” as “for an ‘illegal’ purpose, i.e., with intent to violate Florida law by committing a crime.”<sup>13</sup>

#### ***Lewd and Lascivious Battery on an Elderly or Disabled Person***

A person commits a lewd and lascivious battery upon an elderly person or disabled person, when he or she encourages, forces, or entices an elderly person or disabled person to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity, 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.<sup>14</sup>

Sexual activity, as it relates to lewd and lascivious battery on an elderly or disabled person, means the oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object.<sup>15</sup>

#### ***Lewd or Lascivious Molestation on Persons Under the Age of 16***

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

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<sup>11</sup> Section 800.04(5)(b), F.S.

<sup>12</sup> Section 775.082(3)(a)(4), F.S.

<sup>13</sup> *State v. Brake*, 796 So. 2d at 529, (Fla. 2001). While the Court in *Brake* upheld the constitutionality of the statute on a vagueness challenge to the “other than a lawful purpose” language, the court struck down a provision of the law that provides that luring a child “without the consent of the child’s parent or legal guardian shall be prima facie evidence of other than a lawful purpose.”

<sup>14</sup> Section 825.1025(2), F.S. A lewd or lascivious battery on an elderly person or disabled person is a second degree felony.

<sup>15</sup> Section 825.1025(1), F.S. Sexual activity does not include an act done for a bona fide medical purpose.

or entices a person under 16 years of age to touch the perpetrator, commits lewd or lascivious molestation.<sup>16</sup>

An offender 18 years of age or older who commits lewd or lascivious molestation against a victim:

- Less than 12 years of age, commits a life felony.
- Twelve years of age or older but less than 16 years of age, commits a second degree felony.
- Twelve years of age or older but less than 16 years of age and the person was previously convicted of specified offenses under s. 800.04(5)(c)2., F.S., commits a first degree felony.<sup>17</sup>

An offender less than 18 years of age who commits lewd or lascivious molestation against a victim:

- Less than 12 years of age, commits a second degree felony.
- Twelve years of age or older but less than 16 years of age, commits a third degree felony.

### ***Sexual Performance by a Child***

Section 827.071, F.S., provides that it is a second degree felony to employ, authorize, or induce a child younger than 18 years of age to engage in a sexual performance or for a parent, legal guardian, or custodian of such child to consent to the participation by such child in a sexual performance. It is also a second degree felony for any person to produce, direct, or promote any performance which includes sexual conduct by a child less than 18 years of age. A person may not possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any sexual conduct by a child.

Additionally, it is a third degree felony for a person to knowingly possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include any sexual conduct by a child.<sup>18</sup>

### ***Selling or Buying of Minors***

Section 847.0145, F.S. provides that selling or buying of minors is when any parent, legal guardian, or other person having custody or control of a minor sells or otherwise transfers custody or control of such minor or offers to sell or otherwise transfer custody of such minor, either:

- With knowledge that the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit; or,
- With intent to promote either engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct or the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

Whoever sells, transfers or obtains custody or control of a minor commits a first degree felony.

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<sup>16</sup> Section 800.04(5)(a), F.S.

<sup>17</sup> Section 800.04(5), F.S.

<sup>18</sup> Section 827.071(5), F.S.



***Sexual Battery***

Chapter 794, F.S., contains numerous sections of law relating to sexual battery. Section 794.011, F.S., defines the crime of “sexual battery” to mean oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose. A sexual battery may be classified as high as a capital felony depending on factors such as the age of the offender, age of the victim, and injuries.

***Criminal Punishment Code***

The Criminal Punishment Code (Code) is Florida’s primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- 60 days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- 15 years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.<sup>19</sup>

***Offense Severity Ranking Chart***

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

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 non-state prison 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. Absent mitigation, the

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<sup>19</sup> Section 775.082, F.S.

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>

If the scored lowest permissible sentence exceeds the maximum penalty in Section 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.<sup>21</sup>

### ***Mandatory Minimum Sentencing***

Mandatory minimum sentencing in Florida began in the 1980's and is designed to ensure consistent and severe penalties for specific crimes. Sentencing offenders to mandatory minimum terms of imprisonment prevents the use of early release mechanisms and ensures that offenders serve most or all of their court-imposed sentences.<sup>22</sup> These laws require judges to impose a predetermined minimum sentence for certain offenses, regardless of the circumstances surrounding the crime or the individual's background. Generally, mandatory minimum sentences often apply to specific crimes like drug offenses, firearm violations, and repeat offenses.

### **Gain-Time**

Section 944.275, F.S., allows the Department of Corrections (DOC) to grant deductions from sentences in the form of gain-time to encourage satisfactory inmate behavior, to provide an incentive for inmates to participate in productive activities, and to reward inmates who perform outstanding deeds or services.

For sentences imposed for offenses committed on or after October 1, 1995, an inmate 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 an inmate'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., an inmate may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the inmate will have served 85 percent of the sentence imposed. If an inmate is found to have violated state law or department rules, gain-time may be forfeited according to law.<sup>23</sup>

Inmates sentenced to life imprisonment must be incarcerated for the rest of their natural lives, unless granted pardon or clemency.<sup>24</sup> Certain offenders are statutorily prohibited from earning gain-time.

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<sup>20</sup> Section 921.0024, F.S.

<sup>21</sup> *Id.*

<sup>22</sup> U.S. Department of Justice, Office of Justice Programs, *Mandatory Minimum Sentencing in Florida: Past Trends and Future Implications*, available at <https://www.ojp.gov/ncjrs/virtual-library/abstracts/mandatory-minimum-sentencing-florida-past-trends-and-future> (last visited on April 10, 2025).

<sup>23</sup> Sections 944.275(5) and 944.28, F.S.

<sup>24</sup> Section 944.275(4)(f), F.S.

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

CS/SB 716 creates s. 794.0116, F.S., to provide that certain sexual offenses will carry mandatory minimum sentences if committed by a registered sexual offender or sexual predator. The bill also sets forth that a defendant sentenced under this section are not eligible for gain-time or any other form of discretionary early release, other than pardon or executive clemency, before serving the minimum sentence.

A person who was previously convicted of or had adjudication withheld for a crime listed in ss. 943.0435 or 775.21, F.S., and commit a violation of any of the following shall be sentenced to a mandatory minimum term of imprisonment of 10 years:

- Luring or enticing a child under s. 787.025(2)(c), F.S.;
- Lewd or lascivious battery or molestation under s. 800.04(4) or (5), F.S.;
- Lewd or lascivious battery or molestation upon an elderly or disabled person under s. 825.1025(2) or (3), F.S.;
- Sexual performance by a child or child pornography (victims older than 12 years of age) under s. 827.071, F.S.;
- Selling or buying of minors under s. 847.0145, F.S.; or,
- Sexual battery under s. 794.011, excluding 794.011(10), F.S.

Sexual offenders and sexual predators who were previously convicted or had adjudication withheld of a crime listed in ss. 943.0435 or 775.21, F.S., and subsequently are convicted of a new crime of sexual performance by a child or child pornography (victims 12 years of age or younger) under s. 827.071, F.S., shall be sentenced to a minimum mandatory term of imprisonment of 20 years.

The bill specifies that if the mandatory minimum term of imprisonment imposed exceeds the maximum sentence authorized under ss. 775.082 or 775.084, or ch. 921, F.S., the mandatory minimum term of imprisonment must be imposed. If the mandatory minimum term of imprisonment is less than the sentence that could be imposed under ss. 775.082 or 775.084, or ch. 921, F.S., the sentence imposed must include the minimum term of imprisonment under the bill.

The bill takes effect on October 1, 2025.

### **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.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Legislature's Office of Economic and Demographic Research (EDR) and 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 (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per the DOC, there are currently 11,914 inmates incarcerated under these statutes, with several of these offenses already having a higher average sentence length than the proposed mandatory minimum sentence. Therefore, the magnitude of the prison bed impact cannot be determined.<sup>25</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 794.0116

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<sup>25</sup> Office of Economic and Demographic Research, *SB 716 – Sexual Offenses by Registered Sexual Offenders or Sexual Predators*, (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 11, 2025:**

The amendment provides that a person who is convicted of certain sex offenses, rather than a person who must register as a sex offender, must serve a mandatory minimum for a conviction of specified offenses.

- B. **Amendments:**

None.

By Senator Ingoglia

11-00763-25

2025776\_\_

A bill to be entitled

An act relating to aggravating factors for capital felonies; amending s. 921.141, F.S.; adding as an aggravating factor that the capital felony was committed against the head of a state, or in an attempt to commit such crime a capital felony was committed against another individual; providing an effective date.

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

Section 1. Paragraph (q) is added to subsection (6) of section 921.141, Florida Statutes, to read:

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—

(6) AGGRAVATING FACTORS.—Aggravating factors shall be limited to the following:

(q) The capital felony was committed against the head of a state, including, but not limited to, the President or the Vice President of the United States or the Governor of this or another state, or in an attempt to commit such crime a capital felony was committed against another individual.

Section 2. This act shall take effect July 1, 2025.

**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** SB 776  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

FINAL VOTE			4/15/2025 <sup>1</sup> Motion to vote "YEA" after Roll Call					
Yea	Nay	SENATORS	Simon Yea	Nay	Yea	Nay	Yea	Nay
X		Ingoglia						
	X	Osgood						
	X	Polsky						
X		Rouson						
VA		Simon						
X		Wright						
X		Yarborough						
X		Martin, VICE CHAIR						
	X	Garcia, CHAIR						
6	3	TOTALS	FAV	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Banking and Insurance, *Chair*  
Environment and Natural Resources, *Vice Chair*  
Appropriations Committee on Criminal and  
Civil Justice  
Appropriations Committee on Transportation,  
Tourism, and Economic Development  
Fiscal Policy  
Regulated Industries  
Rules

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

**SENATOR BLAISE INGOGLIA**

11th District

March 19<sup>th</sup>, 2025

The Honorable Ileana Garcia, Chair  
Appropriation Committee on Criminal and Civil Justice  
314 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399

### **RE: SB 776 Aggravating Factors for Capital Felonies**

Chair Garcia,

Senate Bill 776 has been referred to the Appropriation Committee on Criminal and Civil Justice as its second committee of reference. I respectfully ask that it be placed on the committee 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 a large, sweeping loop at the end.

Blaise Ingoglia  
*State Senator, District 11*

*CC'd: Marti Harkness, Sheila Knowles*

### REPLY TO:

- ☐ 2943 Landover Boulevard, Spring Hill, Florida 34608 (352) 666-5707
- ☐ 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BEN ALBRITTON**  
President of the Senate

**JASON BRODEUR**  
President Pro Tempore



The Florida Senate  
**APPEARANCE RECORD**

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

4/15

Meeting Date

776

Bill Number or Topic

Approp. Criminal & Civil Justice  
Committee

Amendment Barcode (if applicable)

Name Joseph Harmon

Phone 850 205 6826

Address 201 W Park Ave  
Street

Email jharmon@fla.senate.gov

Tall  
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:

FL. Conference of Catholic Bishops

☐ 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: SB 776

INTRODUCER: Senator Ingoglia

SUBJECT: Aggravating Factors for Capital Felonies

DATE: April 14, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	<b>Favorable</b>
2.	Atchley	Harkness	ACJ	<b>Favorable</b>
3.			FP	

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## I. Summary:

SB 776 amends s. 921.141, F.S., to create an additional aggravating factor for the jury and the sentencing court to consider during capital sentencing proceedings.

The aggravating factor created by the bill provides that if the capital felony was committed against the head of a state, including but not limited to, the President or the Vice President of the United States or the Governor of this or another state, or if in an attempt to commit such crime a capital felony was committed against another individual, the aggravating factor may be considered during a capital trial and sentencing.

The bill has an indeterminate, but likely insignificant, fiscal impact on the Department of Corrections. See Section V., Fiscal Impact Statement.

The bill takes effect on July 1, 2025.

## II. Present Situation:

### Florida's Current Sentencing Proceedings in Capital Cases

Section 921.141, F.S., generally sets forth the requirements relating to proceedings to determine a sentence of either death or life imprisonment without the possibility of parole<sup>1</sup> in capital cases. The court conducts the sentencing proceeding upon conviction or adjudication of guilt of a defendant in a capital felony.<sup>2</sup> Typically, the proceeding is conducted by the trial judge before the trial jury as soon as practicable.<sup>3</sup>

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<sup>1</sup> Section 775.082(1)(a), F.S.

<sup>2</sup> Section 921.141(1), F.S.

<sup>3</sup> *Id.*

### ***Aggravating Factors and Mitigating Circumstances***

During the sentencing proceeding, the jury (or the judge if the jury is waived by the defendant) considers evidence that is relevant to the nature of the crime and the character of the defendant. The evidence includes matters relating to any of the aggravating factors<sup>4</sup> or mitigating circumstances.<sup>5</sup>

Aggravating factors are facts that tend to show a particular trait or status of the victim, a trait of the defendant, or facts related to the nature of the crime or the manner in which the defendant committed it.<sup>6</sup>

The aggravating factors are limited to the following:

- The capital felony was committed by a person previously convicted of a felony and under sentence of imprisonment or placed on community control or on felony probation.
- The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.
- The defendant knowingly created a great risk of death to many persons.
- The capital felony was committed while the defendant was engaged, or was an accomplice, in the commission of, or an attempt to commit, or flight after committing or attempting to commit, any: robbery; sexual battery; aggravated child abuse; abuse of an elderly person or disabled adult resulting in great bodily harm, permanent disability, or permanent disfigurement; arson; burglary; kidnapping; aircraft piracy; or unlawful throwing, placing, or discharging of a destructive device or bomb.
- The capital felony was committed for the purpose of avoiding or preventing a lawful arrest or effecting an escape from custody.
- The capital felony was committed for pecuniary gain.
- The capital felony was committed to disrupt or hinder the lawful exercise of any governmental function or the enforcement of laws.
- The capital felony was especially heinous, atrocious, or cruel.
- The capital felony was a homicide and was committed in a cold, calculated, and premeditated manner without any pretense of moral or legal justification.
- The victim of the capital felony was a law enforcement officer engaged in the performance of his or her official duties.
- The victim of the capital felony was an elected or appointed public official engaged in the performance of his or her official duties if the motive for the capital felony was related, in whole or in part, to the victim's official capacity.
- The victim of the capital felony was a person less than 12 years of age.
- The victim of the capital felony was particularly vulnerable due to advanced age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.

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<sup>4</sup> Section 921.141(6), F.S.

<sup>5</sup> Section 921.141(7), F.S.

<sup>6</sup> Section 921.141(6), F.S.

- The capital felony was committed by a criminal gang member.<sup>7</sup>
- The capital felony was committed by a person designated as a sexual predator<sup>8</sup> or a person previously designated as a sexual predator who had the sexual predator designation removed.
- The capital felony was committed by a person subject to a domestic violence injunction<sup>9</sup>, or an injunction for protection against repeat violence, dating violence and of sexual violence,<sup>10</sup> or a foreign protection order,<sup>11</sup> and was committed against the petitioner who obtained the injunction or protection order or any spouse, child, sibling, or parent of the petitioner.

Additionally, the following mitigating circumstances may be considered by the jury or the court as reasons this particular defendant may not be sentenced to death, in the opinion of the jury or the court.

Statutory mitigating circumstances are the following:

- The defendant has no significant history of prior criminal activity.
- The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.
- The victim was a participant in the defendant's conduct or consented to the act.
- The defendant was an accomplice in the capital felony committed by another person and his or her participation was relatively minor.
- The defendant acted under extreme duress or under the substantial domination of another person.
- The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired.
- The age of the defendant at the time of the crime.
- The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.<sup>12</sup>

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<sup>7</sup> "Criminal gang member" means a person who meets two or more of the following criteria: Admits to criminal gang membership; Is identified as a criminal gang member by a parent or guardian; Is identified as a criminal gang member by a documented reliable informant; Adopts the style of dress of a criminal gang; Adopts the use of a hand sign identified as used by a criminal gang; Has a tattoo identified as used by a criminal gang; Associates with one or more known criminal gang members; Is identified as a criminal gang member by an informant of previously untested reliability and such identification is corroborated by independent information; Is identified as a criminal gang member by physical evidence; Has been observed in the company of one or more known criminal gang members four or more times; (Observation in a custodial setting requires a willful association. It is the intent of the Legislature to allow this criterion to be used to identify gang members who recruit and organize in jails, prisons, and other detention settings.) Has authored any communication indicating responsibility for the commission of any crime by the criminal gang. Where a single act or factual transaction satisfies the requirements of more than one of the criteria in this subsection, each of those criteria has thereby been satisfied for the purposes of the statute. s. 874.03, F.S.

<sup>8</sup> Section 775.21(4)(a), F.S.

<sup>9</sup> Injunction for protection against domestic violence, s. 741.30 F.S.

<sup>10</sup> Injunction for protection against repeat violence, dating violence, and protection in cases of sexual violence, s. 784.046, F.S.

<sup>11</sup> Section 741.315, F.S.

<sup>12</sup> Section 921.141(7)(a)-(h), F.S.

***Jury Findings and Recommended Sentence***

The jury must return findings identifying each aggravating factor found to exist beyond a reasonable doubt. A finding that an aggravating factor exists must be unanimous.<sup>13</sup> If the jury:

- Does not unanimously find at least one aggravating factor, the defendant is ineligible for a sentence of death.
- Unanimously finds at least one aggravating factor, the defendant is eligible for a sentence of death and the jury must make a recommendation to the court as to whether the defendant shall be sentenced to life imprisonment without the possibility of parole or to death. The recommendation must be based on a weighing of all of the following:
  - Whether sufficient aggravating factors exist.
  - Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.
  - Based on these considerations, whether the defendant should be sentenced to life imprisonment without the possibility of parole or to death.<sup>14</sup>

If at least eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court must be a sentence of death<sup>15</sup>. If at least eight jurors do not determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of life imprisonment without the possibility of parole.<sup>16</sup>

***Imposition of Sentence***

If the jury has recommended a sentence of:

- Life imprisonment without the possibility of parole, the court must impose the recommended sentence.<sup>17</sup>
- Death, the court, after considering each aggravating factor found by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may consider only an aggravating factor that was unanimously found to exist by the jury.<sup>18</sup>

If the defendant waived his or her right to a sentencing proceeding by a jury, the court, after considering all aggravating factors and mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may impose a sentence of death only if the court finds that at least one aggravating factor has been proven to exist beyond a reasonable doubt.<sup>19</sup>

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<sup>13</sup> Section 921.141(2)(b), F.S.

<sup>14</sup> Section 921.141(2) and (b), F.S.

<sup>15</sup> Section 921.141(2)(c), F.S.

<sup>16</sup> Section 921.141(2)(c), F.S.

<sup>17</sup> Section 921.141(3), F.S.

<sup>18</sup> Section 921.141(3), F.S.

<sup>19</sup> Section 921.141(3), F.S.

**III. Effect of Proposed Changes:**

The bill amends s. 921.141, F.S., to create an additional aggravating factor for the jury and the sentencing court to consider during a capital sentencing proceeding.

The aggravating factor created in s. 921.141(6)(q), F.S., provides that if the capital felony was committed against the head of a state, including but not limited to, the President or the Vice President of the United States or the Governor of this or another state, or if in an attempt to commit such crime a capital felony was committed against another individual, the aggravating factor may be considered during a capital trial and sentencing.

The bill takes effect on July 1, 2025.

**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.

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

None.

**B. Private Sector Impact:**

None.

C. Government Sector Impact:

The bill may have an indeterminate, but likely insignificant, prison bed impact based on the new aggravating factor if additional defendants are convicted and sentenced to life imprisonment or imprisoned until the death sentence is carried out.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 921.141 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 Bernard

24-01586-25

2025964\_\_

A bill to be entitled

An act relating to objective parole guidelines; amending s. 947.165, F.S.; revising requirements for objective parole guidelines; requiring the Commission on Offender Review to submit a specified statistical analysis to the Legislature; providing an effective date.

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

Section 1. Section 947.165, Florida Statutes, is amended to read:

947.165 Objective parole guidelines.—

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

Page 1 of 2

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

24-01586-25

2025964\_\_

date.

(2) At least once a year, the commission shall review the objective parole guidelines and make any revisions considered necessary by virtue of statistical analysis of commission actions, which analysis uses acceptable research and methodology. The statistical analysis shall be submitted to the President of the Senate and the Speaker of the House of Representatives upon completion.

Section 2. This act shall take effect July 1, 2025.

Page 2 of 2

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



**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** SB 964  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



The Florida Senate

## Committee Agenda Request

**To:** Senator Llena Garcia, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** March 25, 2025

---

I respectfully request that **Senate Bill #964**, relating to Objective Parole Guidelines, be placed on the:

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

A handwritten signature in blue ink that reads "Mack Bernard".

---

Senator Mack Bernard  
Florida Senate, District 24

The Florida Senate  
**APPEARANCE RECORD**

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

4/15/25  
Meeting Date

CJ APPROP  
Committee

964  
Bill Number or Topic

Amendment Barcode (if applicable)

Name AARON WAYT

Phone (407) 435-3194

FL ASSN OF CRIM DEF LAWYERS

Address

Email

Street

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)

The Florida Senate  
**APPEARANCE RECORD**

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

4/15/25  
Meeting Date

ACI  
Committee

SB 964  
Bill Number or Topic

Amendment Barcode (if applicable)

Name Connie Edson

Phone 321-230-1162

Address 8104 Dunridge St.  
Street

Email Connieedson@gmail.com

Orlando  
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)



347946

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2025	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (2) of section 947.165, Florida  
Statutes, is amended to read:

947.165 Objective parole guidelines.—

(2) At least once a year, the commission shall review the  
objective parole guidelines and make any revisions considered  
necessary by virtue of statistical analysis of commission



347946

actions, which analysis uses acceptable research and methodology. Upon completion of the review, the commission shall provide the statistical analysis to the President of the Senate and the Speaker of the House of Representatives.

Section 2. Subsection (3) of section 947.174, Florida Statutes, is amended to read:

947.174 Subsequent interviews.—

(3) The department shall, within a reasonable amount of time, make available and bring to the attention of the commission such information as is deemed important to the review of the presumptive parole release date, including, but not limited to, current progress reports, psychological reports, and disciplinary reports, as well as information regarding an inmate's use of vocational training, substance abuse treatment, educational programs, and other self-betterment programs. The commission shall review such information in determining whether to modify an inmate's presumptive parole release date.

Section 3. This act shall take effect July 1, 2025.

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to parole; amending s. 947.165, F.S.; requiring the Florida Commission on Offender Review to provide a specified statistical analysis to the Legislature; amending s. 947.174, F.S.; requiring the Department of Corrections to provide specified



347946

40 information to the commission; requiring the  
41 commission to review specified information in certain  
42 circumstances; providing an effective date.

**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 964

INTRODUCER: Appropriations Committee on Criminal and Civil Justice and Senator Bernard

SUBJECT: Objective Parole Guidelines

DATE: April 17, 2025

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

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

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 964 amends s. 947.174, F.S., to require the Department of Corrections (DOC) to provide the Florida Commission on Offender Review (FCOR or commission) information on an inmate's use of vocational training, substance abuse treatment, educational programs, and other self-betterment programs. The bill requires the commission to review the information in determining whether to modify an inmate's presumptive parole release date.

The commission is currently required to review the objective parole guidelines annually, making any revisions considered necessary by virtue of statistical analysis of commission actions. The bill amends s. 947.165, F.S., to require the commission to submit such statistical analysis to the President of the Senate and the Speaker of the House of Representatives.

The bill does not have a fiscal impact on state revenue or expenditures. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2025.

**II. Present Situation:**

The FCOR makes a variety of determinations regarding parole and other releases, and reviews releasees' supervision status every two years. In both parole and conditional medical release hearings, testimony and pertinent information may be provided by a representative of an inmate,



an inmate's family, by victims of the offense, and the victim's family. During hearings, the commission conducts other types of proceedings, such as imposing conditions of conditional release or addiction recovery supervision. The commission makes final determinations with regard to revocation of post release supervision, where a releasee may have violated conditions of their release.<sup>1</sup>

The FCOR consists of three commissioners<sup>2</sup> appointed by the Governor and Cabinet from a list of eligible applicants submitted by the parole qualifications committee. Each appointment must be certified to the Senate for confirmation. The membership of the commission must include representation from minority persons.<sup>3,4</sup> Commissioners serve a term of six years, and no person is eligible to be appointed for more than two consecutive six year terms.<sup>5</sup>

The FCOR has the powers and performs the duties of:<sup>6</sup>

- Determining what persons shall be placed on parole.
- Fixing the time and conditions of parole.
- Determining whether a person has violated parole and taking action with respect to such a violation.
- Making such investigations as may be necessary.
- Reporting to the Board of Executive Clemency the circumstances, the criminal records, and the social, physical, mental, and psychiatric conditions and histories of persons under consideration by the board for pardon, communication of sentence, or remission of fine, penalty, or forfeiture.
- Establishing the terms and conditions of persons released on conditional release and determining subsequent ineligibility for conditional release due to a violation and acting with respect to such violation.
- As the Control Release Authority, determining what persons will be released on control release, establishing the time and conditions of control release, if any, and determining whether a person has violated the conditions and acting with respect to such violation.
- Determining what persons will be released on conditional medical release, establishing conditions of release, and determining whether a person has violated the conditions, and acting with respect to such violation.

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<sup>1</sup> Florida Commission on Offender Review, *Organization*, available at: <https://www.fcor.state.fl.us/overview.shtml> (last visited March 20, 2025).

<sup>2</sup> The Florida Commission on Offender Review was created to consist of six members who are residents of the state. Effective July 1, 1996, the membership of the commission shall consist of three members. Section 947.01, F.S.

<sup>3</sup> "Minority person" means a lawful, permanent resident of Florida who is: (a) an African American, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin; (b) a Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race; (c) an Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asian, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778; (d) a Native American, a person who has origins in any of the Indian Tribes of North America before 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services; and (e) an American woman. Section 288.703(4), F.S.

<sup>4</sup> Section 947.02(1), F.S.

<sup>5</sup> Section 947.03, F.S.

<sup>6</sup> Section 947.13(1)(a)-(h), F.S.

In 1978, the Legislature enacted the Objective Parole Guidelines Act. Pursuant to s. 947.165, F.S., the FCOR is required to develop and implement objective parole guidelines which shall be the criteria upon which parole decisions are made. The guidelines are to be developed according to an acceptable research method and must be based the seriousness of offense and the likelihood of favorable parole outcome. The guidelines require the commission to aggravate<sup>7</sup> or aggregate<sup>8</sup> each consecutive sentence in establishing the presumptive parole release date.<sup>9</sup> Factors used in arriving at the salient factor<sup>10</sup> score and the severity of offense behavior<sup>11</sup> may not be applied as aggravating circumstances.

The FCOR is required to review the objective parole guidelines and make any revisions considered necessary by virtue of statistical analysis of commission actions, which analysis uses acceptable research and methodology.<sup>12</sup>

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

The bill amends s. 947.174, F.S., to require the Department of Corrections (DOC) to provide the commission information on an inmate's use of vocational training, substance abuse treatment, educational programs, and other self-betterment programs. The DOC must make the information available and bring it to the attention of the commission within a reasonable amount of time. The commission must review the information in determining whether to modify an inmate's presumptive parole release date.

The commission is required to review the objective parole guidelines annually, making any revisions considered necessary by virtue of statistical analysis of commission actions. The bill amends s. 947.165, F.S., to require the commission to submit such statistical analysis to the President of the Senate and the Speaker of the House of Representatives.

The bill takes effect July 1, 2025.

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<sup>7</sup> "Aggravate" means to add a number of months to established number of months selected from the matrix time range. Rule 23-21.002(1).

<sup>8</sup> "Aggregation" means a process to separate multiple criminal episodes and score each single episode by determining the salient factor score, severity of offense behavior, presence of aggravating or mitigating circumstances, and assess a number of months of incarceration for each scored episode. The total of months for each scored episode is then aggregated (added together) for the establishment of a presumptive parole release date. Rule 23-21.002(2).

<sup>9</sup> "Presumptive parole release date" means the tentative parole release date, when authorized by the Commission as set forth in s. 947.172, F.S. Rule 23-21.002(31).

<sup>10</sup> "Salient factors" are the indices of the offender's present and prior criminal behavior and related factors found by experience to be predictive in regard to parole outcome. Rule 23-21.002(43).

<sup>11</sup> "Severity of offense behavior" means the statutorily assigned degree of felony or misdemeanor for the present offense of conviction. Rule 23-21.002(45).

<sup>12</sup> Section 947.165(2), F.S.

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

The bill does not appear to require the 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.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 947.165.

**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 Appropriations Committee on Criminal and Civil Justice on April 15, 2025:**

- Removes the revised requirements for objective parole guidelines.
- Requires DOC to provide FCOR information on an inmate's use of vocational training, substance abuse treatment, educational programs, and other self-betterment programs; requires the commission to review this information in determining whether to modify an inmate's presumptive parole release date.

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Collins

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A bill to be entitled

An act relating to age as an element of a criminal offense; creating s. 787.001, F.S.; providing that ignorance of a victim's age, misrepresentation of a victim's age, and a bona fide belief concerning a victim's age are not defenses to certain offenses in which the victim's age is an element of the offense; providing an exception; amending s. 787.025, F.S.; revising the age requirements for committing the offenses relating to luring or enticing a child; providing increased criminal penalties; revising an affirmative defense; amending s. 921.0022, F.S.; ranking offenses on the offense severity ranking chart of the Criminal Punishment Code; providing an effective date.

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

Section 1. Section 787.001, Florida Statutes, is created to read:

787.001 Victim's age; ignorance and misrepresentation not defenses.—When, in this chapter, the criminality of conduct depends upon the victim being below a certain age, ignorance of the victim's age is not a defense. Misrepresentation of a victim's age by any person or a bona fide belief that a victim is over a specified age is also not a defense. This section does not apply to s. 787.30.

Section 2. Subsection (2) and paragraph (b) of subsection (3) of section 787.025, Florida Statutes, are amended to read:

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787.025 Luring or enticing a child.—

(2) (a) A person 18 years of age or older who intentionally lures or entices, or attempts to lure or entice, a child under the age of 16 ~~12~~ into a structure, dwelling, or conveyance for other than a lawful purpose commits a felony ~~misdemeanor~~ of the third ~~first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

(b) A person 18 years of age or older who, having been previously convicted of a violation of paragraph (a), intentionally lures or entices, or attempts to lure or entice, a child under the age of 16 ~~12~~ into a structure, dwelling, or conveyance for other than a lawful purpose commits a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A person 18 years of age or older who, having been previously convicted of a violation of chapter 794, s. 800.04, or s. 847.0135(5), or a violation of a similar law of another jurisdiction, intentionally lures or entices, or attempts to lure or entice, a child under the age of 16 ~~12~~ into a structure, dwelling, or conveyance for other than a lawful purpose commits a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) It is an affirmative defense to a prosecution under this section that:

(b) The person lured or enticed, or attempted to lure or entice, the child under the age of 16 ~~12~~ into a structure, dwelling, or conveyance for a lawful purpose.

Section 3. Paragraph (g) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

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921.0022 Criminal Punishment Code; offense severity ranking

chart.—

(3) OFFENSE SEVERITY RANKING CHART

(g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm,

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permanent disfigurement,  
 permanent disability, or death.

409.920	3rd	Medicaid provider fraud; \$10,000 or less.
(2)(b)1.a.		
409.920	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
(2)(b)1.b.		
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.

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77

462.17 3rd Practicing naturopathy without  
a license.

78

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

79

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

80

465.015(2) 3rd Practicing pharmacy without a  
license.

81

466.026(1) 3rd Practicing dentistry or dental  
hygiene without a license.

82

467.201 3rd Practicing midwifery without a  
license.

83

468.366 3rd Delivering respiratory care  
services without a license.

84

483.828(1) 3rd Practicing as clinical  
laboratory personnel without a  
license.

85

483.901(7) 3rd Practicing medical physics  
without a license.

86

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87

484.013(1)(c) 3rd Preparing or dispensing optical  
devices without a prescription.

88

484.053 3rd Dispensing hearing aids without  
a license.

89

494.0018(2) 1st Conviction of any violation of  
chapter 494 in which the total  
money and property unlawfully  
obtained exceeded \$50,000 and  
there were five or more  
victims.

89

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

90

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

91

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

92

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775.21(10)(a) 3rd Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.

775.21(10)(b) 3rd Sexual predator working where children regularly congregate.

775.21(10)(g) 3rd Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.

782.051(3) 2nd Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.

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

782.071 2nd Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular

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homicide).

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

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

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

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

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

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

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

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



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106

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

107

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

108

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

109

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

110

787.025 (2) (a) 3rd Luring or enticing a child.

111

787.025 (2) (b) 2nd Luring or enticing a child;  
second or subsequent offense.

112

787.025 (2) (c) 2nd Luring or enticing a child with  
a specified prior conviction.

113

787.06 (3) (a) 2. 1st Human trafficking using  
coercion for labor and services  
of an adult.

114

787.06 (3) (e) 2. 1st Human trafficking using  
coercion for labor and services  
by the transfer or transport of

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115

an adult from outside Florida  
to within the state.

790.07 (4)

1st

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

116

790.16 (1)

1st

Discharge of a machine gun  
under specified circumstances.

117

790.165 (2)

2nd

Manufacture, sell, possess, or  
deliver hoax bomb.

118

790.165 (3)

2nd

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

119

790.166 (3)

2nd

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

120

790.166 (4)

2nd

Possessing, displaying, or  
threatening to use a hoax  
weapon of mass destruction  
while committing or attempting  
to commit a felony.

121

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

794.08(4) 3rd Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.

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

796.05(1) 1st Live on earnings of a prostitute; 3rd and subsequent offense.

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

800.04(5)(c)2. 2nd Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.

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800.04(5)(e) 1st Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.

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

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

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

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

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

812.014(2)(a)1. 1st Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other

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property damage; 1st degree  
grand theft.

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

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

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

812.014(2)(g) 2nd Grand theft; second degree;  
firearm with previous  
conviction of s.  
812.014(2)(c)5.

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

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

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

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

817.034(4)(a)1. 1st Communications fraud, value  
greater than \$50,000.

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

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

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

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

817.418(2)(a) 3rd Offering for sale or  
advertising personal protective  
equipment with intent to

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defraud.

148 817.504 (1) (a) 3rd Offering or advertising a  
vaccine with intent to defraud.

149 817.535 (2) (a) 3rd Filing false lien or other  
unauthorized document.

150 817.611 (2) (b) 2nd Traffic in or possess 15 to 49  
counterfeit credit cards or  
related documents.

151 825.102 (3) (b) 2nd Neglecting an elderly person or  
disabled adult causing great  
bodily harm, disability, or  
disfigurement.

152 825.103 (3) (b) 2nd Exploiting an elderly person or  
disabled adult and property is  
valued at \$10,000 or more, but  
less than \$50,000.

153 827.03 (2) (b) 2nd Neglect of a child causing  
great bodily harm, disability,  
or disfigurement.

154 827.04 (3) 3rd Impregnation of a child under  
16 years of age by person 21  
years of age or older.

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155 827.071 (2) & (3) 2nd Use or induce a child in a  
sexual performance, or promote  
or direct such performance.

156 827.071 (4) 2nd Possess with intent to promote  
any photographic material,  
motion picture, etc., which  
includes child pornography.

157 837.05 (2) 3rd Giving false information about  
alleged capital felony to a law  
enforcement officer.

158 838.015 2nd Bribery.

159 838.016 2nd Unlawful compensation or reward  
for official behavior.

160 838.021 (3) (a) 2nd Unlawful harm to a public  
servant.

161 838.22 2nd Bid tampering.

162 843.0855 (2) 3rd Impersonation of a public  
officer or employee.

163 843.0855 (3) 3rd Unlawful simulation of legal  
process.

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164

843.0855(4) 3rd Intimidation of a public  
officer or employee.

165

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

166

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

167

872.06 2nd Abuse of a dead human body.

168

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

169

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

170

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

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care facility, school, or  
state, county, or municipal  
park or publicly owned  
recreational facility or  
community center.

171

893.13(1)(e)1. 1st Sell, manufacture, or deliver  
cocaine or other drug  
prohibited under s.  
893.03(1)(a), (1)(b), (1)(d),  
(2)(a), (2)(b), or (2)(c)5.,  
within 1,000 feet of property  
used for religious services or  
a specified business site.

172

893.13(4)(a) 1st Use or hire of minor; deliver  
to minor other controlled  
substance.

173

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

174

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

175

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

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grams.

176

893.135 1st Trafficking in hydrocodone, 28  
(1) (c) 2.a. grams or more, less than 50  
grams.

177

893.135 1st Trafficking in hydrocodone, 50  
(1) (c) 2.b. grams or more, less than 100  
grams.

178

893.135 1st Trafficking in oxycodone, 7  
(1) (c) 3.a. grams or more, less than 14  
grams.

179

893.135 1st Trafficking in oxycodone, 14  
(1) (c) 3.b. grams or more, less than 25  
grams.

180

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

181

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

182

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

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183

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

184

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

185

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

186

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

187

893.135 1st Trafficking in Phenethylamines,  
(1) (k) 2.a. 10 grams or more, less than 200  
grams.

188

893.135 1st Trafficking in synthetic  
(1) (m) 2.a. cannabinoids, 280 grams or  
more, less than 500 grams.

189

893.135 1st Trafficking in synthetic  
(1) (m) 2.b. cannabinoids, 500 grams or  
more, less than 1,000 grams.

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

591-02830-25

20251136c1

190

893.135 1st Trafficking in n-benzyl  
(1) (n) 2.a. phenethylamines, 14 grams or  
more, less than 100 grams.

191

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

192

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

193

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

194

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

195

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

196

Page 21 of 23

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

591-02830-25

20251136c1

197

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

943.0435(13)

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

198

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

199

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

200

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

201

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

202

944.607(13) 3rd Sexual offender; failure to

Page 22 of 23

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

591-02830-25

20251136c1

report and reregister; failure  
to respond to address  
verification; providing false  
registration information.

985.4815(10)

3rd

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

985.4815(12)

3rd

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

985.4815(13)

3rd

Sexual offender; failure to  
report and reregister; failure  
to respond to address  
verification; providing false  
registration information.

Section 4. This act shall take effect October 1, 2025.



**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** CS/SB 1136  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



The Florida Senate

## Committee Agenda Request

**To:** Senator Ileana Garcia, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** March 25, 2025

---

I respectfully request that **Senate Bill #1136**, relating to Age as an Element of a Criminal Offense, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Jay Collins", is written over a horizontal line.

Senator Jay Collins  
Florida Senate, District 14

4/15/2025

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

The Florida Senate

## APPEARANCE RECORD

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

SB 1136

Bill Number or Topic

Amendment Barcode (if applicable)

Name Allie McNair

Phone 8505661979

Address 2167 Mahan Dr.

Email amcnair@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.

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

4-15-25

Meeting Date

App. on Civil & Criminal Justice

Committee

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

5B1136

Bill Number or Topic

—

Amendment Barcode (if applicable)

Name

CAPTAIN ANTONIO WRIGHT

Phone

407-254-7000

Address

2500 W COLONIAL DR

Street

ORLANDO

City

FL

State

32804

Zip

Email

ANTONIO.WRIGHT@OCFL.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:

ORANGE COUNTY SHERIFF'S OFFICE

☐

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 15 2025

Meeting Date

Approp Criminal and Civil Justice

Committee

The Florida Senate

## APPEARANCE RECORD

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

1136

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jennifer Cook Pritt**

Phone **850-219-3631**

Address **2636 Mitcham Drive**

Email **jpritt@fpca.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:

**Florida Police Chiefs 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.

S-001 (08/10/2021)



467116

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2025	.	
	.	
	.	
	.	

---

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

**Senate Amendment**

Delete lines 33 - 206  
and insert:  
the age of 14 ~~12~~ into or out of a structure, dwelling, or  
conveyance for other than a lawful purpose commits a felony  
~~misdemeanor~~ of the third ~~first~~ degree, punishable as provided in  
s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

(b) A person 18 years of age or older who, having been  
previously convicted of a violation of paragraph (a),



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intentionally lures or entices, or attempts to lure or entice, a child under the age of 14 ~~12~~ into or out of a structure, dwelling, or conveyance for other than a lawful purpose commits a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A person 18 years of age or older who, having been previously convicted of a violation of chapter 794, s. 800.04, or s. 847.0135(5), or a violation of a similar law of another jurisdiction, intentionally lures or entices, or attempts to lure or entice, a child under the age of 14 ~~12~~ into or out of a structure, dwelling, or conveyance for other than a lawful purpose commits a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) It is an affirmative defense to a prosecution under this section that:

(b) The person lured or enticed, or attempted to lure or entice, the child under the age of 14 ~~12~~ into or out of a structure, dwelling, or conveyance for a lawful purpose.

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

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.027(2) (b)	2nd	Leaving the scene of a



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37			crash involving serious bodily injury.
38	316.193 (2) (b)	3rd	Felony DUI, 4th or subsequent conviction.
39	400.9935 (4) (c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
40	499.0051 (2)	2nd	Knowing forgery of transaction history, transaction information, or transaction statement.
41	499.0051 (3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
42	499.0051 (4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
43	775.0875 (1)	3rd	Taking firearm from law enforcement officer.





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44	784.021 (1) (a)	3rd	Aggravated assault; deadly weapon without intent to kill.
45	784.021 (1) (b)	3rd	Aggravated assault; intent to commit felony.
46	784.041	3rd	Felony battery; domestic battery by strangulation.
47	784.048 (3)	3rd	Aggravated stalking; credible threat.
48	784.048 (5)	3rd	Aggravated stalking of person under 16.
49	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
50	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
51	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.



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52	784.081 (2)	2nd	Aggravated assault on specified official or employee.
53	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
54	784.083 (2)	2nd	Aggravated assault on code inspector.
55	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
56	<u>787.025 (2) (a)</u>	<u>3rd</u>	<u>Luring or enticing a child.</u>
57	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
58	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.



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59	790.164 (1)	2nd	False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.
60	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
61	794.011 (8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
62	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
63	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
	800.04 (6) (b)	2nd	Lewd or lascivious



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64			conduct; offender 18 years of age or older.
	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
65			
	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
66			
	810.145 (8) (b)	2nd	Digital voyeurism; certain minor victims; 2nd or subsequent offense.
67			
	812.014 (2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
68			
	812.014 (2) (c) 5.	3rd	Grand theft; third degree; firearm.
69			
	812.014 (6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
70			



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71	812.015 (9) (a)	2nd	Retail theft; property stolen \$750 or more; second or subsequent conviction.
72	812.015 (9) (b)	2nd	Retail theft; aggregated property stolen within 120 days is \$3,000 or more; coordination of others.
73	812.015 (9) (d)	2nd	Retail theft; multiple thefts within specified period.
74	812.015 (9) (e)	2nd	Retail theft; committed with specified number of other persons and use of social media platform.
75	812.13 (2) (c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
76	817.4821 (5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.



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77	817.49 (2) (b) 2.	2nd	Willful making of a false report of a crime resulting in death.
78	817.505 (4) (b)	2nd	Patient brokering; 10 or more patients.
79	817.5695 (3) (b)	2nd	Exploitation of person 65 years of age or older, value \$10,000 or more, but less than \$50,000.
80	825.102 (1)	3rd	Abuse of an elderly person or disabled adult.
81	825.102 (3) (c)	3rd	Neglect of an elderly person or disabled adult.
82	825.1025 (3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
	825.103 (3) (c)	3rd	Exploiting an elderly person or disabled adult and property is valued



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			at less than \$10,000.
83			
	827.03 (2) (c)	3rd	Abuse of a child.
84			
	827.03 (2) (d)	3rd	Neglect of a child.
85			
	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.
86			
	828.126 (3)	3rd	Sexual activities involving animals.
87			
	836.05	2nd	Threats; extortion.
88			
	836.10	2nd	Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
89			
	843.12	3rd	Aids or assists person to escape.
90			
	847.011	3rd	Distributing, offering to distribute, or



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91			possessing with intent to distribute obscene materials depicting minors.
	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
92			
	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
93			
	893.131	2nd	Distribution of controlled substances resulting in overdose or serious bodily injury.
94			
	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
95			
	918.13(2)(b)	2nd	Tampering with or fabricating physical evidence relating to a





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capital felony.

96

944.35 (3) (a) 2.

3rd

Committing malicious  
battery upon or  
inflicting cruel or  
inhuman treatment on an  
inmate or offender on  
community supervision,  
resulting in great  
bodily harm.

97

944.40

2nd

Escapes.

98

944.46

3rd

Harboring, concealing,  
aiding escaped  
prisoners.

99

944.47 (1) (a) 5.

2nd

Introduction of  
contraband (firearm,  
weapon, or explosive)  
into correctional  
facility.

100

951.22 (1) (i)

3rd

Firearm or weapon  
introduced into county  
detention facility.

101

102

103

(g) LEVEL 7



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104

Florida Statute	Felony Degree	Description
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105

316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
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106

316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
-----------------	-----	--

107

316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
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108

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

109

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

110

409.920	3rd	Medicaid provider fraud;
---------	-----	--------------------------



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(2) (b) 1.a. \$10,000 or less.

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

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

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

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

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

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

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

462.17 3rd Practicing naturopathy without  
a license.



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120	463.015(1)	3rd	Practicing optometry without a license.
121	464.016(1)	3rd	Practicing nursing without a license.
122	465.015(2)	3rd	Practicing pharmacy without a license.
123	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
124	467.201	3rd	Practicing midwifery without a license.
125	468.366	3rd	Delivering respiratory care services without a license.
126	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
127	483.901(7)	3rd	Practicing medical physics without a license.
128	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
	484.053	3rd	Dispensing hearing aids without



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a license.

129

494.0018(2)

1st

Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.

130

560.123(8)(b)1.

3rd

Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.

131

560.125(5)(a)

3rd

Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

132

655.50(10)(b)1.

3rd

Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

133

775.21(10)(a)

3rd

Sexual predator; failure to register; failure to renew driver license or identification card; other



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registration violations.

775.21(10)(b) 3rd Sexual predator working where  
children regularly congregate.

775.21(10)(g) 3rd Failure to report or providing  
false information about a  
sexual predator; harbor or  
conceal a sexual predator.

782.051(3) 2nd Attempted felony murder of a  
person by a person other than  
the perpetrator or the  
perpetrator of an attempted  
felony.

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

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

782.072 2nd Killing of a human being by the  
operation of a vessel in a



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reckless manner (vessel  
homicide).

140

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

141

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

142

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

143

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

144

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

145

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

146

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

147

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

148



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149

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

150

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

151

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

152

787.025(2)(b) 2nd Luring or enticing a child;  
second or subsequent offense.

153

787.025(2)(c) 2nd Luring or enticing a child with  
a specified prior conviction.

154

787.06(3)(a)2. 1st Human trafficking using  
coercion for labor and services  
of an adult.

155

787.06(3)(e)2. 1st Human trafficking using  
coercion for labor and services  
by the transfer or transport of  
an adult from outside Florida  
to within the state.

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





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(2) .

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

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

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

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

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

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

794.08(4) 3rd Female genital mutilation;



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consent by a parent, guardian,  
or a person in custodial  
authority to a victim younger  
than 18 years of age.

163

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

164

796.05(1)                      1st      Live on earnings of a  
prostitute; 3rd and subsequent  
offense.

165

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

166

800.04(5)(c)2.                2nd      Lewd or lascivious molestation;  
victim 12 years of age or older  
but younger than 16 years of  
age; offender 18 years of age  
or older.

167

800.04(5)(e)                      1st      Lewd or lascivious molestation;  
victim 12 years of age or older  
but younger than 16 years;  
offender 18 years or older;  
prior conviction for specified  
sex offense.



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168	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
169	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
170	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
171	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
172	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
173	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
174	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.



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175	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
176	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
177	812.014 (2) (g)	2nd	Grand theft; second degree; firearm with previous conviction of s. 812.014 (2) (c) 5.
178	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
179	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
180	812.131 (2) (a)	2nd	Robbery by sudden snatching.
181	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
182	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.



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183	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
184	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
185	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
186	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
187	817.418 (2) (a)	3rd	Offering for sale or advertising personal protective equipment with intent to defraud.
188	817.504 (1) (a)	3rd	Offering or advertising a vaccine with intent to defraud.
189	817.535 (2) (a)	3rd	Filing false lien or other



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unauthorized document.

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

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

825.103(3)(b) 2nd Exploiting an elderly person or  
disabled adult and property is  
valued at \$10,000 or more, but  
less than \$50,000.

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

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

827.071(2) & (3) 2nd Use or induce a child in a  
sexual performance, or promote  
or direct such performance.

827.071(4) 2nd Possess with intent to promote



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any photographic material,  
motion picture, etc., which  
includes child pornography.

197

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

198

838.015                      2nd      Bribery.

199

838.016                      2nd      Unlawful compensation or reward  
for official behavior.

200

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

201

838.22                      2nd      Bid tampering.

202

843.0855(2)              3rd      Impersonation of a public  
officer or employee.

203

843.0855(3)              3rd      Unlawful simulation of legal  
process.

204

843.0855(4)              3rd      Intimidation of a public  
officer or employee.

205

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



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unlawful sex act.

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

872.06 2nd Abuse of a dead human body.

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

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

893.13(1)(c)1. 1st Sell, manufacture, or deliver  
cocaine (or other drug  
prohibited under s.  
893.03(1)(a), (1)(b), (1)(d),  
(2)(a), (2)(b), or (2)(c)5.)  
within 1,000 feet of a child  
care facility, school, or  
state, county, or municipal  
park or publicly owned  
recreational facility or  
community center.





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893.13(1)(e)1.           1st    Sell, manufacture, or deliver  
  cocaine or other drug  
  prohibited under s.  
  893.03(1)(a), (1)(b), (1)(d),  
  (2)(a), (2)(b), or (2)(c)5.,  
  within 1,000 feet of property  
  used for religious services or  
  a specified business site.

893.13(4)(a)           1st    Use or hire of minor; deliver  
  to minor other controlled  
  substance.

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

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

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

893.135               1st    Trafficking in hydrocodone, 28  
    (1)(c)2.a.                    grams or more, less than 50  
  grams.



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218	893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 50 grams or more, less than 100 grams.
219	893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
220	893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
221	893.135 (1)(c)4.b.(I)	1st	Trafficking in fentanyl, 4 grams or more, less than 14 grams.
222	893.135 (1)(d)1.a.	1st	Trafficking in phencyclidine, 28 grams or more, less than 200 grams.
223	893.135(1)(e)1.	1st	Trafficking in methaqualone, 200 grams or more, less than 5 kilograms.
224	893.135(1)(f)1.	1st	Trafficking in amphetamine, 14 grams or more, less than 28 grams.
	893.135	1st	Trafficking in flunitrazepam, 4



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225	(1) (g) 1.a.		grams or more, less than 14 grams.
	893.135	1st	Trafficking in gamma-
	(1) (h) 1.a.		hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
226			
	893.135	1st	Trafficking in 1,4-Butanediol,
	(1) (j) 1.a.		1 kilogram or more, less than 5 kilograms.
227			
	893.135	1st	Trafficking in Phenethylamines,
	(1) (k) 2.a.		10 grams or more, less than 200 grams.
228			
	893.135	1st	Trafficking in synthetic
	(1) (m) 2.a.		cannabinoids, 280 grams or more, less than 500 grams.
229			
	893.135	1st	Trafficking in synthetic
	(1) (m) 2.b.		cannabinoids, 500 grams or more, less than 1,000 grams.
230			
	893.135	1st	Trafficking in n-benzyl
	(1) (n) 2.a.		phenethylamines, 14 grams or more, less than 100 grams.
231			
	893.1351(2)	2nd	Possession of place for



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trafficking in or manufacturing  
of controlled substance.

232

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

233

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

234

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

235

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

236

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

237

943.0435(13) 3rd Failure to report or providing  
false information about a



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sexual offender; harbor or  
conceal a sexual offender.

238

943.0435(14)

3rd

Sexual offender; failure to  
report and reregister; failure  
to respond to address  
verification; providing false  
registration information.

239

944.607(9)

3rd

Sexual offender; failure to  
comply with reporting  
requirements.

240

944.607(10) (a)

3rd

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

241

944.607(12)

3rd

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

242

944.607(13)

3rd

Sexual offender; failure to  
report and reregister; failure  
to respond to address  
verification; providing false  
registration information.

243

985.4815(10)

3rd

Sexual offender; failure to



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submit to the taking of a  
digitized photograph.

244

985.4815(12)

3rd

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

245

985.4815(13)

3rd

Sexual offender; failure to  
report and reregister; failure  
to respond to address  
verification; providing false  
registration information.

246

247

248

**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.)

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

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BILL: CS/CS/SB 1136

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

SUBJECT: Age as an Element of a Criminal Offense

DATE: April 17, 2025

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1136 creates s. 787.001, F.S., to specify that ignorance or misrepresentation of a victim's age is not a defense to certain offenses, when the criminality of conduct depends upon the victim being below a certain age. A bona fide belief that a victim is over a specified age is also not a defense.

The bill prohibits such defenses from being raised in a prosecution for any offense related to kidnapping, false imprisonment, luring or enticing a child, interference with custody, removing minors from the state or concealing minors contrary to state agency order or court order, human trafficking, or human smuggling. However, the bill provides an exception for s. 787.30, F.S., relating to the employment of persons in adult entertainment establishments.

The bill amends s. 787.025, F.S., to increase the penalties for specified offenses involving luring or enticing a child. Additionally, the bill increases the age of such child from 12 to 14 years of age.

The bill amends s. 921.022, F.S., to rank offenses of luring or enticing a child on the offense severity ranking chart of the Criminal Punishment Code as a Level 7.

The bill may have a positive indeterminate prison bed impact on the Department of Corrections. See Section V., Fiscal Impact Statement.

The bill takes effect October 1, 2025.

## II. Present Situation:

### Luring or Enticing a Minor

It is a first degree misdemeanor<sup>1</sup> for a person over the age of 18 to intentionally lure or entice, or attempt to lure or entice, a child under the age of 12 into a structure,<sup>2</sup> dwelling,<sup>3</sup> or conveyance<sup>4</sup> for other than a lawful purpose.<sup>5</sup> A second or subsequent offense is a third degree felony.<sup>6,7</sup>

It is a third degree felony if the offender being charged with luring or enticing a minor, has previously been convicted of a violation of:

- Chapter 794, F.S., relating to sexual battery;
- Section 800.04, F.S., relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age;
- Section 847.0135(5), F.S., relating to prohibited computer transmissions;<sup>8</sup> or
- A similar law of another jurisdiction.

Section 787.025(3), F.S., provides the following affirmative defenses:

- The person reasonably believed that his or her action was necessary to prevent the child from being seriously injured.
- The person lured or enticed, or attempted to lure or entice, the child under the age of 12 into a structure, dwelling, or conveyance for a lawful purpose.
- The person's actions were reasonable under the circumstances and the defendant did not have any intent to harm the health, safety, or welfare of the child.

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<sup>1</sup> A first degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year and a fine of up to \$1,000. Section 775.082 and 775.083, F.S.

<sup>2</sup> "Structure" means a building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof. Section 787.025(1)(a), F.S.

<sup>3</sup> "Dwelling" means a building or conveyance of any kind, either temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging together therein at night, together with the curtilage thereof. Section 787.025(1)(b), F.S.

<sup>4</sup> "Conveyance" means any motor vehicle, ship, vessel, railroad car, trailer, aircraft, or sleeping car. Section 787.025(1)(c), F.S.

<sup>5</sup> Section 787.025(2)(a), F.S.

<sup>6</sup> A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Section 775.082 and 775.083, F.S.

<sup>7</sup> Section 787.025(2)(b), F.S.

<sup>8</sup> A person who intentionally masturbates; intentionally exposes the genitals in a lewd or lascivious manner; or intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity live over a computer online service, internet service, or local bulletin board service and who knows or should know or has reason to believe that the transmission is viewed on a computer or television monitor by a victim who is less than 16 years of age, commits lewd or lascivious exhibition. Section 847.0135(5), F.S.



## **Kidnapping**

Under s. 787.01(1), F.S., “kidnapping” means forcibly, secretly, or by threat confining,<sup>9</sup> abducting, or imprisoning another person against his or her will and without lawful authority, with intent to:

- Hold the victim for ransom or reward or as a shield or hostage;
- Commit or facilitate the commission of any felony;
- Inflict bodily harm upon or to terrorize the victim or another person; or
- Interfere with the performance of any governmental or political function.

A person who kidnaps another person is guilty of a first degree felony,<sup>10</sup> punishable by imprisonment for a term of years not exceeding life.<sup>11</sup>

A person who kidnaps a child under the age of 13 and who, in the course of committing the kidnapping, also commits one or more of the following, is guilty of a life felony:<sup>12, 13</sup>

- Aggravated child abuse;<sup>14</sup>
- Sexual battery against the child;<sup>15</sup>
- Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;<sup>16</sup>
- A violation relating to prostitution of the child;<sup>17</sup>
- Exploitation of the child or allowing the child to be exploited;<sup>18</sup> or
- A violation relating to human trafficking.<sup>19</sup>

## **False Imprisonment**

Section 787.02(2), F.S., prohibits a person from falsely imprisoning<sup>20</sup> another person as a third degree felony.

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<sup>9</sup> Confinement of a child under the age of 13 is against his or her will if such confinement is without the consent of his or her parent or legal guardian. Section 787.01(1)(b), F.S.

<sup>10</sup> A first-degree felony is otherwise punishable by up to 30 years’ imprisonment and a fine of \$10,000. ss. 775.082, 775.083, and 775.084, F.S.

<sup>11</sup> Section 787.01(2), F.S.

<sup>12</sup> Section 787.01(3)(a), F.S.; The offense is ranked as a Level 10 offense on the offense severity ranking chart (OSRC). Section 921.0022, F.S.

<sup>13</sup> A life felony is punishable for a term of imprisonment up to life and a \$15,000 fine. ss. 775.082, 775.083, and 775.084, F.S.

<sup>14</sup> Section 827.03, F.S.

<sup>15</sup> Chapter 794, F.S.

<sup>16</sup> Sections 800.04, F.S., and 847.0135(5), F.S.

<sup>17</sup> Former s. 796.03, F.S., and former s. 796.04, F.S.

<sup>18</sup> Section 450.151, F.S.

<sup>19</sup> Section 787.06(3)(g), F.S.

<sup>20</sup> “False imprisonment” means forcibly, by threat, or secretly confining, abducting, imprisoning, or restraining another person without lawful authority and against his or her will. Confinement of a child under the age of 13 is against his or her will if such confinement is without the consent of his or her parent or legal guardian. Section 787.02(1), F.S.

A person who falsely imprisons a child under the age of 13 and who, in the course of falsely imprisoning the child, commits any of the following offenses, is guilty of a first degree felony, punishable by imprisonment for a term not exceeding life.<sup>21</sup>

- Aggravated child abuse;<sup>22</sup>
- Sexual battery against the child;<sup>23</sup>
- Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;<sup>24</sup>
- A violation relating to prostitution of the child;<sup>25</sup>
- Exploitation of the child or allowing the child to be exploited;<sup>26</sup> or
- A violation relating to human trafficking.<sup>27</sup>

### **Interference with Custody**

Section 787.03(1), F.S., prohibits a person from knowingly or recklessly taking or enticing, or aiding, abetting, hiring, or otherwise procuring another to take or entice, any minor or any incompetent person from the custody of the minor's or incompetent person's parent, his or her guardian, a public agency having the lawful charge of the minor or incompetent person, or any other lawful custodian without lawful authority. A violation of this prohibition is a third degree felony.<sup>28</sup>

Additionally, in the absence of a court order determining rights to custody or visitation with any minor or with any incompetent person, any parent of the minor or incompetent person, whether natural or adoptive, stepparent, legal guardian, or relative of the minor or incompetent person who has custody thereof and who takes, detains, conceals, or entices away that minor or incompetent person within or without the state with malicious intent to deprive another person of his or her right to custody of the minor or incompetent person commits a third degree felony.<sup>29</sup>

In a prosecution for a violation of s. 787.03, F.S., proof that a person has not attained the age of 18 years creates the presumption that the defendant knew the minor's age or acted in reckless disregard thereof.<sup>30</sup>

### **Removing Minors from the State or Concealing Minors Contrary to State Agency Order or Court Order**

Section 787.04, F.S., prohibits a person from leading, taking, enticing, or removing a minor beyond the limits of this state, or concealing the location of a minor:

- In violation of a court order that he or she has personal knowledge of;<sup>31</sup>

<sup>21</sup> Section 787.02(3)(a), F.S.; The offense is ranked as a Level 9 offense on the OSRC.

<sup>22</sup> Section 827.03, F.S.

<sup>23</sup> Chapter 794, F.S.

<sup>24</sup> Sections 800.04, and 847.0135(5), F.S.

<sup>25</sup> Former s. 796.03, F.S., and former s. 796.04, F.S.

<sup>26</sup> Section 450.151, F.S.

<sup>27</sup> Section 787.06(3)(g), F.S.

<sup>28</sup> The offense is ranked as a Level 4 offense on the OSRC.

<sup>29</sup> Section 787.03(2), F.S.

<sup>30</sup> Section 787.03(5), F.S.

<sup>31</sup> Section 787.04(1), F.S.; The offense is ranked as a Level 2 offense on the OSRC.

- With criminal intent, during the pendency of any action or proceeding affecting custody of the minor, after having received notice as required by law of the pendency of the action or proceeding, without the permission of the court in which the action or proceeding is pending;<sup>32</sup> and
- Knowingly and willfully, during the pendency of a dependency proceeding affecting such minor or during the pendency of any investigation, action, or proceeding concerning the alleged abuse or neglect of such minor, after having received actual or constructive notice of the pendency of such investigation, action, or proceeding and without the permission of the state agency or court in which the investigation, action, or proceeding is pending.<sup>33</sup>

Additionally, a person, who has carried beyond the limits of this state any minor whose custody is involved in any action or proceeding pending in this state pursuant to the order of the court in which the action or proceeding is pending or pursuant to the permission of the court, is prohibited from thereafter failing to produce the minor in the court or deliver the minor to the person designated by the court.<sup>34</sup>

Any violation of the foregoing provisions in s. 787.04, F.S., is a third degree felony.

### **Human Trafficking**

A person may not knowingly, or in reckless disregard of the facts, engage in human trafficking,<sup>35</sup> attempt to engage in human trafficking, or benefit financially by receiving anything of value from participating in a venture that has subjected a person to human trafficking for commercial sexual activity, labor, or services:

- By using coercion;<sup>36</sup>
- With or of a child or person believed to be a child younger than 18;<sup>37</sup> or
- If for commercial sexual activity, with a mentally defective<sup>38</sup> or mentally incapacitated<sup>39</sup> person.<sup>40</sup>

Any human trafficking offense committed upon a child younger than 18 years of age or an adult believed by the defendant to be a child younger than 18 years of age for labor or services is punishable as a first degree felony.<sup>41</sup> However, if a child younger than 18 years of age or an adult

<sup>32</sup> Section 787.04(2), F.S.; The offense is ranked as a Level 4 offense on the OSRC.

<sup>33</sup> Section 787.04(3), F.S.; The offense is ranked as a Level 4 offense on the OSRC.

<sup>34</sup> Section 787.04(4), F.S.

<sup>35</sup> "Human trafficking" means transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining of another person for the purpose of exploiting that person. S. 787.06(2)(d), F.S.

<sup>36</sup> Sections 787.06(3)(a)2., (b), (c)2., (d), (e)2., and (f)2., F.S.

<sup>37</sup> Sections 787.06(3)(a)1., 787.06(3)(c)1., 787.06(3)(e)1., 787.06(3)(f)1., F.S., the offense is ranked as a Level 9 offense on the OSRC; and s. 787.06(3)(g), F.S.

<sup>38</sup> "Mentally defective" means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct. Section 794.011(1)(c), F.S.

<sup>39</sup> "Mentally incapacitated" means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent. Section 794.011(1)(d), F.S.

<sup>40</sup> Section 787.06(3)(g), F.S.

<sup>41</sup> Section 787.06(3)(a)1., F.S., the offense is ranked as a Level 8 offense on the OSRC.; s. 787.06(3)(c)1., F.S., the offense is ranked as a Level 9 offense on the OSRC; and s. 787.06(3)(e)1., F.S., the offense is ranked as a Level 8 on the OSRC.

believed by the defendant to be a child younger than 18 years of age, or a person who is mentally defective or mentally incapacitated, is involved in human trafficking for the purposes of commercial sexual activity, the defendant commits a life felony.<sup>42</sup>

A defendant's ignorance of the victim's age, the victim's misrepresentation of his or her age, or a defendant's bona fide belief of the victim's age cannot be raised as a defense in a prosecution for a human trafficking offense.<sup>43</sup>

### **Human Smuggling**

Section 787.07, F.S.,<sup>44</sup> prohibits a person from knowingly and willfully transporting an individual into this state who the person knows, or reasonably should know, has entered the United States illegally from another country. A violation of this prohibition is a third degree felony.<sup>45</sup> However, a person who transports a minor into this state in violation of this prohibition commits a second degree felony.<sup>46, 47</sup>

### **Employing Persons Under the Age of 21 Years in Adult Entertainment Establishments**

Section 787.30(2)(a), F.S., prohibits an owner, manager, employee, or contractor of an adult entertainment establishment<sup>48</sup> from knowingly employing, contracting with, contracting with another person to employ, or otherwise permitting a person under the age of 21 years to perform or work in an adult entertainment establishment. A violation of this prohibition is a first degree misdemeanor.

This section also prohibits an owner, manager, employee, or contractor of an adult entertainment establishment from knowingly employing, contracting with, contracting with another person to employ, or otherwise permitting a person under the age of 21 years to perform or work while nude in an adult entertainment establishment. A violation of this prohibition is a second degree felony.<sup>49</sup>

Any owner, manager, employee, or contractor of an adult entertainment establishment who employs a person to perform as an entertainer or work in any capacity in an adult entertainment establishment is required to carefully check a driver license, identification card, passport, or United States Uniformed Services identification card presented by the person and to act in good

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<sup>42</sup> Section 787.06(3)(g), F.S.; The offense is ranked as a Level 10 offense on the OSRC.

<sup>43</sup> Section 787.06(9), F.S.

<sup>44</sup> Section 787.07, F.S., has been preliminarily enjoined by the United States District Court for the Southern District of Florida, based on field and conflict preemption. *Farmworker Ass'n of Fla., Inc. v. Moody*, 734 F. Supp. 3d 1311 (S.D. Fla. 2024).

<sup>45</sup> Section 787.07(1), F.S.

<sup>46</sup> Section 787.07(3), F.S.

<sup>47</sup> A second-degree felony is punishable by up to fifteen years' imprisonment and a fine of \$10,000. Sections. 775.082, 775.083, and 775.084, F.S.

<sup>48</sup> "Adult entertainment establishment" includes adult bookstores, adult theaters, special cabaret, and unlicensed massage establishments. Section 847.001(2), F.S.

<sup>49</sup> Section 787.30(2)(b), F.S.

faith and reliance upon such a representation and the appearance of the person in determining that he or she is 21 years of age or older.<sup>50</sup>

A person prosecuted for violating a prohibition related to employing a person under 21 years of age in an adult entertainment establishment may not raise ignorance of another person's age or a person's misrepresentation of his or her age as a defense.<sup>51</sup>

### **Prohibited Computer Usage**

Under s. 847.0135(3), F.S., a person commits a third degree felony if he or she knowingly uses a computer online service, internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:

- Seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child<sup>52</sup> or another person believed by the offender to be a child, to commit any illegal act described in ch. 794, F.S., relating to sexual battery, ch. 800, F.S., relating to lewdness and indecent exposure, or ch. 827, F.S., relating to abuse of children, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the offender to be a child; or
- Solicit, lure, or entice, or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed by the offender to be the same, to consent to such child's participation in any act described in ch. 794, F.S., ch. 800, F.S., or ch. 827, F.S., or to otherwise engage in any sexual conduct.<sup>53</sup>

### **Criminal Punishment Code**

The Criminal Punishment Code<sup>54</sup> (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).<sup>55</sup> The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- 60 days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- 15 years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.<sup>56</sup>

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<sup>50</sup> Section 787.30(3), F.S.

<sup>51</sup> Section 787.30(4), F.S.

<sup>52</sup> "Child" means any person, whose identity is known or unknown, younger than 18 years of age. Section 847.001(10), F.S.

<sup>53</sup> The offense is ranked as a Level 7 offense on the OSRC.

<sup>54</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>55</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>56</sup> Section 775.082, F.S. Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.083, F.S., provides the following maximum fines; \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

### ***Offense Severity Ranking Chart***

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

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 non-state prison 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>57</sup> Absent mitigation,<sup>58</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>59</sup>

### ***Relevant Caselaw***

While the general rule is that every crime must include a specific intent, or a mens rea, the Legislature and courts recognize an exception where the state has a compelling interest in protecting underage persons from being sexually abused or exploited. In cases relating to sex offenses or abuse involving minors, a persons ignorance of the age of the victim is not a defense, nor is the misrepresentation of age or a defendant's bona fide<sup>60</sup> belief that such victim is over the specified age.<sup>61,62</sup>

<sup>57</sup> Section 921.0024, F.S., Unless otherwise noted, information on the Code is from this source.

<sup>58</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>59</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>60</sup> "Bona fide" means being real or genuine, in Latin the word literally means "in good faith." Merriam-Webster, *Law Dictionary*, available at: <https://www.merriam-webster.com/dictionary/bona%20fide#legalDictionary> (last visited March 21, 2025).

<sup>61</sup> *State v. Sorakrai*, 543 So. 2d 294 (Fla. 2d DCA 1989)

<sup>62</sup> *Grady v. State*, 701 So. 2d 1181 (Fla. 5th DCA 1997)

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

The bill creates s. 787.001, F.S., to specify that ignorance or misrepresentation of a victim's age is not a defense to certain offenses, when the criminality of conduct depends upon the victim being below a certain age. A bona fide belief that a victim is over a specified age is also not a defense. The bill provides an exception for s. 787.30, F.S., relating to the employment of persons in adult entertainment establishments.

The bill amends s. 787.025, F.S., to increase the age for a child being lured or enticed, and to increase penalties, for a person 18 years of age or older who intentionally lures or entices, or attempts to lure or entice, a child under the age of 14 into or out of a structure, dwelling, conveyance for an unlawful purpose, in the following manner:

- The offense is increased from a first degree misdemeanor to a third degree felony.
- The offense is increased from a third degree felony to a second degree felony, for a second or subsequent offense.
- If the offender has been previously convicted of a violation of ch.794, F.S., ss. 800.04, or 847.0135(5), F.S., or a violation of a similar law of another jurisdiction, the offense is increased from a third degree felony to a second degree felony.

The bill amends s. 921.022, F.S., to rank the specified offenses on the offense severity ranking chart of the Criminal Punishment Code as a Level 7.

The bill takes effect October 1, 2025.

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

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

The bill does not appear to require the 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.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has provided a preliminary estimate that the bill may have a positive indeterminate prison bed impact on the DOC. The EDR provides that while current offender numbers are low, it is not known how increasing the age threshold to 14 years old as well as felony levels and degrees might expand the potential offender pool.

Per the Florida Department of Law Enforcement, in FY 23-24, there were four misdemeanor arrests and no felony arrests for luring or enticing a child under the age of 12 into a structure, with three misdemeanor guilty/conviction charges and no adjudication withheld charges. There were no guilty/convicted charges or adjudication withheld charges for felonies. Per the DOC, there were no new commitments to prison in FY 23-24 for violations of s. 787.025.<sup>63</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 787.025 and 921.0022.

