

Tab 1	CS/SB 468 by CJ, Collins ; Similar to CS/CS/H 00113 Fleeing or Attempting to Elude a Law Enforcement Officer				
Tab 2	CS/SB 612 by CJ, Burgess ; Similar to CS/H 00457 Murder				
Tab 3	CS/SB 716 by CJ, Martin ; Similar to CS/CS/H 01455 Sexual Offenses by Persons Previously Convicted of Sexual Offenses				
Tab 4	SB 776 by Ingoglia ; Identical to H 00653 Aggravating Factors for Capital Felonies				
Tab 5	SB 964 by Bernard ; Similar to CS/H 00181 Objective Parole Guidelines				
347946	D	S	ACJ, Bernard	Delete everything after	04/14 01:07 PM
Tab 6	CS/SB 1136 by CJ, Collins ; Similar to CS/1ST ENG/H 00777 Age as an Element of a Criminal Offense				
467116	A	S	ACJ, Collins	Delete L.33 - 206:	04/14 10:40 AM
Tab 7	CS/SB 1360 by CJ, Leek ; Similar to CS/H 00057 Controlled Substances				
Tab 8	CS/SB 1444 by CJ, Collins ; Compare to CS/CS/H 01371 Criminal Justice				
633166	A	S	ACJ, Collins	Delete L.70 - 223:	04/14 01:05 PM
Tab 9	CS/SB 1450 by CJ, Burgess ; Identical to CS/H 01099 Arrest and Detention of Individuals with Significant Medical Conditions				
Tab 10	CS/SB 1604 by CJ, Martin ; Similar to CS/CS/H 00903 Corrections				
317706	D	S	ACJ, Martin	Delete everything after	04/14 01:07 PM
Tab 11	CS/SB 1782 by TR, Pizzo ; Similar to CS/CS/H 00351 Dangerous Excessive Speeding				
Tab 12	SB 1804 by Martin ; Similar to CS/CS/H 01283 Capital Sex Trafficking				
558694	D	S	ACJ, Martin	Delete everything after	04/14 01:06 PM
Tab 13	CS/SB 1838 by CJ, Martin ; 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	CS/SB 468 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 FP
2	CS/SB 612 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 FP
3	CS/SB 716 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 FP
4	SB 776 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 FP

COMMITTEE MEETING EXPANDED AGENDAAppropriations 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	SB 964 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 FP
6	CS/SB 1136 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 FP
7	CS/SB 1360 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 FP
8	CS/SB 1444 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 FP
9	CS/SB 1450 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 RC

COMMITTEE MEETING EXPANDED AGENDAAppropriations 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	CS/SB 1604 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 FP
11	CS/SB 1782 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 FP
12	SB 1804 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 FP

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	CS/SB 1838 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 FP

Other Related Meeting Documents

By the Committee on Criminal Justice; and Senator Collins

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1 A bill to be entitled
 2 An act relating to fleeing or attempting to elude a
 3 law enforcement officer; amending s. 316.1935, F.S.;
 4 revising the law enforcement patrol vehicle marking
 5 requirements for specified offenses; authorizing the
 6 impoundment of a motor vehicle involved in certain
 7 violations for a specified period; specifying
 8 requirements for such impoundment; amending s.
 9 921.0022, F.S.; reclassifying offenses for purposes of
 10 the offense severity ranking chart of the Criminal
 11 Punishment Code; amending s. 921.0024, F.S.; providing
 12 a sentencing multiplier for specified offenses;
 13 providing an effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Subsections (2), (3), (4), and (7) of section
 18 316.1935, Florida Statutes, are amended, subsection (8) is added
 19 to that section, and subsection (1) of that section is
 20 republished, to read:

21 316.1935 Fleeing or attempting to elude a law enforcement
 22 officer; aggravated fleeing or eluding.—

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

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

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

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

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

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

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

61 (4) Any person who, in the course of unlawfully leaving or
62 attempting to leave the scene of a crash in violation of s.
63 316.027 or s. 316.061, having knowledge of an order to stop by a
64 duly authorized law enforcement officer, willfully refuses or
65 fails to stop in compliance with such an order, or having
66 stopped in knowing compliance with such order, willfully flees
67 in an attempt to elude such officer and, as a result of such
68 fleeing or eluding:

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

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

79
80 The felony of aggravated fleeing or eluding and the felony of
81 aggravated fleeing or eluding with serious bodily injury or
82 death constitute separate offenses for which a person may be
83 charged, in addition to the offenses under ss. 316.027 and
84 316.061, relating to unlawfully leaving the scene of a crash,
85 which the person had been in the course of committing or
86 attempting to commit when the order to stop was given.
87 Notwithstanding any other provision of law, the court shall

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

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

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

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

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

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

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

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

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

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

129 921.0022 Criminal Punishment Code; offense severity ranking
 130 chart.-

131 (3) OFFENSE SEVERITY RANKING CHART

132 (d) LEVEL 4
 133
 134

135

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

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138 ~~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.