This bill creates section 787.001 of the Florida Statutes.

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<sup>63</sup> Office of Economic and Demographic Research CS/SB 1136 – Age as an Element of a Criminal Offense, (on file with the Senate Appropriations Committee on Criminal and Civil 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 15, 2024:**

The committee substitute increases the penalties for a person 18 years and older who intentionally lures or entices, or attempts to lure or entice, a child under the age of 14 into or out of a structure, dwelling, or conveyance for unlawful purposes.

**CS by Criminal Justice on March 25, 2025:**

The committee substitute:

- Increases the age of a child being enticed or lured into a structure from 12 to 16.
- Revises the affirmative defense provided to incorporate the increase in age for a child.

- B. **Amendments:**

None.

By the Committee on Criminal Justice; and Senator Leek

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A bill to be entitled

An act relating to controlled substances; amending s. 893.03, F.S.; excepting from the Schedule I controlled substance xylazine drug products approved by the United States Food and Drug Administration for certain use; amending s. 893.13, F.S.; providing criminal penalties and requiring a mandatory minimum term of imprisonment if a person sells, manufactures, or delivers or possesses with intent to sell, manufacture, or deliver xylazine; amending s. 893.135, F.S.; creating the offense of trafficking in xylazine; providing criminal penalties and requiring a mandatory minimum term of imprisonment and fines based on the quantity of the controlled substance involved in the offense; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1) of section 893.03, Florida Statutes, is amended to read:

893.03 Standards and schedules.—The substances enumerated in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, trade name, or class designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical

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Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt Anabolic Steroid Products."

(1) SCHEDULE I.—A substance in Schedule I has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards. The following substances are controlled in Schedule I:

(c) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following hallucinogenic substances or that contains any of their salts, isomers, including optical, positional, or geometric isomers, homologues, nitrogen-heterocyclic analogs, esters, ethers, and salts of isomers, homologues, nitrogen-heterocyclic analogs, esters, or ethers, if the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation or class description:

1. Alpha-Ethyltryptamine.
2. 4-Methylaminorex (2-Amino-4-methyl-5-phenyl-2-oxazoline).
3. Aminorex (2-Amino-5-phenyl-2-oxazoline).
4. DOB (4-Bromo-2,5-dimethoxyamphetamine).
5. 2C-B (4-Bromo-2,5-dimethoxyphenethylamine).
6. Bufotenine.
7. Cannabis.
8. Cathinone.
9. DET (Diethyltryptamine).
10. 2,5-Dimethoxyamphetamine.

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- 59 11. DOET (4-Ethyl-2,5-Dimethoxyamphetamine).  
 60 12. DMT (Dimethyltryptamine).  
 61 13. PCE (N-Ethyl-1-phenylcyclohexylamine) (Ethylamine  
 62 analog of phencyclidine).  
 63 14. JB-318 (N-Ethyl-3-piperidyl benzilate).  
 64 15. N-Ethylamphetamine.  
 65 16. Fenethylamine.  
 66 17. 3,4-Methylenedioxy-N-hydroxyamphetamine.  
 67 18. Ibogaine.  
 68 19. LSD (Lysergic acid diethylamide).  
 69 20. Mescaline.  
 70 21. Methcathinone.  
 71 22. 5-Methoxy-3,4-methylenedioxyamphetamine.  
 72 23. PMA (4-Methoxyamphetamine).  
 73 24. PMMA (4-Methoxymethamphetamine).  
 74 25. DOM (4-Methyl-2,5-dimethoxyamphetamine).  
 75 26. MDEA (3,4-Methylenedioxy-N-ethylamphetamine).  
 76 27. MDA (3,4-Methylenedioxyamphetamine).  
 77 28. JB-336 (N-Methyl-3-piperidyl benzilate).  
 78 29. N,N-Dimethylamphetamine.  
 79 30. Parahexyl.  
 80 31. Peyote.  
 81 32. PCPY (N-(1-Phenylcyclohexyl)-pyrrolidine) (Pyrrolidine  
 82 analog of phencyclidine).  
 83 33. Psilocybin.  
 84 34. Psilocyn.  
 85 35. *Salvia divinorum*, except for any drug product approved  
 86 by the United States Food and Drug Administration which contains  
 87 *Salvia divinorum* or its isomers, esters, ethers, salts, and

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- 88 salts of isomers, esters, and ethers, if the existence of such  
 89 isomers, esters, ethers, and salts is possible within the  
 90 specific chemical designation.  
 91 36. Salvinorin A, except for any drug product approved by  
 92 the United States Food and Drug Administration which contains  
 93 Salvinorin A or its isomers, esters, ethers, salts, and salts of  
 94 isomers, esters, and ethers, if the existence of such isomers,  
 95 esters, ethers, and salts is possible within the specific  
 96 chemical designation.  
 97 37. Xylazine, except for a xylazine animal drug product  
 98 approved by the United States Food and Drug Administration, the  
 99 use of which conforms to the approved application or is  
 100 authorized under 21 U.S.C. s. 360b(a)(4). The manufacture,  
 101 importation, distribution, prescribing, or sale of xylazine for  
 102 human use is not subject to this exception.  
 103 38. TCP (1-[1-(2-Thienyl)-cyclohexyl]-piperidine)  
 104 (Thiophene analog of phencyclidine).  
 105 39. 3,4,5-Trimethoxyamphetamine.  
 106 40. Methyllone (3,4-Methylenedioxymethcathinone).  
 107 41. MDPV (3,4-Methylenedioxypyrovalerone).  
 108 42. Methylethcathinone.  
 109 43. Methoxymethcathinone.  
 110 44. Fluoromethcathinone.  
 111 45. Methylethcathinone.  
 112 46. CP 47,497 (2-(3-Hydroxycyclohexyl)-5-(2-methyloctan-2-  
 113 yl)phenol) and its dimethyloctyl (C8) homologue.  
 114 47. HU-210 [(6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-  
 115 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol].  
 116 48. JWH-018 (1-Pentyl-3-(1-naphthoyl)indole).

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117 49. JWH-073 (1-Butyl-3-(1-naphthoyl)indole).  
 118 50. JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-  
 119 naphthoyl)indole).  
 120 51. BZP (Benzylpiperazine).  
 121 52. Fluorophenylpiperazine.  
 122 53. Methylphenylpiperazine.  
 123 54. Chlorophenylpiperazine.  
 124 55. Methoxyphenylpiperazine.  
 125 56. DBZP (1,4-Dibenzylpiperazine).  
 126 57. TFMPP (Trifluoromethylphenylpiperazine).  
 127 58. MBDB (Methylbenzodioxolylbutanamine) or (3,4-  
 128 Methylenedioxy-N-methylbutanamine).  
 129 59. 5-Hydroxy-AMT (5-Hydroxy-alpha-methyltryptamine).  
 130 60. 5-Hydroxy-N-methyltryptamine.  
 131 61. 5-MeO-MiPT (5-Methoxy-N-methyl-N-isopropyltryptamine).  
 132 62. 5-MeO-AMT (5-Methoxy-alpha-methyltryptamine).  
 133 63. Methyltryptamine.  
 134 64. 5-MeO-DMT (5-Methoxy-N,N-dimethyltryptamine).  
 135 65. 5-Me-DMT (5-Methyl-N,N-dimethyltryptamine).  
 136 66. Tyramine (4-Hydroxyphenethylamine).  
 137 67. 5-MeO-DiPT (5-Methoxy-N,N-Diisopropyltryptamine).  
 138 68. DiPT (N,N-Diisopropyltryptamine).  
 139 69. DPT (N,N-Dipropyltryptamine).  
 140 70. 4-Hydroxy-DiPT (4-Hydroxy-N,N-diisopropyltryptamine).  
 141 71. 5-MeO-DALT (5-Methoxy-N,N-Diallyltryptamine).  
 142 72. DOI (4-Iodo-2,5-dimethoxyamphetamine).  
 143 73. DOC (4-Chloro-2,5-dimethoxyamphetamine).  
 144 74. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).  
 145 75. 2C-T-4 (4-Isopropylthio-2,5-dimethoxyphenethylamine).

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146 76. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).  
 147 77. 2C-T (4-Methylthio-2,5-dimethoxyphenethylamine).  
 148 78. 2C-T-2 (4-Ethylthio-2,5-dimethoxyphenethylamine).  
 149 79. 2C-T-7 (4-(n)-Propylthio-2,5-dimethoxyphenethylamine).  
 150 80. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).  
 151 81. Butylone (3,4-Methylenedioxy-alpha-  
 152 methylaminobutyrophenone).  
 153 82. Ethcathinone.  
 154 83. Ethylone (3,4-Methylenedioxy-N-ethylcathinone).  
 155 84. Naphyrone (Naphthylpyrovalerone).  
 156 85. Dimethylone (3,4-Methylenedioxy-N,N-dimethylcathinone).  
 157 86. 3,4-Methylenedioxy-N,N-diethylcathinone.  
 158 87. 3,4-Methylenedioxy-propiofenone.  
 159 88. 3,4-Methylenedioxy-alpha-bromopropiofenone.  
 160 89. 3,4-Methylenedioxy-propiofenone-2-oxime.  
 161 90. 3,4-Methylenedioxy-N-acetylcatinone.  
 162 91. 3,4-Methylenedioxy-N-acetylmethcathinone.  
 163 92. 3,4-Methylenedioxy-N-acetylcathinone.  
 164 93. Bromomethcathinone.  
 165 94. Buphedrone (alpha-Methylamino-butyrophenone).  
 166 95. Eutylone (3,4-Methylenedioxy-alpha-  
 167 ethylaminobutyrophenone).  
 168 96. Dimethylcathinone.  
 169 97. Dimethylmethcathinone.  
 170 98. Pentylone (3,4-Methylenedioxy-alpha-  
 171 methylaminovalerophenone).  
 172 99. MDPPP (3,4-Methylenedioxy-alpha-  
 173 pyrrolidinopropiofenone).  
 174 100. MDPBP (3,4-Methylenedioxy-alpha-

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175 pyrrolidinobutyrophenone).  
 176 101. MOPPP (Methoxy-alpha-pyrrolidinopropiophenone).  
 177 102. MPHP (Methyl-alpha-pyrrolidinohehexanophenone).  
 178 103. BTCP (Benzothiophenylcyclohexylpiperidine) or BCP  
 179 (Benocyclidine).  
 180 104. F-MABP (Fluoromethylaminobutyrophenone).  
 181 105. MeO-PBP (Methoxypyrrolidinobutyrophenone).  
 182 106. Et-PBP (Ethylpyrrolidinobutyrophenone).  
 183 107. 3-Me-4-MeO-MCAT (3-Methyl-4-Methoxymethcathinone).  
 184 108. Me-EABP (Methylethylaminobutyrophenone).  
 185 109. Etizolam.  
 186 110. PPP (Pyrrolidinopropiophenone).  
 187 111. PBP (Pyrrolidinobutyrophenone).  
 188 112. PVP (Pyrrolidinovaalerophenone) or  
 189 (Pyrrolidinopentiophenone).  
 190 113. MPPP (Methyl-alpha-pyrrolidinopropiophenone).  
 191 114. JWH-007 (1-Pentyl-2-methyl-3-(1-naphthoyl)indole).  
 192 115. JWH-015 (1-Propyl-2-methyl-3-(1-naphthoyl)indole).  
 193 116. JWH-019 (1-Hexyl-3-(1-naphthoyl)indole).  
 194 117. JWH-020 (1-Heptyl-3-(1-naphthoyl)indole).  
 195 118. JWH-072 (1-Propyl-3-(1-naphthoyl)indole).  
 196 119. JWH-081 (1-Pentyl-3-(4-methoxy-1-naphthoyl)indole).  
 197 120. JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).  
 198 121. JWH-133 ((6aR,10aR)-6,6,9-Trimethyl-3-(2-methylpentan-  
 199 2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).  
 200 122. JWH-175 (1-Pentyl-3-(1-naphthylmethyl)indole).  
 201 123. JWH-201 (1-Pentyl-3-(4-methoxyphenylacetyl)indole).  
 202 124. JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl)indole).  
 203 125. JWH-210 (1-Pentyl-3-(4-ethyl-1-naphthoyl)indole).

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204 126. JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl)indole).  
 205 127. JWH-251 (1-Pentyl-3-(2-methylphenylacetyl)indole).  
 206 128. JWH-302 (1-Pentyl-3-(3-methoxyphenylacetyl)indole).  
 207 129. JWH-398 (1-Pentyl-3-(4-chloro-1-naphthoyl)indole).  
 208 130. HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-  
 209 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-  
 210 ol).  
 211 131. HU-308 ([ (1R,2R,5R)-2-[2,6-Dimethoxy-4-(2-methyloctan-  
 212 2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]  
 213 methanol).  
 214 132. HU-331 (3-Hydroxy-2-[(1R,6R)-3-methyl-6-(1-  
 215 methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-  
 216 1,4-dione).  
 217 133. CB-13 (4-Pentyloxy-1-(1-naphthoyl)naphthalene).  
 218 134. CB-25 (N-Cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-  
 219 undecanamide).  
 220 135. CB-52 (N-Cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-  
 221 undecanamide).  
 222 136. CP 55,940 (2-[3-Hydroxy-6-propanol-cyclohexyl]-5-(2-  
 223 methyloctan-2-yl)phenol).  
 224 137. AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole).  
 225 138. AM-2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl)indole).  
 226 139. RCS-4 (1-Pentyl-3-(4-methoxybenzoyl)indole).  
 227 140. RCS-8 (1-(2-Cyclohexylethyl)-3-(2-  
 228 methoxyphenylacetyl)indole).  
 229 141. WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-  
 230 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-  
 231 naphthalenylmethanone).  
 232 142. WIN55,212-3 ([ (3S)-2,3-Dihydro-5-methyl-3-(4-

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233 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-

234 naphthalenylmethanone).

235 143. Pentedrone (alpha-Methylaminovalerophenone).

236 144. Fluoroamphetamine.

237 145. Fluoromethamphetamine.

238 146. Methoxetamine.

239 147. Methiopropamine.

240 148. Methylbuphedrone (Methyl-alpha-

241 methylaminobutyrophenone).

242 149. APB ((2-Aminopropyl)benzofuran).

243 150. APDB ((2-Aminopropyl)-2,3-dihydrobenzofuran).

244 151. UR-144 (1-Pentyl-3-(2,2,3,3-

245 tetramethylcyclopropanoyl)indole).

246 152. XLR11 (1-(5-Fluoropentyl)-3-(2,2,3,3-

247 tetramethylcyclopropanoyl)indole).

248 153. Chloro UR-144 (1-(Chloropentyl)-3-(2,2,3,3-

249 tetramethylcyclopropanoyl)indole).

250 154. AKB48 (N-Adamant-1-yl 1-pentylindazole-3-carboxamide).

251 155. AM-2233(1-[(N-Methyl-2-piperidinyl)methyl]-3-(2-

252 iodobenzoyl)indole).

253 156. STS-135 (N-Adamant-1-yl 1-(5-fluoropentyl)indole-3-

254 carboxamide).

255 157. URB-597 ((3'-(Aminocarbonyl)[1,1'-biphenyl]-3-yl)-

256 cyclohexylcarbamate).

257 158. URB-602 ([1,1'-Biphenyl]-3-yl-carbamic acid,

258 cyclohexyl ester).

259 159. URB-754 (6-Methyl-2-[(4-methylphenyl)amino]-1-

260 benzoxazin-4-one).

261 160. 2C-D (4-Methyl-2,5-dimethoxyphenethylamine).

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262 161. 2C-H (2,5-Dimethoxyphenethylamine).

263 162. 2C-N (4-Nitro-2,5-dimethoxyphenethylamine).

264 163. 2C-P (4-(n)-Propyl-2,5-dimethoxyphenethylamine).

265 164. 25I-NBOMe (4-Iodo-2,5-dimethoxy-[N-(2-

266 methoxybenzyl)]phenethylamine).

267 165. MDMA (3,4-Methylenedioxymethamphetamine).

268 166. PB-22 (8-Quinoliny 1-pentylindole-3-carboxylate).

269 167. Fluoro PB-22 (8-Quinoliny 1-(fluoropentyl)indole-3-

270 carboxylate).

271 168. BB-22 (8-Quinoliny 1-(cyclohexylmethyl)indole-3-

272 carboxylate).

273 169. Fluoro AKB48 (N-Adamant-1-yl 1-(fluoropentyl)indazole-

274 3-carboxamide).

275 170. AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-

276 pentylindazole-3-carboxamide).

277 171. AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-

278 (4-fluorobenzyl)indazole-3-carboxamide).

279 172. ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-

280 1-pentylindazole-3-carboxamide).

281 173. Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-

282 yl)-1-(fluoropentyl)indole-3-carboxamide).

283 174. 25B-NBOMe (4-Bromo-2,5-dimethoxy-[N-(2-

284 methoxybenzyl)]phenethylamine).

285 175. 25C-NBOMe (4-Chloro-2,5-dimethoxy-[N-(2-

286 methoxybenzyl)]phenethylamine).

287 176. AB-CHMINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-

288 (cyclohexylmethyl)indazole-3-carboxamide).

289 177. FUB-PB-22 (8-Quinoliny 1-(4-fluorobenzyl)indole-3-

290 carboxylate).

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291 178. Fluoro-NNEI (N-Naphthalen-1-yl 1-(fluoropentyl)indole-  
 292 3-carboxamide).

293 179. Fluoro-AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-  
 294 (fluoropentyl)indazole-3-carboxamide).

295 180. THJ-2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl)indazole).

296 181. AM-855 ((4aR,12bR)-8-Hexyl-2,5,5-trimethyl-  
 297 1,4,4a,8,9,10,11,12b-octahydronaphtho[3,2-c]isochromen-12-ol).

298 182. AM-905 ((6aR,9R,10aR)-3-[(E)-Hept-1-enyl]-9-  
 299 (hydroxymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-  
 300 hexahydrobenzo[c]chromen-1-ol).

301 183. AM-906 ((6aR,9R,10aR)-3-[(Z)-Hept-1-enyl]-9-  
 302 (hydroxymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-  
 303 hexahydrobenzo[c]chromen-1-ol).

304 184. AM-2389 ((6aR,9R,10aR)-3-(1-Hexyl-cyclobut-1-yl)-  
 305 6a,7,8,9,10,10a-hexahydro-6,6-dimethyl-6H-dibenzo[b,d]pyran-1,9  
 306 diol).

307 185. HU-243 ((6aR,8S,9S,10aR)-9-(Hydroxymethyl)-6,6-  
 308 dimethyl-3-(2-methyloctan-2-yl)-8,9-ditritio-7,8,10,10a-  
 309 tetrahydro-6aH-benzo[c]chromen-1-ol).

310 186. HU-336 ((6aR,10aR)-6,6,9-Trimethyl-3-pentyl-  
 311 6a,7,10,10a-tetrahydro-1H-benzo[c]chromene-1,4(6H)-dione).

312 187. MAPB ((2-Methylaminopropyl)benzofuran).

313 188. 5-IT (2-(1H-Indol-5-yl)-1-methyl-ethylamine).

314 189. 6-IT (2-(1H-Indol-6-yl)-1-methyl-ethylamine).

315 190. Synthetic Cannabinoids.—Unless specifically excepted  
 316 or unless listed in another schedule or contained within a  
 317 pharmaceutical product approved by the United States Food and  
 318 Drug Administration, any material, compound, mixture, or  
 319 preparation that contains any quantity of a synthetic

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320 cannabinoid found to be in any of the following chemical class  
 321 descriptions, or homologues, nitrogen-heterocyclic analogs,  
 322 isomers (including optical, positional, or geometric), esters,  
 323 ethers, salts, and salts of homologues, nitrogen-heterocyclic  
 324 analogs, isomers, esters, or ethers, whenever the existence of  
 325 such homologues, nitrogen-heterocyclic analogs, isomers, esters,  
 326 ethers, salts, and salts of isomers, esters, or ethers is  
 327 possible within the specific chemical class or designation.  
 328 Since nomenclature of these synthetically produced cannabinoids  
 329 is not internationally standardized and may continually evolve,  
 330 these structures or the compounds of these structures shall be  
 331 included under this subparagraph, regardless of their specific  
 332 numerical designation of atomic positions covered, if it can be  
 333 determined through a recognized method of scientific testing or  
 334 analysis that the substance contains properties that fit within  
 335 one or more of the following categories:

336 a. Tetrahydrocannabinols.—Any tetrahydrocannabinols  
 337 naturally contained in a plant of the genus *Cannabis*, the  
 338 synthetic equivalents of the substances contained in the plant  
 339 or in the resinous extracts of the genus *Cannabis*, or synthetic  
 340 substances, derivatives, and their isomers with similar chemical  
 341 structure and pharmacological activity, including, but not  
 342 limited to, Delta 9 tetrahydrocannabinols and their optical  
 343 isomers, Delta 8 tetrahydrocannabinols and their optical  
 344 isomers, Delta 6a,10a tetrahydrocannabinols and their optical  
 345 isomers, or any compound containing a tetrahydrobenzo[c]chromene  
 346 structure with substitution at either or both the 3-position or  
 347 9-position, with or without substitution at the 1-position with  
 348 hydroxyl or alkoxy groups, including, but not limited to:

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349 (I) Tetrahydrocannabinol.

350 (II) HU-210 ((6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-

351 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-

352 ol).

353 (III) HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-

354 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-

355 ol).

356 (IV) JWH-051 ((6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-

357 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).

358 (V) JWH-133 ((6aR,10aR)-6,6,9-Trimethyl-3-(2-methylpentan-

359 2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).

360 (VI) JWH-057 ((6aR,10aR)-6,6,9-Trimethyl-3-(2-methyloctan-

361 2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).

362 (VII) JWH-359 ((6aR,10aR)-1-Methoxy-6,6,9-trimethyl-3-(2,3-

363 dimethylpentan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).

364 (VIII) AM-087 ((6aR,10aR)-3-(2-Methyl-6-bromohex-2-yl)-

365 6,6,9-trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol).

366 (IX) AM-411 ((6aR,10aR)-3-(1-Adamantyl)-6,6,9-trimethyl-

367 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol).

368 (X) Parahexyl.

369 b. Naphthoylindoles, Naphthoylindazoles,

370 Naphthoylcarbazoles, Naphthylmethylindoles,

371 Naphthylmethylindazoles, and Naphthylmethylcarbazoles.—Any

372 compound containing a naphthoylindole, naphthoylindazole,

373 naphthoylcarbazole, naphthylmethylindole,

374 naphthylmethylindazole, or naphthylmethylcarbazole structure,

375 with or without substitution on the indole, indazole, or

376 carbazole ring to any extent, whether or not substituted on the

377 naphthyl ring to any extent, including, but not limited to:

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378 (I) JWH-007 (1-Pentyl-2-methyl-3-(1-naphthoyl)indole).

379 (II) JWH-011 (1-(1-Methylhexyl)-2-methyl-3-(1-

380 naphthoyl)indole).

381 (III) JWH-015 (1-Propyl-2-methyl-3-(1-naphthoyl)indole).

382 (IV) JWH-016 (1-Butyl-2-methyl-3-(1-naphthoyl)indole).

383 (V) JWH-018 (1-Pentyl-3-(1-naphthoyl)indole).

384 (VI) JWH-019 (1-Hexyl-3-(1-naphthoyl)indole).

385 (VII) JWH-020 (1-Heptyl-3-(1-naphthoyl)indole).

386 (VIII) JWH-022 (1-(4-Pentenyl)-3-(1-naphthoyl)indole).

387 (IX) JWH-071 (1-Ethyl-3-(1-naphthoyl)indole).

388 (X) JWH-072 (1-Propyl-3-(1-naphthoyl)indole).

389 (XI) JWH-073 (1-Butyl-3-(1-naphthoyl)indole).

390 (XII) JWH-080 (1-Butyl-3-(4-methoxy-1-naphthoyl)indole).

391 (XIII) JWH-081 (1-Pentyl-3-(4-methoxy-1-naphthoyl)indole).

392 (XIV) JWH-098 (1-Pentyl-2-methyl-3-(4-methoxy-1-

393 naphthoyl)indole).

394 (XV) JWH-116 (1-Pentyl-2-ethyl-3-(1-naphthoyl)indole).

395 (XVI) JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).

396 (XVII) JWH-149 (1-Pentyl-2-methyl-3-(4-methyl-1-

397 naphthoyl)indole).

398 (XVIII) JWH-164 (1-Pentyl-3-(7-methoxy-1-naphthoyl)indole).

399 (XIX) JWH-175 (1-Pentyl-3-(1-naphthylmethyl)indole).

400 (XX) JWH-180 (1-Propyl-3-(4-propyl-1-naphthoyl)indole).

401 (XXI) JWH-182 (1-Pentyl-3-(4-propyl-1-naphthoyl)indole).

402 (XXII) JWH-184 (1-Pentyl-3-[(4-methyl)-1-

403 naphthylmethyl]indole).

404 (XXIII) JWH-193 (1-[2-(4-Morpholinyl)ethyl]-3-(4-methyl-1-

405 naphthoyl)indole).

406 (XXIV) JWH-198 (1-[2-(4-Morpholinyl)ethyl]-3-(4-methoxy-1-



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407 naphthoyl)indole).

408 (XXV) JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-

409 naphthoyl)indole).

410 (XXVI) JWH-210 (1-Pentyl-3-(4-ethyl-1-naphthoyl)indole).

411 (XXVII) JWH-387 (1-Pentyl-3-(4-bromo-1-naphthoyl)indole).

412 (XXVIII) JWH-398 (1-Pentyl-3-(4-chloro-1-naphthoyl)indole).

413 (XXIX) JWH-412 (1-Pentyl-3-(4-fluoro-1-naphthoyl)indole).

414 (XXX) JWH-424 (1-Pentyl-3-(8-bromo-1-naphthoyl)indole).

415 (XXXI) AM-1220 (1-[(1-Methyl-2-piperidinyl)methyl]-3-(1-

416 naphthoyl)indole).

417 (XXXII) AM-1235 (1-(5-Fluoropentyl)-6-nitro-3-(1-

418 naphthoyl)indole).

419 (XXXIII) AM-2201 (1-(5-Fluoropentyl)-3-(1-

420 naphthoyl)indole).

421 (XXXIV) Chloro JWH-018 (1-(Chloropentyl)-3-(1-

422 naphthoyl)indole).

423 (XXXV) Bromo JWH-018 (1-(Bromopentyl)-3-(1-

424 naphthoyl)indole).

425 (XXXVI) AM-2232 (1-(4-Cyanobutyl)-3-(1-naphthoyl)indole).

426 (XXXVII) THJ-2201 (1-(5-Fluoropentyl)-3-(1-

427 naphthoyl)indazole).

428 (XXXVIII) MAM-2201 (1-(5-Fluoropentyl)-3-(4-methyl-1-

429 naphthoyl)indole).

430 (XXXIX) EAM-2201 (1-(5-Fluoropentyl)-3-(4-ethyl-1-

431 naphthoyl)indole).

432 (XL) EG-018 (9-Pentyl-3-(1-naphthoyl)carbazole).

433 (XLI) EG-2201 (9-(5-Fluoropentyl)-3-(1-

434 naphthoyl)carbazole).

435 c. Naphthoylpyrroles.—Any compound containing a

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436 naphthoylpyrrole structure, with or without substitution on the

437 pyrrole ring to any extent, whether or not substituted on the

438 naphthyl ring to any extent, including, but not limited to:

439 (I) JWH-030 (1-Pentyl-3-(1-naphthoyl)pyrrole).

440 (II) JWH-031 (1-Hexyl-3-(1-naphthoyl)pyrrole).

441 (III) JWH-145 (1-Pentyl-5-phenyl-3-(1-naphthoyl)pyrrole).

442 (IV) JWH-146 (1-Heptyl-5-phenyl-3-(1-naphthoyl)pyrrole).

443 (V) JWH-147 (1-Hexyl-5-phenyl-3-(1-naphthoyl)pyrrole).

444 (VI) JWH-307 (1-Pentyl-5-(2-fluorophenyl)-3-(1-

445 naphthoyl)pyrrole).

446 (VII) JWH-309 (1-Pentyl-5-(1-naphthalenyl)-3-(1-

447 naphthoyl)pyrrole).

448 (VIII) JWH-368 (1-Pentyl-5-(3-fluorophenyl)-3-(1-

449 naphthoyl)pyrrole).

450 (IX) JWH-369 (1-Pentyl-5-(2-chlorophenyl)-3-(1-

451 naphthoyl)pyrrole).

452 (X) JWH-370 (1-Pentyl-5-(2-methylphenyl)-3-(1-

453 naphthoyl)pyrrole).

454 d. Naphthylmethylenindenenes.—Any compound containing a

455 naphthylmethylenindene structure, with or without substitution

456 at the 3-position of the indene ring to any extent, whether or

457 not substituted on the naphthyl ring to any extent, including,

458 but not limited to, JWH-176 (3-Pentyl-1-

459 (naphthylmethylene)indene).

460 e. Phenylacetylintoles and Phenylacetylintazoles.—Any

461 compound containing a phenylacetylintole or phenylacetylintazole

462 structure, with or without substitution on the indole or

463 indazole ring to any extent, whether or not substituted on the

464 phenyl ring to any extent, including, but not limited to:

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465 (I) JWH-167 (1-Pentyl-3-(phenylacetyl)indole).  
 466 (II) JWH-201 (1-Pentyl-3-(4-methoxyphenylacetyl)indole).  
 467 (III) JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl)indole).  
 468 (IV) JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl)indole).  
 469 (V) JWH-251 (1-Pentyl-3-(2-methylphenylacetyl)indole).  
 470 (VI) JWH-302 (1-Pentyl-3-(3-methoxyphenylacetyl)indole).  
 471 (VII) Cannabipiperidiethanone.  
 472 (VIII) RCS-8 (1-(2-Cyclohexylethyl)-3-(2-  
 473 methoxyphenylacetyl)indole).  
 474 f. Cyclohexylphenols.—Any compound containing a  
 475 cyclohexylphenol structure, with or without substitution at the  
 476 5-position of the phenolic ring to any extent, whether or not  
 477 substituted on the cyclohexyl ring to any extent, including, but  
 478 not limited to:  
 479 (I) CP 47,497 (2-(3-Hydroxycyclohexyl)-5-(2-methyloctan-2-  
 480 yl)phenol).  
 481 (II) Cannabicyclohexanol (CP 47,497 dimethyloctyl (C8)  
 482 homologue).  
 483 (III) CP-55,940 (2-(3-Hydroxy-6-propanol-cyclohexyl)-5-(2-  
 484 methyloctan-2-yl)phenol).  
 485 g. Benzoylindoles and Benzoylindazoles.—Any compound  
 486 containing a benzoylindole or benzoylindazole structure, with or  
 487 without substitution on the indole or indazole ring to any  
 488 extent, whether or not substituted on the phenyl ring to any  
 489 extent, including, but not limited to:  
 490 (I) AM-679 (1-Pentyl-3-(2-iodobenzoyl)indole).  
 491 (II) AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole).  
 492 (III) AM-1241 (1-[(N-Methyl-2-piperidinyl)methyl]-3-(2-  
 493 iodo-5-nitrobenzoyl)indole).

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494 (IV) Pravadoline (1-[2-(4-Morpholinyl)ethyl]-2-methyl-3-(4-  
 495 methoxybenzoyl)indole).  
 496 (V) AM-2233 (1-[(N-Methyl-2-piperidinyl)methyl]-3-(2-  
 497 iodobenzoyl)indole).  
 498 (VI) RCS-4 (1-Pentyl-3-(4-methoxybenzoyl)indole).  
 499 (VII) RCS-4 C4 homologue (1-Butyl-3-(4-  
 500 methoxybenzoyl)indole).  
 501 (VIII) AM-630 (1-[2-(4-Morpholinyl)ethyl]-2-methyl-6-iodo-  
 502 3-(4-methoxybenzoyl)indole).  
 503 h. Tetramethylcyclopropanoylindoles and  
 504 Tetramethylcyclopropanoylindazoles.—Any compound containing a  
 505 tetramethylcyclopropanoylindole or  
 506 tetramethylcyclopropanoylindazole structure, with or without  
 507 substitution on the indole or indazole ring to any extent,  
 508 whether or not substituted on the tetramethylcyclopropyl group  
 509 to any extent, including, but not limited to:  
 510 (I) UR-144 (1-Pentyl-3-(2,2,3,3-  
 511 tetramethylcyclopropanoyl)indole).  
 512 (II) XLR11 (1-(5-Fluoropentyl)-3-(2,2,3,3-  
 513 tetramethylcyclopropanoyl)indole).  
 514 (III) Chloro UR-144 (1-(Chloropentyl)-3-(2,2,3,3-  
 515 tetramethylcyclopropanoyl)indole).  
 516 (IV) A-796,260 (1-[2-(4-Morpholinyl)ethyl]-3-(2,2,3,3-  
 517 tetramethylcyclopropanoyl)indole).  
 518 (V) A-834,735 (1-[4-(Tetrahydropyranyl)methyl]-3-(2,2,3,3-  
 519 tetramethylcyclopropanoyl)indole).  
 520 (VI) M-144 (1-(5-Fluoropentyl)-2-methyl-3-(2,2,3,3-  
 521 tetramethylcyclopropanoyl)indole).  
 522 (VII) FUB-144 (1-(4-Fluorobenzyl)-3-(2,2,3,3-

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523 tetramethylcyclopropanoyl)indole).

524 (VIII) FAB-144 (1-(5-Fluoropentyl)-3-(2,2,3,3-

525 tetramethylcyclopropanoyl)indazole).

526 (IX) XLR12 (1-(4,4,4-Trifluorobutyl)-3-(2,2,3,3-

527 tetramethylcyclopropanoyl)indole).

528 (X) AB-005 (1-[(1-Methyl-2-piperidinyl)methyl]-3-(2,2,3,3-

529 tetramethylcyclopropanoyl)indole).

530 i. Adamantoylindoles, Adamantoylindazoles, Adamantylindole

531 carboxamides, and Adamantylindazole carboxamides.—Any compound

532 containing an adamantoyl indole, adamantoyl indazole, adamantyl

533 indole carboxamide, or adamantyl indazole carboxamide structure,

534 with or without substitution on the indole or indazole ring to

535 any extent, whether or not substituted on the adamantyl ring to

536 any extent, including, but not limited to:

537 (I) AKB48 (N-Adamant-1-yl 1-pentylindazole-3-carboxamide).

538 (II) Fluoro AKB48 (N-Adamant-1-yl 1-(fluoropentyl)indazole-

539 3-carboxamide).

540 (III) STS-135 (N-Adamant-1-yl 1-(5-fluoropentyl)indole-3-

541 carboxamide).

542 (IV) AM-1248 (1-(1-Methylpiperidine)methyl-3-(1-

543 adamantoyl)indole).

544 (V) AB-001 (1-Pentyl-3-(1-adamantoyl)indole).

545 (VI) APICA (N-Adamant-1-yl 1-pentylindole-3-carboxamide).

546 (VII) Fluoro AB-001 (1-(Fluoropentyl)-3-(1-

547 adamantoyl)indole).

548 j. Quinoliny lindolecarboxylates,

549 Quinoliny lindazolecarboxylates, Quinoliny lindolecarboxamides,

550 and Quinoliny lindazolecarboxamides.—Any compound containing a

551 quinoliny lindole carboxylate, quinoliny lindazole carboxylate,

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552 isoquinoliny lindole carboxylate, isoquinoliny lindazole

553 carboxylate, quinoliny lindole carboxamide, quinoliny lindazole

554 carboxamide, isoquinoliny lindole carboxamide, or

555 isoquinoliny lindazole carboxamide structure, with or without

556 substitution on the indole or indazole ring to any extent,

557 whether or not substituted on the quinoline or isoquinoline ring

558 to any extent, including, but not limited to:

559 (I) PB-22 (8-Quinoliny 1-pentylindole-3-carboxylate).

560 (II) Fluoro PB-22 (8-Quinoliny 1-(fluoropentyl)indole-3-

561 carboxylate).

562 (III) BB-22 (8-Quinoliny 1-(cyclohexylmethyl)indole-3-

563 carboxylate).

564 (IV) FUB-PB-22 (8-Quinoliny 1-(4-fluorobenzyl)indole-3-

565 carboxylate).

566 (V) NPB-22 (8-Quinoliny 1-pentylindazole-3-carboxylate).

567 (VI) Fluoro NPB-22 (8-Quinoliny 1-(fluoropentyl)indazole-

568 3-carboxylate).

569 (VII) FUB-NPB-22 (8-Quinoliny 1-(4-fluorobenzyl)indazole-

570 3-carboxylate).

571 (VIII) THJ (8-Quinoliny 1-pentylindazole-3-carboxamide).

572 (IX) Fluoro THJ (8-Quinoliny 1-(fluoropentyl)indazole-3-

573 carboxamide).

574 k. Naphthylindolecarboxylates and

575 Naphthylindazolecarboxylates.—Any compound containing a

576 naphthylindole carboxylate or naphthylindazole carboxylate

577 structure, with or without substitution on the indole or

578 indazole ring to any extent, whether or not substituted on the

579 naphthyl ring to any extent, including, but not limited to:

580 (I) NM-2201 (1-Naphthalenyl 1-(5-fluoropentyl)indole-3-

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581 carboxylate).

582 (II) SDB-005 (1-Naphthalenyl 1-pentylindazole-3-

583 carboxylate).

584 (III) Fluoro SDB-005 (1-Naphthalenyl 1-

585 (fluoropentyl)indazole-3-carboxylate).

586 (IV) FDU-PB-22 (1-Naphthalenyl 1-(4-fluorobenzyl)indole-3-

587 carboxylate).

588 (V) 3-CAF (2-Naphthalenyl 1-(2-fluorophenyl)indazole-3-

589 carboxylate).

590 1. Naphthylindole carboxamides and Naphthylindazole

591 carboxamides.—Any compound containing a naphthylindole

592 carboxamide or naphthylindazole carboxamide structure, with or

593 without substitution on the indole or indazole ring to any

594 extent, whether or not substituted on the naphthyl ring to any

595 extent, including, but not limited to:

596 (I) NNEI (N-Naphthalen-1-yl 1-pentylindole-3-carboxamide).

597 (II) Fluoro-NNEI (N-Naphthalen-1-yl 1-(fluoropentyl)indole-

598 3-carboxamide).

599 (III) Chloro-NNEI (N-Naphthalen-1-yl 1-

600 (chloropentyl)indole-3-carboxamide).

601 (IV) MN-18 (N-Naphthalen-1-yl 1-pentylindazole-3-

602 carboxamide).

603 (V) Fluoro MN-18 (N-Naphthalen-1-yl 1-

604 (fluoropentyl)indazole-3-carboxamide).

605 m. Alkylcarbonyl indole carboxamides, Alkylcarbonyl

606 indazole carboxamides, Alkylcarbonyl indole carboxylates, and

607 Alkylcarbonyl indazole carboxylates.—Any compound containing an

608 alkylcarbonyl group, including 1-amino-3-methyl-1-oxobutan-2-yl,

609 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-amino-1-oxo-3-

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610 phenylpropan-2-yl, 1-methoxy-1-oxo-3-phenylpropan-2-yl, with an

611 indole carboxamide, indazole carboxamide, indole carboxylate, or

612 indazole carboxylate, with or without substitution on the indole

613 or indazole ring to any extent, whether or not substituted on

614 the alkylcarbonyl group to any extent, including, but not

615 limited to:

616 (I) ADBICA, (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-

617 pentylindole-3-carboxamide).

618 (II) Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-

619 yl)-1-(fluoropentyl)indole-3-carboxamide).

620 (III) Fluoro ABICA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-

621 (fluoropentyl)indole-3-carboxamide).

622 (IV) AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-

623 pentylindazole-3-carboxamide).

624 (V) Fluoro AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-

625 1-(fluoropentyl)indazole-3-carboxamide).

626 (VI) ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-

627 1-pentylindazole-3-carboxamide).

628 (VII) Fluoro ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-

629 oxobutan-2-yl)-1-(fluoropentyl)indazole-3-carboxamide).

630 (VIII) AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-

631 (4-fluorobenzyl)indazole-3-carboxamide).

632 (IX) ADB-FUBINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-

633 yl)-1-(4-fluorobenzyl)indazole-3-carboxamide).

634 (X) AB-CHMINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-

635 (cyclohexylmethyl)indazole-3-carboxamide).

636 (XI) MA-CHMINACA (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-

637 (cyclohexylmethyl)indazole-3-carboxamide).

638 (XII) MAB-CHMINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-

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639 yl)-1-(cyclohexylmethyl)indazole-3-carboxamide).

640 (XIII) AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-

641 pentyindazole-3-carboxamide).

642 (XIV) Fluoro-AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-

643 (fluoropentyl)indazole-3-carboxamide).

644 (XV) FUB-AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-(4-

645 fluorobenzyl)indazole-3-carboxamide).

646 (XVI) MDMB-CHMINACA (N-(1-Methoxy-3,3-dimethyl-1-oxobutan-

647 2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide).

648 (XVII) MDMB-FUBINACA (N-(1-Methoxy-3,3-dimethyl-1-oxobutan-

649 2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide).

650 (XVIII) MDMB-CHMICA (N-(1-Methoxy-3,3-dimethyl-1-oxobutan-

651 2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide).

652 (XIX) PX-1 (N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-(5-

653 fluoropentyl)indole-3-carboxamide).

654 (XX) PX-2 (N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-(5-

655 fluoropentyl)indazole-3-carboxamide).

656 (XXI) PX-3 (N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-

657 (cyclohexylmethyl)indazole-3-carboxamide).

658 (XXII) PX-4 (N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-(4-

659 fluorobenzyl)indazole-3-carboxamide).

660 (XXIII) MO-CHMINACA (N-(1-Methoxy-3,3-dimethyl-1-oxobutan-

661 2-yl)-1-(cyclohexylmethyl)indazole-3-carboxylate).

662 n. Cumylindolecarboxamides and Cumylindazolecarboxamides.-

663 Any compound containing a N-(2-phenylpropan-2-yl) indole

664 carboxamide or N-(2-phenylpropan-2-yl) indazole carboxamide

665 structure, with or without substitution on the indole or

666 indazole ring to any extent, whether or not substituted on the

667 phenyl ring of the cumyl group to any extent, including, but not

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668 limited to:

669 (I) CUMYL-PICA (N-(2-Phenylpropan-2-yl)-1-pentylindole-3-

670 carboxamide).

671 (II) Fluoro CUMYL-PICA (N-(2-Phenylpropan-2-yl)-1-

672 (fluoropentyl)indole-3-carboxamide).

673 o. Other Synthetic Cannabinoids.-Any material, compound,

674 mixture, or preparation that contains any quantity of a

675 Synthetic Cannabinoid, as described in sub-subparagraphs a.-n.:

676 (I) With or without modification or replacement of a

677 carbonyl, carboxamide, alkylene, alkyl, or carboxylate linkage

678 between either two core rings, or linkage between a core ring

679 and group structure, with or without the addition of a carbon or

680 replacement of a carbon;

681 (II) With or without replacement of a core ring or group

682 structure, whether or not substituted on the ring or group

683 structures to any extent; and

684 (III) Is a cannabinoid receptor agonist, unless

685 specifically excepted or unless listed in another schedule or

686 contained within a pharmaceutical product approved by the United

687 States Food and Drug Administration.

688 191. Substituted Cathinones.-Unless specifically excepted,

689 listed in another schedule, or contained within a pharmaceutical

690 product approved by the United States Food and Drug

691 Administration, any material, compound, mixture, or preparation,

692 including its salts, isomers, esters, or ethers, and salts of

693 isomers, esters, or ethers, whenever the existence of such salts

694 is possible within any of the following specific chemical

695 designations:

696 a. Any compound containing a 2-amino-1-phenyl-1-propanone

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697 structure;

698 b. Any compound containing a 2-amino-1-naphthyl-1-propanone

699 structure; or

700 c. Any compound containing a 2-amino-1-thiophenyl-1-

701 propanone structure,

702

703 whether or not the compound is further modified:

704 (I) With or without substitution on the ring system to any

705 extent with alkyl, alkylthio, thio, fused alkylenedioxy, alkoxy,

706 haloalkyl, hydroxyl, nitro, fused furan, fused benzofuran, fused

707 dihydrofuran, fused tetrahydropyran, fused alkyl ring, or halide

708 substituents;

709 (II) With or without substitution at the 3-propanone

710 position with an alkyl substituent or removal of the methyl

711 group at the 3-propanone position;

712 (III) With or without substitution at the 2-amino nitrogen

713 atom with alkyl, dialkyl, acetyl, or benzyl groups, whether or

714 not further substituted in the ring system; or

715 (IV) With or without inclusion of the 2-amino nitrogen atom

716 in a cyclic structure, including, but not limited to:

717 (A) Methcathinone.

718 (B) Ethcathinone.

719 (C) Methylone (3,4-Methylenedioxy-methcathinone).

720 (D) 2,3-Methylenedioxy-methcathinone.

721 (E) MDPV (3,4-Methylenedioxy-pyrovalerone).

722 (F) Methylmethcathinone.

723 (G) Methoxymethcathinone.

724 (H) Fluoromethcathinone.

725 (I) Methylethcathinone.

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726 (J) Butylone (3,4-Methylenedioxy-alpha-

727 methylaminobutyrophenone).

728 (K) Ethylone (3,4-Methylenedioxy-N-ethylcathinone).

729 (L) BMDP (3,4-Methylenedioxy-N-benzylcathinone).

730 (M) Naphyrone (Naphthylpyrovalerone).

731 (N) Bromomethcathinone.

732 (O) Buphedrone (alpha-Methylaminobutyrophenone).

733 (P) Eutylone (3,4-Methylenedioxy-alpha-

734 ethylaminobutyrophenone).

735 (Q) Dimethylcathinone.

736 (R) Dimethylmethcathinone.

737 (S) Pentylone (3,4-Methylenedioxy-alpha-

738 methylaminovalerophenone).

739 (T) Pentedrone (alpha-Methylaminovalerophenone).

740 (U) MDPPP (3,4-Methylenedioxy-alpha-

741 pyrrolidinopropiophenone).

742 (V) MDPBP (3,4-Methylenedioxy-alpha-

743 pyrrolidinobutyrophenone).

744 (W) MPPP (Methyl-alpha-pyrrolidinopropiophenone).

745 (X) PPP (Pyrrolidinopropiophenone).

746 (Y) PVP (Pyrrolidinovalerophenone) or

747 (Pyrrolidinopentiophenone).

748 (Z) MOPPP (Methoxy-alpha-pyrrolidinopropiophenone).

749 (AA) MPHP (Methyl-alpha-pyrrolidino-hexanophenone).

750 (BB) F-MABP (Fluoromethylaminobutyrophenone).

751 (CC) Me-EABP (Methylethylaminobutyrophenone).

752 (DD) PBP (Pyrrolidinobutyrophenone).

753 (EE) MeO-PBP (Methoxypyrrolidinobutyrophenone).

754 (FF) Et-PBP (Ethylpyrrolidinobutyrophenone).

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755 (GG) 3-Me-4-MeO-MCAT (3-Methyl-4-Methoxymethcathinone).  
 756 (HH) Dimethylone (3,4-Methylenedioxy-N,N-  
 757 dimethylcathinone).  
 758 (II) 3,4-Methylenedioxy-N,N-diethylcathinone.  
 759 (JJ) 3,4-Methylenedioxy-N-acetylcathinone.  
 760 (KK) 3,4-Methylenedioxy-N-acetylmethcathinone.  
 761 (LL) 3,4-Methylenedioxy-N-acetylcathinone.  
 762 (MM) Methylbuphedrone (Methyl-alpha-  
 763 methylaminobutyrophenone).  
 764 (NN) Methyl-alpha-methylaminohexanophenone.  
 765 (OO) N-Ethyl-N-methylcathinone.  
 766 (PP) PHP (Pyrrolidinohexanophenone).  
 767 (QQ) PV8 (Pyrrolidinoheptanophenone).  
 768 (RR) Chloromethcathinone.  
 769 (SS) 4-Bromo-2,5-dimethoxy-alpha-aminoacetophenone.  
 770 192. Substituted Phenethylamines.—Unless specifically  
 771 excepted or unless listed in another schedule, or contained  
 772 within a pharmaceutical product approved by the United States  
 773 Food and Drug Administration, any material, compound, mixture,  
 774 or preparation, including its salts, isomers, esters, or ethers,  
 775 and salts of isomers, esters, or ethers, whenever the existence  
 776 of such salts is possible within any of the following specific  
 777 chemical designations, any compound containing a phenethylamine  
 778 structure, without a beta-keto group, and without a benzyl group  
 779 attached to the amine group, whether or not the compound is  
 780 further modified with or without substitution on the phenyl ring  
 781 to any extent with alkyl, alkylthio, nitro, alkoxy, thio,  
 782 halide, fused alkylenedioxy, fused furan, fused benzofuran,  
 783 fused dihydrofuran, or fused tetrahydropyran substituents,

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784 whether or not further substituted on a ring to any extent, with  
 785 or without substitution at the alpha or beta position by any  
 786 alkyl substituent, with or without substitution at the nitrogen  
 787 atom, and with or without inclusion of the 2-amino nitrogen atom  
 788 in a cyclic structure, including, but not limited to:  
 789 a. 2C-B (4-Bromo-2,5-dimethoxyphenethylamine).  
 790 b. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).  
 791 c. 2C-T-4 (4-Isopropylthio-2,5-dimethoxyphenethylamine).  
 792 d. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).  
 793 e. 2C-T (4-Methylthio-2,5-dimethoxyphenethylamine).  
 794 f. 2C-T-2 (4-Ethylthio-2,5-dimethoxyphenethylamine).  
 795 g. 2C-T-7 (4-(n)-Propylthio-2,5-dimethoxyphenethylamine).  
 796 h. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).  
 797 i. 2C-D (4-Methyl-2,5-dimethoxyphenethylamine).  
 798 j. 2C-H (2,5-Dimethoxyphenethylamine).  
 799 k. 2C-N (4-Nitro-2,5-dimethoxyphenethylamine).  
 800 l. 2C-P (4-(n)-Propyl-2,5-dimethoxyphenethylamine).  
 801 m. MDMA (3,4-Methylenedioxymethamphetamine).  
 802 n. MBDB (Methylbenzodioxolylbutanamine) or (3,4-  
 803 Methylenedioxy-N-methylbutanamine).  
 804 o. MDA (3,4-Methylenedioxyamphetamine).  
 805 p. 2,5-Dimethoxyamphetamine.  
 806 q. Fluoroamphetamine.  
 807 r. Fluoromethamphetamine.  
 808 s. MDEA (3,4-Methylenedioxy-N-ethylamphetamine).  
 809 t. DOB (4-Bromo-2,5-dimethoxyamphetamine).  
 810 u. DOC (4-Chloro-2,5-dimethoxyamphetamine).  
 811 v. DOET (4-Ethyl-2,5-dimethoxyamphetamine).  
 812 w. DOI (4-Iodo-2,5-dimethoxyamphetamine).

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813 x. DOM (4-Methyl-2,5-dimethoxyamphetamine).  
 814 y. PMA (4-Methoxyamphetamine).  
 815 z. N-Ethylamphetamine.  
 816 aa. 3,4-Methylenedioxy-N-hydroxyamphetamine.  
 817 bb. 5-Methoxy-3,4-methylenedioxyamphetamine.  
 818 cc. PMMA (4-Methoxymethamphetamine).  
 819 dd. N,N-Dimethylamphetamine.  
 820 ee. 3,4,5-Trimethoxyamphetamine.  
 821 ff. 4-APB (4-(2-Aminopropyl)benzofuran).  
 822 gg. 5-APB (5-(2-Aminopropyl)benzofuran).  
 823 hh. 6-APB (6-(2-Aminopropyl)benzofuran).  
 824 ii. 7-APB (7-(2-Aminopropyl)benzofuran).  
 825 jj. 4-APDB (4-(2-Aminopropyl)-2,3-dihydrobenzofuran).  
 826 kk. 5-APDB (5-(2-Aminopropyl)-2,3-dihydrobenzofuran).  
 827 ll. 6-APDB (6-(2-Aminopropyl)-2,3-dihydrobenzofuran).  
 828 mm. 7-APDB (7-(2-Aminopropyl)-2,3-dihydrobenzofuran).  
 829 nn. 4-MAPB (4-(2-Methylaminopropyl)benzofuran).  
 830 oo. 5-MAPB (5-(2-Methylaminopropyl)benzofuran).  
 831 pp. 6-MAPB (6-(2-Methylaminopropyl)benzofuran).  
 832 qq. 7-MAPB (7-(2-Methylaminopropyl)benzofuran).  
 833 rr. 5-EAPB (5-(2-Ethylaminopropyl)benzofuran).  
 834 ss. 5-MAPDB (5-(2-Methylaminopropyl)-2,3-  
 835 dihydrobenzofuran),  
 836  
 837 which does not include phenethylamine, mescaline as described in  
 838 subparagraph 20., substituted cathinones as described in  
 839 subparagraph 191., N-Benzyl phenethylamine compounds as  
 840 described in subparagraph 193., or methamphetamine as described  
 841 in subparagraph (2)(c)5.

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842 193. N-Benzyl Phenethylamine Compounds.—Unless specifically  
 843 excepted or unless listed in another schedule, or contained  
 844 within a pharmaceutical product approved by the United States  
 845 Food and Drug Administration, any material, compound, mixture,  
 846 or preparation, including its salts, isomers, esters, or ethers,  
 847 and salts of isomers, esters, or ethers, whenever the existence  
 848 of such salts is possible within any of the following specific  
 849 chemical designations, any compound containing a phenethylamine  
 850 structure without a beta-keto group, with substitution on the  
 851 nitrogen atom of the amino group with a benzyl substituent, with  
 852 or without substitution on the phenyl or benzyl ring to any  
 853 extent with alkyl, alkoxy, thio, alkylthio, halide, fused  
 854 alkylenedioxy, fused furan, fused benzofuran, or fused  
 855 tetrahydropyran substituents, whether or not further substituted  
 856 on a ring to any extent, with or without substitution at the  
 857 alpha position by any alkyl substituent, including, but not  
 858 limited to:  
 859 a. 25B-NBOMe (4-Bromo-2,5-dimethoxy-[N-(2-  
 860 methoxybenzyl)]phenethylamine).  
 861 b. 25B-NBOH (4-Bromo-2,5-dimethoxy-[N-(2-  
 862 hydroxybenzyl)]phenethylamine).  
 863 c. 25B-NBF (4-Bromo-2,5-dimethoxy-[N-(2-  
 864 fluorobenzyl)]phenethylamine).  
 865 d. 25B-NBMD (4-Bromo-2,5-dimethoxy-[N-(2,3-  
 866 methylenedioxybenzyl)]phenethylamine).  
 867 e. 25I-NBOMe (4-Iodo-2,5-dimethoxy-[N-(2-  
 868 methoxybenzyl)]phenethylamine).  
 869 f. 25I-NBOH (4-Iodo-2,5-dimethoxy-[N-(2-  
 870 hydroxybenzyl)]phenethylamine).

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871 g. 25I-NBF (4-Iodo-2,5-dimethoxy-[N-(2-  
 872 fluorobenzyl)]phenethylamine).  
 873 h. 25I-NBMD (4-Iodo-2,5-dimethoxy-[N-(2,3-  
 874 methylenedioxybenzyl)]phenethylamine).  
 875 i. 25T2-NBOMe (4-Methylthio-2,5-dimethoxy-[N-(2-  
 876 methoxybenzyl)]phenethylamine).  
 877 j. 25T4-NBOMe (4-Isopropylthio-2,5-dimethoxy-[N-(2-  
 878 methoxybenzyl)]phenethylamine).  
 879 k. 25T7-NBOMe (4-(n)-Propylthio-2,5-dimethoxy-[N-(2-  
 880 methoxybenzyl)]phenethylamine).  
 881 l. 25C-NBOMe (4-Chloro-2,5-dimethoxy-[N-(2-  
 882 methoxybenzyl)]phenethylamine).  
 883 m. 25C-NBOH (4-Chloro-2,5-dimethoxy-[N-(2-  
 884 hydroxybenzyl)]phenethylamine).  
 885 n. 25C-NBF (4-Chloro-2,5-dimethoxy-[N-(2-  
 886 fluorobenzyl)]phenethylamine).  
 887 o. 25C-NBMD (4-Chloro-2,5-dimethoxy-[N-(2,3-  
 888 methylenedioxybenzyl)]phenethylamine).  
 889 p. 25H-NBOMe (2,5-Dimethoxy-[N-(2-  
 890 methoxybenzyl)]phenethylamine).  
 891 q. 25H-NBOH (2,5-Dimethoxy-[N-(2-  
 892 hydroxybenzyl)]phenethylamine).  
 893 r. 25H-NBF (2,5-Dimethoxy-[N-(2-  
 894 fluorobenzyl)]phenethylamine).  
 895 s. 25D-NBOMe (4-Methyl-2,5-dimethoxy-[N-(2-  
 896 methoxybenzyl)]phenethylamine),  
 897  
 898 which does not include substituted cathinones as described in  
 899 subparagraph 191.

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900 194. Substituted Tryptamines.—Unless specifically excepted  
 901 or unless listed in another schedule, or contained within a  
 902 pharmaceutical product approved by the United States Food and  
 903 Drug Administration, any material, compound, mixture, or  
 904 preparation containing a 2-(1H-indol-3-yl)ethanamine, for  
 905 example tryptamine, structure with or without mono- or di-  
 906 substitution of the amine nitrogen with alkyl or alkenyl groups,  
 907 or by inclusion of the amino nitrogen atom in a cyclic  
 908 structure, whether or not substituted at the alpha position with  
 909 an alkyl group, whether or not substituted on the indole ring to  
 910 any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy  
 911 groups, including, but not limited to:  
 912 a. Alpha-Ethyltryptamine.  
 913 b. Bufotenine.  
 914 c. DET (Diethyltryptamine).  
 915 d. DMT (Dimethyltryptamine).  
 916 e. MET (N-Methyl-N-ethyltryptamine).  
 917 f. DALT (N,N-Diallyltryptamine).  
 918 g. EiPT (N-Ethyl-N-isopropyltryptamine).  
 919 h. MiPT (N-Methyl-N-isopropyltryptamine).  
 920 i. 5-Hydroxy-AMT (5-Hydroxy-alpha-methyltryptamine).  
 921 j. 5-Hydroxy-N-methyltryptamine.  
 922 k. 5-MeO-MiPT (5-Methoxy-N-methyl-N-isopropyltryptamine).  
 923 l. 5-MeO-AMT (5-Methoxy-alpha-methyltryptamine).  
 924 m. Methyltryptamine.  
 925 n. 5-MeO-DMT (5-Methoxy-N,N-dimethyltryptamine).  
 926 o. 5-Me-DMT (5-Methyl-N,N-dimethyltryptamine).  
 927 p. 5-MeO-DiPT (5-Methoxy-N,N-Diisopropyltryptamine).  
 928 q. DiPT (N,N-Diisopropyltryptamine).

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929 r. DPT (N,N-Dipropyltryptamine).  
 930 s. 4-Hydroxy-DiPT (4-Hydroxy-N,N-diisopropyltryptamine).  
 931 t. 5-MeO-DALT (5-Methoxy-N,N-Diallyltryptamine).  
 932 u. 4-AcO-DMT (4-Acetoxy-N,N-dimethyltryptamine).  
 933 v. 4-AcO-DiPT (4-Acetoxy-N,N-diisopropyltryptamine).  
 934 w. 4-Hydroxy-DET (4-Hydroxy-N,N-diethyltryptamine).  
 935 x. 4-Hydroxy-MET (4-Hydroxy-N-methyl-N-ethyltryptamine).  
 936 y. 4-Hydroxy-MiPT (4-Hydroxy-N-methyl-N-  
 937 isopropyltryptamine).  
 938 z. Methyl-alpha-ethyltryptamine.  
 939 aa. Bromo-DALT (Bromo-N,N-diallyltryptamine),  
 940  
 941 which does not include tryptamine, psilocyn as described in  
 942 subparagraph 34., or psilocybin as described in subparagraph 33.  
 943 195. Substituted Phenylcyclohexylamines.—Unless  
 944 specifically excepted or unless listed in another schedule, or  
 945 contained within a pharmaceutical product approved by the United  
 946 States Food and Drug Administration, any material, compound,  
 947 mixture, or preparation containing a phenylcyclohexylamine  
 948 structure, with or without any substitution on the phenyl ring,  
 949 any substitution on the cyclohexyl ring, any replacement of the  
 950 phenyl ring with a thiophenyl or benzothiophenyl ring, with or  
 951 without substitution on the amine with alkyl, dialkyl, or alkoxy  
 952 substituents, inclusion of the nitrogen in a cyclic structure,  
 953 or any combination of the above, including, but not limited to:  
 954 a. BTCP (Benzothiophenylcyclohexylpiperidine) or BCP  
 955 (Benocyclidine).  
 956 b. PCE (N-Ethyl-1-phenylcyclohexylamine) (Ethylamine analog  
 957 of phencyclidine).

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958 c. PCPY (N-(1-Phenylcyclohexyl)-pyrrolidine) (Pyrrolidine  
 959 analog of phencyclidine).  
 960 d. PCPr (Phenylcyclohexylpropylamine).  
 961 e. TCP (1-[1-(2-Thienyl)-cyclohexyl]-piperidine) (Thiophene  
 962 analog of phencyclidine).  
 963 f. PCEEA (Phenylcyclohexyl(ethoxyethylamine)).  
 964 g. PCMPA (Phenylcyclohexyl(methoxypropylamine)).  
 965 h. Methoxetamine.  
 966 i. 3-Methoxy-PCE ((3-Methoxyphenyl)cyclohexylethylamine).  
 967 j. Bromo-PCP ((Bromophenyl)cyclohexylpiperidine).  
 968 k. Chloro-PCP ((Chlorophenyl)cyclohexylpiperidine).  
 969 l. Fluoro-PCP ((Fluorophenyl)cyclohexylpiperidine).  
 970 m. Hydroxy-PCP ((Hydroxyphenyl)cyclohexylpiperidine).  
 971 n. Methoxy-PCP ((Methoxyphenyl)cyclohexylpiperidine).  
 972 o. Methyl-PCP ((Methylphenyl)cyclohexylpiperidine).  
 973 p. Nitro-PCP ((Nitrophenyl)cyclohexylpiperidine).  
 974 q. Oxo-PCP ((Oxophenyl)cyclohexylpiperidine).  
 975 r. Amino-PCP ((Aminophenyl)cyclohexylpiperidine).  
 976 196. W-15, 4-chloro-N-[1-(2-phenylethyl)-2-  
 977 piperidinylidene]-benzenesulfonamide.  
 978 197. W-18, 4-chloro-N-[1-[2-(4-nitrophenyl)ethyl]-2-  
 979 piperidinylidene]-benzenesulfonamide.  
 980 198. AH-7921, 3,4-dichloro-N-[[1-  
 981 (dimethylamino)cyclohexyl]methyl]-benzamide.  
 982 199. U47700, trans-3,4-dichloro-N-[2-  
 983 (dimethylamino)cyclohexyl]-N-methyl-benzamide.  
 984 200. MT-45, 1-cyclohexyl-4-(1,2-diphenylethyl)-piperazine,  
 985 dihydrochloride.  
 986 Section 2. Paragraph (i) of subsection (1) of section

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893.13, Florida Statutes, is amended 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. 775.082, s. 775.083, or s. 775.084, and must be sentenced to a mandatory minimum term of imprisonment of 3 years, if:

1. The person sells, manufactures, or delivers, or possesses with intent to sell, manufacture, or deliver, any of the following:

a. Alfentanil, as described in s. 893.03(2)(b)1.;

b. Carfentanil, as described in s. 893.03(2)(b)6.;

c. Fentanyl, as described in s. 893.03(2)(b)9.;

d. Sufentanil, as described in s. 893.03(2)(b)30.;

e. A fentanyl derivative, as described in s.

893.03(1)(a)63.;

f. Xylazine, as described in s. 893.03(1)(c)37.;

g. A controlled substance analog, as described in s. 893.0356, of any substance described in sub-subparagraphs a.-f. ~~sub-subparagraphs a.-e.~~; or

~~h.g.~~ A mixture containing any substance described in sub-subparagraphs a.-g. ~~sub-subparagraphs a.-f.~~; and

2. The substance or mixture listed in subparagraph 1. 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:

a. Resembles the trade dress of a branded food product,

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consumer food product, or logo food product;

b. Incorporates an actual or fake registered copyright, service mark, or trademark;

c. Resembles candy, cereal, a gummy, a vitamin, or a chewable product, such as a gum or gelatin-based product; or  
d. Contains a cartoon character imprint.

Section 3. Paragraph (c) of subsection (1) of section 893.135, Florida Statutes, is amended to read:

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

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

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

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

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced to a mandatory minimum term of imprisonment

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of 15 years and shall be ordered to pay a fine of \$100,000.

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

2. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as described in s. 893.03(2)(a)1.g., or any salt thereof, or 28 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as "trafficking in hydrocodone," punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

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

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

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

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

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

a. Is 7 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 3 years and shall be ordered to pay a fine of \$50,000.

b. Is 14 grams or more, but less than 25 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of \$100,000.

c. Is 25 grams or more, but less than 100 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of \$500,000.

d. Is 100 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of \$750,000.

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

(I) Alfentanil, as described in s. 893.03(2)(b)1.;

(II) Carfentanil, as described in s. 893.03(2)(b)6.;

(III) Fentanyl, as described in s. 893.03(2)(b)9.;

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1103 (IV) Sufentanil, as described in s. 893.03(2)(b)30.;

1104 (V) A fentanyl derivative, as described in s.

1105 893.03(1)(a)63.;

1106 (VI) A controlled substance analog, as described in s.

1107 893.0356, of any substance described in sub-sub-paragraphs

1108 (I)-(V); or

1109 (VII) A mixture containing any substance described in sub-

1110 sub-paragraphs (I)-(VI),

1111

1112 commits a felony of the first degree, which felony shall be

1113 known as "trafficking in dangerous fentanyl or fentanyl

1114 analogues," punishable as provided in s. 775.082, s. 775.083, or

1115 s. 775.084.

1116 b. If the quantity involved under sub-paragraph a.:

1117 (I) Is 4 grams or more, but less than 14 grams, such person

1118 shall be sentenced to a mandatory minimum term of imprisonment

1119 of 7 years~~7~~ and shall be ordered to pay a fine of \$50,000.

1120 (II) Is 14 grams or more, but less than 28 grams, such

1121 person shall be sentenced to a mandatory minimum term of

1122 imprisonment of 20 years~~7~~ and shall be ordered to pay a fine of

1123 \$100,000.

1124 (III) Is 28 grams or more, such person shall be sentenced

1125 to a mandatory minimum term of imprisonment of 25 years~~7~~ and

1126 shall be ordered to pay a fine of \$500,000.

1127 c. A person 18 years of age or older who violates sub-

1128 subparagraph a. by knowingly selling or delivering to a minor at

1129 least 4 grams of a substance or mixture listed in sub-

1130 subparagraph a. shall be sentenced to a mandatory minimum term

1131 of not less than 25 years and not exceeding life imprisonment,

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1132 and shall be ordered to pay a fine of \$1 million if the

1133 substance or mixture listed in sub-subparagraph a. is in a form

1134 that resembles, or is mixed, granulated, absorbed, spray-dried,

1135 or aerosolized as or onto, coated on, in whole or in part, or

1136 solubilized with or into, a product, when such product or its

1137 packaging further has at least one of the following attributes:

1138 (I) Resembles the trade dress of a branded food product,

1139 consumer food product, or logo food product;

1140 (II) Incorporates an actual or fake registered copyright,

1141 service mark, or trademark;

1142 (III) Resembles candy, cereal, a gummy, a vitamin, or a

1143 chewable product, such as a gum or gelatin-based product; or

1144 (IV) Contains a cartoon character imprint.

1145 5. A person who knowingly sells, purchases, manufactures,

1146 delivers, or brings into this state, or who is knowingly in

1147 actual or constructive possession of, 30 kilograms or more of

1148 any morphine, opium, oxycodone, hydrocodone, codeine,

1149 hydromorphone, or any salt, derivative, isomer, or salt of an

1150 isomer thereof, including heroin, as described in s.

1151 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or

1152 more of any mixture containing any such substance, commits the

1153 first degree felony of trafficking in illegal drugs. A person

1154 who has been convicted of the first degree felony of trafficking

1155 in illegal drugs under this subparagraph shall be punished by

1156 life imprisonment and is ineligible for any form of

1157 discretionary early release except pardon or executive clemency

1158 or conditional medical release under s. 947.149. However, if the

1159 court determines that, in addition to committing any act

1160 specified in this paragraph:

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1161 a. The person intentionally killed an individual or  
 1162 counseled, commanded, induced, procured, or caused the  
 1163 intentional killing of an individual and such killing was the  
 1164 result; or  
 1165 b. The person's conduct in committing that act led to a  
 1166 natural, though not inevitable, lethal result,  
 1167  
 1168 such person commits the capital felony of trafficking in illegal  
 1169 drugs, punishable as provided in ss. 775.082 and 921.142. A  
 1170 person sentenced for a capital felony under this paragraph shall  
 1171 also be sentenced to pay the maximum fine provided under  
 1172 subparagraph 1.  
 1173 6. A person who knowingly brings into this state 60  
 1174 kilograms or more of any morphine, opium, oxycodone,  
 1175 hydrocodone, codeine, hydromorphone, or any salt, derivative,  
 1176 isomer, or salt of an isomer thereof, including heroin, as  
 1177 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or  
 1178 60 kilograms or more of any mixture containing any such  
 1179 substance, and who knows that the probable result of such  
 1180 importation would be the death of a person, commits capital  
 1181 importation of illegal drugs, a capital felony punishable as  
 1182 provided in ss. 775.082 and 921.142. A person sentenced for a  
 1183 capital felony under this paragraph shall also be sentenced to  
 1184 pay the maximum fine provided under subparagraph 1.  
 1185 7. A person who knowingly sells, purchases, manufactures,  
 1186 delivers, or brings into this state, or who is knowingly in  
 1187 actual or constructive possession of, 4 grams or more of  
 1188 xylazine, as described in s. 893.03(1)(c)37., or any salt  
 1189 thereof, or 4 grams or more of any mixture containing any such

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

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1190 substance, commits a felony of the first degree, which felony  
 1191 shall be known as "trafficking in xylazine," punishable as  
 1192 provided in s. 775.082, s. 775.083, or s. 775.084. If the  
 1193 quantity involved:  
 1194 a. Is 4 grams or more, but less than 14 grams, such person  
 1195 shall be sentenced to a mandatory minimum term of imprisonment  
 1196 of 7 years and shall be ordered to pay a fine of \$50,000.  
 1197 b. Is 14 grams or more, but less than 28 grams, such person  
 1198 shall be sentenced to a mandatory minimum term of imprisonment  
 1199 of 20 years and shall be ordered to pay a fine of \$100,000.  
 1200 c. Is 28 grams or more, such person shall be sentenced to a  
 1201 mandatory minimum term of imprisonment of 25 years and shall be  
 1202 ordered to pay a fine of \$500,000.  
 1203 Section 4. This act shall take effect October 1, 2025.

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

**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** CS/SB 1360  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



The Florida Senate

## Committee Agenda Request

**To:** Senator Ileana Garcia, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** March 19, 2025

---

I respectfully request that **Senate Bill #1360**, relating to Controlled Substances, be placed on the:

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

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Leek", is written over a horizontal line.