139 499.0051(5) 2nd Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.

140 517.07(1) 3rd Failure to register securities.

141 517.12(1) 3rd Failure of dealer or associated person of a dealer of securities to register.

142 784.031 3rd Battery by strangulation.

143 784.07(2)(b) 3rd Battery of law enforcement officer, firefighter, etc.

144 784.074(1)(c) 3rd Battery of sexually violent predators facility staff.

145 784.075 3rd Battery on detention or commitment facility staff.

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146

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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154

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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163 810.02(4)(a) 3rd Burglary, or attempted
burglary, of an unoccupied
structure; unarmed; no assault
or battery.

164 810.02(4)(b) 3rd Burglary, or attempted
burglary, of an unoccupied
conveyance; unarmed; no assault
or battery.

165 810.06 3rd Burglary; possession of tools.

166 810.08(2)(c) 3rd Trespass on property, armed
with firearm or dangerous
weapon.

167 810.145(3)(b) 3rd Digital voyeurism
dissemination.

168 812.014(2)(c)3. 3rd Grand theft, 3rd degree \$10,000
or more but less than \$20,000.

169 812.014 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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170 812.014(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.

171 812.0195(2) 3rd Dealing in stolen property by
use of the Internet; property
stolen \$300 or more.

172 817.505(4)(a) 3rd Patient brokering.

173 817.563(1) 3rd Sell or deliver substance other
than controlled substance
agreed upon, excluding s.
893.03(5) drugs.

174 817.568(2)(a) 3rd Fraudulent use of personal
identification information.

175 817.5695(3)(c) 3rd Exploitation of person 65 years
of age or older, value less
than \$10,000.

176 817.625(2)(a) 3rd Fraudulent use of scanning
device, skimming device, or
reencoder.

177

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

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

179 836.14(2) 3rd Person who commits theft of a
sexually explicit image with
intent to promote it.

180 836.14(3) 3rd Person who willfully possesses
a sexually explicit image with
certain knowledge, intent, and
purpose.

181 837.02(1) 3rd Perjury in official
proceedings.

182 837.021(1) 3rd Make contradictory statements
in official proceedings.

183 838.022 3rd Official misconduct.

184 839.13(2)(a) 3rd Falsifying records of an
individual in the care and
custody of a state agency.

185

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

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

187 843.025 3rd Deprive law enforcement,
correctional, or correctional
probation officer of means of
protection or communication.

188 843.15(1)(a) 3rd Failure to appear while on bail
for felony (bond estreature or
bond jumping).

189 843.19(2) 2nd Injure, disable, or kill
police, fire, or SAR canine or
police horse.

190 847.0135(5)(c) 3rd Lewd or lascivious exhibition
using computer; offender less
than 18 years.

191 870.01(3) 2nd Aggravated rioting.

192 870.01(5) 2nd Aggravated inciting a riot.

193

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

194 893.13(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).

195 914.14(2) 3rd Witnesses accepting bribes.

196 914.22(1) 3rd Force, threaten, etc., witness, victim, or informant.

197 914.23(2) 3rd Retaliation against a witness, victim, or informant, no bodily injury.

198 916.1085 3rd Introduction of specified (2)(c)1. contraband into certain DCF facilities.

199 918.12 3rd Tampering with jurors.

200 934.215 3rd Use of two-way communications device to facilitate commission of a crime.

201 944.47(1)(a)6. 3rd Introduction of contraband

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

202 951.22(1)(h), 3rd Intoxicating drug, (j) & (k) instrumentality or other device to aid escape, or cellular telephone or other portable communication device introduced into county detention facility.

203 (e) LEVEL 5

204

205

206

207

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

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	(2) (a) &		statements, making false
	(3) (a)		entries of material fact or
			false statements regarding
			property values relating to the
			solvency of an insuring entity.
247	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.
248	817.611(2) (a)	2nd	Traffic in or possess 5 to 14
			counterfeit credit cards or
			related documents.
249	817.625(2) (b)	2nd	Second or subsequent fraudulent
			use of scanning device,
			skimming device, or reencoder.
250	825.1025(4)	3rd	Lewd or lascivious exhibition
			in the presence of an elderly
			person or disabled adult.
251	828.12(2)	3rd	Tortures any animal with intent

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

252 836.14(4) 2nd Person who willfully promotes
for financial gain a sexually
explicit image of an
identifiable person without
consent.