Sen. Tom Leek  
Florida Senator, District 7



The Florida Senate

# APPEARANCE RECORD

04/15/2025

Meeting Date

1360

Bill Number or Topic

Appropriations on Criminal + Civil Justice

Committee

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

Amendment Barcode (if applicable)

Name Lauren Jackson

Phone 931-265-8999

Address 205 S. Adams St.

Street

Email lauren@ericksconsultants.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:

Seminole County Sheriff's Office

☐

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)

4/15/2025

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

Name **Allie McNair**

Phone **8505661979**

Address **2167 Mahan Dr.**

Email **amcnair@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.

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

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

**SB 1360**

Bill Number or Topic

Amendment Barcode (if applicable)

April 15 2025

Meeting Date

Approp Criminal and Civil Justice

Committee

Name Jennifer Cook Pritt

Phone 850-219-3631

Address 2636 Mitcham Drive

Email jpritt@fpca.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:

Florida Police Chiefs 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.

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

1360

Bill Number or Topic

Amendment Barcode (if applicable)

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

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

---

BILL: CS/SB 1360

INTRODUCER: Criminal Justice Committee and Senator Leek

SUBJECT: Controlled Substances

DATE: April 14, 2025

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1360 amends s. 893.03, F.S., to except xylazine from the list of Schedule I controlled substances approved by the United States Food and Drug Administration (FDA) when used for veterinary purposes. Xylazine is a nonopioid tranquilizer methyl benzene compound frequently used in veterinary medicine as an emetic and sedative with analgesic and muscle relaxant properties.<sup>1</sup>

The bill amends s. 893.13, F.S., to provide that it is a first degree felony,<sup>2</sup> with a mandatory minimum prison term of three years for selling, manufacturing, delivering, or possessing with the intent to sell, manufacture, or deliver xylazine.

Additionally, the bill amends s. 893.135, F.S., to create a first degree felony for trafficking in xylazine. A person may not knowingly sell, purchase, manufacture, deliver, or bring into this state, or knowingly in actual or constructive possession of, four grams or more of xylazine or any salt thereof, or four grams or more of any mixture containing any such substance. An offender convicted of such an offense must be sentenced to a mandatory minimum term of imprisonment and fine, the length and amount of which varies depending upon the amount of xylazine involved in the offense.

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<sup>1</sup> 15 U.S.C. 278u.

<sup>2</sup> Sections 775.082, 775.083, or 775.084, F.S

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 takes effect on October 1, 2025.

## II. Present Situation:

Currently, s. 893.03(1)(c)37., F.S., lists xylazine as a Schedule I drug. A substance in Schedule I has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards.<sup>3</sup> Xylazine is also known as “tranq”<sup>4</sup> and is a central nervous system depressant that can cause drowsiness, amnesia, slow breathing, low heart rate and blood pressure. Xylazine is FDA approved for use in animals as a sedative and pain reliever, it is not safe for use in humans and it is not known if the exposure can be reversed by naloxone.<sup>5</sup> Naloxene is an FDA approved medicine used to quickly reverse an opioid overdose.<sup>6</sup> Research has shown xylazine is often added to illicit opioids, including fentanyl, and people report using xylazine-containing fentanyl to lengthen its euphoric effects.<sup>7</sup>

### Florida Controlled Substance Schedules

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>8</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.
- 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

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<sup>3</sup> Section 893.03(1), F.S.

<sup>4</sup> National Library of Medicine, *Increasing presence of xylazine in heroin and/or fentanyl deaths, Philadelphia, Pennsylvania, 2010–2019*, Johnson J, Pizzicato L, Johnson C, Viner K., August 2021, available at <https://pubmed.ncbi.nlm.nih.gov/33536231/> (last visited March 10, 2025).

<sup>5</sup> U.S. Food and Drug Administration, *FDA alerts health care professionals of risks to patients exposed to xylazine in illicit drugs, November 8, 2022*, available at <https://www.fda.gov/drugs/drug-safety-and-availability/fda-alerts-health-care-professionals-risks-patients-exposed-xylazine-illicit-drugs> (last visited March 10, 2025).

<sup>6</sup> Drugs.com, *Naloxene*, <https://www.drugs.com/naloxone.html> (last visited March 10, 2025)

<sup>7</sup> National Institute on Drug Abuse, *Xylazine Research Topics*, available at <https://nida.nih.gov/research-topics/xylazine> (last visited on March 11, 2025).

<sup>8</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.

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.

### ***Controlled Substance Analog***

A “controlled substance analog” is defined in s. 893.0356(2)(a), F.S., as 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.

### ***Selling a Controlled Substance or Possessing a Controlled Substance with Intent to Sell***

Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, and delivery of a controlled substance.<sup>9</sup> The penalty assigned by s. 893.13, F.S., depends on the schedule applicable to the controlled substance that is being sold or possessed with intent to sell and, in some instances, the location in which the violation occurs. A person who unlawfully possesses specified controlled substances, such as xylazine, commits a third degree felony.<sup>10,11</sup>

Section 893.13(1)(i), F.S., specifies that a person commits a first degree felony<sup>12</sup> and must be sentenced to a mandatory minimum term of imprisonment of three years if he or she sells, manufactures, or delivers, or possesses with the intent to sell, manufacture, or deliver:

- Alfentanil, carfentanil, fentanyl, sufentanil, a fentanyl derivative, a specified fentanyl analog, or a mixture containing any such substance; and
- The substance or mixture 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 branded food product, consumer food product, or logo food product;
  - Incorporates an actual or fake registered copyright, service mark, or trademark;

---

<sup>9</sup> See e.g., s. 893.13(1)(a) and (b) and (6), F.S.

<sup>10</sup> A third degree felony is punishable by up to five years in prison and a \$5,000 fine. ss. 775.082, F.S., 775.083, F.S., or 775.084, F.S.

<sup>11</sup> Section 893.13(1)(a)2., F.S.

<sup>12</sup> A first degree felony is punishable by up to 30 years in prison and a \$10,000 fine. ss. 775.082, 775.083, or 775.084, F.S.

- Resembles candy, cereal, a gummy, a vitamin, or a chewable product, such as a gum or gelatin based product; or
- Contains a cartoon character imprint.

There is currently no offense for selling, or possessing with the intent to sell, xylazine with specified attributes.

### ***Drug Trafficking***

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.

For example, trafficking in 4 grams or more of the following is a first degree felony:

- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- A fentanyl derivative;<sup>13</sup>
- A controlled substance analog<sup>14</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>15</sup>

If the quantity involved in the drug trafficking violation is:

- Four 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;
- Fourteen 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
- Twenty-eight 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>16</sup>

There is currently no offense for trafficking in xylazine.

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<sup>13</sup> See s. 893.03(1)(a)62., F.S.

<sup>14</sup> See s. 893.0356(2)(a), F.S.

<sup>15</sup> Section 893.135(1)(c)4.a.(I)-(VII), F.S.

<sup>16</sup> Section 893.135(1)(c)4.b.(I)-(III), F.S.

### ***Mandatory Minimum Sentencing***

Mandatory minimum sentencing in Florida began in the 1980's and is designed to ensure consistent and severe penalties for specific crimes. Sentencing offenders to mandatory minimum terms of imprisonment prevents the use of early release mechanisms and ensures that offenders serve most or all of their court-imposed sentences.<sup>17</sup> These laws require judges to impose a predetermined minimum sentence for certain offenses, regardless of the circumstances surrounding the crime or the individual's background. Generally, mandatory minimum sentences often apply to specific crimes like drug offenses, firearm violations, and repeat offenses.

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

The bill amends s. 893.03, F.S., to except xylazine from the list of Schedule I controlled substances approved by the United States Food and Drug Administration (FDA) for veterinary purposes.

The bill amends s. 893.13, F.S., to provide it is a first degree felony, with a mandatory minimum prison term of three years<sup>18</sup> to for selling, manufacturing, delivering, or possessing with the intent to sell, manufacture, or deliver xylazine, its analog, or a mixture containing xylazine; and the substance or mixture 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 branded food product, consumer food product, or logo food product;
- Incorporates an actual or fake registered copyright, service mark, or trademark;
- Resembles candy, cereal, a gummy, a vitamin, or a chewable product, such as a gum or gelatin-based product; or
- Contains a cartoon character imprint.<sup>19</sup>

Additionally, the bill amends s. 893.135, F.S., to create a first degree felony for trafficking in xylazine. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, four grams or more of xylazine<sup>20</sup> or any salt thereof, or four grams or more of any mixture containing any such substance, commits "trafficking in xylazine." If the quantity involved is:

- Four grams or more, but less than 14 grams, such person must be sentenced to a mandatory minimum term of imprisonment of seven years and shall be ordered to pay a fine of \$50,000.
- Fourteen grams or more, but less than 28 grams, such person must be sentenced to a mandatory minimum term of imprisonment of 20 years and shall be ordered to pay a fine of \$100,000.

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<sup>17</sup> U.S. Department of Justice, Office of Justice Programs, *Mandatory Minimum Sentencing in Florida: Past Trends and Future Implications*, available at <https://www.ojp.gov/ncjrs/virtual-library/abstracts/mandatory-minimum-sentencing-florida-past-trends-and-future> (last visited on March 10, 2025).

<sup>18</sup> Sections 775.082, 775.083, or 775.084, F.S.

<sup>19</sup> Sections 893.13(1)(i), F.S.

<sup>20</sup> Sections s. 893.03(1)(c), F.S.



- Twenty-eight grams or more, such person must be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of \$500,000.

The bill takes effect on October 1, 2025.

#### **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.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

The Legislature's Office of Economic and Demographic Research (EDR) and 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 (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per the DOC, in FY 23-24, there were 704 new commitments to prison for possession of a controlled substance and 315 new commitments for the sale, manufacture, or

delivery of a controlled substance. Since this data has multiple different drugs included, it is not known how many of these offenses involved xylazine. Therefore, the prison bed impact of this new language cannot be determined.<sup>21</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 893.03, 893.13, and 893.135

**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 Committee on March 18, 2025:**

The amendment removes the exception in the Schedule III controlled substances and maintains an exception for xylazine use for veterinary purposes in the list of Schedule I controlled substances.

- B. **Amendments:**

None.

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

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<sup>21</sup> Office of Economic and Demographic Research, *SB 1360 – Controlled Substances*, (on file with the Senate Committee on Criminal Justice).

By the Committee on Criminal Justice; and Senator Collins

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1 A bill to be entitled  
 2 An act relating to criminal justice; creating s.  
 3 316.2675, F.S.; prohibiting the use of motor vehicle  
 4 kill switches; providing exceptions; providing  
 5 criminal penalties; amending s. 321.04, F.S.;  
 6 providing for retention by the Florida Highway Patrol  
 7 of certain reimbursement funds paid by patrol  
 8 officers; amending s. 775.0823, F.S.; providing a  
 9 minimum mandatory sentence for attempted murder of  
 10 specified justice system personnel; amending s.  
 11 790.051, F.S.; providing correctional probation  
 12 officers with the same firearms rights as law  
 13 enforcement officers; amending s. 790.052, F.S.;  
 14 providing that specified persons may carry weapons on  
 15 the same basis as law enforcement officers; amending  
 16 s. 817.49, F.S.; providing increased criminal  
 17 penalties for making a false report of a crime;  
 18 providing policies concerning enforcement; amending s.  
 19 943.135, F.S.; providing that certified law  
 20 enforcement officers who are not actively employed by  
 21 law enforcement agencies may retain their  
 22 certification by complying with certification  
 23 requirements; amending s. 943.1718, F.S.; authorizing  
 24 the use of artificial intelligence for specified  
 25 purposes in conjunction with data from first responder  
 26 body cameras; providing requirements on the use of  
 27 such artificial intelligence; amending s. 951.27,  
 28 F.S.; requiring certain testing of an arrestee and  
 29 provision of test results to a first responder or

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30 criminal justice professional who has been exposed to  
 31 bodily fluids or bloodborne pathogens from the  
 32 arrestee; requiring a first responder or criminal  
 33 justice professional exposed to a potential  
 34 communicable disease or bloodborne pathogen from an  
 35 arrestee to provide a notice of the exposure to the  
 36 detention facility; authorizing the first responder or  
 37 criminal justice professional to obtain blood test  
 38 results according to certain provisions; amending s.  
 39 921.0022, F.S.; conforming provisions to changes made  
 40 by the act; amending s. 843.025, F.S.; prohibiting a  
 41 person from depriving certain officers of digital  
 42 recording devices or restraint devices; prohibiting a  
 43 person from rendering useless certain officer's  
 44 weapons or radios, digital recording devices, or  
 45 restraint devices; providing criminal penalties;  
 46 amending ss. 397.417, 420.6241, and 435.04, F.S.;  
 47 conforming provisions to changes made by the act;  
 48 amending s. 914.25, F.S.; revising the definition of  
 49 the term "serious felony offense"; reenacting ss.  
 50 914.27(1), (2), and (5) and 943.031(8)(c), F.S.,  
 51 relating to the confidentiality of victim and witness  
 52 information and the Victim and Witness Protection  
 53 Review Committee, respectively, to incorporate the  
 54 amendment made to s. 914.25, F.S., in references  
 55 thereto; amending s. 943.0595, F.S.; eliminating  
 56 certain circumstances in which criminal history  
 57 records are automatically sealed; providing that  
 58 specified provisions do not limit a prosecutor from

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accessing automatically sealed criminal history records for certain purposes; creating s. 943.0413, F.S.; creating the Critical Infrastructure Mapping Grant Program within the Department of Law Enforcement; providing eligibility; specifying requirements for maps created by the program; authorizing the department to adopt rules; providing effective dates.

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

Section 1. Section 316.2675, Florida Statutes, is created to read:

316.2675 Motor vehicle kill switches; prohibited uses.—  
(1) A person may not use a device that allows a person, other than the person in physical control of a motor vehicle, to shut off that vehicle's engine or prevent the engine from starting. This subsection does not apply to any of the following:

(a) A law enforcement officer in the course of his or her duties in order to prevent the commission of a felony.

(b) Any subscription, membership, or other recurring-payment programs or leased electronic consumer products, which are used with the consent of the owner of the vehicle.

(c) A mechanism or feature that is used with the consent of the owner of the vehicle and:

1. Addresses an imminent critical safety issue impacting a mechanical or software component of a motor vehicle;

2. Activates when a driver of a motor vehicle is

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incapacitated, suffers a medical emergency, or experiences a loss of consciousness;

3. Takes corrective action in a motor vehicle with an engaged partial driving automation feature if the driver is not attentive or engaged in the driving task and does not respond to warnings;

4. Brings a motor vehicle with an engaged automated driving system to a minimal-risk condition; or

5. Automatically shuts off the engine or motor of an idling motor vehicle that has been left on for an extended period of time while in the park position.

(2) A person who violates subsection (1) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Subsection (6) is added to section 321.04, Florida Statutes, to read:

321.04 Personnel of the highway patrol; rank classifications; probationary status of new patrol officers; subsistence; special assignments.—

(6) When patrol officers repay mileage for off-duty uses of official vehicles, such funds may not be deposited in the General Revenue Fund but shall be retained by the Florida Highway Patrol for its use.

Section 3. Subsection (2) of section 775.0823, Florida Statutes, is amended to read:

775.0823 Violent offenses committed against specified justice system personnel.—The Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or

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correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; against any public defender elected pursuant to s. 27.50 or regional counsel appointed pursuant to s. 27.511(3); against any court-appointed counsel appointed under s. 27.40 or defense attorney in a criminal proceeding; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, the public defender or regional counsel acting in his or her capacity as defense counsel, the court-appointed counsel or defense attorney in a criminal proceeding acting in his or her capacity as defense counsel, or the justice's or judge's duty as a judicial officer, as follows:

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084 with a mandatory minimum sentence of 25 years imprisonment.

Notwithstanding s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 4. Section 790.051, Florida Statutes, is amended to read:

790.051 Exemption from licensing requirements; law enforcement officers.—Law enforcement officers and correctional

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probation officers, as defined in s. 943.10(3), are exempt from the licensing and penal provisions of this chapter when acting at any time within the scope or course of their official duties or when acting at any time in the line of or performance of duty.

Section 5. Paragraph (a) of subsection (1) of section 790.052, Florida Statutes, is amended to read:

790.052 Carrying concealed firearms; off-duty law enforcement officers.—

(1)(a) All persons holding active certifications from the Criminal Justice Standards and Training Commission as law enforcement officers or correctional officers as defined in s. 943.10(1), (2), (6), (7), (8), or (9), all judges, and all state attorneys and assistant state attorneys shall have the right to carry, on or about their persons, concealed firearms, during off-duty hours, at the discretion of their superior officers, and may perform those law enforcement functions that they normally perform during duty hours, utilizing their weapons in a manner which is reasonably expected of on-duty officers in similar situations.

Section 6. Section 817.49, Florida Statutes, is amended to read:

817.49 False reports of commission of crimes; penalty.—

(1) Except as provided in subsection (2), whoever willfully imparts, conveys, or causes to be imparted or conveyed to a law enforcement officer or employee of a public safety agency false information or reports concerning the alleged commission of any crime under the laws of this state, knowing such information or report to be false, when no such crime has actually been

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committed, commits a ~~felony misdemeanor~~ of the ~~third first~~ degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s. 775.084.

(2) (a) As used in this section, the term "public safety agency" means a law enforcement agency, professional or volunteer fire department, emergency medical service, ambulance service, or other public entity that dispatches or provides first responder services to respond to crimes, to assist victims of crimes, or to apprehend offenders.

(b) If the willful making of a false report of a crime as set forth in this section results in a response by a federal, state, district, municipal, or other public safety agency and the response results in:

1. Great bodily harm, permanent disfigurement, or permanent disability to any person as a proximate result of lawful conduct arising out of a response, the person making such report commits a felony of the ~~second third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2. Death to any person as a proximate result of lawful conduct arising out of a response, the person making such report commits a felony of the ~~first second~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) State attorneys shall vigorously prosecute persons charged with making a false report of a crime. If probable cause exists to charge an individual, charges must be filed and a physical arrest initiated, if possible.

(4) ~~(3)~~ A court shall order any person convicted of violating this section to pay restitution, which shall include full payment for any cost incurred by a responding public safety

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agency.

Section 7. Subsection (5) is added to section 943.135, Florida Statutes, to read:

943.135 Requirements for continued employment.—

(5) A certified law enforcement officer who is not employed by a law enforcement agency may retain his or her certification as long as he or she otherwise complies with the requirements for certification, including compliance with continuing education requirements.

Section 8. Present subsection (4) of section 943.1718, Florida Statutes, is redesignated as subsection (5), and a new subsection (4) is added to that section, to read:

943.1718 Body cameras; policies and procedures.—

(4) Artificial intelligence may be used to review, monitor, enhance, or otherwise interact with a body camera worn by a first responder as defined in s. 112.1815(1) or any video, photograph, or other product produced with, through, or by such a body camera; however, any information or identification obtained through artificial intelligence must be subject to human oversight and may not be the sole basis for an arrest.

Section 9. Section 951.27, Florida Statutes, is amended to read:

951.27 Blood tests of inmates.—

(1) Each county and each municipal detention facility shall have a written procedure developed, in consultation with the facility medical provider, establishing conditions under which an inmate will be tested for infectious disease, including human immunodeficiency virus pursuant to s. 775.0877, which procedure is consistent with guidelines of the Centers for Disease Control

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and Prevention and recommendations of the Correctional Medical Authority. It is not unlawful for the person receiving the test results to divulge the test results to the sheriff or chief correctional officer. These procedures must include circumstances that warrant the immediate testing of an arrestee upon booking and must require that testing results be provided to any first responder or criminal justice professional who has been exposed to bodily fluids or bloodborne pathogens from the arrestee.

(2) Except as otherwise provided in this subsection, serologic blood test results obtained pursuant to subsection (1) are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, such results may be provided to employees or officers of the sheriff or chief correctional officer who are responsible for the custody and care of the affected inmate and have a need to know such information, and as provided in ss. 775.0877 and 960.003. In addition, upon request of the victim or the victim's legal guardian, or the parent or legal guardian of the victim if the victim is a minor, the results of any HIV test performed on an inmate arrested for any sexual offense involving oral, anal, or female genital penetration by, or union with, the sexual organ of another, must be disclosed to the victim or the victim's legal guardian, or to the parent or legal guardian of the victim if the victim is a minor. In such cases, the county or municipal detention facility shall furnish the test results to the Department of Health, which is responsible for disclosing the results to public health agencies as provided in s. 775.0877 and to the victim or the victim's legal guardian, or the parent or

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legal guardian of the victim if the victim is a minor, as provided in s. 960.003(3). As used in this subsection, the term "female genitals" includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

(3) The results of any serologic blood test on an inmate are a part of that inmate's permanent medical file. Upon transfer of the inmate to any other correctional facility, such file is also transferred, and all relevant authorized persons must be notified of positive HIV test results, as required in s. 775.0877.

(4) A first responder or criminal justice professional who, in the lawful performance of his or her duties, is exposed to a potential communicable disease or bloodborne pathogen by a subject who is arrested and booked into a county or municipal detention facility shall notice the detention facility upon booking or within 24 hours after the exposure. If the first responder or criminal justice professional is incapacitated and cannot provide this notice, this responsibility falls upon his or her employing department. This notice must invoke immediate testing of the inmate, if it has not already been done, according to the written procedures of the detention facility, and such testing is required before release of the inmate. The results of the testing must be handled in accordance with s. 775.0877(2).

Section 10. Paragraphs (c), (d), and (f) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

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291	(c) LEVEL 3		
292			
	Florida	Felony	
	Statute	Degree	Description
293	119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
294	316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
295	316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
296	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
297	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
298	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile

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			home.
299			
	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
300	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
301	327.35(2)(b)	3rd	Felony BUI.
302	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
303	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
304	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
305			

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379.2431 3rd Taking, disturbing,  
(1) (e) 5. mutilating, destroying,  
causing to be destroyed,  
transferring, selling,  
offering to sell,  
molesting, or harassing  
marine turtles, marine  
turtle eggs, or marine  
turtle nests in violation  
of the Marine Turtle  
Protection Act.

379.2431 3rd Possessing any marine  
(1) (e) 6. turtle species or  
hatchling, or parts  
thereof, or the nest of any  
marine turtle species  
described in the Marine  
Turtle Protection Act.

379.2431 3rd Soliciting to commit or  
(1) (e) 7. conspiring to commit a  
violation of the Marine  
Turtle Protection Act.

400.9935(4) (a) 3rd Operating a clinic, or  
or (b) offering services requiring  
licensure, without a  
license.

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400.9935(4) (e) 3rd Filing a false license  
application or other  
required information or  
failing to report  
information.

440.1051(3) 3rd False report of workers'  
compensation fraud or  
retaliation for making such  
a report.

501.001(2) (b) 2nd Tamper with a consumer  
product or the container  
using materially  
false/misleading  
information.

624.401(4) (a) 3rd Transacting insurance  
without a certificate of  
authority.

624.401(4) (b) 1. 3rd Transacting insurance  
without a certificate of  
authority; premium  
collected less than  
\$20,000.

626.902(1) (a) & 3rd Representing an

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315	(b)		unauthorized insurer.
316	697.08	3rd	Equity skimming.
317	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
318	794.053	3rd	Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older.
319	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
320	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
321	810.09(2) (b)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.

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322	810.145(2) (c)	3rd	Digital voyeurism; 19 years of age or older.
323	812.014(2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
324	812.0145(2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
325	812.015(8) (b)	3rd	Retail theft with intent to sell; conspires with others.
326	812.081(2)	3rd	Theft of a trade secret.
327	815.04(4) (b)	2nd	Computer offense devised to defraud or obtain property.
328	817.034(4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
329	817.233	3rd	Burning to defraud insurer.
	817.234	3rd	Unlawful solicitation of persons involved in motor
	(8) (b) & (c)		

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			vehicle accidents.
330	817.234(11)(a)	3rd	Insurance fraud; property value less than \$20,000.
331	817.236	3rd	Filing a false motor vehicle insurance application.
332	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
333	817.413(2)	3rd	Sale of used goods of \$1,000 or more as new.
334	817.49(2)(b)1.	<u>2nd</u> <del>3rd</del>	Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.
335	831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.

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336	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
337	836.13(2)	3rd	Person who promotes an altered sexual depiction of an identifiable person without consent.
338	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
339	847.01385	3rd	Harmful communication to a minor.
340	860.15(3)	3rd	Overcharging for repairs and parts.
341	870.01(2)	3rd	Riot.
342	870.01(4)	3rd	Inciting a riot.
343	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7.,

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			(2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs).
344	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs within 1,000 feet of university.
345	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (2) (c) 10., (3), or (4) drugs within 1,000 feet of public housing facility.
346	893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
347	893.13(6)(a)	3rd	Possession of any controlled substance other

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			than felony possession of cannabis.
348	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
349	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
350	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
351	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
352	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent

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representations in or  
related to the  
practitioner's practice.

893.13(8)(a)2.

3rd

Employ a trick or scheme in  
the practitioner's practice  
to assist a patient, other  
person, or owner of an  
animal in obtaining a  
controlled substance.

893.13(8)(a)3.

3rd

Knowingly write a  
prescription for a  
controlled substance for a  
fictitious person.

893.13(8)(a)4.

3rd

Write a prescription for a  
controlled substance for a  
patient, other person, or  
an animal if the sole  
purpose of writing the  
prescription is a monetary  
benefit for the  
practitioner.

918.13(1)

3rd

Tampering with or  
fabricating physical  
evidence.

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944.47

3rd

Introduce contraband to  
correctional facility.

(1)(a)1. &amp; 2.

944.47(1)(c)

2nd

Possess contraband while  
upon the grounds of a  
correctional institution.

985.721

3rd

Escapes from a juvenile  
facility (secure detention  
or residential commitment  
facility).

(d) LEVEL 4

Florida  
Statute

Felony  
Degree

Description

104.155

3rd

Unqualified noncitizen  
electors voting; aiding  
or soliciting noncitizen  
electors in voting.

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

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			lights activated.
365	499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
366	499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
367	517.07(1)	3rd	Failure to register securities.
368	517.12(1)	3rd	Failure of dealer or associated person of a dealer of securities to register.
369	784.031	3rd	Battery by strangulation.
370	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
371			

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	784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
372	784.075	3rd	Battery on detention or commitment facility staff.
373	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
374	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
375	784.081(3)	3rd	Battery on specified official or employee.
376	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
377	784.083(3)	3rd	Battery on code inspector.
378	784.085	3rd	Battery of child by throwing, tossing,

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			projecting, or expelling certain fluids or materials.
379	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
380	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
381	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
382	787.07	3rd	Human smuggling.
383	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
384			

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	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
385	790.115(2)(c)	3rd	Possessing firearm on school property.
386	794.051(1)	3rd	Indecent, lewd, or lascivious touching of certain minors.
387	800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
388	806.135	2nd	Destroying or demolishing a memorial or historic property.
389	810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
390	810.02(4)(b)	3rd	Burglary, or attempted burglary, of an

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			unoccupied conveyance; unarmed; no assault or battery.
391	810.06	3rd	Burglary; possession of tools.
392	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
393	810.145(3)(b)	3rd	Digital voyeurism dissemination.
394	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
395	812.014 (2)(c)4. & 6.-10.	3rd	Grand theft, 3rd degree; specified items.
396	812.014(2)(d)2.	3rd	Grand theft, 3rd degree; \$750 or more taken from dwelling or its unenclosed curtilage.
397	812.014(2)(e)3.	3rd	Petit theft, 1st degree; less than \$40 taken from

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			dwelling or its unenclosed curtilage with two or more prior theft convictions.
398	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
399	817.505(4)(a)	3rd	Patient brokering.
400	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
401	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
402	817.5695(3)(c)	3rd	Exploitation of person 65 years of age or older, value less than \$10,000.
403	817.625(2)(a)	3rd	Fraudulent use of scanning device,

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skimming device, or  
reencoder.

404

817.625 (2) (c)

3rd

Possess, sell, or  
deliver skimming device.

405

828.125 (1)

2nd

Kill, maim, or cause  
great bodily harm or  
permanent breeding  
disability to any  
registered horse or  
cattle.

406

836.14 (2)

3rd

Person who commits theft  
of a sexually explicit  
image with intent to  
promote it.

407

836.14 (3)

3rd

Person who willfully  
possesses a sexually  
explicit image with  
certain knowledge,  
intent, and purpose.

408

837.02 (1)

3rd

Perjury in official  
proceedings.

409

837.021 (1)

3rd

Make contradictory  
statements in official

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proceedings.

410

838.022

3rd

Official misconduct.

411

839.13 (2) (a)

3rd

Falsifying records of an  
individual in the care  
and custody of a state  
agency.

412

839.13 (2) (c)

3rd

Falsifying records of  
the Department of  
Children and Families.

413

843.021

3rd

Possession of a  
concealed handcuff key  
by a person in custody.

414

843.025

3rd

Interfering with a  
~~Deprive~~ law enforcement,  
correctional, or  
correctional probation  
officer's officer of  
means of protection or  
communication.

415

843.15 (1) (a)

3rd

Failure to appear while  
on bail for felony (bond  
estreature or bond  
jumping).

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416 843.19(2) 2nd Injure, disable, or kill  
police, fire, or SAR  
canine or police horse.

417 847.0135(5)(c) 3rd Lewd or lascivious  
exhibition using  
computer; offender less  
than 18 years.

418 870.01(3) 2nd Aggravated rioting.

419 870.01(5) 2nd Aggravated inciting a  
riot.

420 874.05(1)(a) 3rd Encouraging or  
recruiting another to  
join a criminal gang.

421 893.13(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).

422 914.14(2) 3rd Witnesses accepting  
bribes.

423 914.22(1) 3rd Force, threaten, etc.,

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424 witness, victim, or  
informant.

914.23(2) 3rd Retaliation against a  
witness, victim, or  
informant, no bodily  
injury.

425 916.1085 3rd Introduction of  
(2)(c)1. specified contraband  
into certain DCF  
facilities.

426 918.12 3rd Tampering with jurors.

427 934.215 3rd Use of two-way  
communications device to  
facilitate commission of  
a crime.

428 944.47(1)(a)6. 3rd Introduction of  
contraband (cellular  
telephone or other  
portable communication  
device) into  
correctional  
institution.

429 951.22(1)(h), 3rd Intoxicating drug,

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(j) &amp; (k)

instrumentality or other  
device to aid escape, or  
cellular telephone or  
other portable  
communication device  
introduced into county  
detention facility.

430

431 (f) LEVEL 6

432

Florida

Felony

Statute

Degree

Description

433

316.027(2) (b)

2nd

Leaving the scene of a  
crash involving serious  
bodily injury.

434

316.193(2) (b)

3rd

Felony DUI, 4th or  
subsequent conviction.

435

400.9935(4) (c)

2nd

Operating a clinic, or  
offering services  
requiring licensure,  
without a license.

436

499.0051(2)

2nd

Knowing forgery of  
transaction history,  
transaction information,  
or transaction

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20251444c1

statement.

437

499.0051(3)

2nd

Knowing purchase or  
receipt of prescription  
drug from unauthorized  
person.

438

499.0051(4)

2nd

Knowing sale or transfer  
of prescription drug to  
unauthorized person.

439

775.0875(1)

3rd

Taking firearm from law  
enforcement officer.

440

784.021(1) (a)

3rd

Aggravated assault;  
deadly weapon without  
intent to kill.

441

784.021(1) (b)

3rd

Aggravated assault;  
intent to commit felony.

442

784.041

3rd

Felony battery; domestic  
battery by  
strangulation.

443

784.048(3)

3rd

Aggravated stalking;  
credible threat.

444

784.048(5)

3rd

Aggravated stalking of

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person under 16.

445

784.07(2)(c)

2nd

Aggravated assault on  
law enforcement officer.

446

784.074(1)(b)

2nd

Aggravated assault on  
sexually violent  
predators facility  
staff.

447

784.08(2)(b)

2nd

Aggravated assault on a  
person 65 years of age  
or older.

448

784.081(2)

2nd

Aggravated assault on  
specified official or  
employee.

449

784.082(2)

2nd

Aggravated assault by  
detained person on  
visitor or other  
detainee.

450

784.083(2)

2nd

Aggravated assault on  
code inspector.

451

787.02(2)

3rd

False imprisonment;  
restraining with purpose  
other than those in s.

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787.01.

452

790.115(2)(d)

2nd

Discharging firearm or  
weapon on school  
property.

453

790.161(2)

2nd

Make, possess, or throw  
destructive device with  
intent to do bodily harm  
or damage property.

454

790.164(1)

2nd

False report concerning  
bomb, explosive, weapon  
of mass destruction, act  
of arson or violence to  
state property, or use  
of firearms in violent  
manner.

455

790.19

2nd

Shooting or throwing  
deadly missiles into  
dwellings, vessels, or  
vehicles.

456

794.011(8)(a)

3rd

Solicitation of minor to  
participate in sexual  
activity by custodial  
adult.

457

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

	591-03137A-25		20251444c1
	794.05(1)	2nd	Unlawful sexual activity with specified minor.
458			
	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
459			
	800.04(6)(b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
460			
	806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
461			
	810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
462			
	810.145(8)(b)	2nd	Digital voyeurism; certain minor victims; 2nd or subsequent offense.
463			
	812.014(2)(b)1.	2nd	Property stolen \$20,000

	591-03137A-25		20251444c1
			or more, but less than \$100,000, grand theft in 2nd degree.
464			
	812.014(2)(c)5.	3rd	Grand theft; third degree; firearm.
465			
	812.014(6)	2nd	Theft; property stolen \$3,000 or more; coordination of others.
466			
	812.015(9)(a)	2nd	Retail theft; property stolen \$750 or more; second or subsequent conviction.
467			
	812.015(9)(b)	2nd	Retail theft; aggregated property stolen within 120 days is \$3,000 or more; coordination of others.
468			
	812.015(9)(d)	2nd	Retail theft; multiple thefts within specified period.
469			
	812.015(9)(e)	2nd	Retail theft; committed with specified number of other persons and use of

	591-03137A-25		20251444c1
			social media platform.
470	812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
471	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
472	817.49(2)(b)2.	<u>1st</u> <del>2nd</del>	Willful making of a false report of a crime resulting in death.
473	817.505(4)(b)	2nd	Patient brokering; 10 or more patients.
474	817.5695(3)(b)	2nd	Exploitation of person 65 years of age or older, value \$10,000 or more, but less than \$50,000.
475	825.102(1)	3rd	Abuse of an elderly person or disabled adult.
476	825.102(3)(c)	3rd	Neglect of an elderly

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	591-03137A-25		20251444c1
			person or disabled adult.
477	825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
478	825.103(3)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$10,000.
479	827.03(2)(c)	3rd	Abuse of a child.
480	827.03(2)(d)	3rd	Neglect of a child.
481	827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.
482	828.126(3)	3rd	Sexual activities involving animals.
483	836.05	2nd	Threats; extortion.
484			

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	591-03137A-25		20251444c1
	836.10	2nd	Written or electronic threats to kill, do bodily injury, or conduct a mass shooting or an act of terrorism.
485			
	843.12	3rd	Aids or assists person to escape.
486			
	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
487			
	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
488			
	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
489			
	893.131	2nd	Distribution of controlled substances

	591-03137A-25		20251444c1
			resulting in overdose or serious bodily injury.
490			
	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
491			
	918.13(2)(b)	2nd	Tampering with or fabricating physical evidence relating to a capital felony.
492			
	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
493			
	944.40	2nd	Escapes.
494			
	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
495			
	944.47(1)(a)5.	2nd	Introduction of

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contraband (firearm,  
weapon, or explosive)  
into correctional  
facility.

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

Section 11. Section 843.025, Florida Statutes, is amended  
to read:

843.025 Interfering with an officer's ~~Depriving officer of~~  
means of protection or communication.—

(1) It is unlawful for any person to do any of the  
following to deprive a law enforcement officer as defined in s.  
943.10(1), a correctional officer as defined in s. 943.10(2), or  
a correctional probation officer as defined in s. 943.10(3):

(a) Deprive the officer of her or his weapon or radio;  
digital recording device, including a body-worn camera; or  
restraint device, including handcuffs, or to otherwise deprive  
the officer of the means to defend herself or himself or summon  
assistance.

(b) Render useless the officer's weapon or radio; digital  
recording device, including a body-worn camera; or restraint  
device, including handcuffs, or to otherwise prevent the officer  
from defending herself or himself or to summon assistance.

(2) Any person who violates this section commits is guilty  
of a felony of the third degree, punishable as provided in s.

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775.082, s. 775.083, or s. 775.084.

Section 12. Paragraph (e) of subsection (4) of section  
397.417, Florida Statutes, is amended to read:

397.417 Peer specialists.—

(4) BACKGROUND SCREENING.—

(e) The background screening conducted under this  
subsection must ensure that a peer specialist has not 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 offense  
prohibited under any of the following state laws or similar laws  
of another jurisdiction:

1. Section 393.135, relating to sexual misconduct with  
certain developmentally disabled clients and reporting of such  
sexual misconduct.

2. Section 394.4593, relating to sexual misconduct with  
certain mental health patients and reporting of such sexual  
misconduct.

3. Section 409.920, relating to Medicaid provider fraud, if  
the offense was a felony of the first or second degree.

4. Section 415.111, relating to abuse, neglect, or  
exploitation of vulnerable adults.

5. Any offense that constitutes domestic violence as  
defined in s. 741.28.

6. Section 777.04, relating to attempts, solicitation, and  
conspiracy to commit an offense listed in this paragraph.

7. Section 782.04, relating to murder.

8. Section 782.07, relating to manslaughter; aggravated



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547 manslaughter of an elderly person or a disabled adult;  
 548 aggravated manslaughter of a child; or aggravated manslaughter  
 549 of an officer, a firefighter, an emergency medical technician,  
 550 or a paramedic.

551 9. Section 782.071, relating to vehicular homicide.

552 10. Section 782.09, relating to killing an unborn child by  
 553 injury to the mother.

554 11. Chapter 784, relating to assault, battery, and culpable  
 555 negligence, if the offense was a felony.

556 12. Section 787.01, relating to kidnapping.

557 13. Section 787.02, relating to false imprisonment.

558 14. Section 787.025, relating to luring or enticing a  
 559 child.

560 15. Section 787.04(2), relating to leading, taking,  
 561 enticing, or removing a minor beyond state limits, or concealing  
 562 the location of a minor, with criminal intent pending custody  
 563 proceedings.

564 16. Section 787.04(3), relating to leading, taking,  
 565 enticing, or removing a minor beyond state limits, or concealing  
 566 the location of a minor, with criminal intent pending dependency  
 567 proceedings or proceedings concerning alleged abuse or neglect  
 568 of a minor.

569 17. Section 790.115(1), relating to exhibiting firearms or  
 570 weapons within 1,000 feet of a school.

571 18. Section 790.115(2)(b), relating to possessing an  
 572 electric weapon or device, a destructive device, or any other  
 573 weapon on school property.

574 19. Section 794.011, relating to sexual battery.

575 20. Former s. 794.041, relating to prohibited acts of

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576 persons in familial or custodial authority.

577 21. Section 794.05, relating to unlawful sexual activity  
 578 with certain minors.

579 22. Section 794.08, relating to female genital mutilation.

580 23. Section 796.07, relating to procuring another to commit  
 581 prostitution, except for those offenses expunged pursuant to s.  
 582 943.0583.

583 24. Section 798.02, relating to lewd and lascivious  
 584 behavior.

585 25. Chapter 800, relating to lewdness and indecent  
 586 exposure.

587 26. Section 806.01, relating to arson.

588 27. Section 810.02, relating to burglary, if the offense  
 589 was a felony of the first degree.

590 28. Section 810.14, relating to voyeurism, if the offense  
 591 was a felony.

592 29. Section 810.145, relating to digital voyeurism, if the  
 593 offense was a felony.

594 30. Section 812.13, relating to robbery.

595 31. Section 812.131, relating to robbery by sudden  
 596 snatching.

597 32. Section 812.133, relating to carjacking.

598 33. Section 812.135, relating to home-invasion robbery.

599 34. Section 817.034, relating to communications fraud, if  
 600 the offense was a felony of the first degree.

601 35. Section 817.234, relating to false and fraudulent  
 602 insurance claims, if the offense was a felony of the first or  
 603 second degree.

604 36. Section 817.50, relating to fraudulently obtaining

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goods or services from a health care provider and false reports of a communicable disease.

37. Section 817.505, relating to patient brokering.

38. Section 817.568, relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.

39. Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or a disabled adult.

40. Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or a disabled person.

41. Section 825.103, relating to exploitation of an elderly person or a disabled adult, if the offense was a felony.

42. Section 826.04, relating to incest.

43. Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

44. Section 827.04, relating to contributing to the delinquency or dependency of a child.

45. Former s. 827.05, relating to negligent treatment of children.

46. Section 827.071, relating to sexual performance by a child.

47. Section 831.30, relating to fraud in obtaining medicinal drugs.

48. Section 831.31, relating to the sale; manufacture; delivery; or possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance, if the offense was a felony.

49. Section 843.01, relating to resisting arrest with

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violence.

50. Section 843.025, relating to interfering with ~~depriving~~ a law enforcement, correctional, or correctional probation officer's ~~officer of the~~ means of protection or communication.

51. Section 843.12, relating to aiding in an escape.

52. Section 843.13, relating to aiding in the escape of juvenile inmates of correctional institutions.

53. Chapter 847, relating to obscenity.

54. Section 874.05, relating to encouraging or recruiting another to join a criminal gang.

55. Chapter 893, relating to drug abuse prevention and control, if the offense was a felony of the second degree or greater severity.

56. Section 895.03, relating to racketeering and collection of unlawful debts.

57. Section 896.101, relating to the Florida Money Laundering Act.

58. Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

59. Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

60. Section 944.40, relating to escape.

61. Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

62. Section 944.47, relating to introduction of contraband into a correctional institution.

63. Section 985.701, relating to sexual misconduct in juvenile justice programs.

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663 64. Section 985.711, relating to introduction of contraband  
664 into a detention facility.

665 Section 13. Paragraph (b) of subsection (4) of section  
666 420.6241, Florida Statutes, is amended to read:

667 420.6241 Persons with lived experience.—

668 (4) BACKGROUND SCREENING.—

669 (b) The background screening conducted under this  
670 subsection must ensure that the qualified applicant has not been  
671 arrested for and is not awaiting final disposition of, has not  
672 been found guilty of, regardless of adjudication, or entered a  
673 plea of nolo contendere or guilty to, or has not been  
674 adjudicated delinquent and the record has been sealed or  
675 expunged for, any offense prohibited under any of the following  
676 state laws or similar laws of another jurisdiction:

677 1. Section 393.135, relating to sexual misconduct with  
678 certain developmentally disabled clients and reporting of such  
679 sexual misconduct.

680 2. Section 394.4593, relating to sexual misconduct with  
681 certain mental health patients and reporting of such sexual  
682 misconduct.

683 3. Section 409.920, relating to Medicaid provider fraud, if  
684 the offense is a felony of the first or second degree.

685 4. Section 415.111, relating to criminal penalties for  
686 abuse, neglect, or exploitation of vulnerable adults.

687 5. Any offense that constitutes domestic violence, as  
688 defined in s. 741.28.

689 6. Section 777.04, relating to attempts, solicitation, and  
690 conspiracy to commit an offense listed in this paragraph.

691 7. Section 782.04, relating to murder.

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692 8. Section 782.07, relating to manslaughter, aggravated  
693 manslaughter of an elderly person or a disabled adult,  
694 aggravated manslaughter of a child, or aggravated manslaughter  
695 of an officer, a firefighter, an emergency medical technician,  
696 or a paramedic.

697 9. Section 782.071, relating to vehicular homicide.

698 10. Section 782.09, relating to killing of an unborn child  
699 by injury to the mother.

700 11. Chapter 784, relating to assault, battery, and culpable  
701 negligence, if the offense is a felony.

702 12. Section 787.01, relating to kidnapping.

703 13. Section 787.02, relating to false imprisonment.

704 14. Section 787.025, relating to luring or enticing a  
705 child.

706 15. Section 787.04(2), relating to leading, taking,  
707 enticing, or removing a minor beyond the state limits, or  
708 concealing the location of a minor, with criminal intent pending  
709 custody proceedings.

710 16. Section 787.04(3), relating to leading, taking,  
711 enticing, or removing a minor beyond the state limits, or  
712 concealing the location of a minor, with criminal intent pending  
713 dependency proceedings or proceedings concerning alleged abuse  
714 or neglect of a minor.

715 17. Section 790.115(1), relating to exhibiting firearms or  
716 weapons within 1,000 feet of a school.

717 18. Section 790.115(2)(b), relating to possessing an  
718 electric weapon or device, a destructive device, or any other  
719 weapon on school property.

720 19. Section 794.011, relating to sexual battery.

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721 20. Former s. 794.041, relating to prohibited acts of  
 722 persons in familial or custodial authority.  
 723 21. Section 794.05, relating to unlawful sexual activity  
 724 with certain minors.  
 725 22. Section 794.08, relating to female genital mutilation.  
 726 23. Section 796.07, relating to procuring another to commit  
 727 prostitution, except for those offenses expunged pursuant to s.  
 728 943.0583.  
 729 24. Section 798.02, relating to lewd and lascivious  
 730 behavior.  
 731 25. Chapter 800, relating to lewdness and indecent  
 732 exposure.  
 733 26. Section 806.01, relating to arson.  
 734 27. Section 810.02, relating to burglary, if the offense is  
 735 a felony of the first degree.  
 736 28. Section 810.14, relating to voyeurism, if the offense  
 737 is a felony.  
 738 29. Section 810.145, relating to digital ~~video~~ voyeurism,  
 739 if the offense is a felony.  
 740 30. Section 812.13, relating to robbery.  
 741 31. Section 812.131, relating to robbery by sudden  
 742 snatching.  
 743 32. Section 812.133, relating to carjacking.  
 744 33. Section 812.135, relating to home-invasion robbery.  
 745 34. Section 817.034, relating to communications fraud, if  
 746 the offense is a felony of the first degree.  
 747 35. Section 817.234, relating to false and fraudulent  
 748 insurance claims, if the offense is a felony of the first or  
 749 second degree.

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750 36. Section 817.50, relating to fraudulently obtaining  
 751 goods or services from a health care provider and false reports  
 752 of a communicable disease.  
 753 37. Section 817.505, relating to patient brokering.  
 754 38. Section 817.568, relating to fraudulent use of personal  
 755 identification, if the offense is a felony of the first or  
 756 second degree.  
 757 39. Section 825.102, relating to abuse, aggravated abuse,  
 758 or neglect of an elderly person or a disabled adult.  
 759 40. Section 825.1025, relating to lewd or lascivious  
 760 offenses committed upon or in the presence of an elderly person  
 761 or a disabled person.  
 762 41. Section 825.103, relating to exploitation of an elderly  
 763 person or a disabled adult, if the offense is a felony.  
 764 42. Section 826.04, relating to incest.  
 765 43. Section 827.03, relating to child abuse, aggravated  
 766 child abuse, or neglect of a child.  
 767 44. Section 827.04, relating to contributing to the  
 768 delinquency or dependency of a child.  
 769 45. Former s. 827.05, relating to negligent treatment of  
 770 children.  
 771 46. Section 827.071, relating to sexual performance by a  
 772 child.  
 773 47. Section 831.30, relating to fraud in obtaining  
 774 medicinal drugs.  
 775 48. Section 831.31, relating to the sale, manufacture,  
 776 delivery, or possession with intent to sell, manufacture, or  
 777 deliver any counterfeit controlled substance, if the offense is  
 778 a felony.

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779 49. Section 843.01, relating to resisting arrest with  
 780 violence.  
 781 50. Section 843.025, relating to interfering with depriving  
 782 a law enforcement, correctional, or correctional probation  
 783 officer's officer of the means of protection or communication.  
 784 51. Section 843.12, relating to aiding in an escape.  
 785 52. Section 843.13, relating to aiding in the escape of  
 786 juvenile inmates of correctional institutions.  
 787 53. Chapter 847, relating to obscenity.  
 788 54. Section 874.05, relating to encouraging or recruiting  
 789 another to join a criminal gang.  
 790 55. Chapter 893, relating to drug abuse prevention and  
 791 control, if the offense is a felony of the second degree or  
 792 greater severity.  
 793 56. Section 895.03, relating to racketeering and collection  
 794 of unlawful debts.  
 795 57. Section 896.101, relating to the Florida Money  
 796 Laundering Act.  
 797 58. Section 916.1075, relating to sexual misconduct with  
 798 certain forensic clients and reporting of such sexual  
 799 misconduct.  
 800 59. Section 944.35(3), relating to inflicting cruel or  
 801 inhuman treatment on an inmate, resulting in great bodily harm.  
 802 60. Section 944.40, relating to escape.  
 803 61. Section 944.46, relating to harboring, concealing, or  
 804 aiding an escaped prisoner.  
 805 62. Section 944.47, relating to introduction of contraband  
 806 into a correctional institution.  
 807 63. Section 985.701, relating to sexual misconduct in

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808 juvenile justice programs.  
 809 64. Section 985.711, relating to introduction of contraband  
 810 into a detention facility.  
 811 Section 14. Paragraph (xx) of subsection (2) of section  
 812 435.04, Florida Statutes, is amended to read:  
 813 435.04 Level 2 screening standards.—  
 814 (2) The security background investigations under this  
 815 section must ensure that persons subject to this section have  
 816 not been arrested for and are awaiting final disposition of;  
 817 have not been found guilty of, regardless of adjudication, or  
 818 entered a plea of nolo contendere or guilty to; or have not been  
 819 adjudicated delinquent and the record has not been sealed or  
 820 expunged for, any offense prohibited under any of the following  
 821 provisions of state law or similar law of another jurisdiction:  
 822 (xx) Section 843.025, relating to interfering with  
 823 ~~depriving~~ a law enforcement, correctional, or correctional  
 824 probation officer's officer means of protection or  
 825 communication.  
 826 Section 15. Paragraph (b) of subsection (1) of section  
 827 914.25, Florida Statutes, is amended to read:  
 828 914.25 Protective services for certain victims and  
 829 witnesses.—  
 830 (1) For purposes of this section, the term:  
 831 (b) "Serious felony offense" means one of the following  
 832 offenses, including an attempt, solicitation, or conspiracy to  
 833 commit one of the following offenses: murder, manslaughter,  
 834 sexual battery, aggravated stalking, aggravated battery,  
 835 carjacking, home invasion robbery, burglary, arson, robbery,  
 836 kidnapping, racketeering, ~~or~~ trafficking in a controlled

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substance, battery by strangulation, human smuggling, human trafficking, or any other felony that involves the use or threat of physical force or violence against any individual.

Section 16. For the purpose of incorporating the amendment made by this act to section 914.25, Florida Statutes, in references thereto, subsections (1), (2), and (5) of section 914.27, Florida Statutes, are reenacted to read:

914.27 Confidentiality of victim and witness information.—

(1) Information held by any state or local law enforcement agency, state attorney, the statewide prosecutor, the Victim and Witness Protection Review Committee created pursuant to s. 943.031, or the Department of Law Enforcement which discloses:

(a) The identity or location of a victim or witness who has been identified or certified for protective or relocation services pursuant to s. 914.25;

(b) The identity or location of an immediate family member of a victim or witness who has been identified or certified pursuant to s. 914.25;

(c) Relocation sites, techniques, or procedures utilized or developed as a result of the victim and witness protective services afforded by s. 914.25; or

(d) The identity or relocation site of any victim, witness, or immediate family member of a victim or witness who has made a relocation of permanent residence by reason of the victim's or witness's involvement in the investigation or prosecution giving rise to certification for protective or relocation services pursuant to s. 914.25;

is confidential and exempt from the provisions of s. 119.07(1)

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and s. 24(a), Art. I of the State Constitution. Such information may be shared by law enforcement agencies, state attorneys, and the statewide prosecutor to facilitate the protective or relocation services provided pursuant to s. 914.25 and to support the prosecution efforts of the state attorneys and the statewide prosecutor. Any information so shared must remain confidential and exempt in the hands of any agency or entity to which the information is provided.

(2) If a victim or witness is identified for protective services under s. 914.25 and is later denied certification, the identity and location information exempt pursuant to paragraphs (1)(a) and (b) becomes public information, unless otherwise provided by law.

(5) For the purposes of effectively implementing s. 914.25, any state or local law enforcement agency, state attorney, or the statewide prosecutor may provide written notification to an agency as defined in s. 119.011 or to a business entity operating under contract with, licensed by, or having any other business relationship with an agency, or providing services pursuant to s. 914.25, that information described in subsection (1) held by that agency or business is confidential and exempt from public disclosure. The state or local law enforcement agency, state attorney, or the statewide prosecutor providing such written notification shall also provide written notification to the agency or business as to when, in accordance with this section, identity and location information exempted pursuant to paragraphs (1)(a) and (b) can be made publicly available.

Section 17. For the purpose of incorporating the amendment

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895 made by this act to section 914.25, Florida Statutes, in a  
 896 reference thereto, paragraph (c) of subsection (8) of section  
 897 943.031, Florida Statutes, is reenacted to read:  
 898 943.031 Florida Violent Crime and Drug Control Council.—  
 899 (8) VICTIM AND WITNESS PROTECTION REVIEW COMMITTEE.—  
 900 (c) The lead law enforcement agency providing victim or  
 901 witness protective or temporary relocation services pursuant to  
 902 the provisions of s. 914.25 may submit a request for  
 903 reimbursement to the Victim and Witness Protection Review  
 904 Committee in a format approved by the committee. The lead law  
 905 enforcement agency shall submit such reimbursement request on  
 906 behalf of all law enforcement agencies that cooperated in  
 907 providing protective or temporary relocation services related to  
 908 a particular criminal investigation or prosecution. As part of  
 909 the reimbursement request, the lead law enforcement agency must  
 910 indicate how any reimbursement proceeds will be distributed  
 911 among the agencies that provided protective or temporary  
 912 relocation services.  
 913 Section 18. Effective July 1, 2025, paragraph (a) of  
 914 subsection (2) of section 943.0595, Florida Statutes, is  
 915 amended, and paragraph (e) is added to subsection (3) of that  
 916 section, to read:  
 917 943.0595 Automatic sealing of criminal history records;  
 918 confidentiality of related court records.—  
 919 (2) ELIGIBILITY.—  
 920 (a) The department shall automatically seal a criminal  
 921 history record that does not result from an indictment,  
 922 information, or other charging document for a forcible felony as  
 923 defined in s. 776.08 or for an offense enumerated in s.

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924 943.0435(1)(h)1.a.(I), if:  
 925 ~~1. An indictment, information, or other charging document~~  
 926 ~~was not filed or issued in the case giving rise to the criminal~~  
 927 ~~history record.~~  
 928 ~~2. An indictment, information, or other charging document~~  
 929 ~~was filed in the case giving rise to the criminal history~~  
 930 ~~record, but was dismissed or nolle prosequi by the state~~  
 931 ~~attorney or statewide prosecutor or was dismissed by a court of~~  
 932 ~~competent jurisdiction as to all counts. However, a person is~~  
 933 ~~not eligible for automatic sealing under this section if the~~  
 934 ~~dismissal was pursuant to s. 916.145 or s. 985.19.~~  
 935 1.3- A not guilty verdict was rendered by a judge or jury  
 936 as to all counts. However, a person is not eligible for  
 937 automatic sealing under this section if the defendant was found  
 938 not guilty by reason of insanity.  
 939 2.4- A judgment of acquittal was rendered by a judge as to  
 940 all counts.  
 941 (3) PROCESS FOR AND EFFECT OF AUTOMATIC SEALING.—  
 942 (e) This section does not limit a prosecutor from accessing  
 943 a criminal history record sealed pursuant to this section to  
 944 determine an appropriate plea offer, to access evidence that can  
 945 be used in a prosecution, or to determine eligibility for  
 946 diversion.  
 947 Section 19. Effective July 1, 2025, section 943.0413,  
 948 Florida Statutes, is created to read:  
 949 943.0413 Critical Infrastructure Mapping Grant Program.—  
 950 (1)(a) Subject to legislative appropriation, the Critical  
 951 Infrastructure Mapping Grant Program is created within the  
 952 department to support the ongoing assessment of this state's

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953 vulnerability to, and ability to detect, prevent, prepare for,  
 954 respond to, and recover from, acts of terrorism within or  
 955 affecting this state.

956 (b) The state, or any law enforcement agency, county,  
 957 municipality, or other political subdivision of this state, or  
 958 any agent thereof, which has constitutional or statutory  
 959 authority to employ or appoint law enforcement officers, is  
 960 eligible to receive funding from the grant program to map  
 961 critical infrastructure locations that meet the requirements of  
 962 this section.

963 (2) Grant funds may be used to map critical infrastructure  
 964 as defined in s. 812.141, public gathering places, places of  
 965 worship, and any other locations for which a map would be deemed  
 966 of high value for facilitating an emergency response.

967 (3) Each map of such locations must be created in an  
 968 electronic or digital format and must be provided to all local,  
 969 state, and federal responding agencies that request such maps  
 970 for use in responding to emergencies. Each map must satisfy all  
 971 of the following requirements:

972 (a) Be compatible with and integrate into the department's  
 973 statewide database and be compatible with software platforms  
 974 used by local, state, and federal public safety agencies that  
 975 provide emergency services to the specific location for which  
 976 the data is provided without requiring such agencies to purchase  
 977 additional software or requiring a fee to view or access the  
 978 data.

979 (b) Be in a printable format and, if requested, be in a  
 980 digital file format that can be integrated into interactive  
 981 mobile platforms currently in use.

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982 (c) Be verified for accuracy, which must include a walk-  
 983 through of a building or grounds.

984 (d) Be oriented to true north.

985 (e) Be overlaid on current aerial imagery.

986 (f) Contain site-specific labeling that matches the  
 987 structure of the building, including, but not limited to, room  
 988 labels, hallway names, and external door or stairwell numbers  
 989 and locations of hazards, critical utility locations, key boxes,  
 990 automated external defibrillators, and trauma kits.

991 (g) Contain site-specific labeling that matches the  
 992 grounds, including, but not limited to, parking areas,  
 993 surrounding roads, and neighboring properties.

994 (h) Be overlaid with gridded x and y coordinates.

995 (4) The department may adopt rules to administer this  
 996 section.

997 Section 20. Except as otherwise expressly provided in this  
 998 act and except for this section, which shall take effect July 1,  
 999 2025, this act shall take effect October 1, 2025.



## The Florida Senate COMMITTEE VOTE RECORD

**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** CS/SB 1444  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



The Florida Senate

## Committee Agenda Request

**To:** Senator Ileana Garcia, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** April 2, 2025

---

I respectfully request that **Senate Bill #1444**, relating to Criminal Justice, be placed on the:

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

A handwritten signature in blue ink, which appears to read "Jay Collins", is written over a horizontal line.

Senator Jay Collins  
Florida Senate, District 14

The Florida Senate  
**APPEARANCE RECORD**

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

4/15/25

Meeting Date

CJ APPROP

Committee

1444

Bill Number or Topic

Amendment Barcode (if applicable)

Name

AARON WAYT

Phone

(407) 435-3194

KL ASSN OF CRIM DEF LAWYERS

Address

Email

Street

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)

The Florida Senate

# APPEARANCE RECORD

4/15/25

Meeting Date

1444

Bill Number or Topic

Approps Comm. on Comm. & Civil Just.  
Committee

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

Amendment Barcode (if applicable)

Name WILLIAM B. SMITH

Phone 305-333-4344

Address 300 E BREVARD ST.  
Street

Email WSMITH@FLPBA.ORG

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:

FL PBA

☐ 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)

4/15/2025

Meeting Date

Appropriations Committee on Criminal and Civil Justice

Committee

The Florida Senate

## APPEARANCE RECORD

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

SB 1444

Bill Number or Topic

130156

Amendment Barcode (if applicable)

Name **Allie McNair**

Phone **8505661979**

Address **2167 Mahan Dr.**

Email **amcnair@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.

S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

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

SB 1444

Bill Number or Topic

Amendment Barcode (if applicable)

407-254-7000

04/15/25

Meeting Date

Approp. CRIMINAL JUSTICE / CIVIL

Committee

Name

CHAD DENMARK

LT. ORANGE COUNTY S.O.)

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:

SHERIFF JOHN MINA

☐

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 15 2025

Meeting Date

Approp Criminal and Civil Justice

Committee

The Florida Senate

## APPEARANCE RECORD

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

1444

Bill Number or Topic

130156

Amendment Barcode (if applicable)

Name **Jennifer Cook Pritt**

Phone **850-219-3631**

Address **2636 Mitcham Drive**

Email **jpritt@fpca.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:

**Florida Police Chiefs 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.

S. 2021-08 (08/15/2021)



633166

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/16/2025	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete lines 70 - 223  
and insert:

Section 1. Effective July 1, 2025, subsection (7) is added  
to section 112.1815, Florida Statutes, to read:

112.1815 Firefighters, paramedics, emergency medical  
technicians, and law enforcement officers; special provisions  
for employment-related accidents and injuries.—

(7) An individual who is certified as a first responder and





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11 who has a physical disability resulting from an amputation may  
12 continue to serve as a first responder if he or she meets the  
13 first responder certification requirements without an  
14 accommodation.

15 Section 2. Effective July 1, 2025, section 112.195, Florida  
16 Statutes, is created to read:

17 112.195 Florida Medal of Valor and Florida Blue/Red Heart  
18 Medal.—

19 (1)(a) There is created the Florida Medal of Valor for  
20 first responders as defined in s. 112.1815 and related  
21 personnel. The medal may be awarded only to a first responder or  
22 related personnel who goes above and beyond the call of duty to  
23 save the life of an individual.

24 (b) There is created the Florida Blue/Red Heart Medal. The  
25 medal shall be awarded to a law enforcement officer,  
26 firefighter, correctional officer, or correctional probation  
27 officer who is injured in the line of duty.

28 (2) The Governor, or his or her designee, may present the  
29 awards. The awards shall be issued and administered through the  
30 Department of Law Enforcement. A resident of this state or an  
31 employing agency in this state must apply for the Florida Medal  
32 of Valor or the Florida Blue/Red Heart Medal on behalf of the  
33 potential recipient.

34 (3)(a) An application for a medal under this section must  
35 be considered and acted upon by a board charged with the duty of  
36 evaluating the appropriateness of the application. The board  
37 shall be composed of five members as follows:

38 1. Three members appointed by the Governor.

39 2. One member appointed by the Speaker of the House of



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Representatives.

3. One member appointed by the President of the Senate.

(b) Members of the board shall serve 2-year terms. Any vacancy on the board must be filled within 3 months. At least three board members must be active, retired, or former law enforcement officers or firefighters.

Section 3. Section 316.2675, Florida Statutes, is created to read:

316.2675 Motor vehicle kill switches; prohibited uses.—

(1) A person may not use a device that allows a person, other than the person in physical control of a motor vehicle, to shut off that vehicle's engine or prevent the engine from starting. This subsection does not apply to any of the following:

(a) A law enforcement officer in the course of his or her duties in order to prevent the commission of a felony.

(b) Any subscription, membership, or other recurring-payment programs or leased electronic consumer products, which are used with the consent of the owner of the vehicle.

(c) A mechanism or feature that is used with the consent of the owner of the vehicle and:

1. Addresses an imminent critical safety issue impacting a mechanical or software component of a motor vehicle;

2. Activates when a driver of a motor vehicle is incapacitated, suffers a medical emergency, or experiences a loss of consciousness;

3. Takes corrective action in a motor vehicle with an engaged partial driving automation feature if the driver is not attentive or engaged in the driving task and does not respond to



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warnings;

4. Brings a motor vehicle with an engaged automated driving system to a minimal-risk condition; or

5. Automatically shuts off the engine or motor of an idling motor vehicle that has been left on for an extended period of time while in the park position.

(2) A person who violates subsection (1) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. Subsection (2) of section 775.0823, Florida Statutes, is amended to read:

775.0823 Violent offenses committed against specified justice system personnel.—The Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; against any public defender elected pursuant to s. 27.50 or regional counsel appointed pursuant to s. 27.511(3); against any court-appointed counsel appointed under s. 27.40 or defense attorney in a criminal proceeding; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, the public defender or regional counsel acting in his or her capacity as defense counsel, the court-appointed counsel or defense attorney in a criminal proceeding acting in



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his or her capacity as defense counsel, or the justice's or judge's duty as a judicial officer, as follows:

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084 with a mandatory minimum sentence of 25 years imprisonment.

Notwithstanding s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 5. Section 790.051, Florida Statutes, is amended to read:

790.051 Exemption from licensing requirements; law enforcement officers.—Law enforcement officers and correctional probation officers, as defined in s. 943.10(3), are exempt from the licensing and penal provisions of this chapter when acting at any time within the scope or course of their official duties or when acting at any time in the line of or performance of duty.

Section 6. Paragraph (a) of subsection (1) of section 790.052, Florida Statutes, is amended to read:

790.052 Carrying concealed firearms; off-duty law enforcement officers.—

(1)(a) All persons holding active certifications from the Criminal Justice Standards and Training Commission as law enforcement officers or correctional officers as defined in s. 943.10(1), (2), (6), (7), (8), or (9), all judges, and all state attorneys and assistant state attorneys shall have the right to



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carry, on or about their persons, concealed firearms, during off-duty hours, at the discretion of their superior officers, and may perform those law enforcement functions that they normally perform during duty hours, utilizing their weapons in a manner which is reasonably expected of on-duty officers in similar situations.

Section 7. Subsection (4) is added to section 817.49, Florida Statutes, to read:

817.49 False reports of commission of crimes; penalty.—

(4) The Legislature finds that the false reporting of crimes is a threat to public safety and a threat to the safety of law enforcement officers and other first responders. As such, the Legislature encourages each state attorney to adopt a prosecution policy for the false reporting of crimes as prohibited in this section.

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

And the title is amended as follows:

Delete lines 2 - 27

and insert:

An act relating to public safety; amending s. 112.1815, F.S.; authorizing first responder amputees to continue to serve as first responders under certain circumstances; creating s. 112.195, F.S.; creating the Florida Medal of Valor and the Florida Blue/Red Heart Medal; providing requirements for such medals; creating a board to evaluate applications for awarding such medals; providing for board membership; creating s. 316.2675, F.S.; prohibiting the use of motor



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vehicle kill switches; providing exceptions; providing  
criminal penalties; amending s. 775.0823, F.S.;  
providing a minimum mandatory sentence for attempted  
murder of specified justice system personnel; amending  
s. 790.051, F.S.; providing correctional probation  
officers with the same firearms rights as law  
enforcement officers; amending s. 790.052, F.S.;  
providing that specified persons may carry concealed  
firearms under certain circumstances and use them in  
the same manner as on-duty law enforcement officers;  
amending s. 817.49, F.S.; providing legislative  
findings concerning prosecution of the false reporting  
of crimes; amending s. 951.27,



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2025	.	
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The Appropriations Committee on Criminal and Civil Justice  
(Collins) recommended the following:

**Senate Substitute for Amendment (633166) (with title  
amendment)**

Delete lines 70 - 223  
and insert:

Section 1. Effective July 1, 2025, subsection (7) is added  
to section 112.1815, Florida Statutes, to read:

112.1815 Firefighters, paramedics, emergency medical  
technicians, and law enforcement officers; special provisions  
for employment-related accidents and injuries.—



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(7) An individual who is certified as a first responder and has a physical disability resulting from an amputation may continue to serve as a first responder if he or she meets the first responder certification requirements without an accommodation.

Section 2. Effective July 1, 2025, section 112.195, Florida Statutes, is created to read:

112.195 Florida Medal of Valor and Florida Blue/Red Heart Medal.—

(1)(a) There is created the Florida Medal of Valor for first responders as defined in s. 112.1815 and related personnel. The medal may be awarded only to a first responder or related personnel who goes above and beyond the call of duty to save the life of an individual.

(b) There is created the Florida Blue/Red Heart Medal. The medal shall be awarded to a law enforcement officer, firefighter, correctional officer, or correctional probation officer who is injured in the line of duty.

(2) The Governor, or his or her designee, may present the awards. The awards shall be issued and administered through the Department of Law Enforcement. A resident of this state or an employing agency in this state must apply for the Florida Medal of Valor or the Florida Blue/Red Heart Medal on behalf of the potential recipient.

(3)(a) An application for a medal under this section must be considered and acted upon by a board charged with the duty of evaluating the appropriateness of the application. The board shall be composed of five members as follows:

1. Three members appointed by the Governor.





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2. One member appointed by the Speaker of the House of Representatives.

3. One member appointed by the President of the Senate.

(b) Members of the board shall serve 2-year terms. Any vacancy on the board must be filled within 3 months. At least three board members must be active, retired, or former law enforcement officers or firefighters.

Section 3. Section 316.2675, Florida Statutes, is created to read:

316.2675 Vehicle kill switches; prohibited uses.—

(1) A person may not use any device that can be remotely activated to disable a vehicle's engine or to prevent a vehicle's engine from starting unless he or she is:

(a) The owner of the vehicle;

(b) A law enforcement officer acting in the course and scope of his or her duties to prevent the commission of a felony; or

(c) Acting for or on behalf of a company that offers a subscription, recurring payment program, or lease in connection with the vehicle.

(2) A person who violates subsection (1) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(3) This section does not apply to the manufacturer of a vehicle.

Section 4. Subsection (2) of section 775.0823, Florida Statutes, is amended to read:

775.0823 Violent offenses committed against specified justice system personnel.—The Legislature does hereby provide



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for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; against any public defender elected pursuant to s. 27.50 or regional counsel appointed pursuant to s. 27.511(3); against any court-appointed counsel appointed under s. 27.40 or defense attorney in a criminal proceeding; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, the public defender or regional counsel acting in his or her capacity as defense counsel, the court-appointed counsel or defense attorney in a criminal proceeding acting in his or her capacity as defense counsel, or the justice's or judge's duty as a judicial officer, as follows:

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083, or s. 775.084 with a mandatory minimum sentence of 25 years imprisonment.

Notwithstanding s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 5. Section 790.051, Florida Statutes, is amended to read:



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790.051 Exemption from licensing requirements; law enforcement officers.—Law enforcement officers and correctional probation officers, as defined in s. 943.10(3), are exempt from the licensing and penal provisions of this chapter when acting at any time within the scope or course of their official duties or when acting at any time in the line of or performance of duty.

Section 6. Paragraph (a) of subsection (1) of section 790.052, Florida Statutes, is amended to read:

790.052 Carrying concealed firearms; off-duty law enforcement officers.—

(1)(a) All persons holding active certifications from the Criminal Justice Standards and Training Commission as law enforcement officers or correctional officers as defined in s. 943.10(1), (2), (6), (7), (8), or (9), all judges, and all state attorneys and assistant state attorneys shall have the right to carry, on or about their persons, concealed firearms, during off-duty hours, at the discretion of their superior officers, and may perform those law enforcement functions that they normally perform during duty hours, utilizing their weapons in a manner which is reasonably expected of on-duty officers in similar situations.

Section 7. Subsection (4) is added to section 817.49, Florida Statutes, to read:

817.49 False reports of commission of crimes; penalty.—

(4) The Legislature finds that the false reporting of crimes is a threat to public safety and a threat to the safety of law enforcement officers and other first responders. As such, the Legislature encourages each state attorney to adopt a pro-



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prosecution policy for the false reporting of crimes as prohibited in this section.