253 839.13(2)(b) 2nd Falsifying records of an
individual in the care and
custody of a state agency
involving great bodily harm or
death.

254 843.01(1) 3rd Resist officer with violence to
person; resist arrest with
violence.

255 847.0135(5)(b) 2nd Lewd or lascivious exhibition
using computer; offender 18
years or older.

256 847.0137 3rd Transmission of pornography by
(2) & (3) electronic device or equipment.

257 847.0138 3rd Transmission of material
(2) & (3) harmful to minors to a minor by

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electronic device or equipment.

258 874.05(1)(b) 2nd Encouraging or recruiting
another to join a criminal
gang; second or subsequent
offense.

259 874.05(2)(a) 2nd Encouraging or recruiting
person under 13 years of age to
join a criminal gang.

260 893.13(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).

261 893.13(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 (f) LEVEL 6

270

271

Florida Statute	Felony Degree	Description
316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
<u>316.1935(4)(a)</u>	<u>2nd</u>	<u>Aggravated fleeing or eluding.</u>
400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
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
 327 materials depicting minors.
 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
 333 bodily harm.
 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
 340 921.0024, Florida Statutes, is amended to read:
 341 921.0024 Criminal Punishment Code; worksheet computations;
 342 scoresheets.—
 343 (1)
 344 (b) WORKSHEET KEY:

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345
346 Legal status points are assessed when any form of legal status
347 existed at the time the offender committed an offense before the
348 court for sentencing. Four (4) sentence points are assessed for
349 an offender's legal status.

350
351 Community sanction violation points are assessed when a
352 community sanction violation is before the court for sentencing.
353 Six (6) sentence points are assessed for each community sanction
354 violation and each successive community sanction violation,
355 unless any of the following apply:

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

361 2. If the community sanction violation is committed by a
362 violent felony offender of special concern as defined in s.
363 948.06:

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

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

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

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

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

376
377 Multiple counts of community sanction violations before the
378 sentencing court shall not be a basis for multiplying the
379 assessment of community sanction violation points.

380
381 Prior serious felony points: If the offender has a primary
382 offense or any additional offense ranked in level 8, level 9, or
383 level 10, and one or more prior serious felonies, a single
384 assessment of thirty (30) points shall be added. For purposes of
385 this section, a prior serious felony is an offense in the
386 offender's prior record that is ranked in level 8, level 9, or
387 level 10 under s. 921.0022 or s. 921.0023 and for which the
388 offender is serving a sentence of confinement, supervision, or
389 other sanction or for which the offender's date of release from
390 confinement, supervision, or other sanction, whichever is later,
391 is within 3 years before the date the primary offense or any
392 additional offense was committed.

393
394 Prior capital felony points: If the offender has one or more
395 prior capital felonies in the offender's criminal record, points
396 shall be added to the subtotal sentence points of the offender
397 equal to twice the number of points the offender receives for
398 the primary offense and any additional offense. A prior capital
399 felony in the offender's criminal record is a previous capital
400 felony offense for which the offender has entered a plea of nolo
401 contendere or guilty or has been found guilty; or a felony in
402 another jurisdiction which is a capital felony in that

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

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

416
417 Sentencing multipliers:

418
419
420 Drug trafficking: If the primary offense is drug trafficking
421 under s. 893.135, the subtotal sentence points are multiplied,
422 at the discretion of the court, for a level 7 or level 8
423 offense, by 1.5. The state attorney may move the sentencing
424 court to reduce or suspend the sentence of a person convicted of
425 a level 7 or level 8 offense, if the offender provides
426 substantial assistance as described in s. 893.135(4).
427 Violent offenses committed against specified justice system
428 personnel: If the primary offense is a violation of s.
429 775.0823(2), (3), or (4), the subtotal sentence points are
430 multiplied by 2.5. If the primary offense is a violation of s.
431 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points

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

435
436 Grand theft of a motor vehicle: If the primary offense is grand
437 theft of the third degree involving a motor vehicle and, in the
438 offender's prior record, there are three or more grand thefts of
439 the third degree involving a motor vehicle, the subtotal
440 sentence points are multiplied by 1.5.

441
442 Fleeing or attempting to elude a law enforcement officer: If the
443 primary offense is fleeing or attempting to elude a law
444 enforcement officer or aggravated fleeing or eluding in
445 violation of s. 316.1935 and, in the offender's prior record,
446 there is one or more violations of s. 316.1935, the subtotal
447 sentence points are multiplied by 1.5.

448
449 Offense related to a criminal gang: If the offender is convicted
450 of the primary offense and committed that offense for the
451 purpose of benefiting, promoting, or furthering the interests of
452 a criminal gang as defined in s. 874.03, the subtotal sentence
453 points are multiplied by 1.5. If applying the multiplier results
454 in the lowest permissible sentence exceeding the statutory
455 maximum sentence for the primary offense under chapter 775, the
456 court may not apply the multiplier and must sentence the
457 defendant to the statutory maximum sentence.

458
459 Domestic violence in the presence of a child: If the offender is
460 convicted of the primary offense and the primary offense is a

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

466
467 Adult-on-minor sex offense: If the offender was 18 years of age
468 or older and the victim was younger than 18 years of age at the
469 time the offender committed the primary offense, and if the
470 primary offense was an offense committed on or after October 1,
471 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
472 violation involved a victim who was a minor and, in the course
473 of committing that violation, the defendant committed a sexual
474 battery under chapter 794 or a lewd act under s. 800.04 or s.
475 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
476 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
477 800.04; or s. 847.0135(5), the subtotal sentence points are
478 multiplied by 2.0. If applying the multiplier results in the
479 lowest permissible sentence exceeding the statutory maximum
480 sentence for the primary offense under chapter 775, the court
481 may not apply the multiplier and must sentence the defendant to
482 the statutory maximum sentence.

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

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 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>	Fav/CS
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	Pre-meeting
3.	_____	_____	<u>FP</u>	_____

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

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.¹

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.²

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.^{3,4}
- 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.^{5,6}

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

¹ 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.

² Section 316.1935(2), F.S.

³ Section 316.1935(3)(a), F.S.

⁴ 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.

⁵ Section 316.1935(3)(b), F.S.

⁶ 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.⁷
- 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.⁸

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.⁹

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.¹⁰

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."¹¹

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."¹² 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

⁷ Section 316.1935(4)(a), F.S.

⁸ Section 316.1935(4)(b), F.S.

⁹ 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).

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

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

¹² *Ellis v. State*, 258 So. 3d 491, 492-93 (Fla. 1st 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.¹³

Offense Severity Ranking Chart

Felony offenses which are subject to the Criminal Punishment Code¹⁴ 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.^{15,16} 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.¹⁷

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

¹³ *Id.* at 493.

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

¹⁵ Section 921.0022, F.S.

¹⁶ Section 921.0022(2), F.S.

¹⁷ 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.

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

By the Committee on Criminal Justice; and Senator Burgess

591-02842-25

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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.

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 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>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>FP</u>	_____

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

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.¹

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.

¹ 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.² 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.³

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;⁴
- 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.⁵

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

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

² 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).

³ 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).

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

⁵ Section 782.04(5)(a), F.S.

⁶ Section 782.04(1)(a)3., F.S.

⁷ 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.⁸

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.⁹ 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;¹⁰
 - When committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any specified offense;¹¹ 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.¹²
- Trafficking in specified controlled substances.¹³

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

⁸ Section 782.04(4)(l), F.S.

⁹ See Sections 921.141, 921.142, and 921.1425, F.S.

¹⁰ Section 782.04(1)(a)1., F.S.

¹¹ Section 782.04(1)(a)2., F.S.

¹² Section 794.011(2), F.S.

¹³ 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.¹⁴

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.¹⁵

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.

¹⁴ Section 775.082(1)(b)1., F.S.

¹⁵ 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.¹⁶

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:

¹⁶ 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.

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

By the Committee on Criminal Justice; and Senator Martin

591-02288-25 2025716c1

1 A bill to be entitled
 2 An act relating to sexual offenses by persons
 3 previously convicted of sexual offenses; creating s.
 4 794.0116, F.S.; providing mandatory minimum terms of
 5 imprisonment for specified sexual offenses when
 6 committed by registered sexual offenders or sexual
 7 predators; providing requirements for such sentences;
 8 providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Section 794.0116, Florida Statutes, is created
 13 to read:
 14 794.0116 Sexual offenses by registered sexual offenders or
 15 sexual predators; mandatory sentencing.-
 16 (1) A person who was previously convicted of or had
 17 adjudication withheld for any offense listed in s. 775.21 or s.
 18 943.0435 and commits a violation of s. 787.025(2)(c); s.
 19 794.011, excluding s. 794.011(10); s. 800.04(4) or (5); s.
 20 825.1025(2) or (3); s. 827.071; or s. 847.0145 shall be
 21 sentenced to a mandatory minimum term of imprisonment as
 22 follows:
 23
 24