Section 8. Effective July 1, 2025, paragraph (a) of subsection (12) of section 790.06, Florida Statutes, is amended to read:

790.06 License to carry concealed weapon or concealed firearm.—

(12) (a) A license issued under this section does not authorize any person to openly carry a handgun or carry a concealed weapon or concealed firearm into:

1. Any place of nuisance as defined in s. 823.05;
2. Any police, sheriff, or highway patrol station;
3. Any detention facility, prison, or jail;
4. Any courthouse;
5. Any courtroom, except that ~~nothing in~~ this section does not preclude ~~precludes~~ a judge from carrying a concealed weapon or concealed firearm or determining who will carry a concealed weapon or concealed firearm in his or her courtroom. This subparagraph does not grant a judge the ability to prevent a person, who is otherwise authorized under this chapter to carry a concealed weapon or concealed firearm in a courthouse, from carrying such a concealed weapon or concealed firearm in any area of the courthouse other than his or her courtroom;
6. Any polling place;
7. Any meeting of the governing body of a county, public school district, municipality, or special district;
8. Any meeting of the Legislature or a committee thereof;
9. Any school, college, or professional athletic event not related to firearms;



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10. Any elementary or secondary school facility or administration building;

11. Any career center;

12. Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;

13. Any college or university facility unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile;

14. The inside of the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or

15. Any place where the carrying of firearms is prohibited by federal law.

Section 9. Effective July 1, 2025, paragraph (c) of subsection (1) and subsection (4) of section 937.021, Florida Statutes, are amended to read:

937.021 Missing child and missing adult reports.—

(1) Law enforcement agencies in this state shall adopt written policies that specify the procedures to be used to investigate reports of missing children and missing adults. The policies must ensure that cases involving missing children and adults are investigated promptly using appropriate resources. The policies must include:



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(c) Standards for maintaining and clearing computer data of information concerning a missing child or missing adult which is stored in the Florida Crime Information Center, the National Crime Information Center, and the National Missing and Unidentified Persons System. The standards must require, at a minimum, a monthly review of each case entered into the Florida Crime Information Center and the National Crime Information Center, an annual review of each case entered into the National Missing and Unidentified Persons System, and a determination of whether the case should be maintained in the databases ~~database~~.

(4)(a) Upon the filing of a police report that a child is missing by the parent or guardian, the Department of Children and Families, or a community-based care provider, the law enforcement agency receiving the report shall immediately inform all on-duty law enforcement officers of the missing child report, communicate the report to every other law enforcement agency having jurisdiction in the county, and within 2 hours after receipt of the report, transmit the report for inclusion within the Florida Crime Information Center ~~and, the National Crime Information Center, and the National Missing and Unidentified Persons System~~ databases, and shall, within 90 days after receipt of the report, transmit the report to the National Missing and Unidentified Persons System. A law enforcement agency may not require a reporter to present an order that a child be taken into custody or any other such order before accepting a report that a child is missing.

(b) Upon the filing of a credible police report that an adult is missing, the law enforcement agency receiving the report shall, within 2 hours after receipt of the report,



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transmit the report for inclusion within the Florida Crime Information Center and, the National Crime Information Center, ~~and the National Missing and Unidentified Persons System~~ databases, and shall, within 90 days after receipt of the report, transmit the report to the National Missing and Unidentified Persons System.

Section 10. Effective July 1, 2025, paragraph (b) of subsection (3) of section 937.022, Florida Statutes, is amended to read:

937.022 Missing Endangered Persons Information Clearinghouse.—

(3) The clearinghouse shall:

(b) Provide a centralized file for the exchange of information on missing endangered persons.

1. Every state, county, or municipal law enforcement agency shall submit to the clearinghouse information concerning missing endangered persons.

2. Any person having knowledge may submit a missing endangered person report to the clearinghouse concerning a child or adult younger than 26 years of age whose whereabouts is unknown, regardless of the circumstances, subsequent to reporting such child or adult missing to the appropriate law enforcement agency within the county in which the child or adult became missing, and subsequent to entry by the law enforcement agency of the child or person into the Florida Crime Information Center and, the National Crime Information Center, ~~and the National Missing and Unidentified Persons System~~ databases. The missing endangered person report shall be included in the clearinghouse database.



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3. Only the law enforcement agency having jurisdiction over the case may submit a missing endangered person report to the clearinghouse involving a missing adult age 26 years or older who is suspected by a law enforcement agency of being endangered or the victim of criminal activity.

4. Only the law enforcement agency having jurisdiction over the case may make a request to the clearinghouse for the activation of a state Silver Alert or a Purple Alert involving a missing adult if circumstances regarding the disappearance have met the criteria for activation of the Silver Alert Plan or the Purple Alert.

Section 11. Subsections (3) and (4) of section 500.92, Florida Statutes, are amended to read:

500.92 Florida Kratom Consumer Protection Act.—

(3) It is unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, any kratom product, including any kratom product that is adulterated with synthesized or semi-synthesized kratom alkaloids or constituents or that contains a level of 7-hydroxymitragynine in the alkaloid fraction which is greater than 2 percent, to a person younger than ~~who is under~~ 21 years of age.

(4) A person who violates ~~violation of~~ subsection (3) commits ~~is~~ a misdemeanor of the first ~~second~~ degree, punishable as provided in s. 775.082 or s. 775.083.

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

And the title is amended as follows:

Delete lines 2 - 27  
and insert:





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An act relating to public safety; amending s.  
112.1815, F.S.; authorizing first responder amputees  
to continue to serve as first responders under certain  
circumstances; creating s. 112.195, F.S.; creating the  
Florida Medal of Valor and the Florida Blue/Red Heart  
Medal; providing requirements for such medals;  
creating a board to evaluate applications for awarding  
such medals; providing for board membership; creating  
s. 316.2675, F.S.; prohibiting the use of motor  
vehicle kill switches; providing criminal penalties;  
providing an exception; amending s. 775.0823, F.S.;  
providing a minimum mandatory sentence for attempted  
murder of specified justice system personnel; amending  
s. 790.051, F.S.; providing correctional probation  
officers with the same firearms rights as law  
enforcement officers; amending s. 790.052, F.S.;  
providing that specified persons may carry concealed  
firearms under certain circumstances and use them in  
the same manner as on-duty law enforcement officers;  
amending s. 817.49, F.S.; providing legislative  
findings concerning prosecution of the false reporting  
of crimes; amending s. 790.06, F.S.; providing  
construction regarding a judge preventing the carrying  
of concealed weapons or concealed firearms in a  
courthouse; amending ss. 937.021 and 937.022, F.S.;  
revising requirements for the reporting of missing  
persons information; amending s. 500.92, F.S.;  
prohibiting the selling, delivering, bartering,  
furnishing, or giving of specified kratom products to



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301 persons younger than a specified age; providing  
302 increased criminal penalties; amending s. 951.27,

**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.)

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

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BILL: CS/CS/SB 1444

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

SUBJECT: Criminal Justice

DATE: April 17, 2025

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1444 amends current law regarding criminal justice. Specifically, the bill:

- Amends s. 112.1815, F.S., to specify that amputee first responders may continue to serve if they meet certification requirements without accommodation;
- Creates s. 112.195, F.S., to create honorary medal programs to be named the Florida Medal of Valor and Florida Blue/Red Heart Medal;
- Creates s. 316.2675, F.S., to prohibit the use of devices that can shut off or prevent a vehicle's engine from starting and provides exceptions;
- Amends s. 500.92, F.S., to add kratom products that are adulterated with synthesized or semi-synthesized kratom alkaloids or constituents or contain certain levels in the alkaloid fraction to the list of prohibited products for sale to a person younger 21 years of age;
- Amends s. 775.0823, F.S., regarding violent offenses against justice system personnel, to add a minimum mandatory sentence of 25 years for first degree attempted murder;<sup>1</sup>
- Amends s. 790.051, F.S., to add correctional probation officers to the list of law enforcement officers who are exempt from licensing requirements for concealed carry, when acting in the scope of employment;
- Amends s. 790.052, F.S., to add judges, state attorneys and assistant state attorneys to the list of positions that have the right to carry concealed firearms during off-duty hours and utilize

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<sup>1</sup> Section 782.04, F.S.

their weapons in a manner which is reasonably expected of on-duty officers in similar situations;

- Amends s. 817.49, F.S., regarding false reports of the commission of crimes to encourage each state attorney to adopt a pro-prosecution policy for the false reporting of crimes;
- Amends s. 790.06, F.S., to specify that a judge cannot prevent a person who is otherwise authorized to carry a concealed weapon or concealed firearm in a courthouse, from carrying such a concealed weapon or firearm in any other area of the courthouse other than his or her courtroom;
- Amends s. 843.025, F.S., to prohibit a person from depriving a law enforcement officer of his or her radio, recording device, or restraint device, or render such radio, recording device or restraint useless;
- Amends s. 914.25, F.S., to add battery by strangulation, human smuggling, human trafficking or any other felony that involves the use or threat of physical force or violence against any individual to the definition of “serious felony offense”;
- Amends s. 937.021, F.S., to revise procedures for handling missing persons reports by revising the review and reporting requirements;
- Amends s. 937.022, F.S., to remove reference to the National Missing and Unidentified Persons System;
- Creates s. 943.0413, F.S., to establish the Critical Infrastructure Mapping Grant Program within the Florida Department of Law Enforcement;
- Amends s. 943.0595, F.S., to eliminate certain circumstances where criminal histories are automatically sealed and provides that prosecutors may access sealed records for specific purposes;
- Amends s. 951.27, F.S., to require procedures for blood testing include circumstances that warrant immediate blood testing of arrestees upon booking and require that the results be provided to any first responder or criminal justice professional who has been exposed to bodily fluids or bloodborne pathogens from the arrestee; and
- Amends ss. 921.0022, 397.417, 420.06241, and 435.04, F.S., respectively, to make conforming changes.

Additionally, the bill may have a positive insignificant prison bed impact on the Department of Corrections. See Section V., Fiscal Impact Statement.

The bill takes effect on October 1, 2025, except as otherwise expressly provided in this act.

## **II. Present Situation:**

### **Criminal Justice Standards and Training Commission (CJSTC or commission)**

The CJSTC is established under s. 943.11, F.S. The commission is an independent policy making body that ensures that Florida’s criminal justice officers are ethical, qualified, and well-trained. The commission is responsible for creating entry-level curricula and certification testing for criminal justice officers in Florida, establishing minimum standards for employment and

certification, and revoking the certification of officers who fail to maintain these minimum standards of conduct.<sup>2</sup>

Currently, the Florida Law Enforcement Academy Basic Recruit Training Program (LEBRT or Basic Recruit) is set at 770 hours of instruction time. All full-time, part-time, or auxiliary officers shall successfully complete at least 40 hours of in-service training or Advanced, Specialized, or Career Development Training courses every four years.<sup>3</sup> The certification of any officer who fails to meet the mandatory retraining requirement shall become inactive.<sup>4</sup>

### **First Responders**

A “first responder” is a law enforcement officer, a correctional officer, a correctional probation officer, a firefighter, or an emergency medical technician or paramedic, employed by state or local government. A volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is also considered a first responder of the state or local government for purposes of this section.

### **Licensing Exemptions and Carry Requirements**

Law enforcement officers are exempt from the licensing and penal provisions of ch. 790, F.S., when acting at any time within the scope or course of their official duties or when acting at any time in the line of or performance of duty.<sup>5</sup>

Currently, all persons holding active certifications from the Criminal Justice Standards and Training Commission as law enforcement officers or correctional officers as defined in s. 943.10(1), (2), (6), (7), (8), or (9), F.S., shall have the right to carry, on or about their persons, concealed firearms, during off-duty hours, at the discretion of their superior officers, and may perform those law enforcement functions that they normally perform during duty hours, utilizing their weapons in a manner which is reasonably expected of on-duty officers in similar situations.<sup>6</sup>

### **Blood Testing of Inmates**

Section 951.27, F.S., provides that each county and municipal detention facility must have a written procedure to establish the conditions under which an inmate will be tested for infectious disease.<sup>7</sup>

Except as otherwise provided, the results of such blood tests are confidential and exempt. Results may be provided to employees or officers of the sheriff or chief correctional officer who are responsible for the custody and care of the affected inmate and have a need to know such

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<sup>2</sup> Florida Department of Law Enforcement, Criminal Justice Professionalism Division, *Overview of the Professionalism Division*, available at <https://www.fdle.state.fl.us/CJSTC/Overview.aspx> (last visited March 18, 2025).

<sup>3</sup> Florida Department of Law Enforcement, Criminal Justice Professionalism Division, *Mandatory Retraining Requirements*, available at <https://www.fdle.state.fl.us/CJSTC/Officer-Requirements/Mandatory-Retraining> (last visited March 18, 2025).

<sup>4</sup> Section 943.1395(4), F.S.

<sup>5</sup> Section 790.051, F.S.

<sup>6</sup> Section 790.052(1)(a), F.S.

<sup>7</sup> Section 951.27(1), F.S.

information. Also, one such exception to this exemption is that a victim, or the victim's parent or legal guardian, may request the results of any human immunodeficiency virus test performed on an inmate who has been arrested for a sexual offense involving oral, anal, or female genital penetration by, or union with, the sexual organ of another.

### **False Reports of Commissions of Crimes**

Intentionally giving false information to a law enforcement officer is another form of false reporting. For instance, on January 31, 2025, a woman reported being battered by two neighbors, whom she alleged pushed, grabbed, and shoved her. Upon investigating the matter further and finding through interviews and surveillance that the incident never occurred, detectives charged the woman with filing a false report to law enforcement.<sup>8</sup>

Pursuant to 817.49, F.S., a person who willfully imparts, conveys, or causes to be imparted or conveyed to a law enforcement officer or employee of a public safety agency false information or reports concerning the alleged commission of any crime under the laws of this state, knowing such information or report to be false, when no such crime has actually been committed, commits a first degree misdemeanor. If a false report of a crime results in a response by a federal, state, district, municipal, or other public safety agency and the response results in:

- Great bodily harm, permanent disfigurement, or permanent disability to any person as a proximate result of lawful conduct arising out of a response, the person making such report commits a third degree felony.<sup>9</sup>
- Death to any person as a proximate result of lawful conduct arising out of a response, the person making such report commits a second degree felony.<sup>10</sup>

### **Federal Provisions**

Under Title 18 U.S.C. 1038, also known as the false information and hoaxes law, it is illegal for a person to engage in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that it relates to certain criminal chapters of law such as crimes or threats involving biological or chemical weapons, crimes or threats involving guns, bombs, or explosives; or crimes affecting infrastructure.<sup>11</sup>

A person who commits an offense under this federal law shall:

- Be fined or imprisoned for not more than five years, or both;
- If serious bodily injury results, be fined or imprisoned not more than 20 years, or both; and
- If death results, be fined or imprisoned for any number of years up to life, or both.

A person who commits this offense is also liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for such expenses. The

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<sup>8</sup> Gulf Coast News, *Naples Woman Accused of Making False Reports to Police*, (February 11, 2025), available at: <https://www.gulfcoastnewsnow.com/article/naples-florida-woman-false-police-report/63757347> (last visited March 28, 2025).

<sup>9</sup> Sections 775.082, 775.083, or 775.084, F.S.

<sup>10</sup> Sections 775.082, 775.083, or 775.084, F.S.

<sup>11</sup> 18 U.S.C.A. § 1038

court, in imposing a sentence, must order the defendant to reimburse any state or local government, or private not-for-profit organization that provides fire and rescue service, incurring expenses in any emergency or investigative response.

### **Motor Vehicle Kill Switch**

A kill switch is an anti-theft device that interrupts the flow of electricity to critical vehicle components, such as the ignition system or fuel pump.<sup>12</sup> When the switch is in the “off” or “kill” position, it interrupts the electrical or fuel supply to the engine, effectively preventing it from starting or running.<sup>13</sup> There are several types of kill switches including ignition wire kill switch, fuse box kill switch, remote controlled car battery switch, car battery disconnect switch, and fuel line shut off valves.<sup>14</sup>

### **Missing Persons Reports**

Current law requires all law enforcement agencies to adopt written policies for investigating missing child and adult reports.<sup>15</sup> These policies must ensure timely and thorough investigations and outline procedures for handling such cases, including accepting reports, managing investigations, and maintaining records stored in the Florida Crime Information Center<sup>16</sup> (FCIC), the National Crime Information Center (NCIC),<sup>17</sup> and the National Missing and Unidentified Persons System (NamUs).<sup>18</sup> Agencies must review these cases at least monthly and determine whether to maintain them in the database.<sup>19</sup>

Agencies must accept missing child and adult reports in the jurisdiction where the person was last seen.<sup>20</sup> Once a report is filed, law enforcement must notify other relevant agencies and input the information into the state and national databases within two hours.<sup>21</sup>

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<sup>12</sup> Motor Hills, *How to Choose and Install the Best Car Theft Protection Kill Switches*, available at <https://motorhills.com/how-to-choose-and-install-the-best-car-theft-protection-kill-switches/> (last visited March 28, 2025).

<sup>13</sup> Electronics Hub, *Car Kill Switches: Types, Installation & All You Need to Know*, available at <https://www.electronicshub.org/types-of-kill-switches/> (last visited March 28, 2025).

<sup>14</sup> Dash Cam Guide, *5 Best Ways to Install a Kill Switch in Your Car*, available at <https://dashcameras.net/car-kill-switch/> (last visited March 28, 2025).

<sup>15</sup> Section 937.021(1), F.S.

<sup>16</sup> U.S. Department of Justice Office of Justice Programs, *Florida Crime Information Center Virtual Library*, available at <https://www.ojp.gov/ncjrs/virtual-library/abstracts/florida-crime-information-center> (last visited April 15, 2025).

<sup>17</sup> Federal Bureau of Investigation, *Privacy Impact Assessment: National Crime Information Center (NCIC)*, available at <https://www.fbi.gov/file-repository/pias/pia-ncic-020723.pdf/view> (last visited April 15, 2025).

<sup>18</sup> National Missing and Unidentified Persons System, *What is NamUs?*, <https://namus.nij.ojp.gov/what-namus> (last visited April 15, 2025).

<sup>19</sup> Section 937.021(1)(c), F.S.

<sup>20</sup> Section 937.021(3), F.S.

<sup>21</sup> Section 937.021(4), F.S.

## **Criminal Punishment Code and Sentencing**

The Criminal Punishment Code<sup>22</sup> (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).<sup>23</sup> The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- 60 days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- 15 years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.<sup>24</sup>

### ***Offense Severity Ranking Chart***

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

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 non-state prison 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>25</sup> Absent mitigation,<sup>26</sup> the

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<sup>22</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>23</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>24</sup> Section 775.082, F.S. Fines may also be imposed, and those fines escalate based on the degree of the offense. section 775.083, F.S., provides the following maximum fines; \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

<sup>25</sup> Section 921.0024, F.S., unless otherwise noted, information on the Code is from this source.

<sup>26</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.



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>27</sup>

### ***Mandatory Minimum Sentencing***

Mandatory minimum sentencing in Florida began in the 1980's and is designed to ensure consistent and severe penalties for specific crimes. Sentencing offenders to mandatory minimum terms of imprisonment prevents the use of early release mechanisms and ensures that offenders serve most or all of their court-imposed sentences.<sup>28</sup> These laws require judges to impose a predetermined minimum sentence for certain offenses, regardless of the circumstances surrounding the crime or the individual's background. Generally, mandatory minimum sentences often apply to specific crimes like drug offenses, firearm violations, and repeat offenses.

### **Violent Offenses Committed Against Specified Justice System Personnel**

Currently, s. 775.0823, F.S. provides for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer,<sup>29</sup> state attorney,<sup>30</sup> assistant state attorney<sup>31</sup>, public defender<sup>32</sup> regional counsel<sup>33</sup> court-appointed counsel appointed or defense attorney in a criminal proceeding; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the duties. The penalty for murder in the first degree,<sup>34</sup> if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

### **Florida Kratom Consumer Protection Act of 2023**

In 2023, the Legislature enacted the Florida Kratom Consumer Protection Act,<sup>35</sup> which made it unlawful to sell, deliver, barter, furnish, or give, directly or indirectly, any kratom product to a person under 21 years of age. The Florida Department of Agriculture and Consumer Services (FDACS) adopted rules to implement the act.<sup>36</sup>

Kratom is a tropical tree native to Southeast Asia that contains mitragynine and 7-hydroxymitragynine in its leaves, which are two major psychoactive ingredients.<sup>37</sup> The leaves are crushed and then smoked, brewed with tea, or placed into gel capsules.<sup>38</sup>

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<sup>27</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>28</sup> U.S. Department of Justice, Office of Justice Programs, *Mandatory Minimum Sentencing in Florida: Past Trends and Future Implications*, available at <https://www.ojp.gov/ncjrs/virtual-library/abstracts/mandatory-minimum-sentencing-florida-past-trends-and-future> (last visited on March 28, 2025).

<sup>29</sup> Section 943.10(1), (2), (3), (6), (7), (8), or (9), F.S.

<sup>30</sup> Section 27.01, F.S.

<sup>31</sup> Section 27.181, F.S.

<sup>32</sup> Section 27.50, F.S.

<sup>33</sup> Section 27.511(3), F.S.

<sup>34</sup> Section 782.04(1), F.S.

<sup>35</sup> Section 500.92, F.S.

<sup>36</sup> Fla. Admin. Code R. 5K-4.030.

<sup>37</sup> Drug Enforcement Administration, *Kratom*, available at [https://www.dea.gov/sites/default/files/2020-06/Kratom-2020\\_0.pdf](https://www.dea.gov/sites/default/files/2020-06/Kratom-2020_0.pdf) (last visited April 16, 2025).

<sup>38</sup> *Id.*

Consumption of kratom leaves can produce stimulant and sedative effects, and may also lead to psychotic symptoms.<sup>39</sup> The toxicity of kratom remains a topic of discussion, as well as its potential to cause herb-drug interactions and even be involved in fatalities.<sup>40</sup>

In May of 2022 the Florida Department of Law Enforcement published its 2021 Interim Report, which found a 36% rise in kratom-involved deaths over the first half of 2021.

Currently, kratom is not listed as a controlled substance under federal law or Florida law.

### **Automatic Sealing**

Some criminal history records are automatically sealed by the FDLE, and do not require a court to order such sealing. Section 943.0595, F.S., provides that the FDLE must automatically seal a criminal history record that does not result from an indictment, information, or other charging document for a forcible felony or for an offense that would designate a person as a sexual offender, 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 in the case giving rise to the criminal history record, but was dismissed or nolle prosequi by the state attorney or statewide prosecutor or was dismissed by a court of competent jurisdiction.<sup>41</sup>
- A not guilty verdict was rendered by a judge or jury.<sup>42</sup>
- A judgement of acquittal was rendered by the jury.<sup>43</sup>

The clerk of court must transmit a certified copy of the disposition of the criminal history record that is eligible for automatic sealing to the FDLE. The FDLE must seal the criminal history record upon receipt of the certified copy.<sup>44</sup> There is no limitation on the number of records that a person may have automatically sealed.<sup>45</sup>

Automatic sealing of a criminal history record does not require sealing by the court or other criminal justice agencies, or that such record be surrendered to the court. The record must continue to be maintained by the FDLE and other criminal justice agencies.<sup>46</sup>

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<sup>39</sup> *Id.*

<sup>40</sup> *Id.*; see also Florida Department of Law Enforcement, Drugs Identified in Deceased Persons by Florida Medical Examiners (May 2022), available at <https://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2021-Interim-Drug-Report-FINAL.aspx> (last visited April 16, 2025).

<sup>41</sup> A person is not eligible for automatic sealing if the dismissal was pursuant to ss. 916.145 or 985.19, F.S.

<sup>42</sup> A person is not eligible for automatic sealing if the defendant was found not guilty by reason of insanity.

<sup>43</sup> Section 943.0595(2)(a), F.S.

<sup>44</sup> Section 943.0595(3), F.S.

<sup>45</sup> Section 943.0595(2)(b), F.S.

<sup>46</sup> Section 943.0595(3), F.S.

## Critical Infrastructure Mapping

The United States depends on the reliable function of critical infrastructure. Cybersecurity threats exploit the increased complexity and connectivity of critical infrastructure systems, placing the Nation's security, economy, and public safety and health at risk.<sup>47</sup>

"Critical infrastructure" is defined in the U.S. Patriot Act of 2001 to mean "systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters."<sup>48</sup> The critical infrastructure community includes public and private owners and operators, and other entities with a role in securing the Nation's infrastructure.

"Critical infrastructure" is addressed in several sections of Florida law, including in s. 119.0725, F.S., which defines it as existing and proposed information technology and operational technology systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health, or public safety.<sup>49</sup>

"Critical infrastructure facility" is also defined in Florida Statute and is defined in s. 330.41, F.S., as if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and which are posted on the property in a manner reasonably likely to come to the attention of intruders. In part, facilities include:

- An electrical power generation or transmission facility, substation, switching station, or electrical control center.
- A chemical or rubber manufacturing or storage facility.
- A mining facility.
- A natural or liquid gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline.
- A wireless communications facility, including the tower, antennae, support structures, and all associated ground-based equipment.
- A state or county correctional institution.

### III. Effect of Proposed Changes:

The bill amends various laws regarding the criminal justice system.

**Section 1** amends s. 112.1815, F.S., to specify that amputee first responders may continue to serve if they meet certification requirements without an accommodation.

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<sup>47</sup> Framework for Improving Critical Infrastructure Cybersecurity, (NIST CSF), National Institute of Standards and Technology, April 16, 2018, <https://nvlpubs.nist.gov/nistpubs/CSWP/NIST.CSWP.04162018.pdf> (last visited on April 1, 2025).

<sup>48</sup> 42 U.S.C. § 5195c(e).

<sup>49</sup> Section 119.0725(1)(b), F.S.

**Section 2** creates s. 112.195, F.S., relating to two state honorary medals: the Florida Medal of Valor for first responders, and related personnel, who go above and beyond to save lives, and the Florida Blue/Red Heart Medal for law enforcement, correctional, and correctional probation officers and firefighters injured in the line of duty. These awards, administered by FDLE and authorized to be presented by the Governor or his or her designee, require a nomination by a state resident or employing agency. Recipients will be selected by a five-member board, with members serving two-year terms. Three members will be appointed by the Governor, and one each appointed by the President of the Senate and Speaker of the House of Representatives. At least three board members must be active or former law enforcement officers or firefighters.

**Section 3** creates s. 316.2675, F.S., relating to motor vehicle kill switches, to prohibit the use of devices that can be remotely activated to disable a vehicle's engine or prevent a vehicle's engine from starting. This does not apply to the owner of the vehicle; law enforcement officers performing their duties to prevent felonies; any person acting on behalf of subscriptions or memberships. Persons who utilize such devices in violation of this section are subject to second degree misdemeanor penalties.<sup>50</sup>

**Section 4** amends s. 775.0823, F.S., regarding violent offenses against justice system personnel to add a minimum mandatory sentence of 25 years for first degree attempted murder.<sup>51</sup>

**Section 5** amends s. 790.051, F.S., to add correctional probation officers to the list of law enforcement officers who are exempt from licensing requirements for concealed carry, when acting in the scope of employment.

**Section 6** amends s. 790.052, F.S., adding judges, state attorneys and assistant state attorneys to the list of persons who have the right to carry concealed firearms during off-duty hours and utilize their weapons in a manner which is reasonably expected of on-duty officers in similar situations.

**Section 7** amends s. 817.49, F.S., regarding false reports of the commission of crimes to encourage each state attorney to adopt a pro-prosecution policy for the false reporting of crimes.

**Section 8** amends s. 790.06, F.S., to specify that judge cannot prevent a person, who is otherwise authorized to carry a concealed weapon or concealed firearm in a courthouse, from carrying such a concealed weapon or firearm in any other area of the courthouse other than his or her courtroom.

**Section 9** amends s. 937.021, F.S., to revise procedures for handling missing persons reports by changing the required review of cases from monthly to annually in the National Missing and Unidentified Persons System (NamUs). It also extends the reporting deadline, requiring that missing persons reports be submitted to NamUs within 90 days of being filed, rather than within two hours. The current review and reporting timeframes relating to the Florida Crime Information Center and National Crime Information Center remain unchanged.

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<sup>50</sup> A second degree misdemeanor is punishable by up to 60 days in the county jail and a \$500 fine. ss.775.082 and 775.083, F.S.

<sup>51</sup> Section 782.04, F.S.

**Section 10** amends s. 937.022, F.S., to remove reference to the National Missing and Unidentified Persons System.

**Section 11** amends s. 500.92, F.S., to add kratom products that are adulterated with synthesized or semi-synthesized kratom alkaloids or constituents or contains certain levels in the alkaloid fraction to the list of prohibited products for sale to a person younger 21 years of age. A violation is a first degree misdemeanor.

**Section 12** amends s. 951.27, F.S., to require procedures for blood testing include circumstances that warrant immediate blood testing of arrestees upon booking and must require that the results be provided to any first responder or criminal justice professional who has been exposed to bodily fluids or bloodborne pathogens from the arrestee. The bill provides that any first responder or criminal justice professional who has been exposed to bodily fluids or bloodborne pathogens from an arrestee to notice the facility within 24 hours after the exposure. If incapacitated, the agency must make such notice. Notice invokes immediate testing of the arrestee.

**Section 14** amends s. 843.025, F.S., to prohibit a person from depriving a law enforcement officer of his or her radio, recording device, or restraint device, or render such radio, recording device or restraint useless.

**Section 18** amends s. 914.25, F.S., to add battery by strangulation, human smuggling, human trafficking or any other felony that involves the use or threat of physical force or violence against any individual to the definition of the term “serious felony offense.”

**Section 21** amends s. 943.0595, F.S., effective July 1, 2025, to eliminate certain circumstances where criminal histories are automatically sealed and provides that prosecutors may access sealed records for specific purposes, such as determining plea offers, accessing evidence for prosecution, or assessing eligibility for diversion programs. Circumstances eliminated in the bill include:

- An indictment, information, or other charging document was not filed or issued in the case giving rise to the criminal history record; and
- 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 attorney or statewide prosecutor or was dismissed by a court as to all counts.

**Section 22** creates s. 943.0413, F.S., effective July 1, 2025, to establish the Critical Infrastructure Mapping Grant Program within the Florida Department of Law Enforcement to support the ongoing assessment of the state’s vulnerability to, and ability to recover from, acts of terrorism. The bill specifies that each map created using funds received from the grant program must be created in an electronic or digital format and must be provided to all local, state, and federal responding agencies upon request.

**Sections 13, 15, 16 and 17** amend ss. 921.0022, 397.417, 420.06241, and 435.04, F.S., respectively, to make conforming changes.

**Sections 19 and 20** reenact ss. 914.27 and 943.031, F.S., respectively, to incorporate the changes made by the act to s. 914.25, F.S.

**Section 23** provides that the bill takes effect on October 1, 2025, except as otherwise expressly provided in this act (sections 21 and 22, relating to the automatic sealing of criminal history records and the Critical Infrastructure Mapping Grant Program, respectively, are effective July 1, 2025).

#### **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 Art. 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.

#### **V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Legislature's Office of Economic and Demographic Research (EDR) and 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 insignificant prison bed impact on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per the DOC, in FY 23-24, there were three new commitments to prison for attempted murder of a police officer, correctional officer, or correctional probation officer under s. 782.065, F.S. Since these numbers do not include other justice system personnel, there are other statutes where these attempted murders would likely be included. There were 29 new commitments for attempted felony murder under s. 782.051, F.S. Also, there were 370 new commitments for 1st degree premeditated murder or attempted murder under s. 782.04, F.S. As described, the data under s. 782.04, F.S., includes both actual murder and attempted murder, so these numbers would likely be lower if only premeditated murder was included. Furthermore, it is not known how many of the other court system personnel are included in these numbers. Additionally, there were two new commitments to prison in the same time period for manslaughter of those officers listed under s. 782.07, F.S., which includes other positions, such as firefighters. The sentence lengths for both were roughly fifteen years.
- Per the DOC, in FY 23-24, there were 2,520 new commitments to prison for weapons offenses. It is not known how many of these involved offenses committed by the officials described above, though their potential offenses would likely be for carrying a concealed firearm, where there were 79 new commitments.
- Per the FDLE, in FY 23-24, there were 67 arrests for misdemeanor false reports of commission of crimes, with 31 guilty/convicted charges and 8 adjudication withheld charges.
- Per the DOC, in FY 23-24, there were no new commitments to prison for willful making of a false report causing great bodily harm, permanent disfigurement, or permanent disability or new commitments for making a false report resulting in death. Per the DOC, in FY 23-24, the incarceration rate for a Level 1, 3rd degree felony was 9.7 percent. The incarceration rate for a Level 3, 2nd degree felony was 20 percent, and the incarceration rate for a Level 6, 1st degree felony was 44.4 percent.<sup>52</sup>

## **VI. Technical Deficiencies:**

The bill adds judges, state attorneys and assistant state attorneys to the list of persons who have the right to carry concealed firearms during off duty hours and utilize their weapon in a manner reasonably expected of on duty officers. This section of law provides this right to persons who have CJSTC training. Judges, state attorneys and assistant state attorneys do not have CJSTC training.

## **VII. Related Issues:**

None.

## **VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 112.1815, 112.195, 500.92, 775.0823, 790.051, 790.052, 790.06, 817.49, 843.025, 914.25, 937.021, 937.022, 951.27, 921.0022, and 943.0595.

<sup>52</sup> Office of Economic and Demographic Research, *SB 1444 Criminal Justice*, (on file with the Senate Committee on Criminal Justice)

This bill creates the following sections of the Florida Statutes: 316.2675 and 943.0413.

This bill reenacts the following section of the Florida Statutes: 914.27 and 943.031.

## **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 15, 2025:**

The committee substitute:

- Amends s. 112.1815, F.S., to specify that amputee first responders may continue to serve if they meet certification requirements without accommodation.
- Creates s. 112.195, F.S., to create honorary medal programs to be named the Florida Medal of Valor and Florida Blue/Red Heart Medal.
- Amends s. 500.92, F.S., to add certain kratom products that are adulterated with synthesized or semi-synthesized kratom alkaloids or constituents or contain certain levels in the alkaloid fraction to the list of prohibited products for sale to a person younger 21 years of age. A violation is a first degree misdemeanor.
- Amends s. 817.49, F.S., regarding false reports of the commission of crimes to encourage each state attorney to adopt a pro-prosecution policy for the false reporting of crimes.
- Amends s. 790.06, F.S., to specify that judge cannot prevent a person who is otherwise authorized to carry a concealed weapon or concealed firearm in a courthouse, from carrying such a concealed weapon or firearm in any other area of the courthouse other than his or her courtroom.
- Amends s. 937.021, F.S., to revise procedures for handling missing persons reports by revising the review and reporting requirements.
- Amends s. 937.022, F.S., to remove reference to the National Missing and Unidentified Persons System.
- Removes provisions allowing the Florida Highway Patrol to retain reimbursement funds paid by patrol officers.
- Removes provisions allowing certified law enforcement officers who are not actively employed by a law enforcement agency to retain their certification by complying with certification requirements.
- Removes provision regarding the use of artificial intelligence for specified purposes in conjunction with data and first responder body cameras.
- Removes the increased penalties for making a false report of a crime and providing policies concerning enforcement.

#### **CS by Criminal Justice on April 1, 2025:**

The amendment:

- Creates exceptions to the crime of using a vehicle kill switch.
- Removes provisions requiring a life sentence for manslaughter if the victim is a law enforcement officer.



- Provides that Artificial Intelligence may be used, however information obtained through such use must be subject to human oversight and may not be the sole basis for an arrest.
- Amends s. 843.025, F.S., to prohibit a person from depriving a law enforcement officer of his or her radio, recording device, or restraint device.
- Creates the Critical Infrastructure Mapping Grant Program within the Florida Department of Law Enforcement.
- Adds battery by strangulation, human smuggling, human trafficking or any other felony that involves the use or threat of physical force or violence against any individual to the definition of “serious felony offense,” in s. 914.25, F.S.
- Amends s. 943.0595, F.S., to eliminate certain circumstances where criminal histories are automatically sealed and provides that prosecutors may access sealed records for specific purposes, such as determining plea offers, accessing evidence for prosecution, or assessing eligibility for diversion programs.

B. Amendments:

None.

By the Committee on Criminal Justice; and Senator Burgess

591-03148-25

20251450c1

A bill to be entitled

An act relating to arrest and detention of individuals with significant medical conditions; creating s. 901.1501, F.S.; defining the term "person with a significant medical condition"; providing that a law enforcement officer may use his or her discretion in determining whether to make an immediate arrest of such person; providing construction; providing an effective date.

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

Section 1. Section 901.1501, Florida Statutes, is created to read:

901.1501 Immediate arrest of a person with a significant medical condition.—

(1) As used in this section, the term "person with a significant medical condition" means a person who is a patient or resident of a hospital licensed under chapter 395, a nursing home facility licensed under part II of chapter 400, or an assisted living facility licensed under part I of chapter 429.

(2) In determining whether to make an immediate arrest of a person with a significant medical condition, including an arrest for an offense committed against an elderly person or a disabled adult, a law enforcement officer may use his or her discretion based on the totality of the circumstances, including consideration of whether the person is a current or continued threat to public safety or himself or herself or a flight risk, and may consider all available lawful methods of making an

Page 1 of 2

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

591-03148-25

20251450c1

arrest, including seeking an arrest warrant under s. 901.02.

(3) This section does not prohibit a law enforcement officer from arresting a person without a warrant under s. 901.15, or making such an arrest by any lawful method.

Section 2. This act shall take effect July 1, 2025.

Page 2 of 2

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

**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** CS/SB 1450  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



The Florida Senate

## Committee Agenda Request

**To:** Senator Ileana Garcia, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** April 7, 2025

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I respectfully request that **Senate Bill #1450**, relating to Arrest and Detention of Individuals with Significant Medical Conditions, be placed on the:

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

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

Senator Danny Burgess  
Florida Senate, District 23

CC: Marti Harkness, Staff Director  
CC: Shelia Knowles, Committee Administrative Assistant

File signed original with committee office

S-020 (03/2004)

The Florida Senate

# APPEARANCE RECORD

SB 1450

Bill Number or Topic

4/15/25

Meeting Date

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

Criminal + Civil Justice Approps

Committee

Amendment Barcode (if applicable)

Name David Shepp

Phone 863 581-4250

Address 123 South Adams Street

Email shepp@thesoutherngroup.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:

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

Polk County Sheriff's Office

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

4/15/25

Meeting Date

1450

Bill Number or Topic

CJ APINOPS

Committee

Amendment Barcode (if applicable)

Name AARON WAYT  
FL ASSN OF CRIM DEF LAWYERS

Phone (407) 435-3194

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:

☐ I am not a lobbyist, but received  
something of value for my appearance  
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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.)

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

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BILL: CS/SB 1450

INTRODUCER: Criminal Justice Committee and Senator Burgess

SUBJECT: Arrest and Detention of Individuals with Significant Medical Conditions

DATE: April 14, 2025

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1450 creates s. 901.1501, F.S., to provide that a law enforcement officer may use his or her discretion based on the totality of the circumstances in determining whether to make an immediate arrest of a person with a significant medical condition, including an arrest for an offense committed against an elderly person or disabled adult.

The bill defines a “person with a significant medical condition” as a person who is a patient or resident of a hospital, nursing home facility or an assisted living facility.

The bill specifies that a law enforcement officer may consider all lawful methods to make an arrest of such a person, including seeking an arrest warrant, but does not preclude the officer from making an immediate physical arrest of such a person.

This bill may have an indeterminate prison bed impact (unquantifiable increase or decrease on prison beds) on the Department of Corrections. See Section V., Fiscal Impact Statement.

The bill takes effect on July 1, 2025.

## II. Present Situation:

Senior aggression and violence encountered in the long-term care service industry occurs when residents assault staff or each other.<sup>1</sup> Residents of a hospital,<sup>2</sup> nursing home facility<sup>3</sup> or an assisted living facility<sup>4</sup> may suffer from dementia or other cognitive impairments that can result in residential aggression and mistreatment of others in the facility.

### Arrests

A law enforcement officer<sup>5</sup> is authorized to arrest a person who commits a criminal offense. A law enforcement officer may make such an arrest after first obtaining an arrest warrant or, in specified circumstances, he or she may make an immediate arrest without a warrant.

A law enforcement officer must request approval from a judge to obtain an arrest warrant. A judge is authorized to issue a warrant authorizing a person's arrest for committing any crime if he or she finds probable cause that the person committed a crime within his or her jurisdiction.<sup>6</sup> When a judge signs an arrest warrant, he or she also sets a bond amount for a defendant, which allows a defendant to be released from jail upon payment if a defendant is arrested under the warrant.<sup>7</sup>

An officer making an arrest by a warrant shall inform the person to be arrested of the cause of arrest and that a warrant has been issued, except when the person flees or forcibly resists before the officer has an opportunity to inform the person, or when giving the information will imperil the arrest. The warrant does not need to be in the officer's possession at the time of arrest, but available on request as soon as practicable.<sup>8</sup>

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<sup>1</sup> International Association for Healthcare Security and Safety Foundation, *Violence and Security in Skilled Nursing/Assisted Care Facilities*, available at <https://iahssf.org/assets/IAHSS-Foundation-Violence-and-Security-in-Skilled-Nursing-and-Assisted-Care-Facilities-181203.pdf> (last visited April 9, 2025).

<sup>2</sup> Hospital" means any establishment that offers services more intensive than those required for room, board, personal services, and general nursing care, and offers facilities and beds for use beyond 24 hours by individuals requiring diagnosis, treatment, or care for illness, injury, deformity, infirmity, abnormality, disease, or pregnancy; and regularly makes available at least clinical laboratory services, diagnostic X-ray services, and treatment facilities for surgery or obstetrical care, or other definitive medical treatment of similar extent, except that a critical access hospital, as defined in s. 408.07, F.S., shall not be required to make available treatment facilities for surgery, obstetrical care, or similar services as long as it maintains its critical access hospital designation and shall be required to make such facilities available only if it ceases to be designated as a critical access hospital. However, the provisions of ch. 395, F.S., do not apply to any institution conducted by or for the adherents of any well-recognized church or religious denomination that depends exclusively upon prayer or spiritual means to heal, care for, or treat any person. For purposes of local zoning matters, the term "hospital" includes a medical office building located on the same premises as a hospital facility, provided the land on which the medical office building is constructed is zoned for use as a hospital; provided the premises were zoned for hospital purposes on January 1, 1992. Section 395.002(12), F.S.

<sup>3</sup> "Nursing home facility" means any facility which provides nursing services under part I, ch. 464, F.S., and which is licensed under part II, ch. 400, F.S. Section. 400.021(12), F.S

<sup>4</sup> "Assisted living facility" means any building or buildings, section or distinct part of a building, private home, boarding home, home for the aged, or other residential facility, regardless of whether operated for profit, which through its ownership or management provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator. Section 429.02(5), F.S.

<sup>5</sup> Section 943.10(1), F.S.

<sup>6</sup> Section 901.02, F.S.

<sup>8</sup> Section 901.16, F.S.

<sup>8</sup> Section 901.16, F.S.



A law enforcement officer may arrest a person without a warrant under certain statutorily enumerated circumstances, including when:

- The person has committed a felony or misdemeanor or violated a municipal or county ordinance in the presence of the officer. An arrest for the commission of a misdemeanor or the violation of a municipal or county ordinance shall be made immediately or in fresh pursuit.
- A felony has been committed and he or she reasonably believes that the person committed it.
- He or she reasonably believes that a felony has been or is being committed and that the person to be arrested has committed or is committing it.
- There is probable cause to believe a person has committed certain enumerated misdemeanor offenses for which a warrantless arrest has been explicitly authorized by statute, such as a battery, criminal mischief or graffiti, an act of domestic violence, an injunction violation, or sexual cyberharassment.<sup>9</sup>

### **Bail and Pretrial Detention**

Except when previously released in a lawful manner, every arrested person must appear before a judge within 24 hours of arrest for a “first appearance.”<sup>10</sup> During first appearance, a judge advises a defendant of the charges for which he or she was arrested, and advises a defendant of specified rights.<sup>11</sup> If a judge determines that probable cause exists, the judge then determines whether a defendant is entitled to pretrial release. A judge may grant pretrial release either by setting a specified bail amount or releasing the defendant on his or her own recognizance.<sup>12</sup>

### ***Pretrial Detention***

Some offenses committed against an elderly person or disabled adult are classified as a “dangerous crime” and may require a person to post a bond in order to be released from jail. Section 907.041, F.S., creates a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release unless such person is charged with a “dangerous crime.”<sup>13</sup> A person may not be released on nonmonetary conditions to supervised pretrial release, unless the pretrial release service certifies to the court it has investigated or otherwise verified:

- The circumstances of the accused’s family, employment, financial resources, character, mental condition, and length of residence in the community.
- The accused’s record of convictions, of appearances at court proceedings, of flight to avoid prosecution, or of failure to appear at court proceedings.
- Other facts necessary to assist the court in determining the accused indigency status and whether he or she should be released on supervised pretrial release.<sup>14</sup>

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<sup>9</sup> Section 901.15, F.S.

<sup>10</sup> Fl. R. Crim. P. 3.130

<sup>11</sup> *Id.*

<sup>12</sup> Fl. R. Crim. P. 3.131

<sup>13</sup> Section 907.041(5)(a), F.S.

<sup>14</sup> Section 907.041(3)(b), F.S.

***No Pretrial Detention***

There are offenses for which a person may not be released prior to his or her first appearance hearing. Under s. 903.011(6), F.S., a defendant may not be released prior to his or her first appearance hearing if he or she:

- Was on pretrial release, probation, or community control in this state or any other state at the time of arrest for a felony;
- Was designated as a sexual offender or sexual predator in this state or any other state at the time of arrest;
- Was arrested for violating a protective injunction;
- Was, at the time of arrest, on release from supervision by the Department of Corrections under conditional release, control release, conditional medical release, or an addiction recovery supervision program;
- Has, at any time before the current arrest, been sentenced as a prison releasee reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;
- Has been arrested three or more times in the six months immediately preceding his or her current arrest; or
- Was arrested for one or more of the following crimes:
  - A capital felony, life felony, first degree felony, or second degree felony;
  - A homicide under ch. 782, F.S.; or any attempt, solicitation, or conspiracy to commit a homicide;
  - Assault in furtherance of a riot or an aggravated riot; felony battery; domestic battery by strangulation; domestic violence, as defined in s. 741.28, F.S.; stalking; mob intimidation; assault or battery on a law enforcement officer; assault or battery on a juvenile probation officer or other staff of a detention center or commitment facility, or a staff member of a commitment facility or health services personnel; assault or battery on a person 65 years of age or older; robbery; burglary; carjacking; or resisting an officer with violence;
  - Kidnapping, false imprisonment, human trafficking, or human smuggling;
  - Possession of a firearm or ammunition by a felon, violent career criminal, or person subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking;
  - Sexual battery; indecent, lewd, or lascivious touching; exposure of sexual organs; incest; luring or enticing a child; or child pornography;
  - Abuse, neglect, or exploitation of an elderly person or disabled adult;
  - Child abuse or aggravated child abuse;
  - Arson; riot, aggravated riot, inciting a riot, or aggravated inciting a riot; or a burglary or theft during a riot;
  - Escape; tampering or retaliating against a witness, victim, or informant; destruction of evidence; or tampering with a jury;
  - Any offense committed for the purpose of benefitting, promoting, or furthering the interests of a criminal gang;
  - Trafficking in a controlled substance, including conspiracy to engage in trafficking in a controlled substance;
  - Racketeering; or
  - Failure to appear at required court proceedings while on bail.

**III. Effect of Proposed Changes:**

The bill creates s. 901.1501, F.S., to provide that a law enforcement officer may use his or her discretion based on the totality of the circumstances in determining whether to make an immediate arrest of a person with a significant medical condition, including an arrest for an offense committed against an elderly person or disabled adult.

The bill defines a “person with a significant medical condition” as a person who is a patient or resident of a hospital, nursing home facility or an assisted living facility.

The bill specifies that a law enforcement officer may consider all lawful methods to make an arrest of such a person, including seeking an arrest warrant, but does not preclude the officer from making an immediate physical arrest of such a person.

The bill takes effect on July 1, 2025.

**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.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Legislature's Office of Economic and Demographic Research (EDR) and 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 an indeterminate prison bed impact on the Department of Corrections. However, the EDR noted that there is no data available on the number of offenders who would be impacted by this new language. Furthermore, it is not known how police officers would use their discretion in these situations.<sup>15</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 901.1501

**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 April 1, 2025:**

The amendment defines “person with a significant medical condition,” and adds “nursing home facility” to the list of facilities in which such person may reside. The amendment specifies that officers may use discretion when an offense is against an elderly persons or disabled adults and committed by a person with a significant medical condition.

**B. Amendments:**

None.

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

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<sup>15</sup> Office of Economic and Demographic Research, *SB 1450 Arrest and Detention of Individuals with Significant Medical Conditions*, (on file with the Senate Committee on Criminal Justice)

By the Committee on Criminal Justice; and Senator Martin

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1 A bill to be entitled  
 2 An act relating to corrections; amending s. 57.085,  
 3 F.S.; revising provisions relating to deferral of  
 4 prepayment of court costs and fees for indigent  
 5 prisoners for actions involving challenges to prison  
 6 disciplinary reports; amending s. 95.11, F.S.;  
 7 providing for a 1-year period of limitation for  
 8 bringing certain actions relating to the condition of  
 9 confinement of prisoners; creating s. 760.701, F.S.;  
 10 defining the term "prisoner"; requiring exhaustion of  
 11 administrative remedies before certain actions  
 12 concerning confinement of prisoners may be brought;  
 13 providing for dismissal of certain actions involving  
 14 prisoner confinement in certain circumstances;  
 15 requiring a showing of physical injury or the  
 16 commission of a certain act as a condition precedent  
 17 for bringing certain actions relating to prisoner  
 18 confinement; specifying a time limitation period for  
 19 bringing an action concerning any condition of  
 20 confinement; amending s. 775.087, F.S.; providing that  
 21 prison terms for certain offenses committed in  
 22 conjunction with another felony offense may be  
 23 sentenced to be served consecutively; amending ss.  
 24 922.10 and 922.105, F.S.; revising provisions  
 25 concerning methods of execution of death sentences;  
 26 amending s. 934.425, F.S.; exempting certain persons  
 27 working for the Department of Corrections or the  
 28 Department of Juvenile Justice, and persons authorized  
 29 pursuant to a court order, from provisions regulating

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30 the use of tracking devices or tracking applications;  
 31 amending s. 945.41, F.S.; revising legislative intent;  
 32 revising provisions relating to mental health  
 33 treatment for inmates; providing that an inmate must  
 34 give his or her express and informed consent to such  
 35 treatment; specifying information an inmate must  
 36 receive regarding treatment; authorizing the warden to  
 37 authorize certain emergency medical treatment under  
 38 the direction of the inmate's attending physician  
 39 under certain circumstances; amending s. 945.42, F.S.;  
 40 revising and providing definitions; amending s.  
 41 945.43, F.S.; revising provisions concerning  
 42 involuntary examinations; amending s. 945.44, F.S.;  
 43 revising provisions concerning involuntary placement  
 44 and treatment of an inmate in a mental health  
 45 treatment facility; repealing s. 945.45, F.S.,  
 46 relating to continued placement of inmates in mental  
 47 health treatment facilities; amending s. 945.46, F.S.;  
 48 providing requirements for filing petitions for  
 49 involuntary inpatient placement for certain inmates;  
 50 authorizing the court to order alternative means and  
 51 venues for certain hearings; requiring, rather than  
 52 authorizing, inmates to be transported to the nearest  
 53 receiving facility in certain circumstances; amending  
 54 s. 945.47, F.S.; specifying purposes for which an  
 55 inmate's mental health treatment records may be  
 56 provided to the Florida Commission on Offender Review  
 57 and the Department of Children and Families;  
 58 authorizing such records to be provided to certain

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59 facilities upon request; amending s. 945.48, F.S.;

60 substantially revising provisions relating to

61 emergency treatment orders and use of force and

62 providing requirements for such orders and use of

63 force; providing requirements for emergency and

64 psychotropic medications and use of force; creating s.

65 945.485, F.S.; providing legislative findings;

66 providing requirements for management of and treatment

67 for an inmate's self-injurious behaviors; requiring

68 facility wardens to consult with an inmate's treating

69 physician in certain circumstances and make certain

70 determinations; providing for petitions to compel an

71 inmate to submit to medical treatment in certain

72 circumstances; providing construction; amending s.

73 945.49, F.S.; deleting a requirement that the

74 Department of Corrections adopt certain rules in

75 cooperation with the Mental Health Program Office of

76 the Department of Children and Families; creating s.

77 945.6402, F.S.; providing definitions; providing

78 legislative findings and intent; providing

79 requirements for inmate capacity, health care advance

80 directives, and proxies; authorizing the use of force

81 on incapacitated inmates in certain circumstances;

82 providing immunity from liability for certain persons

83 in certain circumstances; amending s. 947.02, F.S.;

84 revising the manner in which the membership of the

85 Florida Commission on Offender Review is appointed;

86 repealing s. 947.021, F.S., relating to expedited

87 appointments of the Florida Commission on Offender

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88 Review; amending s. 947.12, F.S.; conforming

89 provisions to changes made by the act; amending s.

90 957.04, F.S.; revising requirements for contracting

91 for certain services; amending s. 957.09, F.S.;

92 deleting a provision relating to minority business

93 enterprises; amending s. 20.32, F.S.; conforming

94 provisions to changes made by the act; providing an

95 effective date.

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

99 Section 1. Subsection (10) of section 57.085, Florida

100 Statutes, is amended to read:

101 57.085 Deferral of prepayment of court costs and fees for

102 indigent prisoners.—

103 (10) With the exception of challenges to prison

104 disciplinary reports, this section does not apply to a criminal

105 proceeding or a collateral criminal proceeding.

106 Section 2. Paragraph (b) of subsection (2) and paragraphs

107 (f) and (g) of subsection (6) of section 95.11, Florida

108 Statutes, are amended to read:

109 95.11 Limitations other than for the recovery of real

110 property.—Actions other than for recovery of real property shall

111 be commenced as follows:

112 (2) WITHIN FIVE YEARS.—

113 (b) A legal or equitable action on a contract, obligation,

114 or liability founded on a written instrument, except for an

115 action to enforce a claim against a payment bond, which shall be

116 governed by the applicable provisions of paragraph (6)(e), s.

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255.05(10), s. 337.18(1), or s. 713.23(1)(e), and except for an action for a deficiency judgment governed by paragraph (6)(g) ~~(6)(h)~~.

(6) WITHIN ONE YEAR.—

(f) Except for actions described in subsection (9), or a petition challenging a criminal conviction, all petitions; extraordinary writs; tort actions, including those under s. 768.28(14); or other actions which concern any condition of confinement of a prisoner a petition for extraordinary writ, other than a petition challenging a criminal conviction, filed by or on behalf of a prisoner as defined in s. 57.085. Any petition, writ, or action brought under this paragraph must be commenced within 1 year after the time the incident, conduct, or conditions occurred or within 1 year after the time the incident, conduct, or conditions were discovered, or should have been discovered.

~~(g) Except for actions described in subsection (9), an action brought by or on behalf of a prisoner, as defined in s. 57.085, relating to the conditions of the prisoner's confinement.~~

Section 3. Section 760.701, Florida Statutes, is created to read:

760.701 Lawsuits by prisoners.—

(1) For the purposes of this section, the term "prisoner" means any person incarcerated or detained in any jail, prison, or other correctional facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for violations of criminal law or the terms and conditions of parole, probation, pretrial release, or a diversionary program.

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(2) An action may not be brought by or on behalf of a prisoner relating to the conditions of the prisoner's confinement under 42 U.S.C. s. 1983, or any other state or federal law, until such administrative remedies as are available are fully exhausted.

(3) The court shall on its own motion or on the motion of a party dismiss any action brought relating to the conditions of the prisoner's confinement under 42 U.S.C. s. 1983, or any other state or federal law, by a prisoner if the court is satisfied that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief. The court shall review any such action pursuant to s. 57.085(6).

(4) An action may not be brought in state court by or on behalf of a prisoner relating to the conditions of the prisoner's confinement under 42 U.S.C. s. 1983, or any state tort action, for mental or emotional injury suffered while in custody without a prior showing of physical injury or the commission of a sexual act as defined in 18 U.S.C. s. 2246(2).

(5) The time for bringing an action that concerns any condition of confinement of a prisoner shall be the limitations period as described in s. 95.11(6)(f).

Section 4. Paragraph (d) of subsection (2) of section 775.087, Florida Statutes, is amended, paragraph (e) is added to that subsection, and paragraph (a) of that subsection is republished, to read:

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

(2)(a)1. Any person who is convicted of a felony or an

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attempt to commit a felony, regardless of whether the use of a weapon is an element of the felony, and the conviction was for:

- a. Murder;
- b. Sexual battery;
- c. Robbery;
- d. Burglary;
- e. Arson;
- f. Aggravated battery;
- g. Kidnapping;
- h. Escape;
- i. Aircraft piracy;
- j. Aggravated child abuse;
- k. Aggravated abuse of an elderly person or disabled adult;
- l. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- m. Carjacking;
- n. Home-invasion robbery;
- o. Aggravated stalking;
- p. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1);
- q. Possession of a firearm by a felon; or
- r. Human trafficking

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and during the commission of the offense, such person actually possessed a "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 10 years, except that a person who is convicted for possession of a firearm by a felon or burglary of a conveyance shall be sentenced to a minimum term of imprisonment of 3 years if such person possessed a "firearm" or "destructive device" during the commission of the offense. However, if an offender who is convicted of the offense of possession of a firearm by a felon has a previous conviction of committing or attempting to commit a felony listed in s. 775.084(1)(b)1. and actually possessed a firearm or destructive device during the commission of the prior felony, the offender shall be sentenced to a minimum term of imprisonment of 10 years.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs 1.a.-p. or sub-subparagraph 1.r., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs 1.a.-p. or sub-subparagraph 1.r., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon



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any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

(d) It is the intent of the Legislature that offenders who actually possess, carry, display, use, threaten to use, or attempt to use firearms or destructive devices be punished to the fullest extent of the law, and the minimum terms of imprisonment imposed pursuant to this subsection shall be imposed for each qualifying felony count for which the person is convicted. The court shall impose any term of imprisonment provided for in this subsection consecutively ~~to any other term of imprisonment imposed for any other felony offense.~~

(e) If a conviction enumerated in subparagraph (a)1. is committed in conjunction with any other felony offense, the court may impose any term of imprisonment provided for in this subsection consecutively to any other term of imprisonment imposed for any other felony offense.

Section 5. Section 922.10, Florida Statutes, is amended to read:

922.10 Execution of death sentence; executioner.—A death sentence shall be executed by electrocution, ~~or~~ lethal injection, or a method not deemed unconstitutional nor cruel and unusual in accordance with s. 922.105. The warden of the state prison shall designate the executioner. The warrant authorizing the execution shall be read to the convicted person immediately before execution.

Section 6. Subsection (3) of section 922.105, Florida Statutes, is amended to read:

922.105 Execution of death sentence; prohibition against

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reduction of death sentence as a result of determination that a method of execution is unconstitutional.—

(3) If electrocution or lethal injection is held to be unconstitutional or cruel and unusual by the Florida Supreme Court under the State Constitution, or held to be unconstitutional or cruel and unusual by the United States Supreme Court under the United States Constitution, or if the United States Supreme Court declines to review any judgment holding a method of execution to be unconstitutional or cruel and unusual under the United States Constitution made by the Florida Supreme Court or the United States Court of Appeals that has jurisdiction over Florida, or if the acquisition of chemicals necessary for lethal injection by the department becomes impossible or impractical, all persons sentenced to death for a capital crime shall be executed by a method not deemed unconstitutional nor cruel and unusual ~~any constitutional method of execution.~~

Section 7. Present paragraphs (b) through (e) of subsection (4) of section 934.425, Florida Statutes, are redesignated as paragraphs (e) through (h), respectively, and new paragraphs (b), (c), and (d) are added to that subsection, to read:

934.425 Installation or use of tracking devices or tracking applications; exceptions; penalties.—

(4) This section does not apply to:

(b) A correctional officer, a correctional probation officer, or any other officer or support personnel, as those terms are defined in s. 943.10, of the Department of Corrections who lawfully installs, places, or uses a tracking device or tracking application on a person in his or her care, custody, or

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control and in the course and scope of his or her employment.

(c) A juvenile probation officer, an authorized agent or designee, or delinquency program staff, as those terms are defined in s. 985.03, of the Department of Juvenile Justice who lawfully installs, places, or uses a tracking device or tracking application on a person in his or her care, custody, or control and in the course and scope of his or her employment.

(d) A person authorized to install, place, or use a tracking device or tracking application pursuant to a court order.

Section 8. Section 945.41, Florida Statutes, is amended to read:

945.41 Mental health treatment for inmates; legislative intent of ss. 945.40-945.49.—

(1) INTENT.—It is the intent of the Legislature that:

(a) mentally ill ~~Inmates in the custody of the department who have a mental illness of Corrections~~ receive an evaluation and appropriate treatment for their mental illness through a continuum of outpatient and inpatient mental health treatment and services.

(b) The department is authorized to purchase treatment materials and equipment to support inmate rehabilitation; to ameliorate disabling mental symptoms associated with impairment in behavioral functioning, sensory and motor skills, and impulse control; and to improve adaptive coping skills consistent with the department's jurisdiction as described in s. 945.025.

(c) Sections 945.40-945.49 do not supplement, amend, or change the responsibilities of the Department of Children and Families pursuant to chapter 916, the Forensic Client Services

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Act, which governs forensic services for persons who are incompetent to proceed as defined in s. 916.106.

(2) INDIVIDUAL DIGNITY AND TREATMENT.—

(a) An inmate in the custody of the department shall be offered treatment that is suited to his or her needs as determined by health care staff.

(b) The department shall provide mental health treatment and services to inmates and may contract with any entities, persons, or agencies qualified to provide such treatment and services.

(c) Inmates receiving mental health treatment and services shall be offered the opportunity to participate in the development of a written individualized treatment plan and be provided a copy of such plan before its implementation. ~~It is further the intent of the Legislature that:~~

(d) ~~(1) Inmates in the custody of the department who have mental illnesses that require hospitalization and intensive mental health psychiatric inpatient treatment and services or care shall be offered receive appropriate treatment or care in an inpatient setting Department of Corrections mental health treatment facilities designated for that purpose. Inmates who have mental illnesses that require intensive hospitalization-level mental health inpatient treatment and services shall be transferred to a department mental health treatment facility designated for that purpose The Department of Corrections shall provide mental health services to inmates committed to it and may contract with any entities, persons, or agencies qualified to provide such services.~~

(e) ~~(2)~~ Mental health treatment facilities shall be secure

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and adequately equipped and staffed for the provision of mental health treatment and services. Inmates shall be offered the least restrictive appropriate available treatment and services based on their assessed needs and best interests and consistent with improvement of their condition for facilitation of appropriate adjustment within the correctional environment ~~services and that, to the extent possible, such services be provided in the least restrictive manner consistent with optimum improvement of the inmate's condition.~~

(3) EXPRESS AND INFORMED CONSENT.-

(a) A mentally competent inmate offered mental health treatment within the department shall give his or her express and informed consent for such treatment. Before giving such consent, the following information shall be provided and explained in plain language to the inmate:

1. The proposed treatment.

2. The purpose of the treatment.

3. The common risks, benefits, and side effects of the treatment and the specific dosage range for a medication, if applicable.

4. Alternative treatment modalities.

5. The approximate length of treatment.

6. The potential effects of stopping treatment.

7. How treatment will be monitored.

8. That any consent given for treatment may be revoked orally or in writing before or during the treatment period by the inmate or by a person legally authorized to make health care decisions on behalf of the inmate.

(b) Inmates who are determined to be incompetent to consent

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to treatment shall receive treatment deemed to be necessary for their appropriate care and for the safety of the inmate or others in accordance with the procedures established in ss. 945.40-945.49.

(4)(3) PAROLE.-Inmates who are transferred to any facility for the purpose of mental health treatment and services shall be given consideration for parole and be eligible for release by reason of gain-time allowances as provided in s. 944.291 and release by expiration of sentence, consistent with guidelines established for that purpose by the department.

(5)(4) YOUTHFUL OFFENDERS.-Any inmate sentenced as a youthful offender, or designated as a youthful offender by the department under chapter 958, who is transferred pursuant to this act to a mental health treatment facility shall be separated from other inmates, if necessary, as determined by the warden of the mental health treatment facility.

(6)(5) TREATMENT FACILITIES.-The department may designate mental health treatment facilities for adult, youthful, and female offenders or may contract with other appropriate entities, persons, or agencies for such services.

(7) EMERGENCY MEDICAL TREATMENT.-Notwithstanding any other provision of this section, when the express and informed consent of an inmate placed in a mental health treatment facility in accordance with s. 945.44 cannot be obtained or the inmate is incompetent to consent to treatment, the warden of a mental health treatment facility, or his or her designated representative, under the direction of the inmate's attending physician, may authorize nonpsychiatric, emergency surgical treatment or other routine medical treatment if such treatment

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is deemed lifesaving or there is a situation threatening serious bodily harm to the inmate.

Section 9. Section 945.42, Florida Statutes, is amended to read:

945.42 Definitions; ss. 945.40-945.49.—As used in ss. 945.40-945.49, the following terms shall have the meanings ascribed to them, unless the context shall clearly indicate otherwise:

(1) "Court" means the circuit court.

(2) "Crisis stabilization care" means an inpatient a level of care that is less restrictive and intensive ~~intense~~ than care provided in a mental health treatment facility, that includes a broad range of evaluation and treatment and services provided within a secure and highly structured residential setting ~~or locked residential setting~~, and that is intended for inmates who are experiencing acute psychological ~~emotional~~ distress and who cannot be adequately evaluated and treated in a transitional care unit or infirmary isolation management room. Such treatment and services are ~~is also~~ more intense than treatment and services provided in a transitional care unit and are ~~is~~ devoted principally toward rapid stabilization of acute symptoms and conditions.

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

(4) "Express and informed consent" means consent voluntarily given in writing by a competent inmate, after sufficient explanation and disclosure of the subject matter involved, to enable the inmate to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

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(5) "Gravely disabled" means a condition in which an inmate, as a result of a diagnosed mental illness, is:

(a) In danger of serious physical harm resulting from the inmate's failure to provide for his or her essential physical needs of food, clothing, hygiene, health, or safety without the assistance of others; or

(b) Experiencing a substantial deterioration in behavioral functioning evidenced by the inmate's unremitting decline in volitional control over his or her actions.

(6) "Incompetent to consent to treatment" means a state in which an inmate's judgment is so affected by mental illness that he or she lacks the capacity to make a well-reasoned, willful, and knowing decision concerning his or her medical or mental health treatment and services. The term is distinguished from the term "incompetent to proceed," as defined in s. 916.106, and refers only to an inmate's inability to provide express and informed consent for medical or mental health treatment and services.

~~(4) "Director" means the Director for Mental Health Services of the Department of Corrections or his or her designee.~~

~~(5) "In immediate need of care and treatment" means that an inmate is apparently mentally ill and is not able to be appropriately cared for in the institution where he or she is confined and that, but for being isolated in a more restrictive and secure housing environment, because of the apparent mental illness:~~

~~(a)1. The inmate is demonstrating a refusal to care for himself or herself and without immediate treatment intervention~~

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is likely to continue to refuse to care for himself or herself, and such refusal poses an immediate, real, and present threat of substantial harm to his or her well-being; or

~~2. There is an immediate, real, and present threat that the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior involving causing, attempting, or threatening such harm;~~

~~(b) The inmate is unable to determine for himself or herself whether placement is necessary; and~~

~~(c) All available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate.~~

(7)(6) "In need of care and treatment" means that an inmate has a mental illness for which inpatient services in a mental health treatment facility are necessary and ~~that, but for being isolated in a more restrictive and secure housing environment,~~ because of the mental illness:

(a) But for being isolated in a more restrictive and secure housing environment:

1. The inmate is demonstrating a refusal to care for himself or herself and without treatment is likely to continue to refuse to care for himself or herself, and such refusal poses a real and present threat of substantial harm to his or her well-being; or

2. There is a substantial likelihood that in the near future the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm.†

(b) The inmate is incompetent to consent to treatment and

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is unable or is refusing to provide express and informed consent to treatment.

~~(c)(b)~~ The inmate is unable to determine for himself or herself whether placement is necessary.† ~~and~~

(d)(c) All available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate.

~~(8)(7)~~ "Inmate" means any person committed to the custody of the Department of Corrections.

(9) "Involuntary examination" means a psychiatric examination performed at a mental health treatment facility to determine whether an inmate should be placed in the mental health treatment facility for inpatient mental health treatment and services.

(10) "Likelihood of serious harm" means:

(a) A substantial risk that the inmate will inflict serious physical harm upon his or her own person, as evidenced by threats or attempts to commit suicide or the actual infliction of serious physical harm on self;

(b) A substantial risk that the inmate will inflict physical harm upon another person, as evidenced by behavior which has caused such harm or which places any person in reasonable fear of sustaining such harm; or

(c) A reasonable degree of medical certainty that the inmate will suffer serious physical or mental harm, as evidenced by the inmate's recent behavior demonstrating an inability to refrain from engaging in self-harm behavior.

~~(11)(8)~~ "Mental health treatment facility" means any

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extended treatment or hospitalization-level unit within the corrections system which the Assistant Secretary for Health Services of the department specifically designates by rule to provide acute mental health ~~psychiatric~~ care and which may include involuntary treatment and therapeutic intervention in contrast to less intensive levels of care such as outpatient mental health care, transitional mental health care, or crisis stabilization care. The term does not include a forensic facility as defined in s. 916.106.

(12)-(9) "Mental illness" or "mentally ill" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. However, for the purposes of transferring an inmate to a mental health treatment facility, the term does not include a developmental disability as defined in s. 393.063, simple intoxication, or conditions manifested only by antisocial behavior or substance abuse addiction. However, an individual who is developmentally disabled may also have a mental illness.

(13)-(10) "Psychiatrist" means a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated nervous and mental disorders for a period of not less than 3 years inclusive of psychiatric residency.

(14)-(11) "Psychological professional" means a behavioral practitioner who has an approved doctoral degree in psychology as defined in s. 490.003(3)(b) ~~s. 490.003(3)~~ and is employed by the department or who is licensed as a psychologist pursuant to

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chapter 490.

(15)-(12) "Secretary" means the Secretary of Corrections.

(16)-(13) "Transitional mental health care" means a level of care that is more intensive than outpatient care, but less intensive than crisis stabilization care, and is characterized by the provision of traditional mental health treatment and services, ~~treatments~~ such as group and individual therapy, activity therapy, recreational therapy, and psychotropic medications in the context of a secure, structured residential setting. Transitional mental health care is indicated for an inmate ~~a person~~ with chronic or residual symptomatology who does not require crisis stabilization care or acute mental health ~~psychiatric~~ care, but whose impairment in functioning nevertheless renders him or her incapable of adjusting satisfactorily within the general inmate population.

(17) "Treatment" means psychotropic medications prescribed by a medical practitioner licensed pursuant to chapter 458 or chapter 459, including those laboratory tests and related medical procedures that are essential for the safe and effective administration of a psychotropic medication and psychological interventions and services, such as group and individual psychotherapy, activity therapy, recreational therapy, and music therapy. The term does not include forensic services for inmate defendants who are incompetent to proceed as defined in s. 916.106.

(18)-(14) "Warden" means the warden of a state corrections facility or his or her designee.