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

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26 800.04(4) or (5) 10 years
 27 825.1025(2) or (3) 10 years
 28 827.071 (victims older 10 years
 29 than 12 years of age)
 30 827.071 (victim 12 years 20 years
 31 of age or younger)
 32 847.0145 10 years
 33
 34 (2) Notwithstanding s. 775.082(3), chapter 958, any other
 35 law, or any interpretation or construction thereof, a person
 36 subject to sentencing under this section must be sentenced to
 37 the mandatory term of imprisonment provided under this section.
 38 If the mandatory minimum term of imprisonment imposed under this
 39 section exceeds the maximum sentence authorized under s.
 40 775.082, s. 775.084, or chapter 921, the mandatory minimum term
 41 of imprisonment under this section must be imposed. If the
 42 mandatory minimum term of imprisonment under this section is
 43 less than the sentence that could be imposed under s. 775.082,
 44 s. 775.084, or chapter 921, the sentence imposed must include
 45 the mandatory minimum term of imprisonment under this section.
 46 (3) A defendant sentenced to a mandatory minimum term of
 47 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

591-02288-25

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

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

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 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>	Fav/CS
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	Pre-meeting
3.	_____	_____	<u>FP</u>	_____

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

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 1997.¹ 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.²

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.³ 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 statutes⁴ 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:⁵

¹ Sections 775.21 and 943.0435, F.S.

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

³ Sections 775.21 and 943.0435, F.S.

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

⁵ 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;⁶
- 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.⁷

A person is classified as a sexual offender if the person:⁸

- 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.⁹

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.¹⁰

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

⁶ 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.).

⁷ 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.

⁸ Section 943.0435, F.S.

⁹ 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).

¹⁰ 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,¹¹ 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.¹²

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.”¹³

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.¹⁴

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.¹⁵

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

¹¹ Section 800.04(5)(b), F.S.

¹² Section 775.082(3)(a)(4), F.S.

¹³ *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.”

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

¹⁵ 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.¹⁶

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.¹⁷

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.¹⁸

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.

¹⁶ Section 800.04(5)(a), F.S.

¹⁷ Section 800.04(5), F.S.

¹⁸ 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.¹⁹

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

¹⁹ 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.²⁰

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.²¹

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.²² 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.²³

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

²⁰ Section 921.0024, F.S.

²¹ *Id.*

²² 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).

²³ Sections 944.275(5) and 944.28, F.S.

²⁴ 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.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

²⁵ 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__

1 A bill to be entitled
2 An act relating to aggravating factors for capital
3 felonies; amending s. 921.141, F.S.; adding as an
4 aggravating factor that the capital felony was
5 committed against the head of a state, or in an
6 attempt to commit such crime a capital felony was
7 committed against another individual; providing an
8 effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Paragraph (q) is added to subsection (6) of
13 section 921.141, Florida Statutes, to read:

14 921.141 Sentence of death or life imprisonment for capital
15 felonies; further proceedings to determine sentence.—

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

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

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

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.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	<u>Favorable</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>FP</u>	_____

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 parole¹ in capital cases. The court conducts the sentencing proceeding upon conviction or adjudication of guilt of a defendant in a capital felony.² Typically, the proceeding is conducted by the trial judge before the trial jury as soon as practicable.³

¹ Section 775.082(1)(a), F.S.

² Section 921.141(1), F.S.

³ *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 factors⁴ or mitigating circumstances.⁵

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.⁶

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.

⁴ Section 921.141(6), F.S.

⁵ Section 921.141(7), F.S.

⁶ Section 921.141(6), F.S.

- The capital felony was committed by a criminal gang member.⁷
- The capital felony was committed by a person designated as a sexual predator⁸ 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 injunction⁹, or an injunction for protection against repeat violence, dating violence and of sexual violence,¹⁰ or a foreign protection order,¹¹ 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.¹²

⁷ "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.

⁸ Section 775.21(4)(a), F.S.

⁹ Injunction for protection against domestic violence, s. 741.30 F.S.

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

¹¹ Section 741.315, F.S.