Section 10. Section 945.43, Florida Statutes, is amended to read:

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581 (Substantial rewording of section. See  
 582 s. 945.43, F.S., for present text.)  
 583 945.43 Involuntary examination.—  
 584 (1) If there is reason to believe that an inmate has a  
 585 mental illness and the inmate is in need of care and treatment,  
 586 the inmate's treating clinician may refer the inmate to a mental  
 587 health treatment facility for an involuntary examination. Upon  
 588 referral, the warden of the facility where the inmate is housed  
 589 shall transfer the inmate to a mental health treatment facility.  
 590 (2) Upon arrival to the mental health treatment facility,  
 591 the inmate shall be examined by a psychiatrist and a second  
 592 psychiatrist or psychological professional to determine whether  
 593 the inmate is in need of care and treatment.  
 594 (3) If, after the examination, the inmate is determined to  
 595 be in need of care and treatment, the psychiatrist shall propose  
 596 a recommended course of treatment that is essential to the care  
 597 of the inmate, and the warden shall initiate proceedings for  
 598 placement of the inmate in the mental health treatment facility  
 599 and for involuntary treatment of the inmate as specified in s.  
 600 945.44. If the inmate is not in need of care and treatment, he  
 601 or she shall be transferred out of the mental health treatment  
 602 facility and provided with appropriate mental health services.  
 603 (4) The involuntary examination and initiation of court  
 604 proceedings for the placement and applicable involuntary  
 605 treatment of the inmate in the mental health treatment facility  
 606 shall be completed within 10 calendar days after arrival.  
 607 (5) The inmate may remain in the mental health treatment  
 608 facility pending a hearing after the timely filing of a petition  
 609 as described in s. 945.44. Pending a hearing, necessary

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610 emergency treatment may be provided in the mental health  
 611 treatment facility upon the written order of a physician as  
 612 provided in s. 945.48.  
 613 Section 11. Section 945.44, Florida Statutes, is amended to  
 614 read:  
 615 (Substantial rewording of section. See  
 616 s. 945.44, F.S., for present text.)  
 617 945.44 Placement and treatment of an inmate in a mental  
 618 health treatment facility.—  
 619 (1) CRITERIA FOR INVOLUNTARY PLACEMENT OR TREATMENT.—  
 620 (a) An inmate may be placed in a mental health treatment  
 621 facility if he or she is mentally ill and is in need of care and  
 622 treatment.  
 623 (b) An inmate may receive involuntary treatment for which  
 624 the inmate is unable or has refused to provide express and  
 625 informed consent, if all of the following apply:  
 626 1. The inmate is mentally ill;  
 627 2. The treatment is essential to the care of the inmate;  
 628 3. The treatment is not experimental and does not present  
 629 an unreasonable risk of serious, hazardous, or irreversible side  
 630 effects;  
 631 4. The inmate is gravely disabled or poses a likelihood of  
 632 serious harm; and  
 633 5. The inmate is incompetent to consent to treatment.  
 634 (2) HEARING PROCEDURES FOR PETITIONS FOR PLACEMENT AND  
 635 TREATMENT.—  
 636 (a) An inmate may be placed and involuntarily treated in a  
 637 mental health treatment facility after notice and hearing upon  
 638 the recommendation of the warden of the facility where the

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inmate is confined. The warden of the institution where the mental health treatment facility is located shall petition the circuit court serving the county for an order authorizing the placement and treatment of the inmate. The petition must be supported by the expert opinion of at least one of the inmate's treating psychiatrists.

(b) The inmate shall be provided with a copy of the petition along with the proposed treatment, the basis for the proposed treatment, the names of the examining experts, and the date, time, and location of the hearing. After considering the public safety and security concerns presented by transporting the inmate or in conducting onsite hearings, the court may order that the hearing be conducted by electronic means or in person at the facility or at another location designated by the court. If the hearing is ordered by the court to be conducted at a location other than the facility, the department is authorized to transport the inmate to the location of the hearing.

(c) The inmate may have an attorney represent him or her at the hearing, and, if the inmate is indigent, the court shall appoint the office of the public defender or private counsel pursuant to s. 27.40(1) to represent the inmate at the hearing. An attorney representing the inmate shall have access to the inmate and any records, including medical or mental health records, which are relevant to the representation of the inmate.

(d) The hearing on the petition for involuntary placement and treatment shall be held as expeditiously as possible after the petition is filed, but no later than 14 calendar days after filing. The court may appoint a general or special magistrate to preside over the hearing. The inmate may testify or not, as he

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or she chooses, may cross-examine witnesses testifying on behalf of the facility, and may present his or her own witnesses.

(e) The court may waive the presence of the inmate at the hearing if the waiver is consistent with the best interests of the inmate and the inmate's counsel does not object. One of the inmate's physicians whose opinion supported the petition shall appear as a witness at the hearing.

(3) ORDERS FOR INVOLUNTARY PLACEMENT AND TREATMENT.—

(a) If the court finds by clear and convincing evidence that the inmate meets the criteria specified in paragraph (1) (a), the court must order that the inmate be involuntarily placed in the mental health treatment facility for a period not to exceed 6 months.

(b) If the court finds by clear and convincing evidence that the inmate meets the criteria specified in paragraph (1) (b), the court may order that the inmate be involuntarily treated for a period not to exceed 6 months, concurrent with an order for placement in the mental health treatment facility. In determining whether to order involuntary treatment under this paragraph, the court must consider the inmate's expressed preference regarding treatment; whether the inmate is able to express a preference; the probability of adverse side effects; the prognosis for the inmate without treatment; the prognosis for the inmate with treatment; and any other factors the court deems relevant.

(4) STATUS HEARINGS AND CONTINUING JURISDICTION.—An order authorizing involuntary placement and treatment must allow such placement and treatment for a period not to exceed 6 months following the date of the order. Unless the court is notified in



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697 writing that the inmate has been discharged from the mental  
 698 health treatment facility because he or she is no longer in need  
 699 of care and treatment, has been transferred to another  
 700 institution of the department, or has been released from the  
 701 department's custody, the warden shall, before the expiration of  
 702 the initial order, file a notice with the court to set a status  
 703 hearing for an order authorizing the continuation of placement  
 704 and treatment for another period not to exceed 6 months. This  
 705 procedure shall be repeated until the inmate is no longer in  
 706 need of care and treatment. Placement and treatment may be  
 707 continued pending a hearing after the timely filing of any  
 708 petition.

709 (5) COPIES OF ORDERS.—The court shall provide a copy of its  
 710 order authorizing placement and treatment along with all  
 711 supporting documentation relating to the inmate's condition to  
 712 the warden of the mental health treatment facility.

713 (6) DISMISSAL OF PETITIONS.—If the court finds that  
 714 criteria for placement and treatment are not satisfied, it shall  
 715 dismiss the petition and the inmate shall be transferred out of  
 716 the mental health treatment facility and provided with  
 717 appropriate mental health services.

718 Section 12. Section 945.45, Florida Statutes, is repealed.

719 Section 13. Present subsection (3) of section 945.46,  
 720 Florida Statutes, is renumbered as subsection (5) and amended,  
 721 and new subsection (3) and subsection (4) are added to that  
 722 section, to read:

723 945.46 Initiation of involuntary placement proceedings with  
 724 respect to a mentally ill inmate scheduled for release.—

725 (3) The warden shall file, in the court in the county where

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726 the inmate is located, petitions for involuntary inpatient  
 727 placement for inmates scheduled to be released. Upon filing, the  
 728 clerk of the court shall provide copies to the Department of  
 729 Children and Families, the inmate, and the state attorney and  
 730 public defender of the judicial circuit in which the inmate is  
 731 located. A fee may not be charged for the filing of a petition  
 732 under chapter 394. Within 1 court working day after the filing  
 733 of a petition for involuntary inpatient placement, the court  
 734 shall appoint the public defender to represent the inmate who is  
 735 the subject of the petition, unless the inmate is otherwise  
 736 represented by counsel. The clerk of the court shall immediately  
 737 notify the public defender of such appointment. Any attorney  
 738 representing the inmate shall have access to the inmate,  
 739 witnesses, and records relevant to the presentation of the  
 740 patient's case and shall represent the interests of the inmate,  
 741 regardless of the source of payment to the attorney. The state  
 742 attorney for the circuit in which the inmate is located shall  
 743 represent the state, rather than the petitioning warden, as the  
 744 real party in interest in the proceeding. The remainder of the  
 745 proceedings shall be governed by chapter 394.

746 (4) After considering the public safety and security  
 747 concerns presented by transporting a mentally ill inmate or in  
 748 conducting an onsite hearing, the court may order that the  
 749 hearing be conducted by electronic means, at the facility in  
 750 person, or at another location designated by the court. If the  
 751 hearing is ordered by the court to be conducted at a location  
 752 other than the facility, the department is authorized to  
 753 transport the inmate to the location of the hearing.

754 (5)(3)- The department may transport an individual who is

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being released from its custody to a receiving or mental health  
treatment facility for involuntary examination or placement.  
Such transport shall be made to a facility that is specified by  
the Department of Children and Families as able to meet the  
specific needs of the individual. If the Department of Children  
and Families does not specify a facility, transport shall ~~may~~ be  
made to the nearest receiving facility.

Section 14. Section 945.47, Florida Statutes, is amended to  
read:

945.47 Discharge of inmate from mental health treatment.—

(1) An inmate who has been placed in a mental health  
treatment facility ~~transferred~~ for the purpose of mental health  
treatment shall be discharged from treatment by the warden under  
the following conditions:

(a) If the inmate is no longer in need of care and  
treatment, as defined in s. 945.42, he or she may be transferred  
out of the mental health treatment facility and provided with  
appropriate mental health services; or

(b) If the inmate's sentence expires during his or her  
treatment, but he or she is no longer in need of care and  
treatment as an inpatient, the inmate may be released with a  
recommendation for outpatient treatment, pursuant to ~~the~~  
~~provisions of~~ ss. 945.40-945.49.

(2) At any time that an inmate who has received mental  
health treatment while in the custody of the department becomes  
eligible for release under supervision or upon end of sentence,  
a record of the inmate's mental health treatment may be provided  
to the Florida Commission on Offender Review, ~~and~~ to the  
Department of Children and Families to arrange postrelease

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aftercare placement, and to prospective recipient inpatient  
health care or residential facilities upon request. The record  
shall include, at a minimum, a summary of the inmate's  
diagnosis, length of stay in treatment, clinical history,  
prognosis, prescribed medication, treatment plan, and  
recommendations for aftercare services.

Section 15. Section 945.48, Florida Statutes, is amended to  
read:

(Substantial rewording of section. See  
s. 945.48, F.S., for present text.)

945.48 Emergency treatment orders and use of force.—

(1) EMERGENCY MEDICATION.—The department is authorized to  
involuntarily administer psychotropic medication to an inmate on  
an emergency basis without following the procedure outlined in  
s. 945.43 only as specified in this section. An emergency  
treatment order for psychotropic medication may be provided to  
the inmate upon the written order of a physician licensed  
pursuant to chapter 458 or chapter 459 in an emergency not  
exceeding 72 hours, excluding weekends and legal holidays. An  
emergency exists when an inmate with a mental illness presents  
an immediate threat of:

(a) Bodily harm to self or others; or

(b) Extreme deterioration in behavioral functioning  
secondary to the mental illness.

(2) PSYCHOTROPIC MEDICATION.—Psychotropic medication may be  
administered only when the medication constitutes an appropriate  
treatment for a mental illness and its symptoms and alternative  
treatments are not available or indicated, or would not be  
effective. If after the 72-hour period the inmate has not given

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express and informed consent to the medication initially refused, the inmate's treating physician shall refer the inmate to a mental health treatment facility for an involuntary examination in accordance with the procedures described in s. 945.43. Upon such referral, the warden shall, within 48 hours, excluding weekends and legal holidays, transfer the inmate to a mental health treatment facility. Upon transfer of the inmate for an involuntary examination, the emergency treatment order may be continued upon the written order of a physician as long as the physician has determined that the emergency continues to present a danger to the safety of the inmate or others and the criteria described in this subsection are satisfied. If psychotropic medication is still recommended after the emergency, it may only be administered after following the procedures outlined in s. 945.44.

(3) USE OF FORCE.—An employee or agent of the department is authorized to apply physical force upon an inmate when and to the extent that it reasonably appears necessary to effectuate the treatment of an inmate as described in this section, for the application of psychiatric restraint, to effectuate clinically necessary hygiene, or pursuant to a valid court order issued under s. 945.44 or s. 945.485. The requirements of s. 944.35 shall be followed when using force to effectuate such treatment, apply such restraint, or effectuate such hygiene.

Section 16. Section 945.485, Florida Statutes, is created to read:

945.485 Management and treatment for self-injurious behaviors.—

(1) The Legislature finds that nonsuicidal self-injurious

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behaviors in correctional institutions, or acts intended to cause bodily harm but not death, have increased in the correctional environment. Self-injurious behavior may include nonsuicidal self-injury or self-mutilation, such as cutting, reopening wounds, and ingesting or inserting foreign objects or dangerous instruments into the body. These behaviors pose a significant threat to inmates, staff, and, in many cases, the safe and secure operation of the correctional institution. In addition, self-injurious behaviors, coupled with the inmate's repeated refusals to provide express and informed consent for medical treatment and care, are a significant challenge for correctional medical and mental health professionals, resulting in higher costs for medical services, and may result in inadvertent mortality in the incarcerated population.

(2) In accordance with s. 945.6402, the Legislature finds that an inmate retains the fundamental right of self-determination regarding decisions pertaining to his or her own health, including the right to choose or refuse medical treatment or life-saving medical procedures. However, the inmate's right to privacy and decisionmaking regarding medical treatment may be outweighed by compelling state interests.

(3) When an inmate is engaging in active or ongoing self-injurious behavior and has refused to provide express and informed consent for treatment related to the self-injurious behavior, the warden of the facility where the inmate is housed shall consult with the inmate's treating physician regarding the inmate's medical and mental health status, current medical and mental health treatment needs, and competency to provide express and informed consent for treatment. The warden shall also

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871 determine whether the inmate's self-injurious behavior presents  
 872 a danger to the safety of department staff or other inmates or  
 873 the security, internal order, or discipline of the institution.

874 (a) If the inmate's treating physician determines that the  
 875 inmate has a mental illness and is incompetent to consent to  
 876 treatment, the physician shall proceed in accordance with s.  
 877 945.6402 for any necessary surgical or medical services. If the  
 878 inmate is in need of care and treatment as defined in s. 945.42,  
 879 the inmate shall be referred to a mental health treatment  
 880 facility for an involuntary examination in accordance with s.  
 881 945.44.

882 (b) If the inmate is competent, refusing necessary surgical  
 883 or medical treatment, and engaging in active or ongoing self-  
 884 injurious behavior that presents a threat to the safety of  
 885 department staff or other inmates or the security, internal  
 886 order, or discipline of the institution, the warden shall follow  
 887 the procedure set forth in subsection (4).

888 (4)(a) The warden, or his or her designated representative,  
 889 shall, on behalf of the state, petition the circuit court of the  
 890 county in which the inmate is residing or the county in which  
 891 the inmate is hospitalized for an order compelling the inmate to  
 892 submit to emergency surgical intervention or other medical  
 893 services to the extent necessary to remedy the threat to the  
 894 safety of staff or other inmates or the security, internal  
 895 order, or discipline of the institution. The petition must be  
 896 supported by the expert opinion of at least one of the inmate's  
 897 treating physicians and may be supported by other staff as  
 898 necessary.

899 (b) The inmate shall be provided with a copy of the

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900 petition along with the proposed intervention, the basis for the  
 901 proposed intervention, the names of the testifying experts and  
 902 witnesses, and the date, time, and location of the hearing.  
 903 After considering the medical status of the inmate, public  
 904 safety, and security concerns presented by transporting the  
 905 inmate, the court may order that the hearing be conducted by  
 906 electronic means or in person at the institution or at another  
 907 location designated by the court. If the hearing is ordered by  
 908 the court to be conducted at a location other than the  
 909 institution, the department is authorized to transport the  
 910 inmate to the location of the hearing.

911 (c) The inmate may have an attorney represent him or her at  
 912 the hearing, and, if the inmate is indigent, the court shall  
 913 appoint the office of the public defender or private counsel  
 914 pursuant to s. 27.40(1) to represent the inmate at the hearing.  
 915 An attorney representing the inmate shall have access to the  
 916 inmate and any records, including medical or mental health  
 917 records, which are relevant to the representation of the inmate.

918 (d) The hearing on the petition shall be held as  
 919 expeditiously as possible after the petition is filed, but no  
 920 later than 5 calendar days after filing. The court may appoint a  
 921 general or special magistrate to preside. The inmate may testify  
 922 or not, as he or she chooses, may cross-examine witnesses  
 923 testifying on behalf of the institution, and may present his or  
 924 her own witnesses.

925 (e) The court may waive the presence of the inmate at the  
 926 hearing if the waiver is consistent with the best interests of  
 927 the inmate and the inmate's counsel does not object.

928 (f) The court shall determine whether the warden has

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established, by clear and convincing evidence, a compelling state interest sufficient to outweigh the inmate's right to refuse treatment. The court shall consider all of the following:

1. Preservation of the life of the inmate.
2. Prevention of suicide.
3. Protection of innocent third parties.
4. Maintenance of the ethical integrity of the medical

profession.

5. Preservation of the security, internal order, or discipline of the institution.

6. Rehabilitation of the inmate.

7. Any other compelling state interest.

(g) If the court determines that there are compelling state interests sufficient to override the inmate's right to refuse treatment, the court shall enter an order authorizing emergency surgical intervention or other medical services, narrowly tailored and in the least intrusive manner possible, only as necessary to remedy the threat to the safety of third parties or the security, internal order, or discipline of the institution. Emergency surgical intervention or other medical services authorized by the court may be carried out at the institution or at a licensed hospital, as applicable.

(5) This section does not repeal by implication any provision of s. 766.103, the Florida Medical Consent Law, or s. 768.13, the Good Samaritan Act. For all purposes, the Florida Medical Consent Law and the Good Samaritan Act shall be considered alternatives to this section.

Section 17. Subsection (2) of section 945.49, Florida Statutes, is amended to read:

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945.49 Operation and administration.—

(2) ~~RULES.—The department, in cooperation with the Mental Health Program Office of the Department of Children and Families,~~ shall adopt rules necessary for administration of ss. 945.40-945.49 in accordance with chapter 120.

Section 18. Section 945.6402, Florida Statutes, is created to read:

945.6402 Inmate health care advance directives.—

(1) DEFINITIONS.—The terms used in this section have the same meanings as in s. 765.101 unless otherwise specified in this section. For purposes of this section, the term:

(a) "Health care facility" has the same meaning as in s. 765.101 and includes any correctional institution or facility where health care is provided.

(b) "Incapacity" or "incompetent" means an inmate is physically or mentally unable to communicate a willful and knowing health care decision.

(c) "Informed consent" means consent voluntarily given by an inmate after a sufficient explanation and disclosure of the subject matter involved to enable the inmate to have a general understanding of the treatment or procedure and the medically acceptable alternatives, including the substantial risks and hazards inherent in the proposed treatment or procedures, and to make a knowing health care decision without coercion or undue influence.

(d) "Inmate" means any person committed to the custody of the department.

(e) "Ombudsman" means an individual designated and specifically trained by the department to identify conditions

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that may pose a threat to the rights, health, safety, and welfare of inmates in a health care facility and who may be appointed to serve as a proxy for an inmate who is physically or mentally unable to communicate a willful and knowing health care decision.

(f) "Proxy" means a competent adult who has not been expressly designated to make health care decisions for a particular incapacitated inmate, but who, nevertheless, is authorized pursuant to s. 765.401 and as specified in this section to make health care decisions for such inmate.

(g) "Proxy review team" means a team of at least five members, appointed by the Assistant Secretary for Health Services. The team shall be composed of, at a minimum, one physician licensed pursuant to chapter 458 or chapter 459, one psychologist licensed pursuant to chapter 490, one nurse licensed pursuant to chapter 464, and one department chaplain.

(2) LEGISLATIVE FINDINGS AND INTENT.-

(a) In accordance with chapter 765, the Legislature finds that an inmate retains the fundamental right of self-determination regarding decisions pertaining to his or her own health, including the right to choose or refuse medical treatment. In accordance with chapter 765, this right is subject to certain institutional interests, including the protection of human life, the preservation of ethical standards in the medical profession, and, for inmates committed to the custody of the department, the security and good order of the institutional setting.

(b) To ensure that such right is not lost or diminished by virtue of later physical or mental incapacity, the Legislature

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intends that the procedures specified in chapter 765, and as modified in this section for the institutional health care setting, apply to incarcerated inmates. These procedures should be less expensive and less restrictive than guardianship and allow an inmate to plan for incapacity by executing a document or orally designating another person to direct the course of his or her health care or receive his or her health information, or both, upon his or her incapacity. These procedures permit a previously incapacitated inmate to exercise his or her full right to make health care decisions as soon as the capacity to make such decisions has been regained.

(c) In order to ensure that the rights and intentions of an inmate are respected when the inmate is not able to participate actively in decisions concerning himself or herself, and to encourage communication between the inmate, his or her family, and his or her treating physicians, the Legislature declares that the laws of this state recognize the right of a competent incarcerated adult to make an advance directive instructing his or her physicians to provide, withhold, or withdraw life-prolonging procedures or to designate another person to make the health care decision for him or her in the event that such incarcerated person should become incapacitated and unable to personally direct his or her health care. It is further the intent of the Legislature that the department provide the opportunity for inmates to make advance directives as specified in this section.

(d) The Legislature further recognizes that incarcerated inmates may not avail themselves of the opportunity to make an advance directive or, because of incarceration, may not have a

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surrogate, as defined in s. 765.101, willing, able, or reasonably available to make health care decisions on their behalf. Additionally, because of incarceration, the individuals designated in s. 765.401 who are eligible to serve as an appointed proxy may not be reasonably available, willing, or competent to make health care decisions for the inmate in the event of incapacity. Thus, it is the intent of the Legislature that the department have an efficient process that is less expensive and less restrictive than guardianship for the appointment of a proxy to allow for the expedient delivery of necessary health care to an incarcerated inmate.

(e) This section does not supersede the process for inmate involuntary mental health treatment specified in ss. 945.40-945.49.

(3) CAPACITY OF INMATE; PROCEDURE.—

(a) An inmate is presumed to be capable of making health care decisions for himself or herself unless he or she is determined to be incapacitated. When an inmate has decisionmaking capacity, the inmate's wishes are controlling. Each physician or health care provider must clearly communicate the treatment plan and any change to the treatment plan before implementation of the plan or any change to the plan. Incapacity may not be inferred from an inmate's involuntary hospitalization for mental illness or from his or her intellectual disability.

(b) If an inmate's capacity to make health care decisions for himself or herself or provide informed consent is in question, the inmate's treating physician at the health care facility where the inmate is located shall evaluate the inmate's capacity and, if the evaluating physician concludes that the

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inmate lacks capacity, enter that evaluation in the inmate's medical record. If the evaluating physician has a question as to whether the inmate lacks capacity, another physician shall also evaluate the inmate's capacity, and if the second physician finds that the inmate lacks the capacity to make health care decisions for himself or herself or provide informed consent, both physicians' evaluations shall be entered in the inmate's medical record.

(c) If the inmate is found to be incapacitated and has designated a health care surrogate in accordance with chapter 765, the institution's or facility's health care staff shall notify the surrogate and proceed as specified in chapter 765. If the incapacitated inmate has not designated a health care surrogate, the health care facility shall appoint a proxy to make health care decisions for the inmate as specified in this section.

(d) A determination made pursuant to this section that an inmate lacks the capacity to make health care decisions for himself or herself may not be construed as a finding that an inmate lacks capacity for any other purpose.

(4) HEALTH CARE ADVANCE DIRECTIVE; PROCEDURE.—

(a) In accordance with chapter 765, the department shall offer inmates the opportunity to execute an advance directive as defined in s. 765.101.

(b) The department shall provide to each inmate written information concerning advance directives and necessary forms to allow inmates to execute an advance directive. The department and its health care providers shall document in the inmate's medical records whether the inmate has executed an advance

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directive. Neither the department nor its health care providers may require an inmate to execute an advance directive using the department's forms. The inmate's advance directive shall travel with the inmate within the department as part of the inmate's medical record.

(c) An advance directive may be amended or revoked at any time by a competent inmate by means of:

1. A signed, dated writing of intent to amend or revoke;
2. The physical cancellation or destruction of the advance directive by the inmate or by another person in the inmate's presence and at the inmate's direction;
3. An oral expression of intent to amend or revoke; or
4. A subsequently executed advance directive that is materially different from a previously executed advance directive.

(5) PROXY.—

(a) If an incapacitated inmate has not executed an advance directive or designated a health care surrogate in accordance with the procedures specified in chapter 765, or the designated health care surrogate is no longer available to make health care decisions, health care decisions may be made for the inmate by any of the individuals specified in the priority order provided in s. 765.401(1)(a)-(g) as proxy. Documentation of the efforts to locate a proxy from the classes specified in s. 765.401(1)(a)-(g) shall be recorded in the inmate's medical file.

(b) If there are no individuals as specified in s. 765.401(1)(a)-(g) available, willing, or competent to act on behalf of the inmate, and the inmate is housed in a correctional

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institution or facility where health care is provided in a nonhospital setting, the warden of the institution where the inmate is housed, or the warden's designee, shall consult with the Assistant Secretary for Health Services or his or her designee, who shall appoint a department ombudsman to serve as the proxy. This appointment terminates when the inmate regains capacity or is no longer incarcerated in the custody of the department. In accordance with chapter 765 and as provided in this section, decisions to withhold or withdraw life-prolonging procedures will be reviewed by the department's proxy review team for compliance with chapter 765 and the requirements of this section.

(c) The ombudsman appointed to serve as the proxy is authorized to request the assistance of the treating physician and, upon request, a second physician not involved in the inmate's care to assist the proxy in evaluating the inmate's treatment.

(d) In accordance with chapter 765, any health care decision made by any appointed proxy under this section must be based on the proxy's informed consent and on the decision that the proxy reasonably believes the inmate would have made under the circumstances. If there is no indication of what decision the inmate would have made, the proxy may consider the inmate's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.

(e) Before exercising the incapacitated inmate's rights to select or decline health care, the proxy must comply with ss. 765.205 and 765.305, except that any proxy's decision to



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withhold or withdraw life-prolonging procedures must be supported by clear and convincing evidence that the decision would have been the one the inmate would have made had he or she been competent or, if there is no indication of what decision the inmate would have made, that the decision is in the inmate's best interest.

(f) Notwithstanding s. 456.057 and pursuant to s. 945.10 and 45 C.F.R. part 164, subpart E, relevant protected health information and mental health and medical records of an incapacitated inmate may be disclosed to a proxy appointed to make health care decisions for an inmate.

(6) USE OF FORCE.—In addition to s. 944.35(1), an employee of the department may apply reasonable physical force upon an incapacitated inmate to administer medical treatment only by or under the clinical supervision of a physician or his or her designee and only to carry out a health care decision made in accordance with this section and chapter 765.

(7) IMMUNITY FROM LIABILITY.—A department health care provider, ombudsman, or other employee who acts under the direction of a health care provider as authorized in this section or chapter 765 is not subject to criminal prosecution or civil liability and may not be deemed to have engaged in unprofessional conduct as a result of carrying out a health care decision made in accordance with this section or chapter 765 on an inmate's behalf.

Section 19. Section 947.02, Florida Statutes, is amended to read:

947.02 Florida Commission on Offender Review; members, appointment.—

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(1) ~~Except as provided in s. 947.021, The members of the Florida commission on Offender Review shall be directly appointed by the Governor and Cabinet from a list of eligible applicants submitted by a parole qualifications committee.~~ The appointments of members of the commission shall be certified to the Senate by the Governor and Cabinet for confirmation, ~~and the membership of the commission shall include representation from minority persons as defined in s. 288.703.~~

(2) If the Legislature decreases the membership of the commission, all commission member terms of office shall expire and new members of the commission must be appointed in accordance with subsection (1). Members appointed to the commission may be selected from incumbents A parole qualifications committee shall consist of five persons who are appointed by the Governor and Cabinet. One member shall be designated as chair by the Governor and Cabinet. The committee shall provide for statewide advertisement and the receiving of applications for any position or positions on the commission and shall devise a plan for the determination of the qualifications of the applicants by investigations and comprehensive evaluations, including, but not limited to, investigation and evaluation of the character, habits, and philosophy of each applicant. ~~Each parole qualifications committee shall exist for 2 years. If additional vacancies on the commission occur during this 2-year period, the committee may advertise and accept additional applications; however, all previously submitted applications shall be considered along with the new applications according to the previously established plan for the evaluation of the qualifications of applicants.~~

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1219 ~~(3) Within 90 days before an anticipated vacancy by~~  
 1220 ~~expiration of term pursuant to s. 947.03 or upon any other~~  
 1221 ~~vacancy, the Governor and Cabinet shall appoint a parole~~  
 1222 ~~qualifications committee if one has not been appointed during~~  
 1223 ~~the previous 2 years. The committee shall consider applications~~  
 1224 ~~for the commission seat, including the application of an~~  
 1225 ~~incumbent commissioner if he or she applies, according to~~  
 1226 ~~subsection (2). The committee shall submit a list of three~~  
 1227 ~~eligible applicants, which may include the incumbent if the~~  
 1228 ~~committee so decides, without recommendation, to the Governor~~  
 1229 ~~and Cabinet for appointment to the commission. In the case of an~~  
 1230 ~~unexpired term, the appointment must be for the remainder of the~~  
 1231 ~~unexpired term and until a successor is appointed and qualified.~~  
 1232 ~~If more than one seat is vacant, the committee shall submit a~~  
 1233 ~~list of eligible applicants, without recommendation, containing~~  
 1234 ~~a number of names equal to three times the number of vacant~~  
 1235 ~~seats; however, the names submitted may not be distinguished by~~  
 1236 ~~seat, and each submitted applicant shall be considered eligible~~  
 1237 ~~for each vacancy.~~

1238 ~~(4) Upon receiving a list of eligible persons from the~~  
 1239 ~~parole qualifications committee, the Governor and Cabinet may~~  
 1240 ~~reject the list. If the list is rejected, the committee shall~~  
 1241 ~~reinitiate the application and examination procedure according~~  
 1242 ~~to subsection (2).~~

1243 ~~(5) Section 120.525 and chapters 119 and 286 apply to all~~  
 1244 ~~activities and proceedings of a parole qualifications committee.~~

1245 Section 20. Section 947.021, Florida Statutes, is repealed.

1246 Section 21. Subsection (2) of section 947.12, Florida  
 1247 Statutes, is amended to read:

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1248 947.12 Members, employees, expenses.—

1249 ~~(2) The members of the examining board created in s. 947.02~~  
 1250 ~~shall each be paid per diem and travel expenses pursuant to s.~~  
 1251 ~~112.061 when traveling in the performance of their duties.~~

1252 Section 22. Paragraph (g) of subsection (1) and subsection  
 1253 (5) of section 957.04, Florida Statutes, are amended to read:

1254 957.04 Contract requirements.—

1255 (1) A contract entered into under this chapter for the  
 1256 operation of contractor-operated correctional facilities shall  
 1257 maximize the cost savings of such facilities and:

1258 (g) Require the contractor to be responsible for a range of  
 1259 dental, medical, and psychological services; diet; education;  
 1260 and work programs at least equal to those provided by the  
 1261 department in comparable facilities. The work and education  
 1262 programs must be designed to reduce recidivism, and include  
 1263 opportunities to participate in such work programs as authorized  
 1264 pursuant to s. 946.523. However, with respect to the dental,  
 1265 medical, psychological, and dietary services, the department is  
 1266 authorized to exclude any or all of these services from a  
 1267 contract for private correctional services entered into under  
 1268 this chapter and retain responsibility for the delivery of those  
 1269 services, if the department finds it to be in the best interests  
 1270 of the state.

1271 ~~(5) Each contract entered into by the department must~~  
 1272 ~~include substantial minority participation unless demonstrated~~  
 1273 ~~by evidence, after a good faith effort, as impractical and must~~  
 1274 ~~also include any other requirements the department considers~~  
 1275 ~~necessary and appropriate for carrying out the purposes of this~~  
 1276 ~~chapter.~~

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1277 Section 23. Subsection (3) of section 957.09, Florida  
1278 Statutes, is amended to read:  
1279 957.09 Applicability of chapter to other provisions of  
1280 law.—  
1281 ~~(3) The provisions of law governing the participation of~~  
1282 ~~minority business enterprises are applicable to this chapter.~~  
1283 Section 24. Subsection (2) of section 20.32, Florida  
1284 Statutes, is amended to read:  
1285 20.32 Florida Commission on Offender Review.—  
1286 (2) All powers, duties, and functions relating to the  
1287 appointment of the Florida Commission on Offender Review as  
1288 provided in s. 947.02 ~~or s. 947.021~~ shall be exercised and  
1289 performed by the Governor and Cabinet. ~~Except as provided in s.~~  
1290 ~~947.021,~~ Each appointment shall be made from among the first  
1291 three eligible persons on the list of the persons eligible for  
1292 said position.  
1293 Section 25. This act shall take effect July 1, 2025.

**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** CS/SB 1604  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Criminal Justice, *Chair*  
Appropriations Committee on Criminal and Civil  
Justice, *Chair*  
Appropriations  
Appropriations Committee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Rules  
Transportation

### SENATOR JONATHAN MARTIN

33rd District

April 15, 2025

Chair Ilena Garcia  
Appropriations Committee on Criminal and Civil Justice  
201 The Capital  
404 South Monroe Street  
Tallahassee, FL 32399

### RE: SB 1604 Corrections

Dear Chair Garcia,

Please allow this letter to serve as my respectful request to place SB 1604 Corrections on the next committee agenda.

SB 1604 Corrections which revises provisions relating to deferral of prepayment of court costs and fees for indigent prisoners for actions involving challenges to prison disciplinary reports; requiring exhaustion of administrative remedies before certain actions concerning confinement of prisoners may be brought; providing that prison terms for certain offenses committed in conjunction with another felony offense may be sentenced to be served consecutively.

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", with a stylized flourish at the end.

Jonathan Martin  
Senate District 33

#### 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)

**BEN ALBRITTON**  
President of the Senate

**JASON BRODEUR**  
President Pro Tempore

The Florida Senate

**APPEARANCE RECORD**

SB 1604

Bill Number or Topic

4/15/25

Meeting Date

Approps Criminal & Civil Justice

Committee

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

Amendment Barcode (if applicable)

Name

Kara Gross

Phone

786-363-4436

Address

4343 West Flagler St

Street

Email

Kgross@aclufl.org

Miami

City

FL

State

33134

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:

American Civil Liberties Union of Florida

☐ 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  
**APPEARANCE RECORD**

Deliver both copies of this form to  
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4/15/25  
Meeting Date

1004  
Bill Number or Topic

        
Committee

        
Amendment Barcode (if applicable)

Name Taylor Kendall Phone 850 212 1793

Address 2221 Orange Ave Email         
Street

Tallahassee FL 32311  
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 \(flsenate.gov\)](#)*

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

04/15/25

Meeting Date

CJ Approps

Committee

1604

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name Grace Hanna (Floridians for Alternatives to the Death Penalty) Phone 850544 6939

Address 2055 Thomasville Rd.  
Street

Email \_\_\_\_\_

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)





317706

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2025	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (10) of section 57.085, Florida  
Statutes, is amended to read:

57.085 Deferral of prepayment of court costs and fees for  
indigent prisoners.—

(10) With the exception of challenges to prison  
disciplinary reports, this section does not apply to a criminal



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proceeding or a collateral criminal proceeding.

Section 2. Paragraph (b) of subsection (2) and paragraphs (f) and (g) of subsection (6) of section 95.11, Florida Statutes, are amended to read:

95.11 Limitations other than for the recovery of real property.—Actions other than for recovery of real property shall be commenced as follows:

(2) WITHIN FIVE YEARS.—

(b) A legal or equitable action on a contract, obligation, or liability founded on a written instrument, except for an action to enforce a claim against a payment bond, which shall be governed by the applicable provisions of paragraph (6) (e), s. 255.05(10), s. 337.18(1), or s. 713.23(1) (e), and except for an action for a deficiency judgment governed by paragraph (6) (g) ~~(6) (h)~~.

(6) WITHIN ONE YEAR.—

(f) Except for actions described in subsection (9), or a petition challenging a criminal conviction, all petitions; extraordinary writs; tort actions, including those under s. 768.28(14); or other actions which concern any condition of confinement of a prisoner ~~a petition for extraordinary writ, other than a petition challenging a criminal conviction,~~ filed by or on behalf of a prisoner as defined in s. 57.085. Any petition, writ, or action brought under this paragraph must be commenced within 1 year after the time the incident, conduct, or conditions occurred or within 1 year after the time the incident, conduct, or conditions were discovered, or should have been discovered.

~~(g) Except for actions described in subsection (9), an~~



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~~action brought by or on behalf of a prisoner, as defined in s.  
57.085, relating to the conditions of the prisoner's  
confinement.~~

Section 3. Section 760.701, Florida Statutes, is created to  
read:

760.701 Lawsuits by prisoners.—

(1) For the purposes of this section, the term "prisoner"  
means any person incarcerated or detained in any jail, prison,  
or other correctional facility who is accused of, convicted of,  
sentenced for, or adjudicated delinquent for violations of  
criminal law or the terms and conditions of parole, probation,  
pretrial release, or a diversionary program.

(2) An action may not be brought by or on behalf of a  
prisoner relating to the conditions of the prisoner's  
confinement under 42 U.S.C. s. 1983, or any other state or  
federal law, until the administrative remedies available are  
fully exhausted.

(3) The court shall on its own motion or on the motion of a  
party dismiss any action brought relating to the conditions of  
the prisoner's confinement under 42 U.S.C. s. 1983, or any other  
state or federal law, by a prisoner if the court is satisfied  
that the action is frivolous, malicious, fails to state a claim  
upon which relief can be granted, or seeks monetary relief from  
a defendant who is immune from such relief. The court shall  
review any such action pursuant to s. 57.085(6).

(4) An action may not be brought in state court by or on  
behalf of a prisoner relating to the conditions of the  
prisoner's confinement under 42 U.S.C. s. 1983, or any state  
tort action, for mental or emotional injury suffered while in



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69 custody without a prior showing of physical injury or the  
70 commission of a sexual act as defined in 18 U.S.C. s. 2246(2).

71 (5) The time for bringing an action that concerns any  
72 condition of confinement of a prisoner shall be the limitations  
73 period as described in s. 95.11(6)(f).

74 Section 4. Present paragraph (e) of subsection (3) of  
75 section 775.087, Florida Statutes, is redesignated as paragraph  
76 (f), paragraph (e) is added to subsection (2) and a new  
77 paragraph (e) is added to subsection (3) of that section, and  
78 paragraphs (a) and (d) of subsection (2) and paragraphs (a) and  
79 (d) of subsection (3) of that section are amended, to read:

80 775.087 Possession or use of weapon; aggravated battery;  
81 felony reclassification; minimum sentence.—

82 (2)(a)1. Any person who is convicted of a felony or an  
83 attempt to commit a felony, regardless of whether the use of a  
84 weapon is an element of the felony, and the conviction was for:

- 85 a. Murder;  
86 b. Sexual battery;  
87 c. Robbery;  
88 d. Burglary;  
89 e. Arson;  
90 f. Aggravated battery;  
91 g. Kidnapping;  
92 h. Escape;  
93 i. Aircraft piracy;  
94 j. Aggravated child abuse;  
95 k. Aggravated abuse of an elderly person or disabled adult;  
96 l. Unlawful throwing, placing, or discharging of a  
97 destructive device or bomb;



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m. Carjacking;  
n. Home-invasion robbery;  
o. Aggravated stalking;  
p. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1);  
q. Possession of a firearm by a felon; or  
r. Human trafficking,

and during the commission of the offense, such person actually possessed a "firearm" or "destructive device" as those terms are defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 10 years, except that a person who is convicted for possession of a firearm by a felon or burglary of a conveyance shall be sentenced to a minimum term of imprisonment of 3 years if such person possessed a "firearm" or "destructive device" during the commission of the offense. However, if an offender who is convicted of the offense of possession of a firearm by a felon has a previous conviction of committing or attempting to commit a felony listed in s. 775.084(1)(b)1. and actually possessed a firearm or destructive device during the commission of the prior felony, the offender shall be sentenced to a minimum term of imprisonment of 10 years.



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2. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs 1.a.-p. or sub-subparagraph 1.r., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as those terms are defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in sub-subparagraphs 1.a.-p. or sub-subparagraph 1.r., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a "firearm" or "destructive device" as those terms are defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

(d) It is the intent of the Legislature that offenders who actually possess, carry, display, use, threaten to use, or attempt to use firearms or destructive devices be punished to the fullest extent of the law. The court shall impose, and the minimum term terms of imprisonment required under paragraph (a) imposed pursuant to this subsection shall be imposed for each qualifying felony offense count for which the person is convicted. If the offender is convicted of multiple felony offenses for which paragraph (a) requires the imposition of a minimum term of imprisonment, the court must shall impose any



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~~such terms term of imprisonment provided for in this subsection  
consecutively to any other term of imprisonment imposed for any  
other felony offense.~~

(e) If an offender commits a felony listed in subparagraph  
(a)1. in conjunction with any other felony offense not listed in  
subparagraph (a)1., the court may impose any term of  
imprisonment provided for in paragraph (a) consecutively to any  
other term of imprisonment imposed for any other felony offense  
not listed in subparagraph (a)1.

(3)(a)1. Any person who is convicted of a felony or an  
attempt to commit a felony, regardless of whether the use of a  
firearm is an element of the felony, and the conviction was for:

- a. Murder;
- b. Sexual battery;
- c. Robbery;
- d. Burglary;
- e. Arson;
- f. Aggravated battery;
- g. Kidnapping;
- h. Escape;
- i. Sale, manufacture, delivery, or intent to sell,  
manufacture, or deliver any controlled substance;
- j. Aircraft piracy;
- k. Aggravated child abuse;
- l. Aggravated abuse of an elderly person or disabled adult;
- m. Unlawful throwing, placing, or discharging of a  
destructive device or bomb;
- n. Carjacking;
- o. Home-invasion robbery;



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p. Aggravated stalking;

q. Trafficking in cannabis, trafficking in cocaine, capital importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1); or

r. Human trafficking,

and during the commission of the offense, such person possessed a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001, shall be sentenced to a minimum term of imprisonment of 15 years.

2. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph 1., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine or a "machine gun" as defined in s. 790.001 shall be sentenced to a minimum term of imprisonment of 20 years.

3. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph 1., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine or a "machine gun" as defined in s. 790.001 and, as the result of the





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discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25 years and not more than a term of imprisonment of life in prison.

(d) It is the intent of the Legislature that offenders who possess, carry, display, use, threaten to use, or attempt to use a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001 be punished to the fullest extent of the law. The court shall impose, and the minimum term terms of imprisonment required under paragraph (a) imposed pursuant to this subsection shall be imposed for each qualifying felony offense count for which the person is convicted. If the offender is convicted of multiple felony offenses for which paragraph (a) requires the imposition of a minimum term of imprisonment, the court must shall impose any such terms term of imprisonment provided for in this subsection consecutively to any other term of imprisonment imposed for any other felony offense.

(e) If an offender commits a felony listed in subparagraph (a)1. in conjunction with any other felony offense not listed in subparagraph (a)1., the court may impose any term of imprisonment provided for in paragraph (a) consecutively to any other term of imprisonment imposed for any other felony offense not listed in subparagraph (a)1.

Section 5. Present paragraphs (b) through (e) of subsection (4) of section 934.425, Florida Statutes, are redesignated as paragraphs (f) through (i), respectively, and new paragraphs (b) through (e) are added to that subsection, to read:

934.425 Installation or use of tracking devices or tracking



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applications; exceptions; penalties.—

(4) This section does not apply to:

(b) A law enforcement officer as defined in s. 943.10, or any local, state, federal, or military law enforcement agency, who lawfully installs, places, or uses a tracking device or application on another person while acting in the course or scope of his or her employment.

(c) A correctional officer, a correctional probation officer, or any other officer or support personnel, as those terms are defined in s. 943.10, of the Department of Corrections who lawfully installs, places, or uses a tracking device or tracking application on a person in his or her care, custody, or control and in the course and scope of his or her employment.

(d) A juvenile probation officer, an authorized agent or designee, or delinquency program staff, as those terms are defined in s. 985.03, of the Department of Juvenile Justice who lawfully installs, places, or uses a tracking device or tracking application on a person in his or her care, custody, or control and in the course and scope of his or her employment.

(e) A person authorized to install, place, or use a tracking device or tracking application pursuant to a court order.

Section 6. Section 945.41, Florida Statutes, is amended to read:

945.41 Mental health treatment for inmates; legislative intent of ss. 945.40-945.49.—

(1) INTENT.—It is the intent of the Legislature that:

(a) ~~mentally ill~~ Inmates in the custody of the department who have a mental illness ~~of Corrections~~ receive an evaluation



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and appropriate treatment for their mental illness through a continuum of outpatient and inpatient mental health treatment and services.

(b) The department is authorized to purchase treatment materials and equipment to support inmate rehabilitation; to ameliorate disabling mental symptoms associated with impairment in behavioral functioning, sensory and motor skills, and impulse control; and to improve adaptive coping skills consistent with the department's jurisdiction as described in s. 945.025.

(c) Sections 945.40-945.49 do not supplement, amend, or change the responsibilities of the Department of Children and Families pursuant to chapter 916, the Forensic Client Services Act, which governs forensic services for persons who are incompetent to proceed as defined in s. 916.106.

(2) INDIVIDUAL DIGNITY AND TREATMENT.—

(a) An inmate in the custody of the department shall be offered treatment that is suited to his or her needs as determined by health care staff.

(b) The department shall provide mental health treatment and services to inmates and may contract with any entities, persons, or agencies qualified to provide such treatment and services.

(c) Inmates receiving mental health treatment and services shall be offered the opportunity to participate in the development of a written individualized treatment plan and be provided a copy of such plan before its implementation. ~~It is further the intent of the Legislature that:~~

~~(d) (1) Inmates in the custody of the department who have mental illnesses that require hospitalization and intensive~~



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301 mental health ~~psychiatric~~ inpatient treatment and services or  
302 care shall be offered ~~receive~~ appropriate treatment or care in  
303 an inpatient setting ~~Department of Corrections mental health~~  
304 ~~treatment facilities~~ designated for that purpose. Inmates who  
305 have mental illnesses that require intensive hospitalization-  
306 level mental health inpatient treatment and services shall be  
307 transferred to a department mental health treatment facility  
308 designated for that purpose ~~The Department of Corrections shall~~  
309 ~~provide mental health services to inmates committed to it and~~  
310 ~~may contract with any entities, persons, or agencies qualified~~  
311 ~~to provide such services.~~

312 (e)(2) Mental health treatment facilities shall be secure  
313 and adequately equipped and staffed for the provision of mental  
314 health treatment and services. Inmates shall be offered the  
315 least restrictive appropriate available treatment and services  
316 based on their assessed needs and best interests and consistent  
317 with improvement of their condition for facilitation of  
318 appropriate adjustment within the correctional environment  
319 ~~services and that, to the extent possible, such services be~~  
320 ~~provided in the least restrictive manner consistent with optimum~~  
321 ~~improvement of the inmate's condition.~~

322 (3) EXPRESS AND INFORMED CONSENT.-

323 (a) A mentally competent inmate offered mental health  
324 treatment within the department shall give his or her express  
325 and informed consent for such treatment. Before giving such  
326 consent, the following information shall be provided and  
327 explained in plain language to the inmate:

- 328 1. The proposed treatment.
- 329 2. The purpose of the treatment.



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330       3. The common risks, benefits, and side effects of the  
331 treatment and the specific dosage range for a medication, if  
332 applicable.

333       4. Alternative treatment modalities.

334       5. The approximate length of treatment.

335       6. The potential effects of stopping treatment.

336       7. How treatment will be monitored.

337       8. That any consent given for treatment may be revoked  
338 orally or in writing before or during the treatment period by  
339 the inmate or by a person legally authorized to make health care  
340 decisions on behalf of the inmate.

341       (b) Inmates who are determined to be incompetent to consent  
342 to treatment shall receive treatment deemed to be necessary for  
343 their appropriate care and for the safety of the inmate or  
344 others in accordance with the procedures established in ss.  
345 945.40-945.49.

346       (4)(3) PAROLE.—Inmates who are transferred to any facility  
347 for the purpose of mental health treatment and services shall be  
348 given consideration for parole and be eligible for release by  
349 reason of gain-time allowances as provided in s. 944.291 and  
350 release by expiration of sentence, consistent with guidelines  
351 established for that purpose by the department.

352       (5)(4) YOUTHFUL OFFENDERS.—Any inmate sentenced as a  
353 youthful offender, or designated as a youthful offender by the  
354 department under chapter 958, who is transferred pursuant to  
355 this act to a mental health treatment facility shall be  
356 separated from other inmates, if necessary, as determined by the  
357 warden of the mental health treatment facility.

358       (6)(5) TREATMENT FACILITIES.—The department may designate



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mental health treatment facilities for adult, youthful, and female offenders or may contract with other appropriate entities, persons, or agencies for such services.

(7) EMERGENCY MEDICAL TREATMENT.—Notwithstanding any other provision of this section, when the express and informed consent of an inmate placed in a mental health treatment facility in accordance with s. 945.44 cannot be obtained or the inmate is incompetent to consent to treatment, the warden of a mental health treatment facility, or his or her designated representative, under the direction of the inmate's attending physician, may authorize nonpsychiatric, emergency surgical treatment or other routine medical treatment if such treatment is deemed lifesaving or there is a situation threatening serious bodily harm to the inmate.

Section 7. Section 945.42, Florida Statutes, is amended to read:

945.42 Definitions; ss. 945.40-945.49.—As used in ss. 945.40-945.49, the following terms shall have the meanings ascribed to them, unless the context shall clearly indicate otherwise:

(1) "Court" means the circuit court.

(2) "Crisis stabilization care" means an inpatient ~~a~~ level of care that is less restrictive and intensive ~~intense~~ than care provided in a mental health treatment facility, that includes a broad range of evaluation and treatment and services provided within a secure and highly structured residential setting ~~or locked residential setting~~, and that is intended for inmates who are experiencing acute psychological ~~emotional~~ distress and who cannot be adequately evaluated and treated in a transitional



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care unit or infirmary isolation management room. Such treatment and services are ~~is also~~ more intense than treatment and services provided in a transitional care unit and are ~~is~~ devoted principally toward rapid stabilization of acute symptoms and conditions.

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

(4) "Express and informed consent" means consent voluntarily given in writing by a competent inmate, after sufficient explanation and disclosure of the subject matter involved, to enable the inmate to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

(5) "Gravely disabled" means a condition in which an inmate, as a result of a diagnosed mental illness, is:

(a) In danger of serious physical harm resulting from the inmate's failure to provide for his or her essential physical needs of food, clothing, hygiene, health, or safety without the assistance of others; or

(b) Experiencing a substantial deterioration in behavioral functioning evidenced by the inmate's unremitting decline in volitional control over his or her actions.

(6) "Incompetent to consent to treatment" means a state in which an inmate's judgment is so affected by mental illness that he or she lacks the capacity to make a well-reasoned, willful, and knowing decision concerning his or her medical or mental health treatment and services. The term is distinguished from the term incompetent to proceed, as defined in s. 916.106, and refers only to an inmate's inability to provide express and informed consent for medical or mental health treatment and



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services.

~~(4) "Director" means the Director for Mental Health Services of the Department of Corrections or his or her designee.~~

~~(5) "In immediate need of care and treatment" means that an inmate is apparently mentally ill and is not able to be appropriately cared for in the institution where he or she is confined and that, but for being isolated in a more restrictive and secure housing environment, because of the apparent mental illness:~~

~~(a)1. The inmate is demonstrating a refusal to care for himself or herself and without immediate treatment intervention is likely to continue to refuse to care for himself or herself, and such refusal poses an immediate, real, and present threat of substantial harm to his or her well-being; or~~

~~2. There is an immediate, real, and present threat that the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior involving causing, attempting, or threatening such harm;~~

~~(b) The inmate is unable to determine for himself or herself whether placement is necessary; and~~

~~(c) All available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate.~~

(7)~~(6)~~ "In need of care and treatment" means that an inmate has a mental illness for which inpatient services in a mental health treatment facility are necessary and ~~that, but for being isolated in a more restrictive and secure housing environment, because of the mental illness:~~





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(a) But for being isolated in a more restrictive and secure housing environment:

1. The inmate is demonstrating a refusal to care for himself or herself and without treatment is likely to continue to refuse to care for himself or herself, and such refusal poses a real and present threat of substantial harm to his or her well-being; or

2. There is a substantial likelihood that in the near future the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm.~~†~~

(b) The inmate is incompetent to consent to treatment and is unable or is refusing to provide express and informed consent to treatment.

(c)~~(b)~~ The inmate is unable to determine for himself or herself whether placement is necessary.~~†~~~~and~~

(d)~~(c)~~ All available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate.

(8)~~(7)~~ "Inmate" means any person committed to the custody of the Department of Corrections.

(9) "Involuntary examination" means a psychiatric examination performed at a mental health treatment facility to determine whether an inmate should be placed in the mental health treatment facility for inpatient mental health treatment and services.

(10) "Likelihood of serious harm" means:

(a) A substantial risk that the inmate will inflict serious



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physical harm upon his or her own person, as evidenced by threats or attempts to commit suicide or the actual infliction of serious physical harm on self;

(b) A substantial risk that the inmate will inflict physical harm upon another person, as evidenced by behavior which has caused such harm or which places any person in reasonable fear of sustaining such harm; or

(c) A reasonable degree of medical certainty that the inmate will suffer serious physical or mental harm, as evidenced by the inmate's recent behavior demonstrating an inability to refrain from engaging in self-harm behavior.

(11)(8) "Mental health treatment facility" means any extended treatment or hospitalization-level unit within the corrections system which the Assistant Secretary for Health Services of the department specifically designates by rule to provide acute mental health psychiatric care and which may include involuntary treatment and therapeutic intervention in contrast to less intensive levels of care such as outpatient mental health care, transitional mental health care, or crisis stabilization care. The term does not include a forensic facility as defined in s. 916.106.

(12)(9) "Mental illness" or "mentally ill" means an impairment of the mental or emotional processes that exercise conscious control of one's actions or of the ability to perceive or understand reality, which impairment substantially interferes with the person's ability to meet the ordinary demands of living. However, for the purposes of transferring an inmate to a mental health treatment facility, the term does not include a developmental disability as defined in s. 393.063, simple



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intoxication, or conditions manifested only by antisocial behavior or substance abuse addiction. However, an individual who is developmentally disabled may also have a mental illness.

(13)~~(10)~~ "Psychiatrist" means a medical practitioner licensed pursuant to chapter 458 or chapter 459 who has primarily diagnosed and treated nervous and mental disorders for a period of not less than 3 years inclusive of psychiatric residency.

(14)~~(11)~~ "Psychological professional" means a behavioral practitioner who has an approved doctoral degree in psychology as defined in s. 490.003(3)(b) ~~s. 490.003(3)~~ and is employed by the department or who is licensed as a psychologist pursuant to chapter 490.

(15)~~(12)~~ "Secretary" means the Secretary of Corrections.

(16)~~(13)~~ "Transitional mental health care" means a level of care that is more intensive than outpatient care, but less intensive than crisis stabilization care, and is characterized by the provision of traditional mental health treatment and services, ~~treatments~~ such as group and individual therapy, activity therapy, recreational therapy, and psychotropic medications in the context of a secure, structured residential setting. Transitional mental health care is indicated for an inmate ~~a person~~ with chronic or residual symptomatology who does not require crisis stabilization care or acute mental health ~~psychiatric~~ care, but whose impairment in functioning nevertheless renders him or her incapable of adjusting satisfactorily within the general inmate population.

(17) "Treatment" means psychotropic medications prescribed by a medical practitioner licensed pursuant to chapter 458 or



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chapter 459, including those laboratory tests and related  
medical procedures that are essential for the safe and effective  
administration of a psychotropic medication and psychological  
interventions and services, such as group and individual  
psychotherapy, activity therapy, recreational therapy, and music  
therapy. The term does not include forensic services for inmate  
defendants who are incompetent to proceed as defined in s.  
916.106.

(18)(14) "Warden" means the warden of a state corrections  
facility or his or her designee.

Section 8. Section 945.43, Florida Statutes, is amended to  
read:

(Substantial rewording of section. See  
s. 945.43, F.S., for present text.)

945.43 Involuntary examination.—

(1) If there is reason to believe that an inmate has a  
mental illness and the inmate is in need of care and treatment,  
the inmate's treating clinician may refer the inmate to a mental  
health treatment facility for an involuntary examination. Upon  
referral, the warden of the facility where the inmate is housed  
shall transfer the inmate to a mental health treatment facility.

(2) Upon arrival to the mental health treatment facility,  
the inmate shall be examined by a psychiatrist and a second  
psychiatrist or psychological professional to determine whether  
the inmate is in need of care and treatment.

(3) If, after the examination, the inmate is determined to  
be in need of care and treatment, the psychiatrist shall propose  
a recommended course of treatment that is essential to the care  
of the inmate, and the warden shall initiate proceedings for



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placement of the inmate in the mental health treatment facility  
and for involuntary treatment of the inmate as specified in s.  
945.44. If the inmate is not in need of care and treatment, he  
or she shall be transferred out of the mental health treatment  
facility and provided with appropriate mental health services.

(4) The involuntary examination and initiation of court  
proceedings for the placement and applicable involuntary  
treatment of the inmate in the mental health treatment facility  
shall be completed within 10 calendar days after arrival.

(5) The inmate may remain in the mental health treatment  
facility pending a hearing after the timely filing of a petition  
as described in s. 945.44. Pending a hearing, necessary  
emergency treatment may be provided in the mental health  
treatment facility upon the written order of a physician as  
provided in s. 945.48.

Section 9. Section 945.44, Florida Statutes, is amended to  
read:

(Substantial rewording of section. See  
s. 945.44, F.S., for present text.)

945.44 Placement and treatment of an inmate in a mental  
health treatment facility.-

(1) CRITERIA FOR INVOLUNTARY PLACEMENT OR TREATMENT.-

(a) An inmate may be placed in a mental health treatment  
facility if he or she is mentally ill and is in need of care and  
treatment.

(b) An inmate may receive involuntary treatment for which  
the inmate is unable or has refused to provide express and  
informed consent, if all of the following apply:

1. The inmate is mentally ill;



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2. The treatment is essential to the care of the inmate;

3. The treatment is not experimental and does not present  
an unreasonable risk of serious, hazardous, or irreversible side  
effects;

4. The inmate is gravely disabled or poses a likelihood of  
serious harm; and

5. The inmate is incompetent to consent to treatment.

(2) HEARING PROCEDURES FOR PETITIONS FOR PLACEMENT AND  
TREATMENT.—

(a) An inmate may be placed and involuntarily treated in a  
mental health treatment facility after notice and hearing upon  
the recommendation of the warden of the facility where the  
inmate is confined. The warden of the institution where the  
mental health treatment facility is located shall petition the  
circuit court serving the county for an order authorizing the  
placement and treatment of the inmate. The petition must be  
supported by the expert opinion of at least one of the inmate's  
treating psychiatrists.

(b) The inmate shall be provided with a copy of the  
petition along with the proposed treatment, the basis for the  
proposed treatment, the names of the examining experts, and the  
date, time, and location of the hearing. After considering the  
public safety and security concerns presented by transporting  
the inmate or in conducting onsite hearings, the court may order  
that the hearing be conducted by electronic means or in person  
at the facility or at another location designated by the court.  
If the hearing is ordered by the court to be conducted at a  
location other than the facility, the department is authorized  
to transport the inmate to the location of the hearing.



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(c) The inmate may have an attorney represent him or her at the hearing, and, if the inmate is indigent, the court shall appoint the office of the public defender or private counsel pursuant to s. 27.40(1) to represent the inmate at the hearing. An attorney representing the inmate shall have access to the inmate and any records, including medical or mental health records, which are relevant to the representation of the inmate.

(d) The hearing on the petition for involuntary placement and treatment shall be held as expeditiously as possible after the petition is filed, but no later than 14 calendar days after filing. The court may appoint a general or special magistrate to preside over the hearing. The inmate may testify or not, as he or she chooses, may cross-examine witnesses testifying on behalf of the facility, and may present his or her own witnesses.

(e) The court may waive the presence of the inmate at the hearing if the waiver is consistent with the best interests of the inmate and the inmate's counsel does not object. One of the inmate's physicians whose opinion supported the petition shall appear as a witness at the hearing.

(3) ORDERS FOR INVOLUNTARY PLACEMENT AND TREATMENT.—

(a) If the court finds by clear and convincing evidence that the inmate meets the criteria specified in paragraph (1)(a), the court must order that the inmate be involuntarily placed in the mental health treatment facility for a period not to exceed 6 months.

(b) If the court finds by clear and convincing evidence that the inmate meets the criteria specified in paragraph (1)(b), the court may order that the inmate be involuntarily treated for a period not to exceed 6 months, concurrent with an



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order for placement in the mental health treatment facility. In  
determining whether to order involuntary treatment under this  
paragraph, the court must consider the inmate's expressed  
preference regarding treatment, if the inmate is able to express  
a preference; the probability of adverse side effects; the  
prognosis for the inmate without treatment; the prognosis for  
the inmate with treatment; and any other factors the court deems  
relevant.

(4) STATUS HEARINGS AND CONTINUING JURISDICTION.—An order  
authorizing involuntary placement and treatment must allow such  
placement and treatment for a period not to exceed 6 months  
following the date of the order. Unless the court is notified in  
writing that the inmate has been discharged from the mental  
health treatment facility because he or she is no longer in need  
of care and treatment, has been transferred to another  
institution of the department, or has been released from the  
department's custody, the warden shall, before the expiration of  
the initial order, file a notice with the court to set a status  
hearing for an order authorizing the continuation of placement  
and treatment for another period not to exceed 6 months. This  
procedure shall be repeated until the inmate is no longer in  
need of care and treatment. Placement and treatment may be  
continued pending a hearing after the timely filing of any  
petition.

(5) COPIES OF ORDERS.—The court shall provide a copy of its  
order authorizing placement and treatment along with all  
supporting documentation relating to the inmate's condition to  
the warden of the mental health treatment facility.

(6) DISMISSAL OF PETITIONS.—If the court finds that





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criteria for placement and treatment are not satisfied, it shall dismiss the petition and the inmate shall be transferred out of the mental health treatment facility and provided with appropriate mental health services.

Section 10. Section 945.45, Florida Statutes, is repealed.

Section 11. Present subsection (3) of section 945.46, Florida Statutes, is renumbered as subsection (5) and amended, and a new subsection (3) and subsection (4) are added to that section, to read:

945.46 Initiation of involuntary placement proceedings with respect to a mentally ill inmate scheduled for release.—

(3) The warden shall file, in the court in the county where the inmate is located, petitions for involuntary inpatient placement for inmates scheduled to be released. Upon filing, the clerk of the court shall provide copies to the Department of Children and Families, the inmate, and the state attorney and public defender of the judicial circuit in which the inmate is located. A fee may not be charged for the filing of a petition under chapter 394. Within 1 court working day after the filing of a petition for involuntary inpatient placement, the court shall appoint the public defender to represent the inmate who is the subject of the petition, unless the inmate is otherwise represented by counsel. The clerk of the court shall immediately notify the public defender of such appointment. Any attorney representing the inmate shall have access to the inmate, witnesses, and records relevant to the presentation of the patient's case and shall represent the interests of the inmate, regardless of the source of payment to the attorney. The state attorney for the circuit in which the inmate is located shall



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represent the state, rather than the petitioning warden, as the real party in interest in the proceeding. The remainder of the proceedings shall be governed by chapter 394.

(4) After considering the public safety and security concerns presented by transporting a mentally ill inmate or in conducting an onsite hearing, the court may order that the hearing be conducted by electronic means, at the facility in person, or at another location designated by the court. If the hearing is ordered by the court to be conducted at a location other than the facility, the department is authorized to transport the inmate to the location of the hearing.

~~(5)-(3)~~ The department may transport an individual who is being released from its custody to a receiving or mental health treatment facility for involuntary examination or placement. Such transport shall be made to a facility that is specified by the Department of Children and Families as able to meet the specific needs of the individual. If the Department of Children and Families does not specify a facility, transport shall ~~may~~ be made to the nearest receiving facility.

Section 12. Section 945.47, Florida Statutes, is amended to read:

945.47 Discharge of inmate from mental health treatment.—

(1) An inmate who has been placed in a mental health treatment facility ~~transferred~~ for the purpose of mental health treatment shall be discharged from treatment by the warden under the following conditions:

(a) If the inmate is no longer in need of care and treatment, as defined in s. 945.42, he or she may be transferred out of the mental health treatment facility and provided with



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appropriate mental health services; or

(b) If the inmate's sentence expires during his or her treatment, but he or she is no longer in need of care and treatment as an inpatient, the inmate may be released with a recommendation for outpatient treatment, pursuant to ~~the provisions of~~ ss. 945.40-945.49.

(2) At any time that an inmate who has received mental health treatment while in the custody of the department becomes eligible for release under supervision or upon end of sentence, a record of the inmate's mental health treatment may be provided to the Florida Commission on Offender Review, ~~and~~ to the Department of Children and Families to arrange postrelease aftercare placement, and to prospective recipient inpatient health care or residential facilities upon request. The record shall include, at a minimum, a summary of the inmate's diagnosis, length of stay in treatment, clinical history, prognosis, prescribed medication, treatment plan, and recommendations for aftercare services.

Section 13. Section 945.48, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 945.48, F.S., for present text.)

945.48 Emergency treatment orders and use of force.—

(1) EMERGENCY MEDICATION.—The department is authorized to involuntarily administer psychotropic medication to an inmate on an emergency basis without following the procedure outlined in s. 945.43 only as specified in this section. An emergency treatment order for psychotropic medication may be provided to the inmate upon the written order of a physician licensed



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pursuant to chapter 458 or chapter 459 in an emergency not exceeding 72 hours, excluding weekends and legal holidays. An emergency exists when an inmate with a mental illness presents an immediate threat of:

(a) Bodily harm to self or others; or

(b) Extreme deterioration in behavioral functioning secondary to the mental illness.

(2) PSYCHOTROPIC MEDICATION.—Psychotropic medication may be administered only when the medication constitutes an appropriate treatment for a mental illness and its symptoms and alternative treatments are not available or indicated, or would not be effective. If after the 72-hour period the inmate has not given express and informed consent to the medication initially refused, the inmate's treating physician shall refer the inmate to a mental health treatment facility for an involuntary examination in accordance with the procedures described in s. 945.43. Upon such referral, the warden shall, within 48 hours, excluding weekends and legal holidays, transfer the inmate to a mental health treatment facility. Upon transfer of the inmate for an involuntary examination, the emergency treatment order may be continued upon the written order of a physician as long as the physician has determined that the emergency continues to present a danger to the safety of the inmate or others and the criteria described in this subsection are satisfied. If psychotropic medication is still recommended after the emergency, it may only be administered after following the procedures outlined in s. 945.44.

(3) USE OF FORCE.—An employee or agent of the department is authorized to apply physical force upon an inmate when and to



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the extent that it reasonably appears necessary to effectuate the treatment of an inmate as described in this section, for the application of psychiatric restraint, to effectuate clinically necessary hygiene, or pursuant to a valid court order issued under s. 945.44 or s. 945.485. The requirements of s. 944.35 shall be followed when using force to effectuate such treatment, apply such restraint, or effectuate such hygiene.

Section 14. Section 945.485, Florida Statutes, is created to read:

945.485 Management and treatment for self-injurious behaviors.—

(1) The Legislature finds that nonsuicidal self-injurious behaviors in correctional institutions, or acts intended to cause bodily harm but not death, have increased in the correctional environment. Self-injurious behavior may include nonsuicidal self-injury or self-mutilation, such as cutting, reopening wounds, and ingesting or inserting foreign objects or dangerous instruments into the body. These behaviors pose a significant threat to inmates, staff, and, in many cases, the safe and secure operation of the correctional institution. In addition, self-injurious behaviors, coupled with the inmate's repeated refusals to provide express and informed consent for medical treatment and care, are a significant challenge for correctional medical and mental health professionals, resulting in higher costs for medical services, and may result in inadvertent mortality in the incarcerated population.

(2) In accordance with s. 945.6402, the Legislature finds that an inmate retains the fundamental right of self-determination regarding decisions pertaining to his or her own



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health, including the right to choose or refuse medical treatment or life-saving medical procedures. However, the inmate's right to privacy and decisionmaking regarding medical treatment may be outweighed by compelling state interests.

(3) When an inmate is engaging in active or ongoing self-injurious behavior and has refused to provide express and informed consent for treatment related to the self-injurious behavior, the warden of the facility where the inmate is housed shall consult with the inmate's treating physician regarding the inmate's medical and mental health status, current medical and mental health treatment needs, and competency to provide express and informed consent for treatment. The warden shall also determine whether the inmate's self-injurious behavior presents a danger to the safety of department staff or other inmates or the security, internal order, or discipline of the institution.

(a) If the inmate's treating physician determines that the inmate has a mental illness and is incompetent to consent to treatment, the physician shall proceed in accordance with s. 945.6402 for any necessary surgical or medical services. If the inmate is in need of care and treatment as defined in s. 945.42, the inmate shall be referred to a mental health treatment facility for an involuntary examination in accordance with s. 945.44.

(b) If the inmate is competent, refusing necessary surgical or medical treatment, and engaging in active or ongoing self-injurious behavior that presents a threat to the safety of department staff or other inmates or the security, internal order, or discipline of the institution, the warden shall follow the procedure set forth in subsection (4).



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(4) (a) The warden, or his or her designated representative, shall, on behalf of the state, petition the circuit court of the county in which the inmate is residing or the county in which the inmate is hospitalized for an order compelling the inmate to submit to emergency surgical intervention or other medical services to the extent necessary to remedy the threat to the safety of staff or other inmates or the security, internal order, or discipline of the institution. The petition must be supported by the expert opinion of at least one of the inmate's treating physicians and may be supported by other staff as necessary.

(b) The inmate shall be provided with a copy of the petition along with the proposed intervention, the basis for the proposed intervention, the names of the testifying experts and witnesses, and the date, time, and location of the hearing. After considering the medical status of the inmate, public safety, and security concerns presented by transporting the inmate, the court may order that the hearing be conducted by electronic means or in person at the institution or at another location designated by the court. If the hearing is ordered by the court to be conducted at a location other than the institution, the department is authorized to transport the inmate to the location of the hearing.

(c) The inmate may have an attorney represent him or her at the hearing, and, if the inmate is indigent, the court shall appoint the office of the public defender or private counsel pursuant to s. 27.40(1) to represent the inmate at the hearing. An attorney representing the inmate shall have access to the inmate and any records, including medical or mental health



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records, which are relevant to the representation of the inmate.

(d) The hearing on the petition shall be held as expeditiously as possible after the petition is filed, but no later than 5 calendar days after filing. The court may appoint a general or special magistrate to preside. The inmate may testify or not, as he or she chooses, may cross-examine witnesses testifying on behalf of the institution, and may present his or her own witnesses.

(e) The court may waive the presence of the inmate at the hearing if the waiver is consistent with the best interests of the inmate and the inmate's counsel does not object.