¹² 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.¹³ 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.¹⁴

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 death¹⁵. 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.¹⁶

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.¹⁷
- 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.¹⁸

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.¹⁹

¹³ Section 921.141(2)(b), F.S.

¹⁴ Section 921.141(2) and (b), F.S.

¹⁵ Section 921.141(2)(c), F.S.

¹⁶ Section 921.141(2)(c), F.S.

¹⁷ Section 921.141(3), F.S.

¹⁸ Section 921.141(3), F.S.

¹⁹ 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__

1 A bill to be entitled
 2 An act relating to objective parole guidelines;
 3 amending s. 947.165, F.S.; revising requirements for
 4 objective parole guidelines; requiring the Commission
 5 on Offender Review to submit a specified statistical
 6 analysis to the Legislature; providing an effective
 7 date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Section 947.165, Florida Statutes, is amended to
 12 read:
 13 947.165 Objective parole guidelines.-
 14 (1) The commission shall develop and implement objective
 15 parole guidelines which shall be the criteria upon which parole
 16 decisions are made. The objective parole guidelines shall be
 17 developed according to an acceptable research method and shall
 18 be based on the seriousness of offense and the likelihood of
 19 favorable parole outcome by identifying an inmate's use of
 20 vocational, education, and self-betterment programs and courses
 21 in the department. The guidelines shall require the commission
 22 to aggravate or aggregate each consecutive sentence in
 23 establishing the presumptive parole release date. Factors used
 24 in arriving at the salient factor score and the severity of
 25 offense behavior category may ~~shall~~ not be applied as
 26 aggravating circumstances. If the sentencing judge files a
 27 written objection to the parole release of an inmate as provided
 28 for in s. 947.1745(6), such objection may be used by the
 29 commission as a basis to extend the presumptive parole release

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24-01586-25

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30 date.
 31 (2) At least once a year, the commission shall review the
 32 objective parole guidelines and make any revisions considered
 33 necessary by virtue of statistical analysis of commission
 34 actions, which analysis uses acceptable research and
 35 methodology. The statistical analysis shall be submitted to the
 36 President of the Senate and the Speaker of the House of
 37 Representatives upon completion.
 38 Section 2. This act shall take effect July 1, 2025.

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347946

LEGISLATIVE ACTION

Senate

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House

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



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

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

17 947.174 Subsequent interviews.—

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

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

29

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

31 And the title is amended as follows:

32 Delete everything before the enacting clause
33 and insert:

34 A bill to be entitled
35 An act relating to parole; amending s. 947.165, F.S.;
36 requiring the Florida Commission on Offender Review to
37 provide a specified statistical analysis to the
38 Legislature; amending s. 947.174, F.S.; requiring the
39 Department of Corrections to provide specified



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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: SB 964

INTRODUCER: Senator Bernard

SUBJECT: Objective Parole Guidelines

DATE: April 14, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Wyant</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	Pre-meeting
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 964 amends s. 947.165, F.S., to revise requirements for objective parole guidelines developed and established by the Florida Commission on Offender Review (FCOR or commission).

The bill requires the objective parole guidelines to be based on the seriousness of the offense and the likelihood of a favorable parole outcome by identifying an inmate's use of vocational, education, and self-betterment programs and courses in the department.

The FCOR is required to review the objective parole guidelines annually, making any revisions considered necessary by virtue of statistical analysis of commission actions, and submit such statistical analysis to the President of the Senate and the Speaker of the House of Representatives upon completion.

The bill does not have a fiscal impact on revenues 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.¹

The FCOR consists of three commissioners² 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.^{3,4} Commissioners serve a term of six years, and no person is eligible to be appointed for more than two consecutive six year terms.⁵

The FCOR has the powers and performs the duties of:⁶

- 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.

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

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

² 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.

³ “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.

⁴ Section 947.02(1), F.S.

⁵ Section 947.03, F.S.

⁶ Section 947.13(1)(a)-(h), F.S.

of favorable parole outcome. The guidelines require the commission to aggravate⁷ or aggregate⁸ each consecutive sentence in establishing the presumptive parole release date.⁹ Factors used in arriving at the salient factor¹⁰ score and the severity of offense behavior¹¹ 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.¹²

III. Effect of Proposed Changes:

The bill amends s. 947.165, F.S., to revise requirements for objective parole guidelines developed and established by the commission.

The bill requires the objective parole guidelines to 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 bill requires that the results of the annual review of the objective parole guidelines, as required in s. 947.165 (2), F.S., be submitted to the President of the Senate and the Speaker of the House of Representatives upon completion.

The bill takes effect July 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.

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

⁸ "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).

⁹ "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).

¹⁰ "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).

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

¹² Section 947.165(2), F.S.

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 Changes:

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

None.

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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59 921.0022 Criminal Punishment Code; offense severity ranking
 60 chart.-
 61 (3) OFFENSE SEVERITY RANKING CHART
 62 (g) LEVEL 7
 63

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 disfiguration, 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.

90

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.

91

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

92

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

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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.
93			
	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
94			
	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
95			
	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
96			
	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
97			
	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).
98			
	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
99			
	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
100			
	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
101			
	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
102			
	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
103			
	784.048(7)	3rd	Aggravated stalking; violation of court order.
104			
	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
105			
	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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an adult from outside Florida
to within the state.

115 790.07(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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122 790.23 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.

123 796.05(1) 1st Live on earnings of a
prostitute; 2nd offense.

124 796.05(1) 1st Live on earnings of a
prostitute; 3rd and subsequent
offense.

125 800.04(5)(c)1. 2nd Lewd or lascivious molestation;
victim younger than 12 years of
age; offender younger than 18
years of age.

126 800.04(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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128 800.04(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.

129 806.01(2) 2nd Maliciously damage structure by
fire or explosive.

130 810.02(3)(a) 2nd Burglary of occupied dwelling;
unarmed; no assault or battery.

131 810.02(3)(b) 2nd Burglary of unoccupied
dwelling; unarmed; no assault
or battery.

132 810.02(3)(d) 2nd Burglary of occupied
conveyance; unarmed; no assault
or battery.

133 810.02(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.

134 812.014(2)(b)2. 2nd Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.

135 812.014(2)(b)3. 2nd Property stolen, emergency medical equipment; 2nd degree grand theft.

136 812.014(2)(b)4. 2nd Property stolen, law enforcement equipment from authorized emergency vehicle.

137 812.014(2)(g) 2nd Grand theft; second degree; firearm with previous conviction of s. 812.014(2)(c)5.

138 812.0145(2)(a) 1st Theft from person 65 years of age or older; \$50,000 or more.

139 812.019(2) 1st Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.

140 812.131(2)(a) 2nd Robbery by sudden snatching.

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141 812.133(2)(b) 1st Carjacking; no firearm, deadly weapon, or other weapon.

142 817.034(4)(a)1. 1st Communications fraud, value greater than \$50,000.

143 817.234(8)(a) 2nd Solicitation of motor vehicle accident victims with intent to defraud.

144 817.234(9) 2nd Organizing, planning, or participating in an intentional motor vehicle collision.

145 817.234(11)(c) 1st Insurance fraud; property value \$100,000 or more.

146 817.2341 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.

147 817.418(2)(a) 3rd Offering for sale or advertising personal protective equipment with intent to

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148 defraud.

149 817.504(1)(a) 3rd Offering or advertising a
vaccine with intent to defraud.

150 817.535(2)(a) 3rd Filing false lien or other
unauthorized document.

151 817.611(2)(b) 2nd Traffic in or possess 15 to 49
counterfeit credit cards or
related documents.

152 825.102(3)(b) 2nd Neglecting an elderly person or
disabled adult causing great
bodily harm, disability, or
disfigurement.

153 825.103(3)(b) 2nd Exploiting an elderly person or
disabled adult and property is
valued at \$10,000 or more, but
less than \$50,000.

154 827.03(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.

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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.

164	591-02830-25		20251136c1
	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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190	893.135	1st	Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.
	(1) (n) 2.a.		
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			

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	943.0435(9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
197	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

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

203

985.4815(10)

3rd

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

204

985.4815(12)

3rd

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

205

985.4815(13)

3rd

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

206

207

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



467116

LEGISLATIVE ACTION

Senate

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House

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

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

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

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

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

31 921.0022 Criminal Punishment Code; offense severity ranking
32 chart.—

33 (3) OFFENSE SEVERITY RANKING CHART

34 (f) LEVEL 6

35

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

36



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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.
91	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
92			
92	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
93			
93	893.131	2nd	Distribution of controlled substances resulting in overdose or serious bodily injury.
94			
94	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
95			
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
105	316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
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.
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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111	(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
112			\$50,000.
	456.065 (2)	3rd	Practicing a health care
113			profession without a license.
	456.065 (2)	2nd	Practicing a health care
114			profession without a license
			which results in serious bodily
			injury.
	458.327 (1)	3rd	Practicing medicine without a
115			license.
	459.013 (1)	3rd	Practicing osteopathic medicine
116			without a license.
	460.411 (1)	3rd	Practicing chiropractic
117			medicine without a license.
	461.012 (1)	3rd	Practicing podiatric medicine
118			without a license.
	462.17	3rd	Practicing naturopathy without
119			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.