(f) The court shall determine whether the warden has established, by clear and convincing evidence, a compelling state interest sufficient to outweigh the inmate's right to refuse treatment. The court shall consider all of the following:

1. Preservation of the life of the inmate.
2. Prevention of suicide.
3. Protection of innocent third parties.
4. Maintenance of the ethical integrity of the medical profession.
5. Preservation of the security, internal order, or discipline of the institution.
6. Rehabilitation of the inmate.
7. Any other compelling state interest.

(g) If the court determines that there are compelling state interests sufficient to override the inmate's right to refuse treatment, the court shall enter an order authorizing emergency surgical intervention or other medical services, narrowly tailored and in the least intrusive manner possible, only as





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necessary to remedy the threat to the safety of third parties or the security, internal order, or discipline of the institution. Emergency surgical intervention or other medical services authorized by the court may be carried out at the institution or at a licensed hospital, as applicable.

(5) This section does not repeal by implication any provision of s. 766.103, the Florida Medical Consent Law, or s. 768.13, the Good Samaritan Act. For all purposes, the Florida Medical Consent Law and the Good Samaritan Act shall be considered alternatives to this section.

Section 15. Subsection (2) of section 945.49, Florida Statutes, is amended to read:

945.49 Operation and administration.—

~~(2) RULES.—The department, in cooperation with the Mental Health Program Office of the Department of Children and Families,~~ shall adopt rules necessary for administration of ss. 945.40-945.49 in accordance with chapter 120.

Section 16. Section 945.6402, Florida Statutes, is created to read:

945.6402 Inmate health care advance directives.—

(1) DEFINITIONS.—The terms used in this section have the same meanings as in s. 765.101 unless otherwise specified in this section. For purposes of this section, the term:

(a) "Health care facility" has the same meaning as in s. 765.101 and includes any correctional institution or facility where health care is provided.

(b) "Incapacity" or "incompetent" means an inmate is physically or mentally unable to communicate a willful and knowing health care decision.



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(c) "Informed consent" means consent voluntarily given by an inmate after a sufficient explanation and disclosure of the subject matter involved to enable the inmate to have a general understanding of the treatment or procedure and the medically acceptable alternatives, including the substantial risks and hazards inherent in the proposed treatment or procedures, and to make a knowing health care decision without coercion or undue influence.

(d) "Inmate" means any person committed to the custody of the department.

(e) "Ombudsman" means an individual designated and specifically trained by the department to identify conditions that may pose a threat to the rights, health, safety, and welfare of inmates in a health care facility and who may be appointed to serve as a proxy for an inmate who is physically or mentally unable to communicate a willful and knowing health care decision.

(f) "Proxy" means a competent adult who has not been expressly designated to make health care decisions for a particular incapacitated inmate, but who, nevertheless, is authorized pursuant to s. 765.401 and as specified in this section to make health care decisions for such inmate.

(g) "Proxy review team" means a team of at least five members, appointed by the Assistant Secretary for Health Services. The team shall be composed of, at a minimum, one physician licensed pursuant to chapter 458 or chapter 459, one psychologist licensed pursuant to chapter 490, one nurse licensed pursuant to chapter 464, and one department chaplain.

(2) LEGISLATIVE FINDINGS AND INTENT.-



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(a) In accordance with chapter 765, the Legislature finds that an inmate retains the fundamental right of self-determination regarding decisions pertaining to his or her own health, including the right to choose or refuse medical treatment. In accordance with chapter 765, this right is subject to certain institutional interests, including the protection of human life, the preservation of ethical standards in the medical profession, and, for inmates committed to the custody of the department, the security and good order of the institutional setting.

(b) To ensure that such right is not lost or diminished by virtue of later physical or mental incapacity, the Legislature intends that the procedures specified in chapter 765, and as modified in this section for the institutional health care setting, apply to incarcerated inmates. These procedures should be less expensive and less restrictive than guardianship and allow an inmate to plan for incapacity by executing a document or orally designating another person to direct the course of his or her health care or receive his or her health information, or both, upon his or her incapacity. These procedures permit a previously incapacitated inmate to exercise his or her full right to make health care decisions as soon as the capacity to make such decisions has been regained.

(c) In order to ensure that the rights and intentions of an inmate are respected when the inmate is not able to participate actively in decisions concerning himself or herself, and to encourage communication between the inmate, his or her family, and his or her treating physicians, the Legislature declares that the laws of this state recognize the right of a competent



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incarcerated adult to make an advance directive instructing his or her physicians to provide, withhold, or withdraw life-prolonging procedures or to designate another person to make the health care decision for him or her in the event that such incarcerated person should become incapacitated and unable to personally direct his or her health care. It is further the intent of the Legislature that the department provide the opportunity for inmates to make advance directives as specified in this section.

(d) The Legislature further recognizes that incarcerated inmates may not avail themselves of the opportunity to make an advance directive or, because of incarceration, may not have a surrogate, as defined in s. 765.101, willing, able, or reasonably available to make health care decisions on their behalf. Additionally, because of incarceration, the individuals designated in s. 765.401 who are eligible to serve as an appointed proxy may not be reasonably available, willing, or competent to make health care decisions for the inmate in the event of incapacity. Thus, it is the intent of the Legislature that the department have an efficient process that is less expensive and less restrictive than guardianship for the appointment of a proxy to allow for the expedient delivery of necessary health care to an incarcerated inmate.

(e) This section does not supersede the process for inmate involuntary mental health treatment specified in ss. 945.40-945.49.

(3) CAPACITY OF INMATE; PROCEDURE.—

(a) An inmate is presumed to be capable of making health care decisions for himself or herself unless he or she is



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determined to be incapacitated. When an inmate has decisionmaking capacity, the inmate's wishes are controlling. Each physician or health care provider must clearly communicate the treatment plan and any change to the treatment plan before implementation of the plan or any change to the plan. Incapacity may not be inferred from an inmate's involuntary hospitalization for mental illness or from his or her intellectual disability.

(b) If an inmate's capacity to make health care decisions for himself or herself or provide informed consent is in question, the inmate's treating physician at the health care facility where the inmate is located shall evaluate the inmate's capacity and, if the evaluating physician concludes that the inmate lacks capacity, enter that evaluation in the inmate's medical record. If the evaluating physician has a question as to whether the inmate lacks capacity, another physician shall also evaluate the inmate's capacity, and if the second physician finds that the inmate lacks the capacity to make health care decisions for himself or herself or provide informed consent, both physicians' evaluations shall be entered in the inmate's medical record.

(c) If the inmate is found to be incapacitated and has designated a health care surrogate in accordance with chapter 765, the institution's or facility's health care staff shall notify the surrogate and proceed as specified in chapter 765. If the incapacitated inmate has not designated a health care surrogate, the health care facility shall appoint a proxy to make health care decisions for the inmate as specified in this section.

(d) A determination made pursuant to this section that an



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inmate lacks the capacity to make health care decisions for himself or herself may not be construed as a finding that an inmate lacks capacity for any other purpose.

(4) HEALTH CARE ADVANCE DIRECTIVE; PROCEDURE.—

(a) In accordance with chapter 765, the department shall offer inmates the opportunity to execute an advance directive as defined in s. 765.101.

(b) The department shall provide to each inmate written information concerning advance directives and necessary forms to allow inmates to execute an advance directive. The department and its health care providers shall document in the inmate's medical records whether the inmate has executed an advance directive. Neither the department nor its health care providers may require an inmate to execute an advance directive using the department's forms. The inmate's advance directive shall travel with the inmate within the department as part of the inmate's medical record.

(c) An advance directive may be amended or revoked at any time by a competent inmate by means of:

1. A signed, dated writing of intent to amend or revoke;
2. The physical cancellation or destruction of the advance directive by the inmate or by another person in the inmate's presence and at the inmate's direction;
3. An oral expression of intent to amend or revoke; or
4. A subsequently executed advance directive that is materially different from a previously executed advance directive.

(5) PROXY.—

(a) If an incapacitated inmate has not executed an advance



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directive or designated a health care surrogate in accordance with the procedures specified in chapter 765, or the designated health care surrogate is no longer available to make health care decisions, health care decisions may be made for the inmate by any of the individuals specified in the priority order provided in s. 765.401(1)(a)-(g) as proxy. Documentation of the efforts to locate a proxy from the classes specified in s.

765.401(1)(a)-(g) shall be recorded in the inmate's medical file.

(b) If there are no individuals as specified in s. 765.401(1)(a)-(g) available, willing, or competent to act on behalf of the inmate, and the inmate is housed in a correctional institution or facility where health care is provided in a nonhospital setting, the warden of the institution where the inmate is housed, or the warden's designee, shall consult with the Assistant Secretary for Health Services or his or her designee, who shall appoint a department ombudsman to serve as the proxy. This appointment terminates when the inmate regains capacity or is no longer incarcerated in the custody of the department. In accordance with chapter 765 and as provided in this section, decisions to withhold or withdraw life-prolonging procedures will be reviewed by the department's proxy review team for compliance with chapter 765 and the requirements of this section.

(c) The ombudsman appointed to serve as the proxy is authorized to request the assistance of the treating physician and, upon request, a second physician not involved in the inmate's care to assist the proxy in evaluating the inmate's treatment.



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(d) In accordance with chapter 765, any health care decision made by any appointed proxy under this section must be based on the proxy's informed consent and on the decision that the proxy reasonably believes the inmate would have made under the circumstances. If there is no indication of what decision the inmate would have made, the proxy may consider the inmate's best interest in deciding that proposed treatments are to be withheld or that treatments currently in effect are to be withdrawn.

(e) Before exercising the incapacitated inmate's rights to select or decline health care, the proxy must comply with ss. 765.205 and 765.305, except that any proxy's decision to withhold or withdraw life-prolonging procedures must be supported by clear and convincing evidence that the decision would have been the one the inmate would have made had he or she been competent or, if there is no indication of what decision the inmate would have made, that the decision is in the inmate's best interest.

(f) Notwithstanding s. 456.057 and pursuant to s. 945.10 and 45 C.F.R. part 164, subpart E, relevant protected health information and mental health and medical records of an incapacitated inmate may be disclosed to a proxy appointed to make health care decisions for an inmate.

(6) USE OF FORCE.—In addition to s. 944.35(1), an employee of the department may apply reasonable physical force upon an incapacitated inmate to administer medical treatment only by or under the clinical supervision of a physician or his or her designee and only to carry out a health care decision made in accordance with this section and chapter 765.





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(7) IMMUNITY FROM LIABILITY.-A department health care provider, ombudsman, or other employee who acts under the direction of a health care provider as authorized in this section or chapter 765 is not subject to criminal prosecution or civil liability and may not be deemed to have engaged in unprofessional conduct as a result of carrying out a health care decision made in accordance with this section or chapter 765 on an inmate's behalf.

Section 17. Section 947.02, Florida Statutes, is amended to read:

947.02 Florida Commission on Offender Review; members, appointment.-

~~(1) Except as provided in s. 947.021, The members of the Florida commission on Offender Review shall be directly appointed by the Governor and Cabinet from a list of eligible applicants submitted by a parole qualifications committee. The appointments of members of the commission shall be certified to the Senate by the Governor and Cabinet for confirmation, and the membership of the commission shall include representation from minority persons as defined in s. 288.703.~~

(2) If the Legislature decreases the membership of the commission, all commission member terms of office shall expire and new members of the commission must be appointed in accordance with subsection (1). Members appointed to the commission may be selected from incumbents  
~~A parole qualifications committee shall consist of five persons who are appointed by the Governor and Cabinet. One member shall be designated as chair by the Governor and Cabinet. The committee shall provide for statewide advertisement and the receiving of~~



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~~applications for any position or positions on the commission and shall devise a plan for the determination of the qualifications of the applicants by investigations and comprehensive evaluations, including, but not limited to, investigation and evaluation of the character, habits, and philosophy of each applicant. Each parole qualifications committee shall exist for 2 years. If additional vacancies on the commission occur during this 2-year period, the committee may advertise and accept additional applications; however, all previously submitted applications shall be considered along with the new applications according to the previously established plan for the evaluation of the qualifications of applicants.~~

~~(3) Within 90 days before an anticipated vacancy by expiration of term pursuant to s. 947.03 or upon any other vacancy, the Governor and Cabinet shall appoint a parole qualifications committee if one has not been appointed during the previous 2 years. The committee shall consider applications for the commission seat, including the application of an incumbent commissioner if he or she applies, according to subsection (2). The committee shall submit a list of three eligible applicants, which may include the incumbent if the committee so decides, without recommendation, to the Governor and Cabinet for appointment to the commission. In the case of an unexpired term, the appointment must be for the remainder of the unexpired term and until a successor is appointed and qualified. If more than one seat is vacant, the committee shall submit a list of eligible applicants, without recommendation, containing a number of names equal to three times the number of vacant seats; however, the names submitted may not be distinguished by~~



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~~seat, and each submitted applicant shall be considered eligible for each vacancy.~~

~~(4) Upon receiving a list of eligible persons from the parole qualifications committee, the Governor and Cabinet may reject the list. If the list is rejected, the committee shall reinitiate the application and examination procedure according to subsection (2).~~

~~(5) Section 120.525 and chapters 119 and 286 apply to all activities and proceedings of a parole qualifications committee.~~

Section 18. Section 947.021, Florida Statutes, is repealed.

Section 19. Subsection (2) of section 947.12, Florida Statutes, is amended to read:

947.12 Members, employees, expenses.—

~~(2) The members of the examining board created in s. 947.02 shall each be paid per diem and travel expenses pursuant to s. 112.061 when traveling in the performance of their duties.~~

Section 20. Paragraph (g) of subsection (1) and subsection (5) of section 957.04, Florida Statutes, are amended to read:

957.04 Contract requirements.—

(1) A contract entered into under this chapter for the operation of contractor-operated correctional facilities shall maximize the cost savings of such facilities and:

(g) Require the contractor to be responsible for a range of dental, medical, and psychological services; diet; education; and work programs at least equal to those provided by the department in comparable facilities. The work and education programs must be designed to reduce recidivism, and include opportunities to participate in such work programs as authorized pursuant to s. 946.523. However, with respect to the dental,



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medical, psychological, and dietary services, the department is authorized to exclude any or all of these services from a contract for private correctional services entered into under this chapter and retain responsibility for the delivery of those services, if the department finds it to be in the best interests of the state.

~~(5) Each contract entered into by the department must include substantial minority participation unless demonstrated by evidence, after a good faith effort, as impractical and must also include any other requirements the department considers necessary and appropriate for carrying out the purposes of this chapter.~~

Section 21. Subsection (3) of section 957.09, Florida Statutes, is amended to read:

957.09 Applicability of chapter to other provisions of law.—

~~(3) The provisions of law governing the participation of minority business enterprises are applicable to this chapter.~~

Section 22. Subsection (2) of section 20.32, Florida Statutes, is amended to read:

20.32 Florida Commission on Offender Review.—

(2) All powers, duties, and functions relating to the appointment of the Florida Commission on Offender Review as provided in s. 947.02 ~~or s. 947.021~~ shall be exercised and performed by the Governor and Cabinet. ~~Except as provided in s. 947.021,~~ Each appointment shall be made from among the first three eligible persons on the list of the persons eligible for said position.

Section 23. This act shall take effect July 1, 2025.



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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to corrections; amending s. 57.085,  
F.S.; revising provisions relating to deferral of  
prepayment of court costs and fees for indigent  
prisoners for actions involving challenges to prison  
disciplinary reports; amending s. 95.11, F.S.;  
providing for a 1-year period of limitation for  
bringing certain actions relating to the condition of  
confinement of prisoners; creating s. 760.701, F.S.;  
defining the term "prisoner"; requiring exhaustion of  
administrative remedies before certain actions  
concerning confinement of prisoners may be brought;  
providing for dismissal of certain actions involving  
prisoner confinement in certain circumstances;  
requiring a showing of physical injury or the  
commission of a certain act as a condition precedent  
for bringing certain actions relating to prisoner  
confinement; specifying a time limitation period for  
bringing an action concerning any condition of  
confinement; amending s. 775.087, F.S.; requiring a  
court to impose consecutive terms of imprisonment if  
the offender is convicted of multiple specified felony  
offenses; authorizing a court to impose consecutive  
terms of imprisonment if the offender commits certain



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1287 offenses in conjunction with another felony offense;  
1288 making technical changes; amending s. 934.425, F.S.;  
1289 exempting certain persons working for the Department  
1290 of Corrections or the Department of Juvenile Justice,  
1291 and persons authorized pursuant to a court order, from  
1292 provisions regulating the use of tracking devices or  
1293 tracking applications; amending s. 945.41, F.S.;  
1294 revising legislative intent; revising provisions  
1295 relating to mental health treatment for inmates;  
1296 requiring that an inmate give his or her express and  
1297 informed consent to such treatment; specifying  
1298 information an inmate must receive regarding  
1299 treatment; authorizing the warden to authorize certain  
1300 emergency medical treatment under the direction of the  
1301 inmate's attending physician under certain  
1302 circumstances; amending s. 945.42, F.S.; revising and  
1303 providing definitions; amending s. 945.43, F.S.;  
1304 revising provisions concerning involuntary  
1305 examinations; amending s. 945.44, F.S.; revising  
1306 provisions concerning involuntary placement and  
1307 treatment of an inmate in a mental health treatment  
1308 facility; repealing s. 945.45, F.S., relating to  
1309 continued placement of inmates in mental health  
1310 treatment facilities; amending s. 945.46, F.S.;  
1311 providing requirements for filing petitions for  
1312 involuntary inpatient placement for certain inmates;  
1313 authorizing the court to order alternative means and  
1314 venues for certain hearings; requiring, rather than  
1315 authorizing, inmates to be transported to the nearest



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1316 receiving facility in certain circumstances; amending  
1317 s. 945.47, F.S.; specifying purposes for which an  
1318 inmate's mental health treatment records may be  
1319 provided to the Florida Commission on Offender Review  
1320 and the Department of Children and Families;  
1321 authorizing such records to be provided to certain  
1322 facilities upon request; amending s. 945.48, F.S.;  
1323 substantially revising provisions relating to  
1324 emergency treatment orders and use of force and  
1325 providing requirements for such orders and use of  
1326 force; providing requirements for emergency and  
1327 psychotropic medications and use of force; creating s.  
1328 945.485, F.S.; providing legislative findings;  
1329 providing requirements for management of and treatment  
1330 for an inmate's self-injurious behaviors; requiring  
1331 facility wardens to consult with an inmate's treating  
1332 physician in certain circumstances and make certain  
1333 determinations; providing for petitions to compel an  
1334 inmate to submit to medical treatment in certain  
1335 circumstances; providing construction; amending s.  
1336 945.49, F.S.; deleting a requirement that the  
1337 Department of Corrections adopt certain rules in  
1338 cooperation with the Mental Health Program Office of  
1339 the Department of Children and Families; creating s.  
1340 945.6402, F.S.; providing definitions; providing  
1341 legislative findings and intent; providing  
1342 requirements for inmate capacity, health care advance  
1343 directives, and proxies; authorizing the use of force  
1344 on incapacitated inmates in certain circumstances;



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1345 providing immunity from liability for certain persons  
1346 in certain circumstances; amending s. 947.02, F.S.;  
1347 revising the manner in which the membership of the  
1348 Florida Commission on Offender Review is appointed;  
1349 repealing s. 947.021, F.S., relating to expedited  
1350 appointments of the Florida Commission on Offender  
1351 Review; amending s. 947.12, F.S.; conforming  
1352 provisions to changes made by the act; amending s.  
1353 957.04, F.S.; revising requirements for contracting  
1354 for certain services; amending s. 957.09, F.S.;  
1355 deleting a provision relating to minority business  
1356 enterprises; amending s. 20.32, F.S.; conforming  
1357 provisions to changes made by the act; providing an  
1358 effective date.





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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/16/2025	.	
	.	
	.	
	.	

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

**Senate Amendment to Amendment (317706) (with title  
amendment)**

Between lines 264 and 265  
insert:

Section 6. Section 944.331, Florida Statutes, is amended to  
read

944.331 Inmate grievance procedure.—

(1) The department shall establish by rule an inmate  
grievance procedure that must conform to the Minimum Standards



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for Inmate Grievance Procedures as promulgated by the United States Department of Justice pursuant to 42 U.S.C. s. 1997e. An inmate's grievance must first be reviewed by an administrative law judge to determine whether there is cause to continue the grievance procedure. The department's office of general counsel shall oversee the grievance procedures established by the department.

(2) Any inmate must seek a declaratory statement from an administrative law judge pursuant to s. 120.565, regarding the validity of the initial grievance under relevant statutory provisions or of any rule or order of the department, as it applies to the inmate's particular set of circumstances, and whether the inmate has alleged sufficient cause to file such grievance.

(3) The department shall cooperate with the Division of Administrative Hearings to develop a form to initiate the grievance process, and must adopt rules relating to, but not limited to, time frames for receiving and responding to grievances and methods of filing the grievance.

(4) The department is authorized to waive the process for a petition for declaratory statement in the event of an emergency grievance alleging substantial risk of imminent sexual abuse or great bodily harm.

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

And the title is amended as follows:

Delete line 1293

and insert:

tracking applications; amending s. 944.331, F.S.,;



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40 requiring an inmate's grievance to be reviewed by an  
41 administrative law judge; amending s. 945.41, F.S.;

**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.)

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

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BILL: CS/CS/SB 1604

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

SUBJECT: Corrections

DATE: April 17, 2025

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

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

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1604 amends multiple sections of law, including the prepayment of court costs, the statute of limitations on prisoners' lawsuits, location tracking for inmates and other persons, the parole qualifications committee, contractor-operated correctional facilities, minority representation requirements, and the Corrections Mental Health Act. Specifically, the bill:

- Amends s. 57.085, F.S., to specify that the deferral of prepayment of court costs and fees does not apply to challenges to prison disciplinary reports;
- Amends s. 95.11, F.S., to provide a statute of limitations of one year to all petitions, extraordinary writs, tort actions, or other actions which concern any condition of confinement of a prisoner;
- Creates s. 760.701, F.S., to restrict a prisoner from pursuing a civil action until all administrative remedies are fully exhausted and aligns with the Prison Litigation Reform Act to restrict a prisoner, or person on behalf of a prisoner, from filing a lawsuit relating to the conditions of confinement for mental or emotional injury suffered while in custody without a prior showing of physical injury or the commission of a sexual act;
- Amends s. 775.087, F.S., to require the court to impose consecutive sentences for any person who is convicted for committing an offense listed under s. 775.087(2)(a)1., F.S., in conjunction with any other felony offense, and to allow the court to impose consecutive sentences for any other felony that was committed in conjunction with the felony that must receive a mandatory minimum sentence under s. 775.087(3)(a)1, F.S.;

- Amends s. 934.425, F.S., to expand exceptions to the criminal offense for the installation or use of a tracking device to include certain Department of Corrections personnel, as defined in s. 943.10, F.S., certain Department of Juvenile Justice personnel, as defined in s. 985.03, F.S., and persons allowed to install, place, or use a tracking device or application pursuant to a court order;
- Amends and substantially rewords the Corrections Mental Health Act under ss. 945.41 – 945.49, F.S., to provide updated, clarifying, or technical language, as well as provide substantial changes to the procedure for placement and treatment of inmates, and creates s. 945.485, F.S., to provide legislative intent and procedures for inmates engaging in self-injurious behavior;
- Creates s. 945.6402, F.S., to establish inmate health care advance directives;
- Amends s. 947.02, F.S., to eliminate the use of a parole qualifications committee, to clarify that the members of the Florida Commission on Offender Review (FCOR) are to be directly appointed by the Governor and Cabinet, and removes the requirement for the FCOR membership to include representation from minority persons;
- Amends s. 957.04, F.S., to allow the DOC to exclude certain services from a contract for private correctional services and removes the requirement for each contract to include substantial minority participation;
- Amends 957.09, F.S., to remove language relating to the participation of minority business enterprises; and,
- Repeals 947.021, F.S., regarding expedited appointments, to be consistent with the elimination of the parole qualifications committee.

The bill may have an indeterminate fiscal impact on the DOC. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2025.

## **II. Present Situation:**

The DOC is Florida’s largest agency, and the third largest state prison system in the country. The DOC employs nearly 24,000 people, incarcerates over 88,000 inmates, and supervises more than 145,000 offenders in the community.<sup>1</sup>

### **Prison Litigation Reform Act**

The Prison Litigation Reform Act (PLRA) placed several restrictions on a prisoner’s ability to file civil rights lawsuits based on the conditions of confinement.<sup>2</sup> The federal law sought to

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<sup>1</sup> Florida Department of Corrections, available at: <https://www.fdc.myflorida.com/> (last visited March 22, 2025).

<sup>2</sup> A “condition of confinement” is any issue related to a prisoner’s confinement. As the U.S. Supreme Court stated, “Indeed, the medical care a prisoner receives is just as much a ‘condition’ of his confinement as the food he is fed, the clothes he is issued, the temperature he is subjected to in his cell, and the protection he is afforded against other inmates.” *Wilson v. Seiter*, 501 U.S. 294, 303 (1991); See also *Porter v. Nussle*, 534 U.S. 516, 532 (2002) (finding that the term “prison conditions” “applies to all inmate suits about prison life, whether they involve general circumstances or particular episodes and whether they allege excessive force or some other wrong.”)

reduce frivolous litigation, give correction officials the ability to remedy problems before litigation, and lighten the caseload for courts handling prisoner litigation.<sup>3</sup>

The bill creates s. 760.701, F.S., to align with the federal standard and procedure relating to the filing of lawsuits by prisoners pursuant to 42 U.S.C.A. § 1997e. Under section 1997e, a prisoner is required to exhaust all available administrative remedies before filing suit with respect to prison conditions under 42 U.S.C.A. § 1983.<sup>4</sup> The court is directed to dismiss any action brought with respect to prison conditions, if the court is satisfied that the action is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant who is immune from such relief.<sup>5</sup> The PLRA also restricts a prisoner from filing federal civil action for mental or emotional injury suffered while in custody without a prior showing of physical injury or the commission of a sexual act<sup>6</sup> (as defined in section 2246 of Title 18).<sup>7</sup>

In the case of *Siggers-El v. Barlow*, the plaintiff, a prisoner, requested for the defendant, a prison official, to authorize disbursements from his prison account to pay for a lawyer to review his appellate brief. The defendant refused to authorize the disbursement of funds until after a supervisor ordered the defendant to do so. After a series of conflicts over this matter, the defendant filled out a screen designating the prisoner for transfer to another facility. The defendant was aware that the transfer would prevent the Plaintiff from seeing his attorney, paying his attorney, and from seeing his emotionally-disabled daughter. The jury awarded \$15,000 in mental or emotional damages, as well as \$4,000 in economic damages and \$200,000 in punitive damages.

When addressing whether mental or emotional damages were not recoverable because the PLRA prohibits the recovery of such damages in the absence of a physical injury, the Court found that the relevant portion of the PLRA, 42 U.S.C.A. § 1997e, is unconstitutional. “Application of § 1997e(e) to bar mental or emotional damages would effectively immunize officials from liability for severe constitutional violations, so long as no physical injury is established. Such immunity would be at odds with the fact that the statute allows plaintiffs to recover unlimited mental or emotional damages, so long as they prove more than *de minimis* physical injury. The Court finds the following hypothetical, set forth in Plaintiff’s brief, to be persuasive:

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<sup>3</sup> FindLaw, *Prison Litigation Reform Act*, Samuel Strom, J.D. (2023), available at:

<https://www.findlaw.com/criminal/criminal-rights/prison-litigation-reform-act.html> (last visited March 19, 2025).

<sup>4</sup> Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceedings for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer’s judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. 42 U.S.C.A. § 1983.

<sup>5</sup> 42 U.S.C.A. § 1997e(c)(1).

<sup>6</sup> The term “sexual act” means: contact between the penis and the vulva or the penis and the anus, and purposes of this subparagraph contact involving the penis occurs upon penetration, however slight; contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus; the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person. 18 U.S.C.A. § 2246.

<sup>7</sup> 42 U.S.C.A. § 1997e(e).

‘[I]magine a sadistic prison guard who tortures inmates by carrying out fake executions—holding an unloaded gun to a prisoner’s head and pulling the trigger, or staging a mock execution in a nearby cell, with shots and screams, and a body bag being taken out (within earshot and sight of the target prisoner). The emotional harm could be catastrophic but would be non-compensable. On the other hand, if a guard intentionally pushed a prisoner without cause, and broke his finger, all emotional damages proximately caused by the incident would be permitted.’<sup>8</sup>

However, some courts, such as in the case of *Pagonis v. Raines*, upheld the PLRA and dismissed the plaintiff’s claim for compensatory damages, having shown no prior physical injury.<sup>9</sup>

### ***Limitations of Actions***

Actions other than for recovery of real property are outlined within s. 95.11, F.S. Limitations of 20 years, five years, four years, two years, and one year are provided for a number of actions. With the exception for specified actions,<sup>10</sup> a petition for extraordinary writ, other than a petition challenging a criminal conviction, filed on or behalf of an inmate is subject to a one year limitation.<sup>11</sup> Further, with the exception for specified actions, an action brought by or on behalf of an inmate relating to the conditions of confinement are also limited to one year.<sup>12</sup>

### ***Court Costs***

When a prisoner is intervening in or initiating a judicial proceeding seeks to defer the prepayment of court costs and fees because of indigence, the prisoner must file an affidavit of indigence with the appropriate clerk of the court. The affidavit must contain specific information as to the prisoner’s identity and the estate of such prisoner.<sup>13</sup>

When the clerk has found the prisoner to be indigent, the court must order the prisoner to make monthly payments of no less than 20 percent of the balance of his or her trust account as payment of court costs and fees. When a court orders such payment, the DOC or local detention facility places a lien on the prisoner’s trust account for the full amount of the court costs and fees, and withdraw money maintained in that trust account and forward the money, when the balance exceeds \$10, to the appropriate clerk of the court until the prisoner’s court costs and fees are paid in full.<sup>14</sup>

<sup>8</sup> *Siggers-El v. Barlow*, 433 F. Supp. 2d 811 (E.D. Mich. 2006)

<sup>9</sup> *Pagonis v. Raines*, No. 4:17-CV-01-DC-DF, 2018 WL 9240919 (W.D. Tex. Aug. 10, 2018), report and recommendation adopted, No. PE:17-CV-00001-DC, 2018 WL 9240916 (W.D. Tex. Sept. 10, 2018)

<sup>10</sup> Any court action challenging prisoner disciplinary proceedings conducted by the DOC pursuant to s. 944.28(2), F.S., must be commenced within 30 days after the final disposition of the prisoner disciplinary proceedings through the administrative grievance process. Any action challenging prisoner disciplinary proceedings must be barred by the court unless it is commenced within the 30 day time period. Section 95.11(9), F.S.

<sup>11</sup> Section 95.11(6)(f), F.S.

<sup>12</sup> Section 95.11(6)(g), F.S.

<sup>13</sup> Section 57.085(2), F.S.

<sup>14</sup> Section 57.085(5), F.S.

## Sentencing

Any person who is convicted of a felony or an attempt to commit a felony, regardless of whether the use of a weapon is an element of the felony, and the conviction was for specific crimes<sup>15</sup> and during the commission of the offense such person:

- Possessed a “firearm” or “destructive device,” must be sentenced to a minimum 10 year term of imprisonment.<sup>16</sup>
- Discharged the firearm, must be sentenced to a minimum 20 year term of imprisonment.<sup>17</sup>
- Discharged the firearm which resulted in death or great bodily harm, must be sentenced to a minimum 25 year term of imprisonment, up to life.<sup>18</sup>

If the minimum mandatory terms of imprisonment imposed exceed the maximum sentence authorized by s. 775.082, F.S., s. 775.084, F.S., or the Criminal Punishment Code, then the sentence imposed by the court must include the mandatory minimum term of imprisonment as required by s. 775.087, F.S.<sup>19</sup>

It is the intent of the Legislature that offenders who possess, carry, display, use, threaten to use, or attempt to use a semiautomatic firearm and its high-capacity detachable box magazine or machine gun, be punished to the fullest extent of the law, and the minimum terms of imprisonment be imposed for each qualifying felony count for which the person is convicted. The court must impose any term of imprisonment provided consecutively to any other term of imprisonment imposed for any other felony offense.<sup>20</sup>

In *Williams v. State*, the defendant was convicted following a jury trial in the circuit court, of four counts of aggravated assault with a firearm, for which he received four consecutive mandatory minimum prison terms of 20 years each. The defendant appealed and brought forth the question of whether a trial court is required under s. 775.087(2)(d), F.S., to impose consecutive minimum terms of imprisonment for multiple offense when the offenses arise from a single criminal episode. The Supreme Court held, regarding the language in s. 775.057(2)(d), F.S., that “the court shall impose any term of imprisonment provided for in this subsection consecutively to any other term of imprisonment imposed for any other felony offense” does not require the court to sentence a defendant to consecutive sentences when the sentences arise from the same criminal episode.<sup>21</sup>

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<sup>15</sup> Murder; sexual battery; robbery; burglary; arson; aggravated battery; kidnapping; escape; aircraft piracy; aggravated child abuse; aggravated abuse of an elderly person or disabled person; unlawful throwing, placing, or discharging of a destructive device or bomb; carjacking; home-invasion robbery; aggravated stalking; trafficking in listed substances; possession of a firearm by a felon; or human trafficking. Section 775.087(2)(a)1., F.S.

<sup>16</sup> Section 775.087(2)(a)1., F.S., except that a person who is convicted for possession of a firearm by a felon or burglary of a conveyance must be sentenced to a minimum term of imprisonment of 3 years if such person possessed a firearm or destructive device during the commission of the offense.

<sup>17</sup> Section 775.087(2)(a)2., F.S.

<sup>18</sup> Section 775.087(2)(a)3., F.S.

<sup>19</sup> Section 775.087(2)(c), F.S.

<sup>20</sup> Section 775.087(2)(d), F.S.

<sup>21</sup> *Williams v. State*, 186 So. 3d 989 (Fla. 2016)



## Tracking Devices

Tracking devices<sup>22</sup> and tracking applications<sup>23</sup> can be used to follow the location or movement of another person, potentially without that person's knowledge or consent. Some applications have legitimate uses but may be accessed by third parties without the user's consent. Other applications are developed and marketed as surveillance applications, commonly targeting potential customers interested in using the technology to track the movements and communication of another without consent.<sup>24</sup>

### *Unlawful Installation or Use of a Tracking Device or Application*

Unless excepted, s. 934.425, F.S., it is a third degree felony<sup>25</sup> to knowingly:

- Install or place a tracking device or tracking application on another person's property without that person's consent; or
- Use a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent.<sup>26</sup>

A person's consent to be tracked is presumed to be revoked if:

- The consenting person and the person to whom consent was given are lawfully married and one person files a petition for dissolution of marriage from the other;<sup>27</sup> or
- The consenting person or the person to whom consent was given files an injunction for protection against the other person.<sup>28</sup>

The prohibition against installing a tracking device or tracking application does not apply to specified persons including a law enforcement officer, or any local, state, federal, or military law enforcement agency, that lawfully installs, places, or uses a tracking device or tracking application on another person's property as part of a criminal investigation;<sup>29</sup>

## The Corrections Mental Health Act

Under the Corrections Mental Health Act, ss. 945.40 - 945.49, F.S., it is the intent of the Legislature for mentally ill inmates in the custody of the DOC to receive an evaluation and appropriate treatment for their mental illness through a continuum of services. The DOC must provide mental health services to inmates committed to the DOC and may contract with entities,

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<sup>22</sup> "Tracking device" means any device whose primary purpose is to reveal its location or movement by the transmission of electronic signals. Section 934.425(1)(c), F.S.

<sup>23</sup> "Tracking application" means any software program whose primary purpose is to track or identify the location or movement of an individual. Section 934.425(1)(b), F.S.

<sup>24</sup> New York Times, *I Used Apple AirTags, Tiles and a GPS Tracker to Watch My Husband's Every Move*, Kashmir Hill, February 11, 2022, available at <https://www.nytimes.com/2022/02/11/technology/airtags-gps-surveillance.html> (last visited on March 20, 2025).

<sup>25</sup> A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Section 775.082 and 775.083, F.S.

<sup>26</sup> Section 934.425(2), F.S.

<sup>27</sup> Section 934.425(3)(a), F.S.

<sup>28</sup> Section 934.425(3)(b), F.S., references the following injunctions for protection: s. 741.30, F.S., relating to domestic violence; s. 741.315, F.S., relating to foreign protection orders; s. 784.046, F.S., relating to repeat violence, sexual violence, or dating violence; s. 784.048, F.S., relating to stalking.

<sup>29</sup> Section 934.425(4)(a), F.S.

persons, or agencies qualified to provide such services.<sup>30</sup> Additionally, the DOC is required to work in cooperation with the Mental Health Program Office of the Department of Children and Families (DCF) to adopt rules necessary for administration of ss. 945.40 - 945.49, F.S.<sup>31</sup> Mental health treatment facilities are required to be secure, adequately equipped and staffed, and provide services in the least restrictive manner consistent with optimum improvement of the inmate's condition.<sup>32</sup>

The Corrections Mental Health Act provides key terminology necessary in determining criteria is met for crisis stabilization care<sup>33</sup> such as:

- “Mentally ill” means an impairment of the mental or emotional processes that exercise conscious control of one’s actions or the ability to perceive or understand reality, which impairment substantially interferes with the person’s ability to meet the ordinary demands of living. However, for the purposes of transferring an inmate to a mental health treatment facility, the term does not include a developmental disability as defined in s. 393.063, F.S., simple intoxication, or conditions manifested only by antisocial behavior or substance abuse addiction. However, an individual who is developmentally disabled may also have a mental illness.<sup>34</sup>
- “In immediate need of care and treatment” means that an inmate is apparently mentally ill and is not able to be appropriately cared for in the institution where he or she is confined and that, but for being isolated in a more restrictive and secure housing environment, because of the apparent mental illness: the inmate is demonstrating a refusal to care for himself or herself and without immediate treatment intervention is likely to continue to refuse to care for himself or herself, and such refusal poses an immediate, real, and present threat of substantial harm to his or her well-being; or there is an immediate, real, and present threat that the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior involving causing, attempting, or threatening such harm; the inmate is unable to determine for himself or herself whether placement is necessary; and all available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate’s condition have been clinically determined to be inappropriate.<sup>35</sup>
- “In need of care and treatment” means that an inmate has a mental illness for which inpatient services in a mental health treatment facility are necessary and that, but for being isolated in a more restrictive and secure housing environment, because of the mental illness: the inmate is demonstrating a refusal to care for himself or herself and without treatment is likely to continue to refuse to care for himself or herself, and such refusal poses a real and present threat of substantial harm to his or her well-being; or there is a substantial likelihood that in the near future the inmate will inflict serious bodily harm on himself or herself or another person, as evidenced by recent behavior causing, attempting, or threatening such harm; The

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<sup>30</sup> Section 945.41(1), F.S.

<sup>31</sup> Section 945.49(2), F.S.

<sup>32</sup> Section 945.41(2), F.S.

<sup>33</sup> “Crisis Stabilization Care” means a level of care that is less restrictive and intense than care provided in a mental health treatment facility, that includes a broad range of evaluation and treatment services provided within a highly structured setting or locked residential setting, and that is intended for inmates who are experiencing acute emotional distress and who cannot be adequately evaluated and treated in a transitional care unit and is devoted principally toward rapid stabilization of acute symptoms and conditions. Section 945.42(2), F.S.

<sup>34</sup> Section 945.42(9), F.S.

<sup>35</sup> Section 945.42(5), F.S.

inmate is unable to determine for himself or herself whether placement is necessary; and all available less restrictive treatment alternatives that would offer an opportunity for improvement of the inmate's condition have been clinically determined to be inappropriate.<sup>36</sup>

- “Transitional mental health care” means a level of care that is more intensive than outpatient care, but less intensive than crisis stabilization care, and is characterized by the provision of traditional mental health treatments such as group and individual therapy, activity therapy, recreational therapy, and psychotropic medications in the context of a structured residential setting. Transitional mental health care is indicated for a person with chronic or residual symptomatology who does not require crisis stabilization care or acute psychiatric care, but whose impairment in functioning nevertheless renders him or her incapable of adjusting satisfactorily within the general inmate population.<sup>37</sup>

Correctional officers employed by a mental health treatment facility must receive specialized training above and beyond basic certification.

An inmate receiving mental health treatment must be subject to the same standards applied to other inmates in the department, including, but not limited to, consideration for parole, release by reason of gain-time allowances, and release by expiration of sentence.<sup>38</sup>

### **Procedure for Placement**

If an inmate is deemed mentally ill and in need of care and treatment, he or she may be placed in a mental health treatment facility after notice and hearing, and upon recommendation of the warden. The procedure for placement in a mental health treatment facility is as follows:<sup>39</sup>

- The warden files a petition with the court in the county where the inmate is housed. The petition must include the warden's recommendation supported by the expert opinion of a psychiatrist and the second opinion of a psychiatrist or psychological professional.
- A copy of the petition must be served to the inmate, accompanied by a written notice that an inmate may apply to have an attorney appointed if the inmate cannot afford one. The attorney must have access to the inmate and any records that are relevant to the representation of the inmate.
- The hearing must be held in the same county and one of the inmate's physicians at the facility must appear as a witness at the hearing.
- If the inmate is found mentally ill and in need of care, the court must order the inmate be placed in a mental health treatment facility or, if the inmate is at a mental health treatment facility, that he or she be retained there. The court must authorize the facility to retain the inmate for up to six months. If continued placement is necessary, the warden shall apply to the Division of Administrative Hearings for an order authorizing continued placement.

The current procedure for a hearing on the placement of an inmate in a mental health treatment facility provides.<sup>40</sup>

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<sup>36</sup> Section 945.42(6), F.S.

<sup>37</sup> Section 945.42(13), F.S.

<sup>38</sup> Section 945.49, F.S.

<sup>39</sup> Section 945.43(2), F.S.

<sup>40</sup> Section 945.43(3), F.S.

- The court must serve notice on the warden of the facility where the inmate is confined and serve the allegedly mentally ill inmate. The notice must specify the date, time, and place of the hearing; the basis for the allegation of mental illness; and the names of the examining experts. The hearing shall be held within 5 days, and the court may appoint a general or special magistrate to preside. One of the experts whose opinion supported the petition for placement must be present at the hearing.
- If, at the hearing, the court finds that the inmate is mentally ill and in need of care and treatment, the court must order that he or she be placed in a mental health treatment facility. The court must provide a copy of the order and all supporting documentation relating to the inmate's condition to the warden of the treatment facility. If the court finds that the inmate is not mentally ill, the petition for placement is dismissed.

The court may waive the presence of the inmate at the hearing if it is in the best interests of the inmate and the inmate's counsel does not object. The department may transport the inmate to the location of the hearing if it is not conducted at the facility or electronically.<sup>41</sup> The warden of an institution in which a mental health treatment facility is located may refuse to place any inmate in that treatment facility who is not accompanied by adequate court orders and documentation, as required in these sections.<sup>42</sup>

#### ***Procedure for Emergency Placement***

An inmate may be placed in a mental health treatment facility on an emergency basis if he or she is mentally ill and in immediate need of care and treatment. If such care and treatment cannot be provided at the institution where the inmate is confined, he or she may be placed immediately in a mental health treatment facility accompanied by the recommendation of the warden of the institution where the inmate is confined. The recommendation must state the need for the emergency placement and include a written opinion of a physician verifying the need. Upon placement, the inmate shall be evaluated, if the inmate is determined to be in need of treatment or care, the warden initiates proceedings for placement.<sup>43</sup>

#### ***Procedure for Continued Placement***

An inmate may be retained in a mental health treatment facility if he or she is mentally ill and continues to be in need of care and treatment. The procedure for continued placement is as follows:

- Prior to expiration of the period in which the inmate is being housed in a mental health treatment facility, the warden must file a petition with the Division of Administrative Hearings accompanied by a statement from the inmate's physician justifying the petition and providing a summary of the inmate's treatment and the individualized plan for the inmate.<sup>44</sup>

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<sup>41</sup> Section 945.43(3)(a), F.S.

<sup>42</sup> Section 945.43(4), F.S.

<sup>43</sup> Section 945.44, F.S.

<sup>44</sup> Section 945.45(2)(a), F.S.

- Notification is mailed to the inmate, along with a waiver-of-hearing form and the completed petition, requesting the inmate's signature. The waiver-of-hearing form shall require express and informed consent and shall state the inmate is entitled to be represented by an attorney.<sup>45</sup>
- The hearing is an administrative hearing and conducted in accordance with ch. 120, F.S.,<sup>46</sup> except that an order entered by the administrative law judge is final and subject to judicial review. An administrative law judge shall be assigned by the Division of Administrative Hearings.<sup>47</sup>
- If the administrative law judge finds the inmate no longer meets the criteria for placement, the inmate will be transferred out of the mental health treatment facility.<sup>48</sup>
- If the inmate waives the hearing or if the administrative law judge finds the inmate is in need of continued placement, the administrative law judge will order continued placement for a period not to exceed one year. This procedure shall be repeated prior to the expiration of each additional one year period.<sup>49</sup>

The administrative law judge may appoint a private pro bono attorney in the circuit in which the treatment facility is located to represent the inmate.<sup>50</sup> The presence of the inmate at the hearing may be waived if such waiver is consistent with the best interest of the inmate and the inmate's counsel does not object.<sup>51</sup>

### ***Involuntary Placement with Respect to Scheduled Release***

If an inmate who is receiving mental health treatment is scheduled for release through expiration of sentence or any other means, but continues to be mentally ill and in need of care and treatment, the warden is authorized to initiate procedures for involuntary placement 60 days prior to release.<sup>52</sup> Additionally, the warden may initiate procedures for involuntary examination for any inmate who has a mental illness and meets the criteria under s. 394.463(1), F.S.<sup>53,54</sup>

The DOC may transport an individual who is being released from its custody to a receiving or treatment facility for involuntary examination or placement. Transport must be made to a facility specified by the DCF, or the nearest receiving facility if not specified.<sup>55</sup>

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<sup>45</sup> If the inmate does not sign the petition, or if the inmate does not sign a waiver within 15 days, the administrative law judge must notice a hearing with regard to the inmate involved in accordance with ss. 120.569 and 120.57(1), F.S.

Section 945.45(2)(b), F.S.

<sup>46</sup> Chapter 120, F.S., provides procedure for all administrative hearings.

<sup>47</sup> Section 945.45(3)(a), F.S.

<sup>48</sup> Section 945.45(3)(d), F.S.

<sup>49</sup> Section 945.45(3)(e), F.S.

<sup>50</sup> Section 945.45(3)(b), F.S.

<sup>51</sup> Section 945.45(3)(c), F.S.

<sup>52</sup> Section 945.46(1), F.S.

<sup>53</sup> The Florida Mental Health Act finds a person may be ordered for involuntary inpatient placement for treatment if he or she has a mental illness and because of that illness has either refused voluntary placement or is unable to determine whether inpatient placement is necessary and is incapable for surviving alone or with the help of willing friends or family and is likely to suffer from neglect, refuse to take care of themselves, or there is substantial likelihood that in the near future he or she will inflict serious bodily harm on self or others.

<sup>54</sup> Section 945.46(2), F.S.

<sup>55</sup> Section 945.46(3), F.S.

### ***Discharge of an Inmate from Mental Health Treatment***

An inmate must be discharged from mental health treatment under the following conditions:<sup>56</sup>

- The inmate is no longer in need of care and treatment, he or she may be transferred out of the mental health treatment facility and provided with appropriate mental health services; or
- If the inmate's sentence expires during his or her treatment, but he or she is no longer in need of care as an inpatient, the inmate may be released with a recommendation for outpatient treatment.

At any time that an inmate who has received mental health treatment becomes eligible for release under supervision or upon end of sentence, a record of the inmate's mental health treatment may be provided to the FCOR and to the DCF upon request.<sup>57</sup>

### ***Involuntary Treatment***

An inmate in a mental health treatment facility has the right to receive treatment that is suited to his or her needs and that is provided in a humane psychological environment. Such treatment must be administered skillfully, safely, and humanely with respect for the inmate's dignity and personal integrity. An inmate must be asked to give his or her express and informed written consent for such treatment.<sup>58</sup>

If an inmate has refused to give express and informed consent for treatment, the warden of the mental health treatment facility must petition the circuit court serving the county in which the facility is located for an order authorizing the treatment of the inmate. The inmate must be provided a copy of the petition along with the proposed treatment, basis for treatment, names of examining experts, and the date, time, and location of the hearing.<sup>59</sup>

The hearing on the petition for involuntary treatment must be held within five days after the petition is filed. The inmate may have an attorney represent him or her, or if indigent, the court must appoint the office of the public defender. The inmate may testify or not, may cross-examine witnesses testifying on behalf of the facility, and may present his or her own witnesses. The inmate's presence may be waived. One of the inmate's physicians whose opinion supported the petition shall appear as a witness.<sup>60</sup>

The court must determine by *clear and convincing evidence* whether the inmate is mentally ill, whether such treatment is essential to the care of the inmate, and whether the treatment is experimental or presents an unreasonable risk of serious, hazardous, or irreversible side effects. The court must consider at least the following:<sup>61</sup>

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<sup>56</sup> Section 945.47(1), F.S.

<sup>57</sup> Section 945.47(2), F.S.

<sup>58</sup> The "right to express and informed consent" as listed in s. 945.48, F.S., means to consent voluntarily given in writing after conscientious and sufficient explanation and disclosure of the purpose of the proposed treatment; common side effects of the treatment, if any; the expected duration of the treatment; and the alternative treatment available. The explanation shall enable the inmate to make a knowing and willful decision without any element of fraud, deceit, or duress or any other form of constraint or coercion. Section 945.48(2), F.S.

<sup>59</sup> Section 945.48(3), F.S.

<sup>60</sup> Section 945.48(4)(a), F.S.

<sup>61</sup> Section 945.48(4)(b), F.S.

- The inmate's expressed preference regarding treatment;
- The probability of adverse side effects;
- The prognosis for the inmate without treatment; and
- The prognosis for the inmate with treatment.

An order authorizing involuntary treatment authorizes treatment for a period not to exceed 90 days following the date of the order. If the inmate is still in need of treatment, the warden must petition the court for an order authorizing the continuation of treatment for another 90-day period. This process is repeated until the inmate provides express and informed consent or is no longer in need of treatment.<sup>62</sup>

### ***Emergency Treatment***

In an emergency situation in which there is immediate danger to the health and safety of an inmate or other inmates, emergency treatment may be provided at a mental health treatment facility upon the written order of a physician for a period not to exceed 48 hours.

If, after the 48-hour period, the inmate has not given express and informed consent to the treatment initially refused, the warden must petition the circuit court within 48 hours, excluding weekends and legal holidays, for an order authorizing the continued treatment of the inmate.

In the interim, treatment may be continued upon the written order of a physician who has determined that the emergency situation continues to present a danger to the safety of the inmate or others. If an inmate must be isolated for mental health purposes, that decision must be reviewed within 72 hours by a different psychological professional or a physician other than the one making the original placement.<sup>63</sup>

Additionally, when the consent of an inmate cannot be obtained, the warden of a mental health treatment facility, or his or her designated representative, with the concurrence of the inmate's attending physician, may authorize emergency surgical or nonpsychiatric medical treatment if deemed lifesaving or there is a situation threatening serious bodily harm to the inmate.<sup>64</sup>

### ***Health Care Advance Directives***

Health care advance directives as defined in ch. 765, F.S., do not directly address inmates in custody of the DOC.

### ***Contractor-Operated Correctional Facilities***

A contract entered into for the operation of contractor-operated correctional facilities, formerly known as private prisons, must maximize the cost savings<sup>65</sup> of such facilities and:

- Is not exempt from ch. 287, F.S., including the competitive solicitation requirements.

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<sup>62</sup> Section 945.48(4)(c), F.S.

<sup>63</sup> Section 945.48(5), F.S.

<sup>64</sup> Section 945.48(6), F.S.

<sup>65</sup> The department may not enter into a contract or series of contracts unless the DOC determines that the contract or series of contracts in total for the facility will result in a cost savings to the state of at least 7 percent over the public provision of a similar facility. Section 957.07, F.S.

- Be executed with the contractor most qualified.
- Indemnify the state and the DOC against any and all liability.
- Require that the contractor seek, obtain, and maintain accreditation by the American Correctional Association for the facility under that contract.
- Require the proposed facilities and the management plans for the inmates meet applicable American Correctional Association standards and the requirements of all applicable court orders and state law.
- Establish operations standards for correctional facilities subject to the contract.
- Require the contractor to be responsible for a range of dental, medical, and psychological services; diet; education; and work programs at least equal to those provided by the DOC in comparable facilities.
- Require the selection and appointment of a full-time contract monitor, appointed and supervised by the DOC.
- Be for a period of three years and may be renewed for successive two-year periods thereafter.<sup>66</sup>

### **Florida Commission on Offender Review (FCOR)**

The FCOR makes a variety of determinations regarding parole and other releases, and reviews releasees' supervision status every two years. In both parole and conditional medical release hearings, testimony and pertinent information may be provided by a representative of an inmate, an inmate's family, by victims of the offense, and the victim's family. During hearings, the commission conducts other types of proceedings, such as imposing conditions of conditional release or addiction recovery supervision. The commission makes final determinations with regard to revocation of post release supervision, where a releasee may have violated conditions of their release.<sup>67</sup>

The FCOR consists of three commissioners<sup>68</sup> appointed by the Governor and Cabinet from a list of eligible applicants submitted by the parole qualifications committee. Each appointment must be certified to the Senate for confirmation. The membership of the commission must include representation from minority persons.<sup>69,70</sup> Commissioners serve a term of six years, and no person is eligible to be appointed for more than two consecutive six year terms.<sup>71</sup>

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<sup>66</sup> Section 957.04(1)(a)-(i), F.S.

<sup>67</sup> Florida Commission on Offender Review, *Organization*, available at: <https://www.fcor.state.fl.us/overview.shtml> (last visited March 20, 2025).

<sup>68</sup> The Florida Commission on Offender Review was created to consist of six members who are residents of the state. Effective July 1, 1996, the membership of the commission shall consist of three members. Section 947.01, F.S.

<sup>69</sup> "Minority person" means a lawful, permanent resident of Florida who is: (a) an African American, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin; (b) a Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race; (c) an Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asian, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands before 1778; (d) a Native American, a person who has origins in any of the Indian Tribes of North America before 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services; and (e) an American woman. Section 288.703(4), F.S.

<sup>70</sup> Section 947.02(1), F.S.

<sup>71</sup> Section 947.03, F.S.



The parole qualifications committee consists of five persons who are appointed by the Governor and Cabinet. The committee provides for the advertisement and the receiving of applications for any position or positions.<sup>72</sup> The committee is to submit a list of three eligible applicants which may include an incumbent commissioner. Upon receiving a list of eligible persons from the committee, the Governor and Cabinet may reject the list. If so, the committee must reinitiate the application and examination procedure.<sup>73</sup>

Whenever the Legislature decreases the membership of the FCOR, all terms of office expire. Under such circumstances, the Governor and Cabinet must expedite the appointment of commissioners. For expediated appointments, the commissioners will be directly appointed by the Governor and Cabinet. The commission must include representation from minority persons.<sup>74</sup>

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

The bill amends multiple sections of law regarding prepayment court costs and the statute of limitations on prisoners' lawsuits, location tracking for inmates and other persons, the parole qualifications committee, contractor-operated correctional facilities, minority representation requirements, and the Corrections Mental Health Act.

#### **Litigation and Fees**

Section 57.085, F.S., is amended to specify that the deferral of prepayment of court costs and fees does not apply to challenges to prison disciplinary reports.

The bill amends s. 95.11, F.S., to provide a statute of limitations of one year to all petitions, extraordinary writs, tort actions, or other actions which concern any condition of confinement of a prisoner. Any petition, writ, or action brought pursuant to s. 95.11(6)(f), F.S., must commence within one year after the time the incident, conduct, or conditions occurred or within one year after the time the incident, conduct, or conditions were discovered, or should have been discovered.

The bill creates s. 760.701, F.S., to restrict a prisoner from pursuing a civil action until all administrative remedies are fully exhausted. Additionally, the bill directs the court to dismiss any action by a prisoner if the court finds the action is frivolous, malicious, or fails to state a claim upon which relief can be granted or seeks monetary relief from a defendant who is immune from such relief.

Further, the bill prohibits a prisoner, or person on behalf of a prisoner, from filing a lawsuit, or any state tort action, relating to the conditions of confinement for mental or emotional injury suffered while in custody without a prior showing of physical injury or the commission of a sexual act. The bill provides any action concerning the condition of confinement is subjected to a one-year time limit.

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<sup>72</sup> Section 947.02(2), F.S.

<sup>73</sup> Section 947.02(4), F.S.

<sup>74</sup> Section 947.021, F.S.

**Sentencing**

The bill amends s. 775.087, F.S., to require a court to impose consecutive sentences for any person who is convicted of committing an offense listed under the 10-20-Life statute, in conjunction with any other felony offense. Additionally, the bill allows for a court to impose a consecutive sentence for any other felony that was committed in conjunction with the felony that must receive a mandatory minimum.

**Tracking**

The bill amends s. 934.425, F.S., to expand exceptions to the criminal offense for the installation or use of a tracking device to allow:

- A law enforcement officer as defined in s. 943.10, F.S., or any local, state, federal, or military law enforcement agency, to lawfully install, place, or use a tracking device or application on another person while acting in the course or scope of his or her employment. Current law allows law enforcement officers to install tracking devices as part of a criminal investigation.
- A correctional officer, correctional probation officer or any other officer or support personnel as defined in s. 943.10, F.S., to install, place, or use a tracking device or tracking application on a person within their care, custody, or control as part of his or her employment.
- A juvenile probation officer, an authorized agent or designee, or delinquency program staff as defined in s. 985.03, F.S., to install, place, or use a tracking device or tracking application on a person within their care, custody, or control as part of his or her employment.
- A person to install, place, or use a tracking device or application pursuant to a court order.

**Corrections Mental Health Act**

The bill amends and substantially rewords the Corrections Mental Health Act under ss. 945.41 – 945.49, F.S., to provide updated, clarifying, or technical language, as well as provide substantial changes to the procedure for placement and treatment of inmates.

The bill amends s. 945.41, F.S., to revise legislative intent and authorize the DOC to purchase treatment materials and equipment, and contract with entities, persons, or agencies qualified to provide mental health treatment and services to support inmate rehabilitation.

Inmates in the custody of the DOC must be offered the opportunity to participate in the development of a written individualized treatment plan. The bill requires that inmates who have mental illnesses that require intensive mental health inpatient treatment or services be offered an inpatient setting designated for that purpose, and inmates who require intensive hospitalization to be transferred to a DOC mental health treatment facility. Inmates must be offered the least restrictive appropriate available treatment and services based on their assessed needs and best interests.

A mentally competent inmate must give his or her express and informed consent<sup>75</sup> for mental health treatment. The bill requires that before such consent is given, details of treatment must be explained in plain language to the inmate and that any consent given for treatment may be revoked orally or in writing before or during the treatment by the inmate or a person legally authorized to make those health care decisions.

Inmates who are incompetent to consent must receive treatment deemed necessary for their appropriate care and for the safety of the inmate or others.

The bill authorizes nonpsychiatric, emergency surgical treatment or routine medical treatment for an inmate placed in a mental health treatment facility when the express and informed consent cannot be obtained, or the inmate is incompetent to consent to treatment if such treatment is deemed lifesaving or there is a situation threatening serious bodily harm to the inmate.

The bill amends s. 945.42, F.S., to define the terms “express and informed consent,”<sup>76</sup> “gravely disabled,”<sup>77</sup> “incompetent to consent to treatment,”<sup>78</sup> “involuntary examination,”<sup>79</sup> “likelihood of serious harm,”<sup>80</sup> and “treatment,”<sup>81</sup> and removes the definition and procedure for inmates that are “in immediate need of care and treatment.”

### ***Involuntary Examination***

The bill substantially rewords s. 945.43, F.S., to provide a process for involuntary examination. An inmate’s treating clinician may refer the inmate to a mental health facility for an involuntary examination if there is reason to believe the inmate has a mental illness and is in need of care and

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<sup>75</sup> The following is required to be explained in plain language: the proposed treatment, purpose of the treatment, the common risks, benefits, and side effects of treatment and specific dosage of medication if applicable, alternative treatment modalities, the approximate length of treatment, the potential effects of stopping treatment, and how treatment will be monitored.

<sup>76</sup> “Express and informed consent” means consent voluntarily given in writing, by a competent inmate, after sufficient explanation and disclosure of the subject matter involved, to enable the inmate to make a knowing and willful decision without any element of force, fraud, deceit, duress, or other form of constraint or coercion.

<sup>77</sup> “Gravely disabled” means a condition in which an inmate, as a result of a diagnosed mental illness is either in danger of serious physical harm resulting from the inmates failure to provide for his or her essential physical needs of food, clothing, hygiene, health, or safety without the assistance of others, or experiencing a substantial deterioration in behavioral functioning evidenced by the inmate’s unrelenting decline in volitional control over his or her actions.

<sup>78</sup> “Incompetent to consent to treatment” means a state in which an inmate’s judgement is so affected by mental illness that he or she lacks the capacity to make a well-reasoned, willful, and knowing decision concerning his or her medical or mental health treatment and services. The term only refers to an inmate’s inability to provide express and informed consent for medical and mental health treatment and services.

<sup>79</sup> “Involuntary examination” means a psychiatric examination performed at a mental health treatment facility to determine whether an inmate should be placed in the mental health treatment facility for inpatient mental health treatment and services.

<sup>80</sup> “Likelihood of serious harm” means the following: a substantial risk that the inmate will inflict serious physical harm upon his or her own person, as evidenced by threats or attempts to commit suicide or the actual infliction of serious physical harm on self; a substantial risk that the inmate will inflict physical harm upon another person, as evidenced by behavior which has caused such harm or which places any person in reasonable fear of sustaining such harm; or a reasonable degree of medical certainty that the inmate will suffer serious physical or mental harm as evidenced by the inmate’s recent behavior demonstrating an inability to refrain from engaging in self-harm behavior.

<sup>81</sup> “Treatment” means psychotropic medication prescribed by a medical practitioner licensed pursuant to ch. 458 or 459, F.S., including those laboratory tests and related medical procedures that are essential for the safe and effective administration of psychotropic medication and psychological interventions and services such as group and individual psychotherapy, activity therapy, recreational therapy, and music therapy.

treatment. Upon arrival, the inmate must be examined by a psychiatrist and a second psychiatrist or psychological professional to determine whether the inmate is in need of care and treatment. If there is a need for treatment, the psychiatrist will propose a recommended course of treatment and the warden will initiate proceedings for placement and for involuntary treatment as specified in s. 945.44, F.S.

The involuntary examination and initiation of court proceedings must be completed within 10 calendar days after arrival and may remain in the mental health treatment facility pending a hearing after the timely filing of a petition as described in s. 945.44, F.S. Pending necessary treatment may be provided, as described in s. 945.44, F.S.

If the inmate is not in need of care and treatment, the inmate must be transferred out of the mental health treatment facility and provided with appropriate mental health services.

### ***Placement and Treatment of an Inmate in a Mental Health Treatment Facility***

The bill substantially rewords s. 945.44, F.S., to provide the criteria and hearing procedures for petitions relating to the placement and treatment of an inmate in a mental health treatment facility. This bill authorizes the DOC to place an inmate in a mental health treatment facility if he or she is mentally ill and is in need of care and treatment. An inmate may receive involuntary mental health treatment that is deemed to be essential for the appropriate care and safety of the inmate or others if the inmate is either gravely disabled or presents a likelihood of serious harm.

An inmate may be placed and involuntarily treated in a mental health treatment facility after notice and hearing. The procedure for petitions for placement and treatment are provided in the bill.

The bill provides that the court must find by clear and convincing evidence that the inmate is mentally ill and in need of care and treatment in order to place the inmate in a mental health treatment facility. The bill provides the court must make additional specified findings to administer treatment.

The bill authorizes status hearings and the continuation of placement until an inmate is no longer in need of care and treatment. The bill authorizes the court to dismiss the petition and transfer the inmate out of the mental health treatment facility if the criteria for placement and treatment are not satisfied.

The bill repeals s. 945.45, F.S., relating to the continued placement of inmates in mental health facilities. Language pertaining to continued placement is described in s. 945.44, F.S., under the bill.

### ***Initiation of Involuntary Placement Proceedings with Inmates Scheduled for Release***

The bill amends s. 945.46, F.S., to provide the process for involuntary placement when an inmate continues to be mentally ill and in need of care and treatment but is scheduled for release.

The warden must file a petition for involuntary inpatient placement for inmates scheduled to be released in the court in the county where the inmate is located. Upon filing, the clerk must

provide copies of the petition to the DCF, the inmate, the state attorney and the public defender. The bill adds language to ensure a fee may not be charged for the filing of the petition.

The bill requires within one court working day after the filing of the petition for a public defender to be appointed, unless the inmate is otherwise represented. The state attorney for the circuit in which the inmate is located will represent the state in these proceedings rather than the warden. The bill provides the proceedings are governed by ch. 394, F.S.

The court may order that the hearing be conducted by electronic means, at the facility in person, or at another location.

The bill amends s. 945.47, F.S., to specify that at any time an inmate who has received mental health treatment while in the custody of the DOC becomes eligible for release, a record of the treatment may be provided to the FCOR and the DCF *for the purpose of arranging post release aftercare placement and to prospective recipient inpatient health care or residential facilities* upon request.

### ***Emergency Treatment Orders and Use of Force***

The bill substantially rewords s. 945.48, F.S., to authorize the DOC to involuntarily administer psychotropic medication to an inmate on an emergency basis without following the procedure outlined in s. 945.43, F.S. Psychotropic medication may be administered only when the medication constitutes an appropriate treatment for a mental illness and its symptoms and alternative treatments are not available or indicated, or would not be effective.

An emergency exists when the inmate with a mental illness presents an immediate threat of:

- Bodily harm to self or others; or
- Extreme deterioration in behavior functioning secondary to the mental illness.

The bill authorizes the administration of psychotropic medication not to exceed 72 hours, after which the treating physician must refer the inmate for an involuntary examination in accordance with ss. 945.43 and 945.44, F.S. The warden must transfer the inmate to a mental health treatment facility within 48 hours, excluding weekends and legal holidays.

The DOC may use force when and to the extent that it reasonably appears necessary to effectuate the treatment, effectuate clinically necessary hygiene of an inmate, for the application of physical restraint, or pursuant to a valid court order.

### ***Management and Treatment of Self-Injurious Behaviors***

The bill creates s. 945.485, F.S., to provide procedures for when an inmate is engaging in active or ongoing self-injurious behavior and has refused to provide express and informed consent.

If an inmate is determined incompetent to consent to treatment, the inmate's treating physician is required to proceed as set forth in s. 945.6042, F.S, created under this bill. The bill provides proceedings for when an inmate is competent, refusing necessary surgical or medical treatment, and engaging in active or ongoing self-injurious behavior that presents a threat to the safety of the DOC staff, other inmates or the security, internal order, or discipline of the institution.

If the inmate is competent, refusing necessary surgical or medical treatment, and is engaging in active or ongoing self-injurious behavior that presents a threat, the warden must petition the court for an order compelling the inmate to submit to emergency surgical intervention or other medical services to the extent necessary to remedy the threat. An inmate must be provided with a copy of the petition and other specified information. The inmate is entitled to representation, and the court may appoint the public defender or private counsel to represent the inmate. The hearing must be held as expeditiously as possible, but no later than five calendar days after filing.

The bill provides considerations for the court and requires the court to determine whether the warden has established by clear and convincing evidence that the state interest is sufficient to outweigh the inmate's right to refuse treatment.

### **Inmate Health Care Advance Directives**

The bill creates s. 945.6402, F.S., to provide the DOC must offer inmates an opportunity to sign an advance health care directive. The bill provides definitions for "health care facility,"<sup>82</sup> "incapacity,"<sup>83</sup> "informed consent,"<sup>84</sup> "inmate,"<sup>85</sup> "ombudsman,"<sup>86</sup> "proxy,"<sup>87</sup> and "proxy review team."<sup>88</sup>

The bill provides procedure relating to the capacity of an inmate. An inmate's treating physician must evaluate the inmate's capacity and enter the evaluation in the inmate's medical record if the inmate lacks capacity. A second opinion is required if the evaluating physician has a question as to whether the inmate lacks capacity, and both evaluations must be entered in the medical record. Incapacity cannot be inferred from an inmate's involuntary hospitalization for mental illness or from his or her intellectual disability.

If the inmate is found to be incapacitated and has a designated health care surrogate in accordance with ch. 765, F.S., the surrogate must be notified. If the inmate has not designated a health care surrogate, the facility must appoint a proxy to make health care decisions.

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<sup>82</sup> "Health care facility" has the same meaning as in s. 765.101, F.S., and includes any correctional institution or facility where health care is provided.

<sup>83</sup> "Incapacity" or "Incompetent" means an inmate is physically or mentally unable to communicate a willful and knowing health care decision.

<sup>84</sup> "Informed consent" means consent voluntarily given by an inmate after a sufficient explanation and disclosure of the subject matter involved to enable the inmate to have a general understanding of the treatment or procedure and the medically acceptable alternatives, including the substantial risks and hazards inherent in the proposed treatment or procedures, and to make a knowing health care decision without coercion or undue influence.

<sup>85</sup> "Inmate" means any person committed to the custody of the DOC.

<sup>86</sup> "Ombudsman" means an individual designated and specifically trained by the department to identify conditions that may pose a threat to the rights, health, safety, and welfare of inmates in a health care facility and who may be appointed to serve as a proxy for an inmate who is physically or mentally unable to communicate a willful and knowing health care decision.

<sup>87</sup> "Proxy" means a competent adult who has not been expressly designated to make health care decisions for a particular incapacitated inmate, but who, nevertheless, is authorized pursuant to s. 765.401, F.S., to make health care decisions for such inmate.

<sup>88</sup> "Proxy review team" means a team of at least five members, appointed by the Assistant Secretary for Health Services. The team is composed of, at a minimum, one physician licensed pursuant to ch. 458 or ch. 459, F.S., one psychologist licensed pursuant to ch. 490, F.S., one nurse licensed pursuant to ch. 464, F.S., and one department chaplain.

The bill requires the DOC to provide each inmate written information concerning advance directives and necessary forms to execute an advance directive, and document such in the inmate's medical records. An advance directive may be amended or revoked at any time by a competent inmate through various means such as written and spoken communication.

If the inmate has not designated a health care surrogate, health care decisions may be made for the inmate by any individuals specified in the priority order provided in s. 765.401(1)(a)-(g), F.S.,<sup>89</sup> as a proxy. If there are no individuals available, willing, or competent, the warden must notify the Assistant Secretary for Health Services or designee to appoint a DOC ombudsman to serve as a proxy until the inmate regains capacity or is no longer incarcerated in the custody of the DOC. The proxy must make any health care decision based on informed consent and that the proxy reasonable believes the inmate would have made that decision. If there is no indication of what decision the inmate would make, the proxy may consider the inmate's best interests.

The bill authorizes the use of force to administer medical treatment only by or under the clinical supervision of a physician or his or her designee and only to carry out a health care decision made. The bill also provides immunity from liability for a DOC health care provider, ombudsman, or other employees who act under the direction of a health care provider.

The bill amends s. 945.49, F.S., to remove the requirement for the DOC to work in cooperation with the Mental Health Program Office of the DCF to adopt rules necessary to administer sections under the Corrections Mental Health Act.

### **Additional Requirements**

The bill amends s. 947.02, F.S., to eliminate the use of a parole qualification committee. The members of the FCOR are to be directly appointed by the Governor and Cabinet. The bill also removes the requirement for the membership of the FCOR to include representation from minority persons. Section 947.12 F.S. is amended to conform with the elimination of a parole qualifications committee, and s. 947.021, F.S. is repealed.

The bill amends s. 957.04, F.S., to allow the DOC to exclude certain services from a contract for private correctional services and retain the responsibility for the delivery of such services whenever the DOC finds it to be in the best interest of the state. Additionally, the requirement for each contract to include substantial minority participation is removed.

The bill amends s. 957.09, F.S., to remove language relating to the participation of minority business enterprises.

The bill takes effect July 1, 2025.

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<sup>89</sup> A judicially appointed guardian; spouse; adult child of the patient or a majority of adult children; a parent; the adult sibling or a majority of the adult siblings; an adult relative who has exhibited special care and concern and has maintained regular contact and is familiar with the patients activities, health, and religious or moral beliefs; or a close friend is authorized under this section to make health care decisions.

**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:**

Some courts have found parts of the PLRA to be unconstitutional. This language may be subjected to litigation.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill may have an indeterminate fiscal impact on the DOC due to an increase in mental health services and treatment as well as transporting inmates to facilities to meet those needs.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.



**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 57.085, 95.11, 775.087, 934.425, 945.41, 945.42, 945.43, 945.44, 945.46, 945.47, 945.48, 945.49, 947.02, 947.12, 957.04, 957.09.

This bill creates the following sections of the Florida Statutes: 760.701, 945.485, 945.6402.

This bill repeals sections 945.45 and 947.021 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 15, 2025:**

This committee substitute:

- Adds an exception to allow a law enforcement officer to install, place, or use a tracking device or application on another person while acting in the course or scope of his or her employment.
- Removes the section of the bill relating to methods of execution.
- Revises the 10/20/Life statute to require the court to impose terms of imprisonment consecutively if the offender is convicted of multiple felony offenses that would require the imposition of a minimum term of imprisonment. The court may impose a consecutive sentence for any other felony that was committed in conjunction with the felony that must receive a mandatory minimum sentence.

**CS by Criminal Justice on March 25, 2025:**

This committee substitute:

- Allows for a petition, writ, or other action to be filed within one year from the time the incident was discovered or should have been discovered.
- Clarifies methods of execution used may not be deemed unconstitutional nor cruel and unusual.
- Allows for a correctional officer, correctional probation officer, or a juvenile probation officer to lawfully install, place, or use a tracking device or application on a person within their care, custody, or control as part of employment and provides the exception to allow a person to install, place, or use a tracking device or application pursuant to a court order.
- Restructures the language regarding criteria for involuntary placement or treatment but maintains the same policy.
- Repeals s. 947.021, F.S., regarding expedited appointments and adds the necessary language to s. 947.02, F.S. The statute for expedited appointments is no longer applicable with the removal of the parole qualifications committee.

B. Amendments:

None.

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

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By the Committee on Transportation; and Senator Pizzo

596-03166-25

20251782c1

A bill to be entitled

An act relating to dangerous excessive speeding; creating s. 316.1922, F.S.; specifying conduct that constitutes dangerous excessive speeding; providing criminal penalties; authorizing the revocation of a person's driving privilege for a specified period upon a second or subsequent conviction of dangerous excessive speeding; amending s. 318.14, F.S.; providing exceptions to the requirement that an officer indicate the applicable civil penalty on a specified traffic citation; amending s. 318.19, F.S.; requiring a person cited for certain infractions to appear at a scheduled hearing; providing an effective date.

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

Section 1. Section 316.1922, Florida Statutes, is created to read:

316.1922 Dangerous excessive speeding.—

(1) A person commits dangerous excessive speeding if he or she operates a motor vehicle:

(a) In excess of the speed limit by 50 miles per hour or more;

(b) At 100 miles per hour or more while passing another vehicle or changing lanes; or

(c) On any street or roadway other than a limited access highway while exceeding the speed limit by 35 miles per hour or more.

596-03166-25

20251782c1

(2) A person convicted of dangerous excessive speeding shall be punished:

(a) Upon a first conviction, by imprisonment for a period of up to 90 days or by a fine of \$500, or both.

(b) Upon a second or subsequent conviction, by imprisonment for up to 6 months or by a fine of \$1,000, or both. A person convicted of a second or subsequent violation of subsection (1) which occurs within 5 years after the date of a prior conviction for a violation of subsection (1) may have his or her driving privilege revoked for at least 180 days but no more than 1 year.

Section 2. Subsection (2) of section 318.14, Florida Statutes, is amended to read:

318.14 Noncriminal traffic infractions; exception; procedures.—

(2) Except as provided in ss. 316.1001(2), 316.0083, 316.173, and 316.1896, any person cited for a violation requiring a mandatory hearing listed in s. 318.19 or any other criminal traffic violation listed in chapter 316 must sign and accept a citation indicating a promise to appear. The officer may indicate on the traffic citation the time and location of the scheduled hearing. The officer ~~and~~ must indicate the applicable civil penalty established in s. 318.18, except for infractions under s. 316.1926(2) or s. 318.19(5). For all other infractions under this section, except for infractions under s. 316.1001, the officer must certify by electronic, electronic facsimile, or written signature that the citation was delivered to the person cited. This certification is prima facie evidence that the person cited was served with the citation.

Section 3. Section 318.19, Florida Statutes, is amended to

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59 read:

60 318.19 Infractions requiring a mandatory hearing. ~~A Any~~  
61 person cited for any infraction ~~the infractions~~ listed in this  
62 section ~~does shall~~ not have the provisions of s. 318.14(2), (4),  
63 and (9) available to him or her but must appear before the  
64 designated official at the time and location of the scheduled  
65 hearing:

66 (1) Any infraction which results in a crash that causes the  
67 death of another;

68 (2) Any infraction which results in a crash that causes  
69 "serious bodily injury" of another as defined in s. 316.1933(1);

70 (3) Any infraction of s. 316.172(1)(b);

71 (4) Any infraction of s. 316.520(1) or (2); ~~or~~

72 (5) Any infraction of s. 316.183(2), s. 316.187, or s.  
73 316.189 of exceeding the speed limit by 30 miles per hour ~~mph~~ or  
74 more; or

75 (6) Any infraction of s. 316.1926(2).

76 Section 4. This act shall take effect July 1, 2025.

**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** CS/SB 1782  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

FINAL VOTE			4/15/2025 Motion to vote "YEA" after Roll Call					
Yea	Nay	SENATORS	Simon		Yea	Nay	Yea	Nay
X		Ingoglia						
X		Osgood						
X		Polsky						
X		Rouson						
VA		Simon						
X		Wright						
X		Yarborough						
X		Martin, VICE CHAIR						
X		Garcia, CHAIR						
9	0	TOTALS	FAV	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



The Florida Senate

## Committee Agenda Request

**To:** Senator Ileana Garcia, Chair  
Appropriations Committee on Criminal and Civil Justice

**Subject:** Committee Agenda Request

**Date:** April 11, 2025

---

I respectfully request that **CS/SB 1782**, relating to Dangerous Excessive Speeding, be placed on the:

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

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

Senator Jason W. B. Pizzo  
Florida Senate, District 37

The Florida Senate

**APPEARANCE RECORD**

SB 1782

Bill Number or Topic

04/15/25

Meeting Date

Deliver both copies of this form to

Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

APPROP. CRIMINAL AND CIVIL JUST.

Committee

Name

CHIP DENMARK (LT. ORANGE COUNTY S.O.)

Phone

407-254-7000

Address

2500 W. COLONIAL DR

Email

CHARLES.DENMARK@OC.SO.FL.COM

Street

ORLANDO

FL

32804

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:

SHERIFF JOHN MINA

☐

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

APPEARANCE RECORD

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

4/15/25

Meeting Date

SB 1782

Bill Number or Topic

Amendment Barcode (if applicable)

Appropriations on Criminal 3  
Committee Civil Justice

Name Haylee Peters

Phone 850-728-5481

Address 215 S. Monroe St., Ste. 603

Email hpeters@aarp.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:

AARP

☐ 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

# APPEARANCE RECORD

4/15/25

Meeting Date

1782

Bill Number or Topic

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

Approp. Criminal Justice  
Committee

Amendment Barcode (if applicable)

Name WILLIAM B. SMITH

Phone 305-333-4344

Address 300 E BREVARD ST  
Street

Email WSMITH@FLPBA.ORG

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:

FL PBA

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.)

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

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BILL: CS/SB 1782

INTRODUCER: Transportation Committee and Senator Pizzo

SUBJECT: Dangerous Excessive Speeding

DATE: April 14, 2025

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shutes	Vickers	TR	<b>Fav/CS</b>
2.	Kolich	Harkness	ACJ	<b>Favorable</b>
3.			FP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1782 creates the offense of dangerous excessive speeding. The bill provides that a person commits dangerous excessive speeding if he or she operates a motor vehicle in the following manner:

- Exceeds the posted speed limit by 50 miles per hour (mph) or more;
- Operates a motor vehicle at 100 mph or more while passing another vehicle or changing lanes; or
- Operates a motor vehicle on any street or roadway other than a limited access highway while exceeding the posted speed limit by 35 mph or more.

The offense of dangerous excessive speeding is punishable as follows: upon a first conviction, by up to 90 days in jail or by a fine of \$500, or by both a fine and jail sentence; upon a second or subsequent conviction, by up to six months in jail or by a fine of \$1,000, or by both a fine and jail sentence. A person convicted of a second or subsequent violation of dangerous excessive speeding within five years after the date of a prior conviction for such an offense may have his or her driving privilege revoked for at least 180 days but no more than one year.

The bill provides any driver who is cited for exceeding the speed limit in excess of 50 mph must appear before a designated official at a mandatory hearing.

The bill has an indeterminate fiscal impact on local and state governments. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2025.

## **II. Present Situation:**

### **Speed As a Factor in Crashes and Injuries**

According to the Institute for Highway Safety,<sup>1</sup> speed has a major impact on the number of crashes and the severity of injuries they cause. It influences the risk of crashes and crash injuries in four basic ways:

- It increases the distance a vehicle travels from the time a driver detects an emergency to the time the driver reacts.
- It increases the distance needed to stop a vehicle once the driver starts to brake.
- It increases the risk that an evasive steering maneuver will result in loss of control.
- It increases crash energy disproportionately. For example, when impact speed increases from 40 to 60 mph (a 50 percent increase), the energy that needs to be managed increases by 125 percent. This additional energy needs to be absorbed and dissipated, challenging the vehicle structure and increasing the likelihood of severe injuries.<sup>2</sup>

In a high-speed crash, a passenger vehicle is subjected to forces so severe that the vehicle structure cannot withstand the stress and maintain survival space in the occupant compartment. Likewise, as crash speeds get very high, restraint systems such as airbags and safety belts cannot keep the forces on occupants below severe injury levels.<sup>3</sup>

### **Speed-Related Infractions**

Current state law generally prohibits a person from driving a vehicle on a highway at a speed greater than is reasonable and prudent under the conditions, with regard to the existing actual and potential hazards.<sup>4</sup> A violation of this provision is a noncriminal traffic infraction, punishable as a moving violation. The fines (not including applicable court costs and fees) for unlawful speed under this provision are based on the miles per hour (mph) over which the vehicle exceeded the speed limit. The fines range from a warning for excess speed from one to five mph, to increasing penalties up to \$250 for excess speed 30 mph and above.<sup>5</sup>

In addition, a person who exceeds the posted speed limit in excess of 50 mph in violation of established and authorized speed limits on state limited access highways, other state roadways, and municipal and county roads must also be cited for a moving violation as an additional offense,<sup>6</sup> subjecting a violator to the same range of fines.

Other speed-related violations may result in enhanced penalties. For example:

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<sup>1</sup> See IIHS-HLDI, available at <https://www.iihs.org/> (last visited April 11, 2025). The IIHS is “a nonprofit scientific and educational organization dedicated to making roads and vehicles safer for everyone.”

<sup>2</sup> IIHS, *Dangers of Speed*, available at <https://www.iihs.org/topics/speed#overview> (last visited April 11, 2025).

<sup>3</sup> *Id.*

<sup>4</sup> Section 316.183(1), F.S.

<sup>5</sup> Section 318.18(3)(b), F.S.

<sup>6</sup> Section 316.1926, F.S. See ss. 316.183(2), 316.187, and 316.189, F.S., for the established and authorized speed limits.

- A violation for exceeding the speed limit by up to five mph in a legally posted school zone results in a \$50 fine; and
- A person exceeding the speed limit in a school zone or designated school crossing must pay a fine double the amount listed in the range of fines.<sup>7</sup>

### **Reckless Driving**

Current law provides that any person who drives a vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving. Current law also provides that fleeing a law enforcement officer in a motor vehicle is an action that constitutes reckless driving, regardless of whether it is in willful or wanton disregard for the safety of persons or property.<sup>8</sup>

Any driver convicted of reckless driving may be punished as follows:

- First conviction: Imprisonment for a period of up to 90 days, a fine ranging from a minimum of \$25 to a maximum of \$500, or by both.
- Second or subsequent conviction: Imprisonment for a period of up to six months, a fine ranging from a minimum of \$50 to a maximum of \$1,000, or both.<sup>9</sup>

A conviction for reckless driving generally cannot be based on evidence of excessive speed alone.<sup>10</sup> However, in limited cases, appellate courts in Florida have suggested “grossly excessive” speeding may alone be sufficient for a conviction.<sup>11</sup> A conviction for reckless driving will typically be upheld where speed is coupled with other factors (improper passing, ignoring traffic control devices, impaired driving, etc.) indicating a willful or wanton disregard for the safety of others.

### **Mandatory Hearing**

Current law requires persons who commit certain traffic infractions to appear before a designated official at the time and location of a scheduled hearing.<sup>12</sup> Specifically, any person cited for any traffic infraction listed below must appear before a designated official for a hearing:

- Any infraction which results in a crash that causes the death of another;
- Any infraction which results in a crash that causes serious bodily injury<sup>13</sup> of another;
- Any infraction of passing a school bus on the side of the bus where children enter or exit the bus while the bus is displaying a stop signal;<sup>14</sup>
- Any infraction related to unsecured loads;<sup>15</sup> or

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<sup>7</sup> Section 318.18(3)(c), F.S.

<sup>8</sup> Section 316.192(1), F.S.

<sup>9</sup> Section 316.192(2), F.S.

<sup>10</sup> *Luzardo v. State*, 147 So. 3d 1083, 1085 (Fla. 3d DCA 2014), *Hamilton v. State*, 439 So. 2d 238 (Fla. 2d DCA 1983).

<sup>11</sup> *Rubinger v. State*, 98 So. 3d 659, 662 (Fla. 4th DCA 2012).

<sup>12</sup> Section 318.19, F.S.

<sup>13</sup> Section 316.1933(1)(b), F.S., defines the term “serious bodily injury” to mean an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

<sup>14</sup> Section 316.172(1)(b), F.S.

<sup>15</sup> Sections 316.520(1) and (2), F.S.

- Specified infractions involving exceeding the speed limit by 30 mph or more.<sup>16,17</sup>

### III. Effect of Proposed Changes:

The bill creates s. 316.1922, F.S., to provide that a person commits dangerous excessive speeding if he or she operates a motor vehicle in the following manner:

- Exceeds the posted speed limit by 50 mph or more;
- Operates a motor vehicle at 100 mph or more while passing another vehicle or changing lanes; or
- Operates a motor vehicle on any street or roadway other than a limited access highway while exceeding the posted speed limit by 35 mph or more.

The bill also creates the following penalties for dangerous excessive speeding:

- First Conviction: Imprisonment for up to 90 days or a fine of \$500, or both.
- Second or Subsequent Conviction: Imprisonment for up to six months or a fine of \$1,000, or both. A person who is convicted of a second or subsequent violation that occurs within five years after the date of the prior conviction may have his or her license privilege revoked for at least 180 days, but not more than one year.

The bill amends s. 318.14, F.S., to provide an exception to the requirement that a law enforcement officer must indicate the applicable civil penalty on a traffic citation for infractions related to exceeding the speed limit by 30 mph or more, or 50 mph or more.

The bill amends s. 318.19, F.S., to provide that any driver who commits an infraction for exceeding the speed limit in excess of 50 mph under s. 316.1926(2), F.S., must appear before a designated official at a mandatory hearing.

The bill takes effect July 1, 2025.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

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<sup>16</sup> Sections 316.183(2), s. 316.187, or s. 316.189, F.S.

<sup>17</sup> Section 318.19, F.S.

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:

None.

C. Government Sector Impact:

The bill may have an indeterminate positive fiscal impact on state revenues due to the increase in fines associated with persons committing the criminal offense outlined in the bill.

DHSMV has indicated that there will be indeterminate programming costs relating to updating its systems and procedures associated with the new offense of dangerous excessive speeding.

The bill may have an indeterminate fiscal impact on local governments related to jail beds by creating a new criminal offense for dangerous excessive speeding. The bill may have indeterminate positive fiscal impact if such entities benefit from the increased fines provided for in the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

The bill creates section 316.1922 of the Florida Statutes.

This bill amends sections 318.14 and 318.19 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 Transportation on April 1, 2025:**

The committee substitute removes the provisions in the bill relating to reckless driving and creates a criminal offense for dangerous excessive speeding. A person commits the offense of dangerous excessive speeding if they:

- Exceed the speed limit by 50 mph or more;
- Operate a motor vehicle at 100 mph or more, while passing another vehicle or changing lanes; or
- Operate a motor vehicle on any street or roadway other than a limited access highway while exceeding the posted speed limit by 35 mph or more.

**B. Amendments:**

None.

By Senator Martin

33-01122A-25

20251804\_\_

A bill to be entitled

An act relating to capital sex trafficking; creating s. 787.062, F.S.; providing legislative findings; providing definitions; providing penalties for persons convicted of the capital felony of human trafficking by use of physical force upon certain persons for sex; providing requirements for sentencing in certain capital cases; providing requirements for prosecutors of such cases; creating s. 921.1427, F.S.; providing legislative findings and intent; providing requirements for separate sentencing proceedings in certain capital felony cases; providing construction; providing applicability; providing for findings and recommended sentences by a jury; providing requirements for imposition of a sentence of life imprisonment or a sentence of death; providing requirements for a written court order in support of a sentence of life imprisonment or a sentence of death; providing for automatic review of sentences of death within a certain time period; specifying aggravating factors and mitigating circumstances; providing for victim impact evidence; providing for resentencing if provisions are found to be unconstitutional; providing applicability; amending s. 924.07, F.S.; authorizing the state to appeal from a sentence on the ground that it resulted from the failure of the circuit court to comply with specified sentencing procedure requirements; amending ss. 921.137 and 921.141, F.S.; conforming provisions to changes made by the act;

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

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providing an effective date.

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

Section 1. Section 787.062, Florida Statutes, is created to read:

787.062 Capital sex trafficking.—

(1) The Legislature finds that human trafficking is a form of modern-day slavery, and victims of such schemes include young children, young teenagers, and persons with diminished mental capacity. The Legislature finds that victims of human trafficking are subjected to force for the purpose of sexual exploitation. Such crimes destroy the innocence of young children and violate all standards of decency held by civilized society.

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

(a) "Human trafficking" has the same meaning as provided in s. 787.06(2).

(b) "Physical force" means the touching, striking, causing of bodily harm, confining, or restraining of another.

(c) "Sexual violence" means an act of any of the following:

1. Sexual battery, as defined in s. 794.011(1).

2. Lewd or lascivious battery, as defined in s. 800.04(4).

3. Lewd or lascivious molestation, as defined in s. 800.04(5).

4. Lewd or lascivious conduct, as defined in s. 800.04(6).

5. Sodomasochistic abuse or sexual bestiality as those terms are defined in s. 827.071(1).

(3)(a) Except as provided in paragraph (b), a person who

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



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59 knowingly engages in human trafficking by use of physical force  
 60 for sexual violence upon a child less than 12 years of age, or  
 61 upon a person who is mentally defective or mentally  
 62 incapacitated as those terms are defined in s. 794.011(1),  
 63 commits a capital felony, punishable as provided in ss. 775.082  
 64 and 921.1427.

65 (b) A person younger than 18 years of age who commits an  
 66 offense under this subsection commits a life felony, punishable  
 67 as provided in s. 775.082(3)(a)6., s. 775.083, or s. 775.084.

68 (4) In all capital cases under this section, the procedure  
 69 in s. 921.1427 shall be followed to determine a sentence of  
 70 death or life imprisonment. If the prosecutor intends to seek  
 71 the death penalty, the prosecutor must give notice to the  
 72 defendant and file the notice with the court within 45 days  
 73 after arraignment. The notice must contain a list of the  
 74 aggravating factors the state intends to prove and has reason to  
 75 believe it can prove beyond a reasonable doubt. The court may  
 76 allow the prosecutor to amend the notice upon a showing of good  
 77 cause.

78 Section 2. Section 921.1427, Florida Statutes, is created  
 79 to read:

80 921.1427 Sentence of death or life imprisonment for capital  
 81 sex trafficking; further proceedings to determine sentence.-

82 (1) FINDINGS; INTENT.-

83 (a) The Legislature finds that a person who commits the act  
 84 of human trafficking for sex of a person younger than 12 years  
 85 of age carries a great risk of death and danger to vulnerable  
 86 members of this state. Such crimes destroy the innocence of  
 87 young children and violate all standards of decency held by

33-01122A-25

20251804

88 civilized society, and that persons who traffic in such  
 89 vulnerable children may be determined by the trier of fact to  
 90 have a culpable mental state of reckless indifference or  
 91 disregard for human life.

92 (b) It is the intent of the Legislature that the procedure  
 93 in this section shall be followed, and a prosecutor must file  
 94 notice, as provided in s. 787.062(4), if he or she intends to  
 95 seek the death penalty.

96 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.-Upon  
 97 conviction or adjudication of guilt of a defendant of a capital  
 98 felony under s. 787.062(3)(a), the court shall conduct a  
 99 separate sentencing proceeding to determine whether the  
 100 defendant should be sentenced to death or life imprisonment as  
 101 authorized by s. 775.082. The proceeding shall be conducted by  
 102 the trial judge before the trial jury as soon as practicable.  
 103 If, through impossibility or inability, the trial jury is unable  
 104 to reconvene for a hearing on the issue of penalty after having  
 105 determined the guilt of the accused, the trial judge may summon  
 106 a special juror or jurors as provided in chapter 913 to  
 107 determine the imposition of the penalty. If the jury trial has  
 108 been waived, or if the defendant pleaded guilty, the sentencing  
 109 proceeding shall be conducted before a jury impaneled for that  
 110 purpose, unless waived by the defendant. In the proceeding,  
 111 evidence may be presented as to any matter that the court deems  
 112 relevant to the nature of the crime and the character of the  
 113 defendant and shall include matters relating to any of the  
 114 aggravating factors enumerated in subsection (7) and for which  
 115 notice has been provided pursuant to s. 787.062(4) or mitigating  
 116 circumstances enumerated in subsection (8). Any such evidence

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the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the United States Constitution or the State Constitution. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against a sentence of death.

(3) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This subsection applies only if the defendant has not waived his or her right to a sentencing proceeding by a jury.

(a) After hearing all of the evidence presented regarding aggravating factors and mitigating circumstances, the jury shall deliberate and determine if the state has proven, beyond a reasonable doubt, the existence of at least two aggravating factors set forth in subsection (7).

(b) The jury shall return findings identifying each aggravating factor found to exist. A finding that at least two aggravating factors exist must be unanimous. If the jury:

1. Does not unanimously find at least two aggravating factors, the defendant is ineligible for a sentence of death.

2. Unanimously finds at least two aggravating factors, the defendant is eligible for a sentence of death and the jury shall make a recommendation to the court as to whether the defendant shall be sentenced to life imprisonment without the possibility of parole or sentenced to death. The recommendation shall be based on a weighing of all of the following:

a. Whether sufficient aggravating factors exist.

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20251804

b. Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.

c. Based on the considerations in sub-subparagraphs a. and b., whether the defendant should be sentenced to life imprisonment without the possibility of parole or sentenced to death.

(c) If at least eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of death. If fewer than eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of life imprisonment without the possibility of parole.

(4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

(a) If the jury has recommended a sentence of:

1. Life imprisonment without the possibility of parole, the court shall impose the recommended sentence of life imprisonment without the possibility of parole.

2. Death, the court, after considering each aggravating factor found by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may consider only an aggravating factor that was unanimously found to exist by the jury. The court may impose a sentence of death only if the jury unanimously found at least two aggravating factors beyond a reasonable doubt.

(b) If the defendant waived his or her right to a sentencing proceeding by a jury, the court, after considering all aggravating factors and mitigating circumstances, may impose a sentence of life imprisonment without the possibility of

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parole or a sentence of death. The court may impose a sentence of death only if the court finds that at least two aggravating factors have been proven to exist beyond a reasonable doubt.

(5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—In each case in which the court imposes a sentence of life imprisonment without the possibility of parole or death, the court shall, considering the records of the trial and the sentencing proceedings, enter a written order addressing the aggravating factors set forth in subsection (7) found to exist, the mitigating circumstances in subsection (8) reasonably established by the evidence, whether there are sufficient aggravating factors to warrant the death penalty, and whether the aggravating factors outweigh the mitigating circumstances reasonably established by the evidence. The court shall include in its written order the reasons for not accepting the jury's recommended sentence, if applicable. If the court does not issue its order requiring the death sentence within 30 days after the rendition of the judgment and sentence, the court shall impose a sentence of life imprisonment without the possibility of parole in accordance with s. 775.082.

(6) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court and disposition rendered within 2 years after the filing of a notice of appeal. Such review by the Supreme Court shall have priority over all other cases and shall be heard in accordance with rules adopted by the Supreme Court.

(7) AGGRAVATING FACTORS.—Aggravating factors shall be limited to the following:

(a) The capital felony was committed by a person previously

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convicted of a felony violation under s. 787.06 or s. 787.062, and under sentence of imprisonment or placed on community control or on felony probation.

(b) The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.

(c) The capital felony was committed by a person designated as a sexual predator pursuant to s. 775.21 or a person previously designated as a sexual predator who had the sexual predator designation removed.

(d) The capital felony was committed by a sexual offender who is required to register pursuant to s. 943.0435 or a person previously required to register as a sexual offender who had such requirement removed.

(e) The defendant knowingly created a great risk of death to one or more persons such that participation in the offense constituted reckless indifference or disregard for human life.

(f) The defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm to threaten, intimidate, assault, or injure a person in committing the offense or in furtherance of the offense.

(g) The capital felony was especially heinous, atrocious, or cruel.

(h) The victim of the capital felony was particularly vulnerable due to age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.

(i) The capital felony was committed by a person subject to an injunction issued pursuant to s. 741.30 or s. 784.046, or a

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20251804

foreign protection order accorded full faith and credit pursuant to s. 741.315, and was committed against the petitioner who obtained the injunction or protection order or any spouse, child, sibling, or parent of the petitioner.

(j) The victim of the capital felony sustained serious bodily injury.

(8) MITIGATING CIRCUMSTANCES.—Mitigating circumstances shall include the following:

(a) The defendant has no significant history of prior criminal activity.

(b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(c) The defendant was an accomplice in the capital felony committed by another person, and the defendant's participation was relatively minor.

(d) The defendant was under extreme duress or under the substantial domination of another person.

(e) The capacity of the defendant to appreciate the criminality of her or his conduct or to conform her or his conduct to the requirements of law was substantially impaired.

(f) The age of the defendant at the time of the offense.

(g) The defendant could not have reasonably foreseen that her or his conduct in the course of the commission of the offense would cause or would create a grave risk of death to one or more persons.

(h) The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.

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20251804

(9) VICTIM IMPACT EVIDENCE.—Once the prosecution has provided evidence of the existence of two or more aggravating factors as described in subsection (7), the prosecution may introduce, and subsequently argue, victim impact evidence to the jury. Such evidence shall be designed to demonstrate the victim's uniqueness as an individual human being and the physical and psychological harm to the victim. Characterizations and opinions about the crime, the defendant, and the appropriate sentence shall not be permitted as a part of victim impact evidence.

(10) CONSTITUTIONALITY.—Notwithstanding s. 775.082(2) or s. 775.15, or any other provision of law, a sentence of death shall be imposed under this section notwithstanding existing case law that holds that such a sentence is unconstitutional under the State Constitution and the United States Constitution. In any case for which the Florida Supreme Court or the United States Supreme Court reviews a sentence of death imposed pursuant to this section, and in making such a review reconsiders the prior holdings in *Buford v. State of Florida*, 403 So. 2d 943 (Fla. 1981), and *Kennedy v. Louisiana*, 554 U.S. 407 (2008), and determines that a sentence of death remains unconstitutional, the court having jurisdiction over the person previously sentenced to death shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in s. 775.082(1).

(11) APPLICABILITY.—This section applies to any capital felony under s. 787.062 that is committed on or after October 1, 2025.

Section 3. Paragraph (o) is added to subsection (1) of

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section 924.07, Florida Statutes, to read:

924.07 Appeal by state.—

(1) The state may appeal from:

(o) The sentence in a case of capital human trafficking on the ground that it resulted from the circuit court's failure to comply with sentencing procedures under s. 921.1427, including by striking a notice of intent to seek the death penalty, refusing to impanel a capital jury, or otherwise granting relief that prevents the state from seeking a sentence of death.

Section 4. Subsection (4) of section 921.137, Florida Statutes, is amended to read:

921.137 Imposition of the death sentence upon an intellectually disabled defendant prohibited.—

(4) After a defendant who has given notice of his or her intention to raise intellectual disability as a bar to the death sentence is convicted of a capital felony and an advisory jury has returned a recommended sentence of death, the defendant may file a motion to determine whether the defendant is intellectually disabled. Upon receipt of the motion, the court shall appoint two experts in the field of intellectual disabilities who shall evaluate the defendant and report their findings to the court and all interested parties prior to the final sentencing hearing. Notwithstanding s. 921.141, s. 921.142, ~~or~~ s. 921.1425, or s. 921.1427, the final sentencing hearing shall be held without a jury. At the final sentencing hearing, the court shall consider the findings of the court-appointed experts and consider the findings of any other expert which is offered by the state or the defense on the issue of whether the defendant has an intellectual disability. If the

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court finds, by clear and convincing evidence, that the defendant has an intellectual disability as defined in subsection (1), the court may not impose a sentence of death and shall enter a written order that sets forth with specificity the findings in support of the determination.

Section 5. Subsection (9) of section 921.141, Florida Statutes, is amended to read:

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—

(9) APPLICABILITY.—This section does not apply to a person convicted or adjudicated guilty of a capital sexual battery under s. 794.011, a capital sex trafficking felony under 787.062, or a capital drug trafficking felony under s. 893.135.

Section 6. This act shall take effect October 1, 2025.

## The Florida Senate COMMITTEE VOTE RECORD

**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** SB 1804  
**FINAL ACTION:** Favorable with Committee Substitute  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Criminal Justice, *Chair*  
Appropriations Committee on Criminal and Civil  
Justice, *Chair*  
Appropriations  
Appropriations Committee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Rules  
Transportation

### SENATOR JONATHAN MARTIN

33rd District

April 15, 2025

Chair Ilena Garcia  
Appropriations Committee on Criminal and Civil Justice  
201 The Capital  
404 South Monroe Street  
Tallahassee, FL 32399

### RE: SB 1804

Dear Chair Garcia,

Please allow this letter to serve as my respectful request to place SB 1804 Capital Sex Trafficking on the next committee agenda.

SB 1804 provides penalties for persons convicted of the capital felony of human trafficking by use of physical force upon certain persons for sex; providing requirements for separate sentencing proceedings in certain capital felony cases; providing requirements for imposition of a sentence of life imprisonment or a sentence of death; authorizing the state to appeal from a sentence on the ground that it resulted from the failure of the circuit court to comply with specified sentencing procedure requirements.

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", with a stylized flourish at the end.

Jonathan Martin  
Senate District 33

#### 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)

**BEN ALBRITTON**  
President of the Senate

**JASON BRODEUR**  
President Pro Tempore

The Florida Senate

# APPEARANCE RECORD

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

18041

Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date

4/15

Committee

Approp. Criminal & Civil Justice

Name

Joseph Harmon

Phone

850 205 6826

Address

201 W. Park Ave

Email

jharmon@flccb.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:

FL Conference of Catholic Bishops

☐

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

# APPEARANCE RECORD

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

1804

Bill Number or Topic

Amendment Barcode (if applicable)

4/15/25

Meeting Date

Committee

Name

Taylor Kendall

Phone

850 212 1798

Address

2221 Orange Ave

Email

TKK22a@FSU.edu

Street

Tallahassee

FL

32311

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

## PLEASE CHECK ONE OF THE FOLLOWING:

☒

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☐

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☐

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S-001 (08/10/2021)

The Florida Senate

**APPEARANCE RECORD**

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

04/15/25

Meeting Date

CJ Approps

Committee

1804

Bill Number or Topic

Amendment Barcode (if applicable)

Name Grace Hanna (Floridians for Alternatives to the Death Penalty)

Phone 8505446939

Address 2055 Thomasville Rd.  
Street

Email \_\_\_\_\_

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  
**APPEARANCE RECORD**

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

4/15/25

Meeting Date

CJ APPROP

Committee

1804

Bill Number or Topic

Amendment Barcode (if applicable)

Name

AARON WAYT

Phone

(407) 435-3194

KL ASSN OF CRIM DEF LAWYERS

Address

Email

Street

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)



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/16/2025	.	
	.	
	.	
	.	

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraphs (i) through (k) of subsection (2) of  
section 787.06, Florida Statutes, are redesignated as paragraphs  
(j) through (l), a new paragraph (i) is added to that  
subsection, subsections (5) through (13) are renumbered as  
subsections (6) through (14), and a new subsection (5) is added  
to that section, to read:



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787.06 Human trafficking.—

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

(i) “Sexual exploitation” means any violation of s. 794.011, excluding a violation of s. 794.011(10).

(5)(a) Any person 18 years of age or older who knowingly initiates, organizes, plans, finances, directs, manages, or supervises a venture that has subjected a child younger than 12 years of age, or a person who is mentally defective or mentally incapacitated as those terms are defined in s. 794.011(1), to human trafficking for sexual exploitation commits capital human trafficking of vulnerable persons for sexual exploitation, a capital felony punishable as provided in ss. 775.082 and 921.1427.

(b) For each instance of human trafficking of any individual under paragraph (a), a separate crime is committed and a separate punishment is authorized.

(c) In all capital cases under this subsection, the procedure in s. 921.1427 shall be followed to determine a sentence of death or life imprisonment.

(d) If the prosecutor intends to seek the death penalty, the prosecutor must give notice to the defendant and file the notice with the court within 45 days after arraignment. The notice must contain a list of the aggravating factors the state intends to prove and has reason to believe it can prove beyond a reasonable doubt. The court may allow the prosecutor to amend the notice upon a showing of good cause.

Section 2. Section 921.1427, Florida Statutes, is created to read:

921.1427 Sentence of death or life imprisonment for capital



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human trafficking of vulnerable persons for sexual exploitation;  
further proceedings to determine sentence.—

(1) INTENT.—

(a) The Legislature finds that a person who commits the  
offense of initiating, organizing, planning, financing,  
directing, managing, or supervising a venture that has subjected  
a child younger than 12 years of age, or a person who is  
mentally defective or mentally incapacitated, to human  
trafficking for sexual exploitation in violation of s. 787.06(5)  
imposes a great risk of death and danger to vulnerable members  
of this state. Such crimes exploit society's most vulnerable  
citizens, destroy the innocence of young children, and violate  
all standards of decency held by civilized society, and persons  
who commit such acts against such vulnerable persons may be  
determined by the trier of fact to have a culpable mental state  
of reckless indifference or disregard for human life.

(b) It is the intent of the Legislature that the procedure  
in this section shall be followed, and a prosecutor must file  
notice, as provided in s. 787.06(5), if he or she intends to  
seek the death penalty.

(2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon  
conviction or an adjudication of guilt of a defendant of a  
capital felony under s. 787.06(5), the court shall conduct a  
separate sentencing proceeding to determine whether the  
defendant should be sentenced to death or life imprisonment as  
authorized by s. 775.082. The proceeding shall be conducted by  
the trial judge before the trial jury as soon as practicable.  
If, through impossibility or inability, the trial jury is unable  
to reconvene for a hearing on the issue of penalty, having



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determined the guilt of the accused, the trial judge may summon a special juror or jurors as provided in chapter 913 to determine the issue of the imposition of the penalty. If the trial jury has been waived, or if the defendant pleaded guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose, unless waived by the defendant. In the proceeding, evidence may be presented as to any matter that the court deems relevant to the nature of the crime and the character of the defendant and shall include matters relating to any of the aggravating factors enumerated in subsection (7) and for which notice has been provided pursuant to s. 787.06(5) or mitigating circumstances enumerated in subsection (8). Any such evidence that the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, this subsection shall not be construed to authorize the introduction of any evidence secured in violation of the United States Constitution or the State Constitution. The state and the defendant or the defendant's counsel shall be permitted to present argument for or against a sentence of death.

(3) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This subsection applies only if the defendant has not waived his or her right to a sentencing proceeding by a jury.

(a) After hearing all of the evidence presented regarding aggravating factors and mitigating circumstances, the jury shall deliberate and determine if the state has proven, beyond a reasonable doubt, the existence of at least two aggravating factors set forth in subsection (7).



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(b) The jury shall return findings identifying each aggravating factor found to exist. A finding that at least two aggravating factors exist must be unanimous. If the jury:

1. Does not unanimously find at least two aggravating factors, the defendant is ineligible for a sentence of death.

2. Unanimously finds at least two aggravating factors, the defendant is eligible for a sentence of death and the jury shall make a recommendation to the court as to whether the defendant shall be sentenced to life imprisonment without the possibility of parole or to death. The recommendation shall be based on a weighing of all of the following:

a. Whether sufficient aggravating factors exist.

b. Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.

c. Based on the considerations in sub-subparagraphs a. and b., whether the defendant should be sentenced to life imprisonment without the possibility of parole or to death.

(c) If at least eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of death. If fewer than eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court shall be a sentence of life imprisonment without the possibility of parole.

(4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

(a) If the jury has recommended a sentence of:

1. Life imprisonment without the possibility of parole, the court shall impose the recommended sentence of life imprisonment without the possibility of parole.

2. Death, the court, after considering each aggravating





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factor found by the jury and all mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may consider only an aggravating factor that was unanimously found to exist by the jury. The court may impose a sentence of death only if the jury unanimously found at least two aggravating factors beyond a reasonable doubt.

(b) If the defendant waived his or her right to a sentencing proceeding by a jury, the court, after considering all aggravating factors and mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may impose a sentence of death only if the court finds that at least two aggravating factors have been proven to exist beyond a reasonable doubt.

(5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—In each case in which the court imposes a sentence of life imprisonment without the possibility of parole or death, the court shall, considering the records of the trial and the sentencing proceedings, enter a written order addressing the aggravating factors set forth in subsection (7) found to exist, the mitigating circumstances in subsection (8) reasonably established by the evidence, whether there are sufficient aggravating factors to warrant the death penalty, and whether the aggravating factors outweigh the mitigating circumstances reasonably established by the evidence. The court shall include in its written order the reasons for not accepting the jury's recommended sentence, if applicable. If the court does not issue its order requiring the death sentence within 30 days after the rendition of the judgment and sentence, the court shall impose a



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sentence of life imprisonment without the possibility of parole in accordance with s. 775.082.

(6) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of conviction and sentence of death shall be subject to automatic review by the Supreme Court and disposition rendered within 2 years after the filing of a notice of appeal. Such review by the Supreme Court shall have priority over all other cases and shall be heard in accordance with rules adopted by the Supreme Court.

(7) AGGRAVATING FACTORS.—Aggravating factors shall be limited to the following:

(a) The capital felony was committed by a person previously convicted of a felony violation under s. 787.06 and under sentence of imprisonment or placed on community control or on felony probation.

(b) The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence to the person.

(c) The capital felony was committed by a person designated as a sexual predator pursuant to s. 775.21 or a person previously designated as a sexual predator who had the sexual predator designation removed.

(d) The capital felony was committed by a sexual offender who is required to register pursuant to s. 943.0435 or a person previously required to register as a sexual offender who had such requirement removed.

(e) The defendant knowingly created a great risk of death to one or more persons such that participation in the offense constituted reckless indifference or disregard for human life.

(f) The defendant used a firearm or knowingly directed,



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advised, authorized, or assisted another to use a firearm to threaten, intimidate, assault, or injure a person in committing the offense or in furtherance of the offense.

(g) The capital felony was especially heinous, atrocious, or cruel.

(h) The victim of the capital felony was particularly vulnerable due to age or disability, or because the defendant stood in a position of familial or custodial authority over the victim.

(i) The capital felony was committed by a person subject to an injunction issued pursuant to s. 741.30 or s. 784.046, or a foreign protection order accorded full faith and credit pursuant to s. 741.315, and was committed against the petitioner who obtained the injunction or protection order or any spouse, child, sibling, or parent of the petitioner.

(j) The victim of the capital felony sustained serious bodily injury.

(8) MITIGATING CIRCUMSTANCES.—Mitigating circumstances shall include the following:

(a) The defendant has no significant history of prior criminal activity.

(b) The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.

(c) The defendant was an accomplice in the capital felony committed by another person, and the defendant's participation was relatively minor.

(d) The defendant was under extreme duress or under the substantial domination of another person.



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(e) The capacity of the defendant to appreciate the criminality of her or his conduct or to conform his or her conduct to the requirements of law was substantially impaired.

(f) The age of the defendant at the time of the offense.

(g) The defendant could not have reasonably foreseen that his or her conduct in the course of the commission of the offense would cause or would create a grave risk of death to one or more persons.

(h) The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.

(9) VICTIM IMPACT EVIDENCE.—Once the prosecution has provided evidence of the existence of two or more aggravating factors as described in subsection (7), the prosecution may introduce, and subsequently argue, victim impact evidence to the jury. Such evidence shall be designed to demonstrate the victim's uniqueness as an individual human being and the physical and psychological harm to the victim. Characterizations and opinions about the crime, the defendant, and the appropriate sentence shall not be permitted as a part of victim impact evidence.

(10) CONSTITUTIONALITY.—Notwithstanding s. 775.082(2) or s. 775.15, or any other provision of law, a sentence of death shall be imposed under this section notwithstanding existing case law which holds that such a sentence is unconstitutional under the State Constitution and the United States Constitution. In any case for which the Florida Supreme Court or the United States Supreme Court reviews a sentence of death imposed pursuant to this section, and in making such a review reconsiders the prior



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holdings in *Buford v. State of Florida*, 403 So. 2d 943 (Fla. 1981), and *Kennedy v. Louisiana*, 554 U.S. 407 (2008), and determines that a sentence of death remains unconstitutional, the court having jurisdiction over the person previously sentenced to death shall cause such person to be brought before the court, and the court shall sentence such person to life imprisonment as provided in s. 775.082(1).

(11) APPLICABILITY.—This section applies to any capital felony under s. 787.06(5) that is committed on or after October 1, 2025.

Section 3. Paragraph (o) is added to subsection (1) of section 924.07, Florida Statutes, to read:

924.07 Appeal by state.—

(1) The state may appeal from:

(o) The sentence in a case of capital human trafficking of vulnerable persons for sexual exploitation on the ground that it resulted from the circuit court's failure to comply with sentencing procedures under s. 921.1427, including by striking a notice of intent to seek the death penalty, refusing to impanel a capital jury, or otherwise granting relief that prevents the state from seeking a sentence of death.

Section 4. Subsection (2) of section 92.565, Florida Statutes, is amended to read:

92.565 Admissibility of confession in sexual abuse cases.—

(2) In any criminal action in which the defendant is charged with a crime against a victim under s. 787.06(3), involving commercial sexual activity; s. 787.06(5); s. 794.011; s. 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual abuse; s. 827.04, involving sexual abuse; s. 827.071; or s.



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847.0135(5), or any other crime involving sexual abuse of another, or with any attempt, solicitation, or conspiracy to commit any of these crimes, the defendant's memorialized confession or admission is admissible during trial without the state having to prove a corpus delicti of the crime if the court finds in a hearing conducted outside the presence of the jury that the state is unable to show the existence of each element of the crime, and having so found, further finds that the defendant's confession or admission is trustworthy. Factors which may be relevant in determining whether the state is unable to show the existence of each element of the crime include, but are not limited to, the fact that, at the time the crime was committed, the victim was:

(a) Physically helpless, mentally incapacitated, or mentally defective, as those terms are defined in s. 794.011;

(b) Physically incapacitated due to age, infirmity, or any other cause; or

(c) Less than 12 years of age.

Section 5. Paragraph (e) of subsection (2) of section 456.51, Florida Statutes, is amended to read:

456.51 Consent for pelvic examinations.—

(2) A health care practitioner, a medical student, or any other student receiving training as a health care practitioner may not perform a pelvic examination on an anesthetized or unconscious patient without the written consent of the patient or the patient's legal representative executed specific to, and expressly identifying, the pelvic examination. If the patient is conscious, informed verbal consent must be obtained for the pelvic examination in addition to any written consent obtained.



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Consent is not required if:

(e) The pelvic examination is administered pursuant to a criminal investigation of an alleged violation related to child abuse or neglect under s. 787.06(3)(a)1., (c)1., (f)1., or (g); s. 787.06(5); chapter 794; chapter 796; chapter 800; chapter 827; or chapter 847.

Section 6. Paragraph (o) of subsection (1) of section 775.0877, Florida Statutes, is amended to read:

775.0877 Criminal transmission of HIV; procedures; penalties.—

(1) In any case in which a person has been convicted of or has pled nolo contendere or guilty to, regardless of whether adjudication is withheld, any of the following offenses, or the attempt thereof, which offense or attempted offense involves the transmission of body fluids from one person to another:

(o) Sections 787.06(3)(b), (d), (f), and (g) and 787.06(5), relating to human trafficking, the court shall order the offender to undergo HIV testing, to be performed under the direction of the Department of Health in accordance with s. 381.004, unless the offender has undergone HIV testing voluntarily or pursuant to procedures established in s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or rule providing for HIV testing of criminal offenders or inmates, subsequent to her or his arrest for an offense enumerated in paragraphs (a)-(n) for which she or he was convicted or to which she or he pled nolo contendere or guilty. The results of an HIV test performed on an offender pursuant to this subsection are not admissible in any criminal proceeding arising out of the alleged offense.



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Section 7. Paragraph (a) of subsection (4) of section 775.21, Florida Statutes, is amended to read:

775.21 The Florida Sexual Predators Act.—

(4) SEXUAL PREDATOR CRITERIA.—

(a) For a current offense committed on or after October 1, 1993, upon conviction, an offender shall be designated as a “sexual predator” under subsection (5), and subject to registration under subsection (6) and community and public notification under subsection (7) if:

1. The felony is:

a. A capital, life, or first degree felony violation, or any attempt thereof, of s. 787.01 or s. 787.02, where the victim is a minor, or s. 787.06(3)(f) or (g), where the victim is a minor; s. 787.06(5); s. 794.011, s. 800.04, or s. 847.0145, or a violation of a similar law of another jurisdiction; or

b. Any felony violation, or any attempt thereof, of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 787.06(5); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction, and the offender has previously been convicted of or found to have committed, or has pled nolo





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contendere or guilty to, regardless of adjudication, any violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 787.06(5); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or a violation of a similar law of another jurisdiction;

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

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

Section 8. Subsection (3) of section 787.01, Florida Statutes, is amended to read:

787.01 Kidnapping; kidnapping of child under age 13, aggravating circumstances.—

(3)(a) A person who commits the offense of kidnapping upon a child under the age of 13 and who, in the course of committing the offense, commits one or more of the following:

1. Aggravated child abuse, as defined in s. 827.03;

2. Sexual battery, as defined in chapter 794, against the child;



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3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. 800.04 or s. 847.0135(5);

4. A violation of former s. 796.03 or s. 796.04, relating to prostitution, upon the child;

5. Exploitation of the child or allowing the child to be exploited, in violation of s. 450.151; or

6. A violation of s. 787.06(3)(g) or s. 787.06(5), relating to human trafficking, commits a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Pursuant to s. 775.021(4), nothing contained herein shall be construed to prohibit the imposition of separate judgments and sentences for the life felony described in paragraph (a) and for each separate offense enumerated in subparagraphs (a)1.-6. ~~(a)1.-5.~~

Section 9. Subsection (3) of section 787.02, Florida Statutes, is amended to read:

787.02 False imprisonment; false imprisonment of child under age 13, aggravating circumstances.—

(3)(a) A person who commits the offense of false imprisonment upon a child under the age of 13 and who, in the course of committing the offense, commits any offense enumerated in subparagraphs 1.-6. ~~1.-5.~~, commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

1. Aggravated child abuse, as defined in s. 827.03;

2. Sexual battery, as defined in chapter 794, against the



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child;

3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. 800.04 or s. 847.0135(5);

4. A violation of former s. 796.03 or s. 796.04, relating to prostitution, upon the child;

5. Exploitation of the child or allowing the child to be exploited, in violation of s. 450.151; or

6. A violation of s. 787.06(3)(g) or s. 787.06(5), relating to human trafficking.

(b) Pursuant to s. 775.021(4), nothing contained herein shall be construed to prohibit the imposition of separate judgments and sentences for the first degree offense described in paragraph (a) and for each separate offense enumerated in subparagraphs (a)1.-6. ~~(a)1.-5.~~

Section 10. Subsection (4) of section 921.137, Florida Statutes, is amended to read:

921.137 Imposition of the death sentence upon an intellectually disabled defendant prohibited.-

(4) After a defendant who has given notice of his or her intention to raise intellectual disability as a bar to the death sentence is convicted of a capital felony and an advisory jury has returned a recommended sentence of death, the defendant may file a motion to determine whether the defendant is intellectually disabled. Upon receipt of the motion, the court shall appoint two experts in the field of intellectual disabilities who shall evaluate the defendant and report their findings to the court and all interested parties prior to the final sentencing hearing. Notwithstanding s. 921.141, s.



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921.142, ~~or~~ s. 921.1425, or s. 921.1427, the final sentencing hearing shall be held without a jury. At the final sentencing hearing, the court shall consider the findings of the court-appointed experts and consider the findings of any other expert which is offered by the state or the defense on the issue of whether the defendant has an intellectual disability. If the court finds, by clear and convincing evidence, that the defendant has an intellectual disability as defined in subsection (1), the court may not impose a sentence of death and shall enter a written order that sets forth with specificity the findings in support of the determination.

Section 11. Subsection (9) of section 921.141, Florida Statutes, is amended to read:

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—

(9) APPLICABILITY.— This section does not apply to a person convicted or adjudicated guilty of a capital sexual battery under s. 794.011, capital human trafficking of vulnerable persons for sexual exploitation under s. 787.06(5), or a capital drug trafficking felony under s. 893.135.

Section 12. Paragraph (h) of subsection (1) of section 943.0435, Florida Statutes, is amended to read:

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

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

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

a.(I) Has been convicted of committing, or attempting,



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soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 787.06(5); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-sub-subparagraph or at least one offense listed in this sub-sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-sub-subparagraph; and

(II) Has been released on or after October 1, 1997, from a sanction imposed for any conviction of an offense described in sub-sub-subparagraph (I) and does not otherwise meet the criteria for registration as a sexual offender under chapter 944 or chapter 985. For purposes of this sub-sub-subparagraph, a sanction imposed in this state or in any other jurisdiction means probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, contractor-operated correctional facility, or local detention facility. If no sanction is imposed, the person is deemed to be released upon conviction;

b. Establishes or maintains a residence in this state and



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who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or any other sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender;

c. Establishes or maintains a residence in this state who is in the custody or control of, or under the supervision of, any other state or jurisdiction as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes or similar offense in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 787.06(5); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this sub-subparagraph or at least one offense listed in this sub-subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph; or



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

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

(II) Section 800.04(4)(a)2. where the victim is under 12 years of age or where the court finds sexual activity by the use of force or coercion;

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

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

(V) Any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this sub-subparagraph.

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

For each violation of a qualifying offense listed in this subsection, except for a violation of s. 794.011, the court shall make a written finding of the age of the victim at the time of the offense. For a violation of s. 800.04(4), the court shall also make a written finding indicating whether the offense involved sexual activity and indicating whether the offense involved force or coercion. For a violation of s. 800.04(5), the court shall also make a written finding that the offense did or did not involve unclothed genitals or genital area and that the



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offense did or did not involve the use of force or coercion.

Section 13. Paragraph (f) of subsection (1) of section 944.606, Florida Statutes, is amended to read:

944.606 Sexual offenders; notification upon release.—

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

(f) "Sexual offender" means a person who has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 787.06(5); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this paragraph or at least one offense listed in this paragraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this subsection, when the department has received verified information regarding such conviction; an offender's computerized criminal history record is not, in and of itself, verified information.

Section 14. Paragraph (f) of subsection (1) of section 944.607, Florida Statutes, is amended to read:

944.607 Notification to Department of Law Enforcement of





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information on sexual offenders.—

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

(f) “Sexual offender” means a person who is in the custody or control of, or under the supervision of, the department or is in the custody of a contractor-operated correctional facility:

1. On or after October 1, 1997, as a result of a conviction for committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s. 787.06(5); s. 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court makes a written finding that the racketeering activity involved at least one sexual offense listed in this subparagraph or at least one offense listed in this subparagraph with sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or any similar offense committed in this state which has been redesignated from a former statute number to one of those listed in this paragraph; or

2. Who establishes or maintains a residence in this state and who has not been designated as a sexual predator by a court of this state but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or



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community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard as to whether the person otherwise meets the criteria for registration as a sexual offender.

Section 15. Subsection (1) of section 948.32, Florida Statutes, is amended to read:

948.32 Requirements of law enforcement agency upon arrest of persons for certain sex offenses.—

(1) When any state or local law enforcement agency investigates or arrests a person for committing, or attempting, soliciting, or conspiring to commit, a violation of s. 787.025(2)(c), s. 787.06(3)(g), s. 787.06(5), chapter 794, former s. 796.03, s. 800.04, s. 827.071, s. 847.0133, s. 847.0135, or s. 847.0145, the law enforcement agency shall contact the Department of Corrections to verify whether the person under investigation or under arrest is on probation, community control, parole, conditional release, or control release.

Section 16. Subsection (2) of section 960.065, Florida Statutes, is amended to read:

960.065 Eligibility for awards.—

(2) Any claim filed by or on behalf of a person who:

(a) Committed or aided in the commission of the crime upon which the claim for compensation was based;

(b) 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 as described in s. 787.06(3)(b), (d), (f), or (g), or s. 787.06(5);



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(c) 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 claim for compensation is based;

(d) Has been adjudicated as a habitual felony offender, habitual violent offender, or violent career criminal under s. 775.084; or

(e) Has been adjudicated guilty of a forcible felony offense as described in s. 776.08, is ineligible for an award.

Section 17. This act shall take effect October 1, 2025.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled  
An act relating to capital human trafficking of vulnerable persons for sexual exploitation; An act relating to capital human trafficking of vulnerable persons for sexual exploitation; amending s. 787.06, F.S.; providing a definition; prohibiting a person 18 years of age or older from knowingly initiating, organizing, planning, financing, directing, managing, or supervising a venture that has subjected a child younger than 12 years of age, or a person who is mentally defective or mentally incapacitated to human trafficking for sexual exploitation; providing a criminal penalty; requiring the state to give a



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specified notice if it intends to seek the death penalty for a violation of the offense; creating s. 921.1427, F.S.; providing legislative intent; providing for separate death penalty proceedings in certain cases; providing for findings and recommended sentences by a jury; providing for imposition of sentence of life imprisonment or death; providing requirements for a court order in support of a life imprisonment or death sentence; providing for automatic review of sentences of death within a certain time period; specifying aggravating factors and mitigating circumstances; providing for victim impact evidence; providing for resentencing if provisions are found to be unconstitutional; providing applicability; amending s. 924.07, F.S.; authorizing the state to appeal from a sentence on the ground that it resulted from the failure of the circuit court to comply with specified sentencing procedure requirements; amending ss. 92.565, 456.51, 775.0877, 775.21, 787.01, 787.02, 921.137, 921.141, 943.0435, 944.606, 944.607, 948.32, and 960.065, F.S.; conforming provisions to changes made by the act; providing an effective date.

**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.)

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

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BILL: CS/SB 1804

INTRODUCER: Appropriations Committee on Criminal and Civil Justice and Senator Martin

SUBJECT: Capital Sex Trafficking

DATE: April 17, 2025

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>	_____

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**I. Summary:**

CS/SB 1804 amends 787.06, F.S., to create a new crime of Capital Human Trafficking for Sexual Exploitation. A person 18 years or older who knowingly initiates, organizes, plans, finances, directs, manages, or supervises a venture that has subjected a child less than 12 years of age, or a person who is mentally defective<sup>1</sup> or mentally incapacitated,<sup>2</sup> commits Capital Human Trafficking of Vulnerable Persons for Sexual Exploitation.

The crime is a capital felony which can result in the death penalty or a sentence of life without the possibility of parole.<sup>3</sup> The bill creates s. 921.147, F.S. which provides death penalty procedures specifically applicable to the new crime.

The bill amends the following Florida Statutes to clarify the effect by the bill on those statutes: ss. 92.565, 456.51, 775.0877, 775.21, 787.01, 787.02, 921.137, 921.141, 943.0435, 944.606, 944.607, 948.32, and 960.065, F.S

The bill may have a positive insignificant fiscal impact (unquantifiable increase in prison and jail beds) on the Department of Correction and may increase workload for the state court system. See Section V., Fiscal Impact Statement.

The bill takes effect October 1, 2025.

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<sup>1</sup> “Mentally defective” means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct. Section 794.011(1)(c), F.S.

<sup>2</sup> “Mentally incapacitated” means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent. Section 794.011(1)(d), F.S.

<sup>3</sup> Sections 775.082 and 921.1427, F.S.

## II. Present Situation:

“Human trafficking” is defined in s. 787.06(2)(d), F.S., as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining another person for the purpose of exploitation of that person.

Any person who knowingly, or in reckless disregard of the facts, engages in human trafficking, attempts to engage in human trafficking, or benefits financially by receiving anything of value from participation in a venture that has subjected a person to human trafficking:

- For commercial sexual activity who does so by the transfer or transport of any child younger than 18 years of age or an adult believed by the person to be a child younger than 18 years of age from outside this state to within this state commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life.
- For commercial sexual activity in which any child younger than 18 years of age or an adult believed by the person to be a child younger than 18 years of age, or in which any person who is mentally defective or mentally incapacitated as those terms are defined in s. 794.011(1), F.S., is involved commits a life felony, punishable as provided in s. 775.082(3)(a)6., F.S., s. 775.083, F.S., or s. 775.084, F.S. For each instance of human trafficking of any individual under this subsection, a separate crime is committed and a separate punishment is authorized.
- Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, with knowledge or in reckless disregard of the fact that, as a consequence of the sale or transfer, the minor will be subject to human trafficking commits a life felony, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.
- Any person who, for the purpose of committing or facilitating an offense under this section, permanently brands, or directs to be branded, a victim of an offense under this section commits a second degree felony, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S. For purposes of this subsection, the term “permanently branded” means a mark on the individual's body that, if it can be removed or repaired at all, can only be removed or repaired by surgical means, laser treatment, or other medical procedure.

### Capital Felonies for Sexual Battery Cases and the Eighth Amendment

Section 794.011(2)(a), F.S., states that a person 18 years of age or older who commits sexual battery upon, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age commits a *capital felony*, punishable as provided in ss. 775.082, and 921.141, F.S.<sup>4</sup>

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<sup>4</sup> Section 775.082, F.S., provides that a person who has been convicted of a capital felony shall be punished by death if the proceeding held to determine sentence according to the procedure set forth in s. 921.141, F.S., results in a determination that such person shall be punished by death, otherwise such person shall be punished by life imprisonment and shall be ineligible for parole. Section 921.141, F.S., provides that upon conviction or adjudication of guilt of a defendant of a capital felony, the court shall conduct a separate sentencing proceeding to determine whether the defendant should be sentenced to death or life imprisonment as authorized by s. 775.082, F.S.

Section 794.011(8)(c), F.S., provides that a person who is in a position of familial or custodial authority who engages in any act with a person less than 12 years of age which constitutes sexual battery, or in an attempt to commit sexual battery injures the sexual organs of such person commits a *capital or life felony*, punishable as provided in ss. 775.082 and 921.141, F.S.<sup>5</sup>

Sexual battery means oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.<sup>6</sup>

No one has been executed for a non-murder offense in this country since 1964, although two people were convicted in Louisiana of capital sexual battery of a child and sentenced to death. One of those individuals, Patrick Kennedy, appealed his case to the U.S. Supreme Court, which struck down Louisiana's law.<sup>7</sup> Five other states have laws allowing the death penalty for sexual battery against a minor, though no one has been sentenced to death in those states.<sup>8</sup>

Historically, capital sexual battery has been punishable by up to a penalty of death in Florida. Although the crimes found in ss. 794.011(2)(a) and (8)(c), F.S., are categorized as capital crimes, life imprisonment without the possibility of parole is the current maximum sentence for these crimes under the applicable case law. This is largely due to a string of court cases from the seventies and early eighties ruling on the constitutionality of the death penalty as applied by the states.<sup>9</sup>

In 1977, the U.S. Supreme Court decided *Coker v. Georgia*, a case involving a death sentence for the sexual battery of an adult female.<sup>10</sup> Relying heavily on the *Gregg v. Georgia*<sup>11</sup> decision from the prior term of court, the *Coker* court explained that the Eighth Amendment<sup>12</sup> bars excessive punishment in relation to the offense committed. Therefore, a particular punishment can be excessive if it "is grossly out of proportion to the severity of the crime."<sup>13</sup>

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<sup>5</sup> *Id.*; and see s. 775.082(3), F.S., setting forth the sentence for a life felony, in general, as: for a life felony committed on or after July 1, 1995, by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment.

<sup>6</sup> Section 794.011(1)(j), F.S.

<sup>7</sup> Death Penalty Information Center, Death Penalty for Offenses Other than Murder, available at <https://deathpenaltyinfo.org/facts-and-research/crimes-punishable-by-death/death-penalty-for-offenses-other-than-murder> (last visited March 28, 2025); Death Penalty Information Center, Kennedy v. Louisiana Resource Page, available at <https://deathpenaltyinfo.org/facts-and-research/united-states-supreme-court/significant-supreme-court-opinions/kennedy-v-louisiana-resource-page> (last visited March 28, 2025).

<sup>8</sup> Those states are Montana, South Carolina, Oklahoma, Georgia, and Texas. Death Penalty Information Center, Kennedy v. Louisiana Resource Page, available at <https://deathpenaltyinfo.org/facts-and-research/united-states-supreme-court/significant-supreme-court-opinions/kennedy-v-louisiana-resource-page> (last visited March 28, 2025).

<sup>9</sup> *Gibson v. State*, 721 So.2d 363 (Fla. 2nd DCA, 1998).

<sup>10</sup> *Coker v. Georgia*, 433 U.S. 584, (1977).

<sup>11</sup> *Gregg v. Georgia*, 428 U.S. 153 (1976), (finding that the Georgia death penalty scheme satisfied the requirements of the Eighth Amendment when imposed for the crime of murder. In a footnote, the *Gregg* court specified: "We do not address here the question whether the taking of the criminal's life is a proportionate sanction where no victim has been deprived of life for example, when capital punishment is imposed for rape, kidnapping, or armed robbery that does not result in the death of any human being." at footnote 35).

<sup>12</sup> The Eighth Amendment to the U.S. Constitution states, "Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted." U.S. CONST. Amend VIII.

<sup>13</sup> *Coker v. Georgia*, 433 U.S. 584, 592 (1977).

In applying an Eighth Amendment analysis, the *Coker* court said that “judgment should be informed by objective factors to the maximum possible extent...attention must be given to the public attitudes concerning a particular sentence history and precedent, legislative attitudes, and the response of juries reflected in their sentencing decisions.”<sup>14</sup> After performing such a review,<sup>15</sup> the court found that “in the light of the legislative decisions in almost all of the States and in most of the countries around the world, it would be difficult to support a claim that the death penalty for rape is an indispensable part of the States’ criminal justice system.”<sup>16</sup> The court held that a death sentence is disproportionate punishment for the rape of an adult woman, and is therefore cruel and unusual punishment within the meaning of the Eighth Amendment.<sup>17</sup>

In 1981, the Florida Supreme Court, in *Buford v. State*,<sup>18</sup> held that a death sentence for sexual battery by an adult upon a child, is constitutionally prohibited.<sup>19</sup> The court stated that “[t]he reasoning of the justices in *Coker v. Georgia* compels us to hold that a sentence of death is grossly disproportionate and excessive punishment for the crime of sexual assault and is therefore forbidden by the Eighth Amendment as cruel and unusual punishment.”<sup>20</sup>

Three years after *Buford*, the Florida Supreme Court recognized in *Rusaw v. State* that while the death penalty as punishment for the capital crime of sexual battery of a child is not a constitutional sentence, “[t]he legislature, by setting sexual battery of a child apart from other sexual batteries, has obviously found that crime to be of special concern. Just because death is no longer a possible punishment for the crime described in s. 794.011(2), F.S., does not mean that the alternative penalty suffers from any defect.”<sup>21</sup>

In 2008, the U.S. Supreme Court, in *Kennedy v. Louisiana*, a child sexual battery case for which the defendant was sentenced to death, also began its Eighth Amendment analysis by examining existing statutes and legislation, and statistics on executions for child sexual battery.<sup>22</sup>

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<sup>14</sup> *Coker v. Georgia*, 433 U.S. 584, 592 (1977).

<sup>15</sup> *Coker v. Georgia*, 433 U.S. 584, 593-597 (1977).

<sup>16</sup> *Id.*

<sup>17</sup> “We have the abiding conviction that the death penalty, which ‘is unique in its severity and irrevocability,’ ... is an excessive penalty for the rapist who, as such, does not take human life.” *Coker v. Georgia*, 433 U.S. 584, 97 S.Ct. 286, 153 L.Ed.2d 982 (1977); [internal citation: *Gregg v. Georgia*, 428 U.S. 153, 96 S.Ct. 2909, 49 L.Ed.2d 859 (1976)].

<sup>18</sup> *Buford v. State*, 403 So.2d 943 (Fla.1981), *cert. denied*, 454 U.S. 1163, 102 S.Ct. 1037, 71 L.Ed.2d 319 (1982).

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Rusaw v. State*, 451 So.2d 469 (Fla. 1984), referring to life imprisonment without the possibility of parole, ss. 775.082 and 921.141, F.S.

<sup>22</sup> The state court in *Kennedy* explained that since 1993, four more States—Oklahoma, South Carolina, Montana, and Georgia—had capitalized the crime of child rape, and at least eight States had authorized capital punishment for other nonhomicide crimes. By its count, 14 of the then-38 States permitting capital punishment, plus the Federal Government, allowed the death penalty for nonhomicide crimes and FIVE allowed the death penalty for the crime of child rape. *Kennedy v. Louisiana*, 554 U.S. 407, 418 (2008).



Like the *Coker* court, the *Kennedy* court found that there is a national consensus against the death penalty for child sexual battery.<sup>23</sup> This finding led the court to conclude that the death penalty is not a proportional punishment for the sexual battery of a child.<sup>24</sup>

### **Case Law and Subsequent Statutory Changes Regarding Death Penalty Sentencing Procedure**

The Sixth Amendment of the U.S. Constitution provides: “In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury. . . .”<sup>25</sup> This right, in conjunction with the Due Process Clause, requires that each element of a crime be proved to a jury beyond a reasonable doubt.<sup>26</sup>

The U.S. Supreme Court in *Ring v. Arizona*, applied this right to Arizona’s capital sentencing scheme, which required a judge to determine the presence of aggravating and mitigating factors and to only sentence a defendant to death if the judge found at least one aggravating factor.<sup>27</sup> The Court struck down the Arizona sentencing scheme, finding it to be a violation of the Sixth Amendment because it permitted sentencing judges, without a jury, to find aggravating circumstances justifying imposition of the death penalty.<sup>28</sup>

In 2016, the U.S. Supreme Court issued the *Hurst v. Florida* opinion finding that Florida’s death penalty sentencing process was unconstitutional because “the Sixth Amendment requires a jury, not a judge, to find each fact necessary to impose a sentence of death.”<sup>29</sup> Thereafter, the Legislature amended ss. 921.141 and 921.142, F.S., to incorporate the following statutory changes:

- The jury is required to identify each aggravating factor found to exist by a unanimous jury vote in order for a defendant to be eligible for a sentence of death;
- The jury is required to determine whether the aggravating factors outweigh the mitigating circumstances in reaching its sentencing recommendation;
- If at least ten of the twelve members of the jury determine that the defendant should be sentenced to death, the jury’s recommendation is a sentence of death;
- The jury is required to recommend a sentence of life imprisonment without the possibility of parole if fewer than ten jurors determined that the defendant should be sentenced to death;
- The judge is permitted to impose a sentence of life imprisonment without the possibility of parole when the jury recommends a sentence of death; and

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<sup>23</sup> After reviewing the authorities informed by contemporary norms, including the history of the death penalty for this and other nonhomicide crimes, current state statutes and new enactments, and the number of executions since 1964, we conclude there is a national consensus against capital punishment for the crime of child rape. *Kennedy v. Louisiana*, 554 U.S. 407, 434 (2008).

<sup>24</sup> *Kennedy v. Louisiana*, 554 U.S. 407, 422 (2008).

<sup>25</sup> U.S. CONST. Amend. VI.

<sup>26</sup> *United States v. Gaudin*, 515 U.S. 506, 510 (1995).

<sup>27</sup> *Ring v. Arizona*, 536 U.S. 584, 592 (2002).

<sup>28</sup> *Id.* at 609.

<sup>29</sup> *Hurst v. Florida*, 577 U.S. 92 (2016). The *Hurst v. Florida* decision was based on the Sixth Amendment and the 2002 U.S. Supreme Court decision in *Ring v. Arizona*, which held that juries rather than judges acting alone must make crucial *factual* determinations that subject a convicted murderer to the death penalty. *Ring v. Arizona*, 536 U.S. 584 (2002).

- The judge is no longer permitted to “override” the jury’s recommendation of a sentence of life imprisonment by imposing a sentence of death.<sup>30</sup>

Also in 2016, *Hurst v. State*, on remand from the U.S. Supreme Court, was decided by the Florida Supreme Court. In addition to finding that the prior 2016 statutory amendments to the death penalty sentencing provisions were constitutional, the court also held that “in order for the trial court to impose a sentence of death, the jury’s recommended sentence of death must be unanimous.”<sup>31</sup>

After the *Hurst v. State* decision in 2016, the Legislature again amended ss. 921.141 and 921.142, F.S., this time to require a unanimous vote of the jury for a sentencing recommendation of death.<sup>32</sup>

Subsequent to the Legislature’s 2016 amendments to the death penalty sentencing proceedings, in an effort to comply with both *Hurst v. Florida*<sup>33</sup> and *Hurst v. State*,<sup>34</sup> the Florida Supreme Court receded from its *Hurst v. State* opinion, eliminating the need for most of the statutory changes made in 2016.<sup>35</sup>

In *Poole v. State*, the Florida Supreme Court opined that the *Hurst v. State* court had gone beyond where the U.S. Supreme Court required in order to bring Florida’s death penalty proceedings into compliance with constitutional standards.<sup>36</sup>

The *Poole* court left intact only the requirement that a unanimous jury find a statutory aggravating circumstance by a reasonable doubt standard of proof.<sup>37</sup> This particular part of Florida’s death penalty sentencing proceeding is necessary, as the *Poole* court explained, because there are two components to the death penalty sentencing decision-making process: the *eligibility decision* which is the trier of fact’s responsibility, and the *selection decision* which is the sentencing judge’s responsibility.<sup>38</sup>

As to the eligibility decision, the U.S. Supreme Court has required that the death penalty be reserved for only a subset of those who commit murder. “To render a defendant *eligible* for the death penalty in a homicide case, [the Supreme Court has] indicated that the *trier of fact* must convict the defendant of murder and find one ‘aggravating circumstance’ (or its equivalent) at either the guilt or penalty phase.”<sup>39</sup>

<sup>30</sup> Chapter 2016-13, L.O.F. (2016).

<sup>31</sup> *Hurst v. State*, 202 So.3d 40, 44, (Fla. 2016), *cert. den.*, 137 S.Ct. 2161 (2017).

<sup>32</sup> Chapter 2017-1, L.O.F. (2017).

<sup>33</sup> *Hurst v. Florida*, 577 U.S. 92 (2016).

<sup>34</sup> *Hurst v. State*, 202 So.3d 40 (Fla. 2016), interpreting and applying *Hurst v. Florida*, 577 U.S. 92 (2016).

<sup>35</sup> *Poole v. State*, 297 So. 3d 487 (Fla. 2020), receding from *Hurst v. State*, 202 So.3d 40 (Fla. 2016).

<sup>36</sup> *Poole v. State*, 297 So. 3d 487 (Fla. 2020).

<sup>37</sup> *Poole v. State*, 297 So. 3d 487 (Fla. 2020).

<sup>38</sup> *Poole v. State*, 297 So. 3d 487, 501 (Fla. 2020).

<sup>39</sup> *Poole v. State*, 297 So. 3d 487, 501 (Fla. 2020), quoting *Tuilaepa v. California*, 512 U.S. 967, 971-972 (U.S. 1994) (emphasis added).

The selection decision involves determining “whether a defendant eligible for the death penalty should in fact receive that sentence.”<sup>40</sup> The selection decision is a subjective determination to be made by the court. It is not a “fact” or “element” of the offense for the fact-finder to decide.<sup>41</sup>

According to the *Poole* court, the *Hurst v. State* court misinterpreted the *Hurst v. Florida* decision on this key point: the *Hurst v. Florida* decision is about death penalty *eligibility*.

Post-*Poole* if a jury unanimously finds at least one aggravating circumstance exists in a murder case, the defendant is death-eligible.

According to *Poole*, the *Hurst v. State* court had a “mistaken view” of what constitutes an *element* of an offense which is a *fact* that a jury must determine exists beyond a reasonable doubt for a defendant to be death eligible. *Hurst v. State*, therefore, mistakenly decided that the Sixth Amendment right to trial by a jury required:

- Unanimous jury findings as to all of the aggravating factors that were proven beyond a reasonable doubt;
- That the aggravating factors are sufficient<sup>42</sup> to impose a death sentence;
- That the aggravating factors outweigh the mitigating factors;<sup>43</sup> and
- A unanimous jury recommendation of a sentence of death.<sup>44</sup>

In sum, the *Poole* court rejected the *Hurst v. State* court’s view of a capital jury’s role that goes beyond the “fact-finding” required to determine whether a defendant is death eligible.<sup>45</sup>

### Florida’s Current Death Penalty Statutes

In 2023, the Legislature again amended the death penalty procedure in homicide cases to clarify the judge’s and the jury’s role. Specifically, ss. 921.14 and 921.142, F.S., were amended to:

<sup>40</sup> *Id.*

<sup>41</sup> *Poole v. State*, 297 So. 3d 487, 504 (Fla. 2020).

<sup>42</sup> [F]or purposes of complying with s. 921.141(3)(a), F.S., “sufficient aggravating circumstances” means “one or more.” *See Miller v. State*, 42 So. 3d 204, 219 (Fla. 2010) (“sufficient aggravating circumstances” means “one or more such circumstances.” For purposes of complying with s. 921.141(3)(a), F.S., “sufficient aggravating circumstances” means “one or more.” *See Miller v. State*, 42 So. 3d 204, 219 (Fla. 2010) (“sufficient aggravating circumstances” means “one or more such circumstances”). *Poole v. State*, 297 So. 3d 487, 502 (Fla. 2020).

<sup>43</sup> “The role of the s. 921.141(3)(b), F.S., selection finding is to give the defendant an opportunity for mercy if it is justified by the relevant mitigating circumstances and by the facts surrounding his crime.” *Poole v. State*, 297 So. 3d 487, 503 (Fla. 2020). *See also Rogers v. State*, 285 So.3d 872, 886 (Fla. 2019).

<sup>44</sup> *Hurst v. Florida* does not require a unanimous jury recommendation—or any jury recommendation—before a death sentence can be imposed. The Supreme Court in *Spaziano* “upheld the constitutionality under the Sixth Amendment of a Florida judge imposing a death sentence even in the face of a jury recommendation of life—a jury override. It necessarily follows that the Sixth Amendment, as interpreted in *Spaziano*, does not require any jury recommendation of death, much less a unanimous one. And as we have also explained, the Court in *Hurst v. Florida* overruled *Spaziano* only to the extent it allows a judge, rather than a jury, to find a necessary aggravating circumstance.” *See Hurst v. Florida*, 136 S. Ct. at 624. *See also Spaziano v. Florida*, 468 U.S. 447 at 464-65, (1984) holding that the Eighth Amendment does not require a jury’s favorable recommendation before a death penalty can be imposed. *Poole v. State*, 297 So. 3d 487, 505 (Fla. 2020).

<sup>45</sup> “This Court clearly erred in *Hurst v. State* by requiring that the jury make any finding beyond the section 921.141(3)(a) eligibility finding of one or more statutory aggravating circumstances. Neither *Hurst v. Florida*, nor the Sixth or Eighth Amendment, nor the Florida Constitution mandates that the jury make the s. 941.121(3)(b), F.S., selection finding or that the jury recommend a sentence of death.”

- Delete the requirement of a unanimous jury recommendation for the imposition of the death penalty replacing it with a recommendation of at least eight jurors recommending the death penalty.
- Provide that if fewer than eight jurors vote to recommend the death penalty, the jury's sentencing recommendation must be for life without the possibility of parole and the court is bound by that recommendation.
- Provide that if the jury recommends a sentence of death, the court may impose the recommended sentence of death, or a sentence of life imprisonment without the possibility of parole.
- Specify that the death penalty may only be imposed if the jury unanimously finds at least one aggravating factor beyond a reasonable doubt.
- Require that the court enter a written order whether the sentence is for death or for life without the possibility of parole and the court must include in its written order the reasons for not accepting the jury's recommended sentence, if applicable.<sup>46</sup>

In an additional 2023 amendment to the death penalty procedure, s. 921.1425, F.S., was created, which provides for a death sentence or life imprisonment without the possibility of parole for the crime of sexual battery by an adult upon a child under the age of 12, or the attempt to commit the crime, and the adult injures the child's sexual organs.<sup>47</sup> The procedure in s. 921.1425, F.S., as it differs from s. 921.141, (2013), F.S., is that the jury must unanimously find at least two aggravating factors for the defendant to receive the death penalty.

On December 14, 2023, Lake County, prosecutors announced they would seek the first death sentence for a man accused of committing sexual battery of a minor under the age of 12. A statement from the office of State Attorney William Gladson said the decision reflects the "severity of the crime and its impact on the community." In February 2024, the defendant pled guilty and was sentenced to life in prison without the possibility of parole.<sup>48</sup>

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

#### **Capital Human Trafficking of Vulnerable Persons for Sexual Exploitation**

The bill amends 787.06, F.S., to create a new crime of Capital Human Trafficking for Sexual Exploitation. A person 18 years or older who knowingly initiates, organizes, plans, finances, directs, manages, or supervises a venture that has subjected a child less than 12 years of age, or a person who is mentally defective<sup>49</sup> or mentally incapacitated,<sup>50</sup> commits Capital Human Trafficking of Vulnerable Persons for Sexual Exploitation.

<sup>46</sup> Sections 921.141 and 921.142, F.S.

<sup>47</sup> Other states have introduced similar legislation since the Florida law was changed. Death Penalty Information Center, [Death Penalty for Child Sexual Abuse that Does Not Result in Death | Death Penalty Information Center](#), (last visited March 27, 2025).

<sup>48</sup> *Id.*

<sup>49</sup> "Mentally defective" means a mental disease or defect which renders a person temporarily or permanently incapable of appraising the nature of his or her conduct. Section 794.011(1)(c), F.S.

<sup>50</sup> "Mentally incapacitated" means temporarily incapable of appraising or controlling a person's own conduct due to the influence of a narcotic, anesthetic, or intoxicating substance administered without his or her consent or due to any other act committed upon that person without his or her consent. Section 794.011(1)(d), F.S.

The bill defines “sexual exploitation” as any violation of s.794.011, F.S. (sexual battery).<sup>51</sup> excluding a violation of s. 794.011(10), F.S.

If the prosecutor intends to seek the death penalty, the prosecutor must give notice to the defendant and file the notice with the court within 45 days after arraignment. The notice must contain a list of the aggravating factors the state intends to prove and has reason to believe it can prove beyond a reasonable doubt. The court may allow the prosecutor to amend the notice upon a showing of good cause.

### **Death Penalty Procedure**

The crime is a capital felony which can result in the death penalty or a sentence of life without the possibility of parole.<sup>52</sup> The bill creates s. 921.1427, F.S., to provide the procedure that must be followed to determine a sentence of death or life imprisonment, for the crime of Capital Human Trafficking of Vulnerable Persons for Sexual Exploitation.

### ***Sentencing Proceeding is Separate from the Trial***

The bill requires the court to conduct a separate sentencing proceeding upon the conviction or adjudication of guilt of a defendant of a capital felony under s. 787.06(5), F.S., to determine whether the defendant should be sentenced to death or life imprisonment as authorized by s. 775.082, F.S.

The proceeding must be conducted by the trial judge before the trial jury as soon as practicable. If, through impossibility or inability, the trial jury is unable to reconvene for a hearing on the issue of penalty, having determined the guilt of the accused, the trial judge may summon a special juror or jurors as provided in ch. 913, F.S., to determine the issue of the imposition of the penalty. If the trial jury has been waived, or if the defendant pleads guilty, the sentencing proceeding shall be conducted before a jury impaneled for that purpose, unless waived by the defendant.

Any such evidence that the court deems to have probative value may be received, regardless of its admissibility under the exclusionary rules of evidence, provided the defendant is accorded a fair opportunity to rebut any hearsay statements. However, subsection (2) of s. 941.1427, F.S., may not be construed to authorize the introduction of any evidence secured in violation of the United States Constitution or the State Constitution. The state and the defendant or the defendant’s counsel must be permitted to present arguments for or against a sentence of death.

If a defendant has not waived his or her right to a sentencing proceeding by a jury, the jury will hear all of the evidence presented regarding aggravating factors and mitigating circumstances. The jury must deliberate and determine if the state has proven, beyond a reasonable doubt, the existence of at least two aggravating factors.

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<sup>51</sup> “Sexual battery” means oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose. Section 794.011(1)(j), F.S.

<sup>52</sup> Sections 775.082 and 921.1427, F.S.

If the defendant waives his or her right to a sentencing proceeding by a jury, the court, after considering all aggravating factors and mitigating circumstances, may impose a sentence of life imprisonment without the possibility of parole or a sentence of death. The court may impose a sentence of death only if the court finds that at least two aggravating factors have been proven to exist beyond a reasonable doubt.

### ***Aggravating Factors and Mitigating Circumstances***

Aggravating factors are limited to the following:

- The capital felony was committed by a person who was previously convicted of a felony violation of s. 794.011, F.S., and was under a sentence of imprisonment or was placed on community control or on felony probation.
- The defendant was previously convicted of another capital felony or of a felony involving the use or threat of violence.
- The capital felony was committed by a person designated as a sexual predator pursuant to s. 775.21, F.S., or a person previously designated as a sexual predator who had the sexual predator designation removed.
- The capital felony was committed by a sexual offender who is required to register pursuant to s. 943.0435, F.S., or a person previously required to register as a sexual offender who had such requirement removed.
- The defendant knowingly created a great risk of death to one or more persons such that participation in the offense constituted reckless indifference or disregard for human life.
- The defendant used a firearm or knowingly directed, advised, authorized, or assisted another to use a firearm to threaten, intimidate, assault, or injure a person in committing the offense or in furtherance of the offense.
- The capital felony was committed for pecuniary gain.
- The capital felony was especially heinous, atrocious, or cruel.
- The victim of the capital felony was particularly vulnerable due to age or disability, or because the defendant was in a position of familial or custodial authority in relation to the victim.
- The capital felony was committed by a person subject to an injunction issued pursuant to s. 741.30, F.S., or s. 784.046, F.S., or a foreign protection order accorded full faith and credit pursuant to s. 741.315, F.S., and was committed against the petitioner who obtained the injunction or protection order or any spouse, child, sibling, or parent of the petitioner.
- The victim of the capital felony sustained serious bodily injury.

Mitigating circumstances are the following:

- The defendant has no significant history of prior criminal activity.
- The capital felony was committed while the defendant was under the influence of extreme mental or emotional disturbance.
- The defendant was an accomplice in the capital felony committed by another person and his or her participation was relatively minor.
- The defendant acted under extreme duress or under the substantial domination of another person.
- The capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired.

- The age of the defendant at the time of the crime.
- The defendant could not have reasonably foreseen that her or his conduct in the course of the commission of the offense would cause or would create a grave risk of death to one or more persons.
- The existence of any other factors in the defendant's background that would mitigate against imposition of the death penalty.

Once the prosecution has provided evidence of the existence of two or more aggravating factors, the prosecution may introduce, and subsequently argue, victim impact evidence to the jury. Such evidence must be designed to demonstrate the victim's uniqueness as an individual human being and the physical and psychological harm to the victim. Characterizations and opinions about the crime, the defendant, and the appropriate sentence may not be permitted as a part of victim impact evidence.

### ***Sentencing Jury Findings and Sentencing Recommendation***

The jury must return findings identifying each aggravating factor found to exist. A finding that an aggravating factor exists must be unanimous. If the jury:

- Does not unanimously find at least two aggravating factors, the defendant is ineligible for a sentence of death.
- Unanimously finds at least two aggravating factors, the defendant is eligible for a sentence of death and the jury must make a recommendation to the court as to whether the defendant must be sentenced to life imprisonment without the possibility of parole or to death. The recommendation must be based on a weighing of all of the following:
  - Whether sufficient aggravating factors exist.
  - Whether aggravating factors exist which outweigh the mitigating circumstances found to exist.
  - Based on these considerations, whether the defendant should be sentenced to life imprisonment without the possibility of parole or to death.

If at least eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court must be a sentence of death. If fewer than eight jurors determine that the defendant should be sentenced to death, the jury's recommendation to the court must be a sentence of life imprisonment without the possibility of parole.

If the jury has recommended a sentence of:

- Life imprisonment without the possibility of parole, the court must impose the recommended sentence of life imprisonment without the possibility of parole.
- Death, the court may impose the recommended sentence of death or a sentence of life imprisonment without the possibility of parole. The court may impose a sentence of death only if the jury unanimously found at least two aggravating factors to have been proven beyond a reasonable doubt.

### ***Sentencing Order***

Regardless of the sentence, the court must enter a written sentencing order considering the records of the trial and the sentencing proceedings, and addressing:

- The aggravating factors found to exist;

- The mitigating circumstances reasonably established by the evidence;
- Whether there are sufficient aggravating factors to warrant the death penalty; and
- Whether the aggravating factors outweigh the mitigating circumstances reasonably established by the evidence.

The court must include in its written order the reasons for not accepting the jury's recommended sentence, if applicable.

If the court does not issue its sentencing order requiring a sentence of death within 30 days after the rendition of the judgment and sentence, the court must impose a sentence of life imprisonment without the possibility of parole in accordance with s. 775.082, F.S.

### ***Post- Sentencing Case Review***

The judgment of conviction and sentence of death shall be subject to automatic review by the Florida Supreme Court and disposition rendered within two years after the filing of a notice of appeal. Such review by the Florida Supreme Court must have priority over all other cases and must be heard in accordance with rules adopted by the Florida Supreme Court.

Notwithstanding s. 775.082(2), F.S., s. 775.15, F.S., or any other provision of law, a sentence of death must be imposed under this section notwithstanding existing case law that holds such a sentence to be unconstitutional under the United States Constitution or the State Constitution. In any case for which the Florida Supreme Court or the United States Supreme Court reviews a sentence of death imposed pursuant to this section, and in making such a review reconsiders the prior holdings in *Buford v. State* and *Kennedy v. Louisiana*, and determines a sentence of death remains unconstitutional, the court having jurisdiction over the person previously sentenced to death must cause such person to be brought before the court, and the court must sentence such person to life imprisonment without the possibility of parole as provided in s. 775.082(1), F.S.

The bill specifies that s. 921.141, F.S., does not apply to a person convicted or adjudicated guilty of a Capital Human Trafficking for Sexual Exploitation offense under s. 787.06(5), F.S.

The bill amends s. 924.07, F.S., to create an appellate opportunity for the State if the sentence in a case of Capital Human Trafficking for Sexual Exploitation resulted from the circuit court's failure to comply with sentencing procedures under s. 921.1427, F.S., including by:

- Striking the State's notice of intent to seek the death penalty;
- Refusing to impanel a capital jury; or
- Otherwise granting relief that prevents the State from seeking the death penalty.

The bill amends s. 921.137(4), F.S., to add a reference to newly created s. 921.1427, F.S., which provides procedures for sentencing a person who gives notice of his or her intention to raise intellectual disability as a bar to the death sentence. Section 921.137, F.S., prohibits the imposition of the death penalty upon an intellectually disabled defendant.

Newly created s. 921.1427, F.S., applies to any capital felony under s. 787.06(5), F.S., that is committed on or after October 1, 2025.



**Application of Section 787.06(5), F.S., the Crime of Human Trafficking of Vulnerable Persons for Sexual Exploitation, in Other Statutes**

Section 92.565, F.S., provides that a defendant's confession of committing certain crimes of sexual abuse is admissible during trial. The crime of Human Trafficking of Vulnerable Persons for Sexual Exploitation is added to the list of offenses to which s. 92.565, F.S., applies.

Section 456.51, F.S., relating to consent for a pelvic exam administered pursuant to a criminal investigation of an alleged violation related to child abuse or neglect. The crime of Human Trafficking of Vulnerable Persons for Exploitation is added to the list of offenses to which s. 787.06(5), F.S., applies.

Section 775.0877, F.S., provides for the HIV testing of certain offenders who have been convicted of or pled nolo contendere or guilty to, any of the listed offenses which involve the transmission of body fluids from one person to another. Section 787.06(5), F.S., is added to list of offenses in s. 775.0877, F.S.

Section 775.21(4), F.S., sets forth the criteria under which a person may be designated a sexual predator who is subject to registration with the Florida Department of Law Enforcement (FDLE) under subsection (6) and community and public notification under subsection (7). The crime of Human Trafficking of Vulnerable Persons for Sexual Exploitation is added to the list of offenses that qualify a person for sexual predator designation.

Section 787.01(3), F.S., provides that a person who commits the offense of kidnapping upon a child under the age of 13 and who, while committing the offense, commits one or more of the listed offenses which includes Human Trafficking, commits a life felony.<sup>53</sup> The offense created in the bill, Human Trafficking of Vulnerable Persons for Sexual Exploitation, is added to the list in s. 787.01(3), F.S., by the bill.

Similarly, s. 787.02(3), F.S., provides that a person who commits the offense of false imprisonment upon a child under the age of 13 and who, while committing the offense, commits one or more of the listed Human Trafficking offenses commits a first degree felony.<sup>54</sup> Section 787.06(5), F.S., is added by the bill to s. 787.02(3), F.S.

The bill also amends s. 921.137, F.S., to clarify that the death penalty procedures created in s. 921.1427, F.S., are not applicable in s. 921.137, F.S., relating to death penalty procedures for intellectually disabled defendants.

Section 921.141, F.S., is amended by the bill to clarify that the death penalty procedures in s. 921.141, F.S., do not apply to cases of Human Trafficking of Vulnerable Persons for Sexual Exploitation.

Section 943.0435, F.S., relating to the registration of a sexual offender with the FDLE. The bill amends s. 943.0435(1)(h), F.S., to include a reference to the crime of Human Trafficking of

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<sup>53</sup> s. 787.01(3)(a)6., F.S.; A life felony is punishable by up to a term of imprisonment for life. s. 775.082, F.S.

<sup>54</sup> s. 787.02, F.S.; A first degree felony is punishable by 30 years to life imprisonment. s. 775.082, F.S.

Vulnerable Persons for Sexual Exploitation in the list of crimes that qualify a person as a sexual offender.

Likewise, ss. 944.606, and 944.07, F.S., are amended by the bill relating to the definition of a sexual offender and include references to s.787.06(5), F.S., in the list of crimes that qualify a person as a sexual offender.

Section 948.32, F.S., requires law enforcement agencies to contact the Department of Corrections to ascertain the status of persons under investigation or arrest for certain listed crimes. Human Trafficking of Vulnerable Persons for Sexual Exploitation is added to the listed crimes.

Section 960.065, F.S., relates to compensation by the Department of Legal Affairs to certain victims of adult and juvenile crime. Specifically, s. 960.065(2), F.S., lists criteria that would make a person ineligible for such compensation. The criteria includes a person who as 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 as described in s. 787.06(3)(b), (d), (f), or (g), F.S. The bill includes s. 787.06(5), F.S., so that a victim of Human Trafficking of Vulnerable Persons for Sexual Exploitation may not be ineligible for compensation if he or she otherwise qualifies.

The bill takes effect October 1, 2025.

#### **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:**

Pursuant to the U.S. and Florida Supreme Courts, a sentence of death is constitutionally prohibited for a crime other than one which causes death. The Supreme Court of Florida

held in *Buford v. State*,<sup>55</sup> that a death sentence for sexual battery by an adult upon a child, is constitutionally prohibited.<sup>56</sup> The court stated that “[t]he reasoning of the justices in *Coker v. Georgia* compels us to hold that a sentence of death is grossly disproportionate and excessive punishment for the crime of sexual assault and is therefore forbidden by the Eighth Amendment as cruel and unusual punishment.”<sup>57</sup>

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Legislature’s Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has provided a preliminary estimate that the bill may have a positive insignificant prison bed impact on the Department of Corrections. The EDR provides:

Per DOC, in FY 23-24, there were 17 new commitments to prison for commercial sexual activity of a child under 18 years of age. Four of these commitments received life sentences, and three received sentences that would have them released within the five-year forecast window. However, it is not known how many of these offenders would fit the criteria described in the bill.

In addition, there may be an indeterminate workload impact on the criminal trial courts, appellate courts, prosecutors, defense attorneys, and appellate counsel as a result of the bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>55</sup> *Buford v. State*, 403 So.2d 943 (Fla.1981), *cert. denied*, 454 U.S. 1163, 102 S.Ct. 1037, 71 L.Ed.2d 319 (1982).

<sup>56</sup> *Id.*

<sup>57</sup> *Id.*

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 92.565, 456.51, 775.0877, 775.21, 787.01, 787.02, 787.06, 921.137, 921.141, 924.07, 943.0435, 944.606, 944.607, 948.32, and 960.065.

This bill creates the following sections of the Florida Statutes: 921.1427.

**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 15, 2025:**

- The committee substitute restructured the newly-created capital offense of Human Trafficking of Vulnerable Persons for Sexual Exploitation which requires an offender to knowingly initiate, organize, plan, finance, direct, manage, or supervise a venture that has trafficked a child younger than 12 years of age, or a person who is mentally defective or mentally incapacitated, for sexual exploitation.
- Created a definition of “sexual exploitation.”
- Made amendments to the following Florida Statutes to clarify the effect by the bill on those statutes: ss. 92.565, 456.51, 775.0877, 775.21, 787.01, 787.02, 921.137, 921.141, 943.0435, 944.606, 944.607, 948.32, and 960.065, F.S.

**B. Amendments:**

None.

By the Committee on Criminal Justice; and Senator Martin

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A bill to be entitled

An act relating to tampering with, harassing, or retaliating against court officials; amending s. 836.12, F.S.; defining the term "administrative assistant"; providing criminal penalties for persons who knowingly and willfully threaten specified court personnel; providing criminal penalties for persons who knowingly and willfully harass specified court personnel with certain intent; creating s. 918.115, F.S.; defining terms; amending s. 918.12, F.S.; providing criminal penalties for persons who knowingly with certain intent tamper with court officials; providing criminal penalties for persons who intentionally harass court officials when such harassment has a specified outcome; creating s. 918.125, F.S.; providing criminal penalties for persons who retaliate against court officials for their participation in official investigations or proceedings; providing enhanced criminal penalties if the retaliation results in bodily injury; amending ss. 772.102, 895.02, and 921.0022, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 836.12, Florida Statutes, is amended to read:

836.12 Threats or harassment.—

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

(a) "Administrative assistant" means a court employee assigned to the office of a general or special magistrate or a child support enforcement hearing officer.

(b) "Family member" means:

1. An individual related to another individual by blood or marriage; or

2. An individual who stands in loco parentis to another individual.

(c) ~~(b)~~ "Judicial assistant" means a court employee assigned to the office of a specific judge or justice responsible for providing administrative, secretarial, and clerical support to the assigned judge or justice.

(d) ~~(e)~~ "Law enforcement officer" means:

1. A law enforcement officer as defined in s. 943.10; or

2. A federal law enforcement officer as defined in s. 901.1505.

(2) (a) Except as provided in paragraph (b), any person who knowingly and willfully threatens a law enforcement officer, a state attorney, an assistant state attorney, a firefighter, a judge, a justice, a general magistrate, a special magistrate, a child support enforcement hearing officer, an administrative assistant, a judicial assistant, a clerk of the court, clerk personnel, or an elected official, or a family member of any such person, with death or serious bodily harm commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who commits a second or subsequent violation of paragraph (a) commits a felony of the third degree,

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punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Any person who knowingly and willfully harasses a law enforcement officer, a state attorney, an assistant state attorney, a firefighter, a judge, a justice, a general magistrate, a special magistrate, a child support enforcement hearing officer, an administrative assistant, a judicial assistant, a clerk of the court, clerk personnel, or an elected official, with the intent to intimidate or coerce such a person to perform or refrain from performing a lawful duty, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 2. Section 918.115, Florida Statutes, is created to read:

918.115 Definitions; ss. 918.12-918.125.—As used in ss. 918.12-918.125, the term:

(1) "Administrative assistant" means a court employee assigned to the office of a specific general or special magistrate or a child support enforcement hearing officer.

(2) "Bodily injury" means a cut, an abrasion, a bruise, a burn, or a disfigurement; physical pain; illness; impairment of the function of a bodily member, an organ, or a mental faculty; or any other injury to the body, regardless of how temporary.

(3) "Court official" means any judge, justice, general magistrate, special magistrate, grand juror, petit juror, clerk of the court, deputy clerk of the court, judicial assistant, administrative assistant, attorney, child support enforcement hearing officer, bailiff, or court deputy.

(4) "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional

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distress in that person and serves no legitimate purpose.

(5) "Judicial assistant" means a court employee assigned to the office of a specific judge or justice responsible for providing administrative, secretarial, or clerical support to the assigned judge or justice.

(6) "Misleading conduct" means any of the following:

(a) Knowingly making a false statement.

(b) Intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact and thereby creating a false impression by such statement.

(c) With the intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity.

(d) With the intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect.

(e) Knowingly using a trick, scheme, or device with the intent to mislead.

(7) "Official investigation" means any investigation instituted by a law enforcement agency or prosecuting officer of the state or a political subdivision of the state or by the Commission on Ethics.

(8) "Official proceeding" means any proceeding before a judge or court or a grand jury.

(9) "Physical force" means physical action against another person and includes confinement of a person.

Section 3. Section 918.12, Florida Statutes, is amended to

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read:

918.12 Tampering with or harassing a court official  
~~jurors.~~

(1) TAMPERING WITH A COURT OFFICIAL.—

(a) A person who knowingly commits any of the following acts with the intent to cause or induce any court official to obstruct the administration of justice or affect the outcome of an official investigation or official proceeding, commits the crime of tampering with a court official:

1. Uses intimidation or physical force;
2. Threatens any person or attempts to do so;
3. Engages in misleading conduct toward any person; or
4. Offers pecuniary benefit or gain to any person.

(b) A person who violates paragraph (a) commits:

1. A felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the offense level of the affected official investigation or official proceeding is indeterminable.

2. A felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the official investigation or official proceeding affected involves the investigation or prosecution of a misdemeanor or noncriminal matter pending in county court.

3. A felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the official investigation or official proceeding affected involves the investigation or prosecution of a felony of the third degree or noncriminal matter pending in circuit court.

4. A felony of the first degree, punishable as provided in

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s. 775.082, s. 775.083, or s. 775.084, if the official investigation or official proceeding affected involves the investigation or prosecution of a felony of the second degree.

5. A felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084, if the official investigation or official proceeding affected involves the investigation or prosecution of a felony of the first degree or a felony of the first degree punishable by a term of years not exceeding life.

6. A life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the official investigation or official proceeding affected involves the investigation or prosecution of a life or capital felony.

(2) HARASSING A COURT OFFICIAL.—

(a) A person who intentionally harasses a court official and thereby hinders, delays, prevents, or dissuades, or attempts to hinder, delay, prevent, or dissuade a court official from performing any of the following acts commits the crime of harassing a court official:

1. Attending an official proceeding;
2. Rendering a fair verdict based solely upon the evidence produced at an official proceeding and upon the law; or
3. Following the rules of juror behavior and deliberation as set forth by the judge.

(b) A person who violates paragraph (a) commits:

1. A misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the official investigation or official proceeding affected involves the investigation or prosecution of a misdemeanor or noncriminal

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175 matter pending in county court.

176 2. A felony of the third degree, punishable as provided in  
 177 s. 775.082, s. 775.083, or s. 775.084, if the offense level of  
 178 the affected official investigation or official proceeding is  
 179 indeterminable.

180 3. A felony of the third degree, punishable as provided in  
 181 s. 775.082, s. 775.083, or s. 775.084, if the official  
 182 investigation or official proceeding affected involves the  
 183 investigation or prosecution of a felony of the third degree or  
 184 any noncriminal matter pending in circuit court.

185 4. A felony of the second degree, punishable as provided in  
 186 s. 775.082, s. 775.083, or s. 775.084, if the official  
 187 investigation or official proceeding affected involves the  
 188 investigation or prosecution of a felony of the second degree.

189 5. A felony of the first degree, punishable as provided in  
 190 s. 775.082, s. 775.083, or s. 775.084, if the official  
 191 investigation or official proceeding affected involves the  
 192 investigation or prosecution of a felony of the first degree.

193 6. A felony of the first degree, punishable by a term of  
 194 years not exceeding life or as provided in s. 775.082, s.  
 195 775.083, or s. 775.084, if the official investigation or  
 196 official proceeding affected involves the investigation or  
 197 prosecution of a felony of the first degree punishable by a term  
 198 of years not exceeding life or a prosecution of a life or  
 199 capital felony ~~Any person who influences the judgment or~~  
 200 ~~decision of any grand or petit juror on any matter, question,~~  
 201 ~~cause, or proceeding which may be pending, or which may by law~~  
 202 ~~be brought, before him or her as such juror, with intent to~~  
 203 ~~obstruct the administration of justice, shall be guilty of a~~

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204 ~~felony of the third degree, punishable as provided in s.~~  
 205 ~~775.082, s. 775.083, or s. 775.084.~~

206 Section 4. Section 918.125, Florida Statutes, is created to  
 207 read:

208 918.125 Retaliating against a court official.—

209 (1) A person who, with the intent to retaliate against a  
 210 court official for his or her participation in an official  
 211 investigation or official proceeding, commits any of the  
 212 following acts commits a felony of the third degree, punishable  
 213 as provided in s. 775.082, s. 775.083, or s. 775.084:

214 (a) Knowingly engages in any conduct that threatens to  
 215 cause bodily injury to another person; or

216 (b) Damages the tangible property of another person or  
 217 threatens to do so.

218 (2) If the conduct described in subsection (1) results in  
 219 bodily injury, such person commits a felony of the second  
 220 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 221 775.084.

222 Section 5. Paragraph (a) of subsection (1) of section  
 223 772.102, Florida Statutes, is amended to read:

224 772.102 Definitions.—As used in this chapter, the term:

225 (1) "Criminal activity" means to commit, to attempt to  
 226 commit, to conspire to commit, or to solicit, coerce, or  
 227 intimidate another person to commit:

228 (a) Any crime that is chargeable by indictment or  
 229 information under the following provisions:

230 1. Section 210.18, relating to evasion of payment of  
 231 cigarette taxes.

232 2. Section 414.39, relating to public assistance fraud.



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233 3. Section 440.105 or s. 440.106, relating to workers'  
 234 compensation.  
 235 4. Part IV of chapter 501, relating to telemarketing.  
 236 5. Chapter 517, relating to securities transactions.  
 237 6. Section 550.235 or s. 550.3551, relating to dogracing  
 238 and horseracing.  
 239 7. Chapter 550, relating to jai alai frontons.  
 240 8. Chapter 552, relating to the manufacture, distribution,  
 241 and use of explosives.  
 242 9. Chapter 562, relating to beverage law enforcement.  
 243 10. Section 624.401, relating to transacting insurance  
 244 without a certificate of authority, s. 624.437(4)(c)1., relating  
 245 to operating an unauthorized multiple-employer welfare  
 246 arrangement, or s. 626.902(1)(b), relating to representing or  
 247 aiding an unauthorized insurer.  
 248 11. Chapter 687, relating to interest and usurious  
 249 practices.  
 250 12. Section 721.08, s. 721.09, or s. 721.13, relating to  
 251 real estate timeshare plans.  
 252 13. Chapter 782, relating to homicide.  
 253 14. Chapter 784, relating to assault and battery.  
 254 15. Chapter 787, relating to kidnapping or human  
 255 trafficking.  
 256 16. Chapter 790, relating to weapons and firearms.  
 257 17. Former s. 796.03, s. 796.04, s. 796.05, or s. 796.07,  
 258 relating to prostitution.  
 259 18. Chapter 806, relating to arson.  
 260 19. Section 810.02(2)(c), relating to specified burglary of  
 261 a dwelling or structure.

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262 20. Chapter 812, relating to theft, robbery, and related  
 263 crimes.  
 264 21. Chapter 815, relating to computer-related crimes.  
 265 22. Chapter 817, relating to fraudulent practices, false  
 266 pretenses, fraud generally, and credit card crimes.  
 267 23. Section 827.071, relating to commercial sexual  
 268 exploitation of children.  
 269 24. Chapter 831, relating to forgery and counterfeiting.  
 270 25. Chapter 832, relating to issuance of worthless checks  
 271 and drafts.  
 272 26. Section 836.05, relating to extortion.  
 273 27. Chapter 837, relating to perjury.  
 274 28. Chapter 838, relating to bribery and misuse of public  
 275 office.  
 276 29. Chapter 843, relating to obstruction of justice.  
 277 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
 278 s. 847.07, relating to obscene literature and profanity.  
 279 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.  
 280 849.25, relating to gambling.  
 281 32. Chapter 893, relating to drug abuse prevention and  
 282 control.  
 283 33. Section 914.22 or s. 914.23, relating to witnesses,  
 284 victims, or informants.  
 285 34. Section 918.12, s. 918.125, or s. 918.13, relating to  
 286 tampering with or harassing court officials, retaliating against  
 287 court officials, jurors and tampering with evidence.  
 288 Section 6. Paragraph (a) of subsection (8) of section  
 289 895.02, Florida Statutes, is amended to read:  
 290 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

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291 (8) "Racketeering activity" means to commit, to attempt to  
 292 commit, to conspire to commit, or to solicit, coerce, or  
 293 intimidate another person to commit:

294 (a) Any crime that is chargeable by petition, indictment,  
 295 or information under the following provisions of the Florida  
 296 Statutes:

297 1. Section 104.155(2), relating to aiding or soliciting a  
 298 noncitizen in voting.

299 2. Section 210.18, relating to evasion of payment of  
 300 cigarette taxes.

301 3. Section 316.1935, relating to fleeing or attempting to  
 302 elude a law enforcement officer and aggravated fleeing or  
 303 eluding.

304 4. Chapter 379, relating to the illegal sale, purchase,  
 305 collection, harvest, capture, or possession of wild animal life,  
 306 freshwater aquatic life, or marine life, and related crimes.

307 5. Section 403.727(3)(b), relating to environmental  
 308 control.

309 6. Section 409.920 or s. 409.9201, relating to Medicaid  
 310 fraud.

311 7. Section 414.39, relating to public assistance fraud.

312 8. Section 440.105 or s. 440.106, relating to workers'  
 313 compensation.

314 9. Section 443.071(4), relating to creation of a fictitious  
 315 employer scheme to commit reemployment assistance fraud.

316 10. Section 465.0161, relating to distribution of medicinal  
 317 drugs without a permit as an Internet pharmacy.

318 11. Section 499.0051, relating to crimes involving  
 319 contraband, adulterated, or misbranded drugs.

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320 12. Part IV of chapter 501, relating to telemarketing.

321 13. Chapter 517, relating to sale of securities and  
 322 investor protection.

323 14. Section 550.235 or s. 550.3551, relating to dogracing  
 324 and horseracing.

325 15. Chapter 550, relating to jai alai frontons.

326 16. Section 551.109, relating to slot machine gaming.

327 17. Chapter 552, relating to the manufacture, distribution,  
 328 and use of explosives.

329 18. Chapter 560, relating to money transmitters, if the  
 330 violation is punishable as a felony.

331 19. Chapter 562, relating to beverage law enforcement.

332 20. Section 624.401, relating to transacting insurance  
 333 without a certificate of authority, s. 624.437(4)(c)1., relating  
 334 to operating an unauthorized multiple-employer welfare  
 335 arrangement, or s. 626.902(1)(b), relating to representing or  
 336 aiding an unauthorized insurer.

337 21. Section 655.50, relating to reports of currency  
 338 transactions, when such violation is punishable as a felony.

339 22. Chapter 687, relating to interest and usurious  
 340 practices.

341 23. Section 721.08, s. 721.09, or s. 721.13, relating to  
 342 real estate timeshare plans.

343 24. Section 775.13(5)(b), relating to registration of  
 344 persons found to have committed any offense for the purpose of  
 345 benefiting, promoting, or furthering the interests of a criminal  
 346 gang.

347 25. Section 777.03, relating to commission of crimes by  
 348 accessories after the fact.

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349 26. Chapter 782, relating to homicide.  
 350 27. Chapter 784, relating to assault and battery.  
 351 28. Chapter 787, relating to kidnapping, human smuggling,  
 352 or human trafficking.  
 353 29. Chapter 790, relating to weapons and firearms.  
 354 30. Chapter 794, relating to sexual battery, but only if  
 355 such crime was committed with the intent to benefit, promote, or  
 356 further the interests of a criminal gang, or for the purpose of  
 357 increasing a criminal gang member's own standing or position  
 358 within a criminal gang.  
 359 31. Former s. 796.03, former s. 796.035, s. 796.04, s.  
 360 796.05, or s. 796.07, relating to prostitution.  
 361 32. Chapter 806, relating to arson and criminal mischief.  
 362 33. Chapter 810, relating to burglary and trespass.  
 363 34. Chapter 812, relating to theft, robbery, and related  
 364 crimes.  
 365 35. Chapter 815, relating to computer-related crimes.  
 366 36. Chapter 817, relating to fraudulent practices, false  
 367 pretenses, fraud generally, credit card crimes, and patient  
 368 brokering.  
 369 37. Chapter 825, relating to abuse, neglect, or  
 370 exploitation of an elderly person or disabled adult.  
 371 38. Section 827.071, relating to commercial sexual  
 372 exploitation of children.  
 373 39. Section 828.122, relating to fighting or baiting  
 374 animals.  
 375 40. Chapter 831, relating to forgery and counterfeiting.  
 376 41. Chapter 832, relating to issuance of worthless checks  
 377 and drafts.

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378 42. Section 836.05, relating to extortion.  
 379 43. Chapter 837, relating to perjury.  
 380 44. Chapter 838, relating to bribery and misuse of public  
 381 office.  
 382 45. Chapter 843, relating to obstruction of justice.  
 383 46. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
 384 s. 847.07, relating to obscene literature and profanity.  
 385 47. Chapter 849, relating to gambling, lottery, gambling or  
 386 gaming devices, slot machines, or any of the provisions within  
 387 that chapter.  
 388 48. Chapter 874, relating to criminal gangs.  
 389 49. Chapter 893, relating to drug abuse prevention and  
 390 control.  
 391 50. Chapter 896, relating to offenses related to financial  
 392 transactions.  
 393 51. Sections 914.22 and 914.23, relating to tampering with  
 394 or harassing a witness, victim, or informant, and retaliation  
 395 against a witness, victim, or informant.  
 396 52. Sections 918.12, 918.125, and 918.13, relating to  
 397 tampering with or harassing court official, retaliating against  
 398 court officials, ~~jurors~~ and tampering with evidence.  
 399 Section 7. Paragraph (d) of subsection (3) of section  
 400 921.0022, Florida Statutes, is amended to read:  
 401 921.0022 Criminal Punishment Code; offense severity ranking  
 402 chart.—  
 403 (3) OFFENSE SEVERITY RANKING CHART  
 404 (d) LEVEL 4  
 405

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	Florida	Felony	
	Statute	Degree	Description
406	104.155	3rd	Unqualified noncitizen electors voting; aiding or soliciting noncitizen electors in voting.
407	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.
408	499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
409	499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
410			

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	517.07(1)	3rd	Failure to register securities.
411	517.12(1)	3rd	Failure of dealer or associated person of a dealer of securities to register.
412	784.031	3rd	Battery by strangulation.
413	784.07(2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
414	784.074(1) (c)	3rd	Battery of sexually violent predators facility staff.
415	784.075	3rd	Battery on detention or commitment facility staff.
416	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
417			

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	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
418			
	784.081 (3)	3rd	Battery on specified official or employee.
419			
	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
420			
	784.083 (3)	3rd	Battery on code inspector.
421			
	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
422			
	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
423			
	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

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424	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
425			
	787.07	3rd	Human smuggling.
426			
	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
427			
	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
428			
	790.115 (2) (c)	3rd	Possessing firearm on school property.
429			
	794.051 (1)	3rd	Indecent, lewd, or lascivious touching of certain minors.
430			
	800.04 (7) (c)	3rd	Lewd or lascivious

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431			exhibition; offender less than 18 years.
	806.135	2nd	Destroying or demolishing a memorial or historic property.
432			
	810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
433			
	810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
434			
	810.06	3rd	Burglary; possession of tools.
435			
	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
436			
	810.145(3)(b)	3rd	Digital voyeurism dissemination.

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

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438	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
	812.014 (2)(c)4. & 6.-10.	3rd	Grand theft, 3rd degree; specified items.
439			
	812.014(2)(d)2.	3rd	Grand theft, 3rd degree; \$750 or more taken from dwelling or its unenclosed curtilage.
440			
	812.014(2)(e)3.	3rd	Petit theft, 1st degree; less than \$40 taken from dwelling or its unenclosed curtilage with two or more prior theft convictions.
441			
	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
442			
	817.505(4)(a)	3rd	Patient brokering.
443			
	817.563(1)	3rd	Sell or deliver substance other than

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controlled substance  
agreed upon, excluding  
s. 893.03(5) drugs.

444

817.568(2)(a)

3rd

Fraudulent use of  
personal identification  
information.

445

817.5695(3)(c)

3rd

Exploitation of person  
65 years of age or  
older, value less than  
\$10,000.

446

817.625(2)(a)

3rd

Fraudulent use of  
scanning device,  
skimming device, or  
reencoder.

447

817.625(2)(c)

3rd

Possess, sell, or  
deliver skimming device.

448

828.125(1)

2nd

Kill, maim, or cause  
great bodily harm or  
permanent breeding  
disability to any  
registered horse or  
cattle.

449

836.14(2)

3rd

Person who commits theft

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20251838c1

of a sexually explicit  
image with intent to  
promote it.

450

836.14(3)

3rd

Person who willfully  
possesses a sexually  
explicit image with  
certain knowledge,  
intent, and purpose.

451

837.02(1)

3rd

Perjury in official  
proceedings.

452

837.021(1)

3rd

Make contradictory  
statements in official  
proceedings.

453

838.022

3rd

Official misconduct.

454

839.13(2)(a)

3rd

Falsifying records of an  
individual in the care  
and custody of a state  
agency.

455

839.13(2)(c)

3rd

Falsifying records of  
the Department of  
Children and Families.

456

843.021

3rd

Possession of a

Page 22 of 25

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

	591-02566-25		20251838c1
			concealed handcuff key by a person in custody.
457	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
458	843.15(1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
459	843.19(2)	2nd	Injure, disable, or kill police, fire, or SAR canine or police horse.
460	847.0135(5) (c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
461	870.01(3)	2nd	Aggravated rioting.
462	870.01(5)	2nd	Aggravated inciting a riot.
463			

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	591-02566-25		20251838c1
	874.05(1) (a)	3rd	Encouraging or recruiting another to join a criminal gang.
464	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).
465	914.14(2)	3rd	Witnesses accepting bribes.
466	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
467	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
468	916.1085 (2) (c)1.	3rd	Introduction of specified contraband into certain DCF facilities.
469	<del>918.12</del>	<del>3rd</del>	<del>Tampering with jurors.</del>
470			

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



591-02566-25 20251838c1

471 934.215 3rd Use of two-way  
communications device to  
facilitate commission of  
a crime.

472 944.47(1)(a)6. 3rd Introduction of  
contraband (cellular  
telephone or other  
portable communication  
device) into  
correctional  
institution.

473 951.22(1)(h), 3rd Intoxicating drug,  
474 (j) & (k) instrumentality or other  
device to aid escape, or  
cellular telephone or  
other portable  
communication device  
introduced into county  
detention facility.

Section 8. This act shall take effect October 1, 2025.

**COMMITTEE:** Appropriations Committee on Criminal and Civil Justice  
**ITEM:** CS/SB 1838  
**FINAL ACTION:** Favorable  
**MEETING DATE:** Tuesday, April 15, 2025  
**TIME:** 12:30—4:00 p.m.  
**PLACE:** 37 Senate Building

[illegible]

CODES: FAV=Favorable  
UNF=Unfavorable  
-R=Reconsidered

RCS=Replaced by Committee Substitute  
RE=Replaced by Engrossed Amendment  
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed  
VA=Vote After Roll Call  
VC=Vote Change After Roll Call

WD=Withdrawn  
OO=Out of Order  
AV=Abstain from Voting



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Criminal Justice, *Chair*  
Appropriations Committee on Criminal and Civil  
Justice, *Chair*  
Appropriations  
Appropriations Committee on Transportation,  
Tourism, and Economic Development  
Banking and Insurance  
Rules  
Transportation

### SENATOR JONATHAN MARTIN

33rd District

March 20, 2025

Chair Garcia  
Appropriations Committee on Criminal and Civil Justice  
201 The Capitol  
404 South Monroe Street  
Tallahassee, FL 32399

### RE: SB 1838 Tampering with, Harassing, or Retaliating Against Court Officials

Dear Chair Garcia,

Please allow this letter to serve as my respectful request to place SB 1838 Tampering With, Harassing, or Retaliating Against Court Officials.

SB 1084 provides criminal penalties for persons who sexually cyberharass other persons with specified intent or purpose; authorizing an aggrieved person to initiate a civil action to recover punitive damages; providing time limitations for commencing prosecution for violations of sexual cyberharassment.

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

#### 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)

**BEN ALBRITTON**  
President of the Senate

**JASON BRODEUR**  
President Pro Tempore



4/15/25

Meeting Date

CCJ Approps.

Committee

Name

Lisa Hurley

Phone

8502245081

Address

311 E. Park Ave.

Email

lhurley@sbmpartners.com

Street

Tallahassee

Florida

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:

Family Law Section, Florida Bar

☐

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  
**APPEARANCE RECORD**

1838

Bill Number or Topic

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

Amendment Barcode (if applicable)

April 15 2025

Meeting Date

Approp Criminal and Civil Justice

Committee

The Florida Senate

## APPEARANCE RECORD

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

1838

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jennifer Cook Pritt**

Phone **850-219-3631**

Address **2636 Mitcham Drive**

Email **jpritt@fpca.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:

**Florida Police Chiefs 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.

S-001 (08/10/2021)

The Florida Senate  
**APPEARANCE RECORD**

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

4/15/25  
Meeting Date

CT APPROP  
Committee

1838  
Bill Number or Topic

Amendment Barcode (if applicable)

Name AARON WAYT Phone (407) 435-3194  
FL ASSN OF CRIMINAL DEF LAWYERS

Address \_\_\_\_\_ Email \_\_\_\_\_  
Street

\_\_\_\_\_  
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)

**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.)

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

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BILL: CS/SB 1838

INTRODUCER: Criminal Justice Committee and Senator Martin

SUBJECT: Tampering With, Harassing, or Retaliating Against Court Officials

DATE: April 14, 2025

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>                    </u>	<u>                    </u>	<u>FP</u>	<u>                    </u>

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1838 amends various laws relating to tampering with, harassing, or retaliating against court officials. Specifically, the bill:

- Amends s. 836.12, F.S., to define the term “administrative assistant” to mean a court employee assigned to the office of a general or special magistrate or child support enforcement hearing officer. The bill adds general magistrates, special magistrates, child support enforcement hearing officers, and administrative assistants, to the list of specified persons that a person may not threaten with death or serious bodily harm or harass with intent to intimidate or coerce the person or refrain from performing his or her lawful duty.
- Creates s. 918.115, F.S., to define the terms “administrative assistant,” “bodily injury,” “court official,” “harass,” “judicial assistant,” “misleading conduct,” “official investigation,” “official proceeding,” and “physical force.”
- Amends s. 918.12, F.S., to provide criminal penalties for persons who knowingly and willfully tamper or harass specified court personnel.

The bill may have a positive indeterminate fiscal impact (unquantifiable increase in prison and jail beds) on the Department of Corrections and local jails. See Section V., Fiscal Impact Statement.

The bill takes effect on October 1, 2025.



## II. Present Situation:

### **Tampering**

Under the Constitution and Federal law, our government vests in judges, prosecutors, and law enforcement officers the power to make decisions of enormous consequence. Because of the importance of their work, these public servants face unique risks to their safety and the safety of their families. Some who face or have received an adverse judicial decision have sought to intimidate or punish judges and prosecutors with threats of harm. Moreover, judges, prosecutors, and law enforcement officers are symbols within our communities of law and order and may be targeted for that reason alone. And at times, family members of public servants have become victims.<sup>1</sup> Several states have enacted legislation to address a surge in both threats and actual acts of violence against judges and judicial personnel across America.<sup>2</sup>

### ***Jury Tampering***

Section 918.12, F.S., provides that any person who influences the judgment or decision of any grand or petit juror on any matter, question, cause, or proceeding which may be pending, or which may by law be brought, before him or her as such juror, with intent to obstruct the administration of justice, commits a third degree felony.

### ***Witness Tampering***

Witness tampering, as defined under s. 914.22, F.S., involves various actions designed to influence a witness, victim, or informant. This can include using intimidation or physical force, making threats, or engaging in misleading behavior to alter a witness's testimony or cooperation with law enforcement. The statute is broad, covering a wide range of conduct aimed at interfering with the judicial process.<sup>3</sup>

Section 914.22, F.S., provides that a person who knowingly uses intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct toward another person, or offers pecuniary benefit or gain to another person, with intent to cause or induce any person to:

- Withhold testimony, or withhold a record, document, or other object, from an official investigation or official proceeding;
- Alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official investigation or official proceeding;

---

<sup>1</sup> Federal Register, *Protecting Law Enforcement Officers, Judges, Prosecutors, and Their Families*, Executive Order 13977 of January 18, 2021, available at <https://www.federalregister.gov/documents/2021/01/22/2021-01635/protecting-law-enforcement-officers-judges-prosecutors-and-their-families> (last visited March 15, 2025).

<sup>2</sup> National Center for State Courts, *NCSC supports new legislation to protect state court judges from escalating threats*, available at <https://www.ncsc.org/newsroom/at-the-center/2024/ncsc-supports-new-legislation-to-protect-state-court-judges-from-escalating-threats> (last visited March 15, 2025).

<sup>3</sup> Meltzer & Bell, P.A., *Understanding FSS 914.22: Florida's Witness Tampering Law Explained* available at <https://www.meltzerandbell.com/news/understanding-fss-914-22-floridas-witness-tampering-law-explained/#:~:text=Witness%20tampering%2C%20as%20defined%20under,can%20fall%20under%20this%20statute> (last visited March 14, 2025).

- Evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official investigation or an official proceeding;
- Be absent from an official proceeding to which such person has been summoned by legal process;
- Hinder, delay, or prevent the communication to a law enforcement officer or judge of information relating to the commission or possible commission of an offense or a violation of a condition of probation, parole, or release pending a judicial proceeding; or
- Testify untruthfully in an official investigation or an official proceeding, commits the crime of tampering with a witness, victim, or informant.<sup>4</sup>

Tampering with a witness, victim, or informant is a:

- Third degree felony where the official investigation or official proceeding affected involves the investigation or prosecution of a misdemeanor.
- Second degree felony where the official investigation or official proceeding affected involves the investigation or prosecution of a third degree felony.
- First degree felony where the official investigation or official proceeding affected involves the investigation of a second degree felony.
- First degree felony punishable by a term of years not exceeding life where the official investigation or official proceeding affected involves the investigation or prosecution of a first degree felony or first degree felony punishable by a term of years not exceeding life.
- Life felony where the official investigation or official proceeding affected involves the investigation or prosecution of a life or capital felony.
- Third degree felony where the offense level of the affected official investigation or official proceeding involves a noncriminal investigation or proceeding.<sup>5</sup>

A person who intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from:

- Attending or testifying in an official proceeding involves a noncriminal investigation or proceeding.
- Reporting to a law enforcement officer or judge the commission or possible commission of an offense or a violation of a condition of probation, parole, or release pending a judicial proceeding;
- Arresting or seeking the arrest of another person in connection with an offense; or
- Causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or from assisting in such prosecution or proceeding, or attempts to do so, commits the crime of harassing a witness, victim, or informant.<sup>6</sup>

Harassing a witness, victim or informant is a:

- First degree misdemeanor where the official investigation or official proceeding affected involves the investigation or prosecution of a misdemeanor.
- Third degree felony where the official investigation or official proceeding affected involves the investigation or prosecution of a third degree felony.

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<sup>4</sup> Section 914.22(1), F.S.

<sup>5</sup> Section 914.22(2), F.S.

<sup>6</sup> Section 914.22(3), F.S.

- Second degree felony where the official investigation or official proceeding affected involves the investigation or prosecution of a second degree felony.
- First degree felony where the official investigation or official proceeding affected involves the investigation or prosecution of first degree felony.
- First degree felony punishable by a term of years not exceeding life where the official investigation or official proceeding affected involves the investigation or prosecution of a felony of the first degree punishable by a term of years not exceeding life or a prosecution of a life or capital felony.
- Third degree felony where the offense level of the affected official investigation or official proceeding is indeterminable or where the affected official investigation or official proceeding involves a noncriminal investigation or proceeding.<sup>7</sup>

### **Obstruction of Justice**

Obstruction of justice is a criminal offense that occurs when someone willfully interferes with the legal system's ability to carry out its functions. This charge covers a range of unlawful acts intended to disrupt or obstruct investigations, trials, or other legal proceedings. For instance, actions such as tampering with evidence, lying to law enforcement, bribing a witness, or threatening a judge or juror can all be considered obstruction.<sup>8</sup>

Under ch. 843, F.S., obstruction of justice charges apply to actions that deliberately interfere with a legally authorized person in the lawful execution of his or her duty. This includes obstructing police officers as well as any other peace officer, correctional officer, correctional probation officer, and even members of the Florida Highway Patrol and other governmental agencies.<sup>9</sup>

A person who knowingly and willfully resists, obstructs, or opposes any officer, member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission; parole and probation supervisor; county probation officer; personnel or representative of the Department of Law Enforcement; or other person legally authorized to execute process in the execution of legal process or in the lawful execution of any legal duty, by offering or doing violence to the person of such officer or legally authorized person, commits a felony commits a third degree felony.<sup>10</sup>

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

The bill amends several laws relating to tampering with, harassing, or retaliating against court officials.

The bill amends s. 836.12, F.S., to define the term “administrative assistant” to mean a court employee assigned to the office of a general or special magistrate or child support enforcement hearing officer.

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<sup>7</sup> Section 914.22(4), F.S.

<sup>8</sup> Buda Law, *What is Obstruction of Justice In Florida*, November 11, 2024, available at <https://budalaw.com/blog/2024/november/what-is-obstruction-of-justice-in-florida/> (last visited March 14, 2025).

<sup>9</sup> *Id.*

<sup>10</sup> Section 843.01(1), F.S.

The bill adds general magistrates, special magistrates, child support enforcement hearing officers, administrative assistants, to the list of specified persons that a person may not threaten with death or serious bodily harm or harass with intent to intimidate or coerce the person or refrain from performing his or her lawful duty.

The bill creates s. 918.115, F.S., to define:

- “Administrative assistant” to mean a court employee assigned to the office of a specific general or special magistrate or a child support enforcement hearing officer.
- “Bodily injury” to mean a cut, an abrasion, a bruise, a burn, or a disfigurement; physical pain; illness; impairment of the function of a bodily member, an organ, or a mental faculty; or any other injury to the body, regardless of how temporary.
- “Court official” to mean any judge, justice, general magistrate, special magistrate, grand juror, petit juror, clerk of the court, deputy clerk of the court, judicial assistant, administrative assistant, attorney, child support enforcement hearing officer, bailiff, or court deputy.
- “Harass” to mean to engage in a course of conduct directed at a specific person which causes substantial emotional distress in that person and serves no legitimate purpose.
- “Judicial assistant” to mean a court employee assigned to the office of a specific judge or justice responsible for providing administrative, secretarial, or clerical support to the assigned judge or justice.
- “Misleading conduct” to mean any of the following:
  - Knowingly making a false statement.
  - Intentionally omitting information from a statement and thereby causing a portion of such statement to be misleading, or intentionally concealing a material fact and thereby creating a false impression by such statement.
  - With the intent to mislead, knowingly submitting or inviting reliance on a writing or recording that is false, forged, altered, or otherwise lacking in authenticity.
  - With the intent to mislead, knowingly submitting or inviting reliance on a sample, specimen, map, photograph, boundary mark, or other object that is misleading in a material respect.
  - Knowingly using a trick, scheme, or device with the intent to mislead.
- “Official investigation” to mean any investigation instituted by a law enforcement agency or prosecuting officer of the state or a political subdivision of the state or by the Commission on Ethics.
- “Official proceeding” to mean any proceeding before a judge or court or a grand jury.
- “Physical force” to mean physical action against another person and includes confinement of a person.

The bill amends s. 918.12, F.S., to provide criminal penalties for persons who knowingly and willfully threaten specified court personnel.

### ***Tampering with a Court Official***

A person who knowingly commits any of the following acts with the intent to cause or induce any court official to obstruct the administration of justice or affect the outcome of an official investigation or official proceeding, commits the crime of tampering with a court official:

- Uses intimidation or physical force;
- Threatens any person, or attempts to do so;
- Engages in misleading conduct toward any person; or
- Offers pecuniary benefit or gain to any person.

The penalty for tampering with a court official is a:

- Third degree felony if the offense level of the affected official investigation or official proceeding is indeterminable.
- Third degree felony if the official investigation or official proceeding affected involves the investigation or prosecution of a misdemeanor or any noncriminal matter pending in county court.
- Second degree felony if the official investigation or official proceeding affected involves the investigation or prosecution of a third degree felony or any noncriminal matter pending in circuit court.
- First degree felony if the official investigation or official proceeding affected involves the investigation or prosecution of a second degree felony.
- First degree felony, punishable by a term of years not exceeding life, if the official investigation or official proceeding affected involves the investigation or prosecution of a first degree felony or a first degree felony punishable by a term of years not exceeding life.
- Life felony, if the official investigation or official proceeding affected involved the investigation or prosecution of a life or capital felony.

### *Harassing a Court Official*

A person who intentionally harasses a court official and thereby hinders, delays, prevents, or dissuades, or attempts to hinder, delay, prevent, or dissuade a court official from performing any of the following acts commits the crime of harassing a court official:

- Attending an official proceeding;
- Rendering a fair verdict based solely upon the evidence produced at an official proceeding and the law; or
- Following the rules of juror behavior and deliberation as set forth by the judge.

The penalty for harassment of a court official is a:

- First degree misdemeanor, if the official investigation or official proceeding affected involves the investigation or prosecution of misdemeanor or any noncriminal matter pending in county court.
- Third degree felony, if the offense level of the affected official investigation or official proceeding is indeterminable.
- Third degree felony, if the official investigation or official proceeding affected involves the investigation or prosecution of a felony of the third degree or any noncriminal matter pending in circuit court.
- Second degree felony, if the official investigation or official proceeding affected involves the investigation or prosecution of a second degree felony.
- First degree felony, if the official investigation or official proceeding affected involves the investigation or prosecution of a first degree felony.

- First degree felony, punishable by a term of years not exceeding life, if the official investigation or official proceeding affected involves the investigation or prosecution of a first degree felony punishable by a term of years not exceeding life or a prosecution of a life or capital felony.

### ***Retaliation against a Court Official***

The bill creates s. 918.125, F.S., to prohibit specified conduct with retaliatory intent towards court officials. A person who, with the intent to retaliate against a court official for his or her participation in an official investigation or official proceeding, commits a third degree felony if he or she:

- Knowingly engages in any conduct that threatens to cause bodily injury to another person; or
- Damages the tangible property of another person or threatens to do so.

If such conduct results in bodily injury, such person commits a second degree felony.

The bill provides conforming changes to ss. 772.102 and 895.02, F.S.

The bill amends s. 921.0022, F.S., of the criminal punishment code to remove s. 918.12, F.S., as a level 4 offense in the offense severity ranking chart.

The bill takes effect on October 1, 2025.

## **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.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has provided a preliminary estimate that the bill may have a positive indeterminate prison bed impact on the Department of Corrections. The EDR provides:

- Per FDLE, in FY 23-24, there were 527 arrests for misdemeanor harassment and 23 arrests for felony harassment under s. 836.12, F.S., with 339 misdemeanor guilty/convicted charges and 3 felony guilty/convicted charges, as well as 54 misdemeanor adjudication withheld charges and no felony adjudication withheld charges. It is not known how many additional offenders would be added with the expanded list of potential victims.
- Per FDLE, in FY 23-24, there were three arrests for tampering with jurors under s. 918.12, F.S., with no guilty/convicted or adjudication withheld charges. It is not known how many additional offenders would be added with the new language, nor is it known how much the new felonies for harassment under s. 918.12, F.S. would overlap with the current harassment offenders under s. 836.12, F.S.
- Per DOC, there were no new commitments to prison under s. 836.12, F.S. or under s. 918.12, F.S.<sup>11</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 918.12, 772.102, 895.02, and 921.002.

This bill creates the following sections of the Florida Statutes: 918.125 and 918.21.

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<sup>11</sup> Office of Economic and Demographic Research CS/SB 1838 – Tampering With, Harassing, or Retaliating Against Court Officials, (on file with the Senate Appropriations Committee on Criminal and Civil 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 Committee on March 18, 2025:**

The committee substitute:

- Defines the terms “administrative assistant”, “bodily injury”, “court official”, “harass”, “judicial assistant”, “misleading conduct”, “official investigation”, “official preceding”, and “physical force.”
- Revises the language to include general and special magistrates, child support enforcement hearing officers, and administrative assistants to the list of individuals who a person may not threaten or harass.
- Revises the definition of “court officials”, to include administrative assistants, general and special magistrates, and child support enforcement hearing officers.
- Removes the language providing that no state of mind be proven in the prosecution of an offense for tampering or harassing a court official under certain circumstances.

- B. **Amendments:**

None.





## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Judiciary, *Chair*  
Appropriations Committee on Criminal and Civil Justice  
Appropriations Committee on Pre-K - 12 Education  
Commerce and Tourism  
Criminal Justice  
Education Pre-K - 12  
Fiscal Policy

### JOINT COMMITTEE:

Joint Administrative Procedures Committee

### SENATOR CLAY YARBOROUGH

4th District

April 14, 2025

Senator Ileana Garcia  
314 Senate Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Chair Garcia,

I respectfully request an early excusal at 3:00 p.m. from the Tuesday, April 15, 2025,  
Appropriations Committee on Criminal and Civil Justice.

Thank you for your consideration of this request.

Regards,

A handwritten signature in blue ink that reads "Clay Yarborough". The signature is fluid and cursive, with a long horizontal stroke at the end.

Clay Yarborough

### REPLY TO:

- ☐ 1615 Huffingham Road, Suite 1, Jacksonville, Florida 32216 (904) 723-2034
- ☐ 308 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5004

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**BEN ALBRITTON**  
President of the Senate

**JASON BRODEUR**  
President Pro Tempore

# CourtSmart Tag Report

**Room:** SB 37

**Case No.:**

**Type:**

**Caption:** Senate Appropriations Committee on Criminal and Civil Justice

**Judge:**

**Started:** 4/15/2025 12:33:20 PM

**Ends:** 4/15/2025 2:03:55 PM

**Length:** 01:30:36

12:33:20 PM Sen. Garcia (Chair)  
12:34:13 PM S 468  
12:34:16 PM Sen. Collins  
12:34:55 PM Sen. Garcia  
12:35:05 PM Sam Wagnoner (waive in support)  
12:35:32 PM William B. Smith, Florida PBA (waives in support)  
12:35:46 PM Captain Antorrio Wright, Orange County Sheriff's Association (waives in support)  
12:36:04 PM S 1136  
12:36:27 PM Sen. Collins  
12:37:22 PM Sen. Garcia  
12:37:23 PM Am. 467116  
12:37:26 PM Sen. Collins  
12:38:03 PM Sen. Garcia  
12:38:20 PM S 1136 (cont.)  
12:38:31 PM Captain Antorrio Wright, Orange County Sheriff's Association (waives in support)  
12:38:36 PM Allie McNair, Florida Sheriffs Association (waives in support)  
12:38:37 PM Jennifer Cook Pritt, Florida Police Chiefs Association (waives in support)  
12:39:19 PM S 1444  
12:39:20 PM Sen. Collins  
12:40:29 PM Sen. Garcia  
12:40:36 PM Am. 633166  
12:40:48 PM Am. 130156  
12:40:51 PM Sen. Collins  
12:42:38 PM S 1444 (cont.)  
12:44:05 PM Aaron Wayt, Florida Association Criminal Defense Lawyers  
12:44:10 PM Sen. Garcia  
12:44:13 PM William B. Smith (waives in support)  
12:44:19 PM Allie McNair, Florida Sheriffs Association (waives in support)  
12:44:24 PM Chip Denmark, Orange County Sheriffs Office (waives in support)  
12:44:41 PM Jennifer Cook Pritt, Florida Police Chiefs Association (waives in support)  
12:44:44 PM Sen. Collins  
12:44:55 PM Sen. Garcia  
12:45:28 PM S 1782  
12:45:40 PM Sen. Pizzo  
12:46:41 PM Sen. Garcia  
12:46:47 PM Sen. Pizzo  
12:47:51 PM Sen. Martin  
12:48:16 PM Sen. Pizzo  
12:48:42 PM Chip Denmark, Orange County Sheriffs Office (waives in support)  
12:48:49 PM Kaylee Peters, AARP (waives in support)  
12:48:53 PM William B. Smith, Florida PBA (waives in support)  
12:48:57 PM Britt Rutherford (waives in support)  
12:48:58 PM Sen. Wright  
12:49:25 PM Sen. Pizzo  
12:49:57 PM Sen. Garcia  
12:50:36 PM S 964  
12:50:42 PM Sen. Bernard  
12:51:26 PM Sen. Garcia  
12:51:30 PM Am. 347946  
12:51:35 PM Sen. Bernard  
12:51:55 PM Sen. Garcia  
12:51:56 PM S 964 (cont.)

12:51:59 PM Aaron Wayt, Florida Association of Criminal Defense Lawyers (waives in support)  
12:52:10 PM Connie Edson  
12:53:21 PM Sen. Garcia  
12:54:15 PM S 1450  
12:54:26 PM Sen. Burgess  
12:54:39 PM Sen. Garcia  
12:54:44 PM David Shepp, Polk County Sherrifs Office  
12:54:57 PM Aaron Wyatt, Florida Association Criminal Defense Lawyers (waives in support)  
12:55:38 PM S 612  
12:56:08 PM Sen. Burgess  
12:57:10 PM Sen. Garcia  
12:58:06 PM S 1838  
12:58:31 PM Sen. Martin  
12:59:15 PM Sen. Garcia  
12:59:17 PM Lisa Hurley, Family Law Section, Florida Bar (waives in support)  
12:59:26 PM Jennifer Cook Pritt, Florida Police Cheifs Association (waives in support)  
1:00:39 PM Aaron Wyatt, Florida Association of Criminal Lawyrs  
1:02:27 PM Sen. Garcia  
1:02:32 PM Sen. Martin  
1:03:21 PM Sen. Garcia  
1:03:54 PM S 776  
1:04:21 PM Sen. Ingoglia  
1:04:23 PM Sen. Garcia  
1:04:27 PM Sen. Rouson  
1:04:36 PM Sen. Ingoglia  
1:05:15 PM Sen. Garcia  
1:05:20 PM Joseph Harmon, Florida of Catholic Bishops (waives against)  
1:05:24 PM Sen. Ingoglia  
1:06:02 PM Sen. Garcia  
1:06:30 PM S 716  
1:06:36 PM Sen. Martin  
1:07:54 PM Thomas Williamson (waives in support)  
1:08:08 PM Hali Emerson (waives in support)  
1:08:08 PM ED. Bradford (waives in support)  
1:08:22 PM Belkis Rousado (waives in support)  
1:09:05 PM S 1804  
1:09:10 PM Sen. Martin  
1:10:24 PM Sen. Garcia  
1:10:28 PM Sen. Osgood  
1:10:43 PM Sen. Martin  
1:11:50 PM Sen. Osgood  
1:12:07 PM Sen. Martin  
1:12:22 PM Sen. Osgood  
1:12:26 PM Sen. Martin  
1:12:32 PM Sen. Garcia  
1:12:35 PM Am. 558694  
1:12:42 PM Sen. Martin  
1:13:24 PM Sen. Garcia  
1:13:29 PM S 1804 (cont.)  
1:14:09 PM Joseph Harman, Florida Conference of Catholic Bishops  
1:15:06 PM Taylor Kendall  
1:17:21 PM Grace Hanna, Floridians for Alternatives to the Death Penalty  
1:20:37 PM Aaron Wayt, Florida Association of Criminal Defence Lawyers  
1:23:42 PM Sen. Garcia  
1:23:47 PM Sen. Osgood  
1:27:15 PM Sen. Garcia  
1:27:19 PM Sen. Wright  
1:29:05 PM Sen. Ingoglia  
1:32:00 PM Sen. Garcia  
1:33:36 PM Sen. Martin  
1:41:47 PM Sen. Garcia  
1:42:21 PM S 1604

[illegible]