134

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

135

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

136

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

137

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

138

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

139

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



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	<u>787.025(2)(b)</u>	<u>2nd</u>	<u>Luring or enticing a child; second or subsequent offense.</u>
153	<u>787.025(2)(c)</u>	<u>2nd</u>	<u>Luring or enticing a child with a specified prior conviction.</u>
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).

156

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

157

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

158

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

159

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

160

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

161

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

162

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.



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.

190

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

191

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

192

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.

193

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

194

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

195

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

196

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.

206

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

207

872.06 2nd Abuse of a dead human body.

208

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

209

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

210

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.

211



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212 893.13(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.

213 893.13(4)(a) 1st Use or hire of minor; deliver
to minor other controlled
substance.

214 893.135(1)(a)1. 1st Trafficking in cannabis, more
than 25 lbs., less than 2,000
lbs.

215 893.135 (1)(b)1.a. 1st Trafficking in cocaine, more
than 28 grams, less than 200
grams.

216 893.135 (1)(c)1.a. 1st Trafficking in illegal drugs,
more than 4 grams, less than 14
grams.

217 893.135 (1)(c)2.a. 1st Trafficking in hydrocodone, 28
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.)

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

BILL: CS/SB 1136

INTRODUCER: Criminal Justice Committee and Senator Collins

SUBJECT: Age as an Element of a Criminal Offense

DATE: April 14, 2025

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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 16 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 misdemeanor¹ 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,² dwelling,³ or conveyance⁴ for other than a lawful purpose.⁵ A second or subsequent offense is a third degree felony.^{6,7}

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;⁸ 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.

¹ 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.

² "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.

³ "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.

⁴ "Conveyance" means any motor vehicle, ship, vessel, railroad car, trailer, aircraft, or sleeping car. Section 787.025(1)(c), F.S.

⁵ Section 787.025(2)(a), F.S.

⁶ 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.

⁷ Section 787.025(2)(b), F.S.

⁸ 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,⁹ 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,¹⁰ punishable by imprisonment for a term of years not exceeding life.¹¹

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:^{12, 13}

- Aggravated child abuse;¹⁴
- Sexual battery against the child;¹⁵
- Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;¹⁶
- A violation relating to prostitution of the child;¹⁷
- Exploitation of the child or allowing the child to be exploited;¹⁸ or
- A violation relating to human trafficking.¹⁹

False Imprisonment

Section 787.02(2), F.S., prohibits a person from falsely imprisoning²⁰ another person as a third degree felony.

⁹ 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.

¹⁰ 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.

¹¹ Section 787.01(2), F.S.

¹² 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.

¹³ 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.

¹⁴ Section 827.03, F.S.

¹⁵ Chapter 794, F.S.

¹⁶ Sections 800.04, F.S., and 847.0135(5), F.S.

¹⁷ Former s. 796.03, F.S., and former s. 796.04, F.S.

¹⁸ Section 450.151, F.S.

¹⁹ Section 787.06(3)(g), F.S.

²⁰ “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.²¹

- Aggravated child abuse;²²
- Sexual battery against the child;²³
- Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;²⁴
- A violation relating to prostitution of the child;²⁵
- Exploitation of the child or allowing the child to be exploited;²⁶ or
- A violation relating to human trafficking.²⁷

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.²⁸

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.²⁹

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.³⁰

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;³¹

²¹ Section 787.02(3)(a), F.S.; The offense is ranked as a Level 9 offense on the OSRC.

²² Section 827.03, F.S.

²³ Chapter 794, F.S.

²⁴ Sections 800.04, and 847.0135(5), F.S.

²⁵ Former s. 796.03, F.S., and former s. 796.04, F.S.

²⁶ Section 450.151, F.S.

²⁷ Section 787.06(3)(g), F.S.

²⁸ The offense is ranked as a Level 4 offense on the OSRC.

²⁹ Section 787.03(2), F.S.

³⁰ Section 787.03(5), F.S.

³¹ 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;³² 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.³³

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.³⁴

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,³⁵ 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;³⁶
- With or of a child or person believed to be a child younger than 18;³⁷ or
- If for commercial sexual activity, with a mentally defective³⁸ or mentally incapacitated³⁹ person.⁴⁰

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.⁴¹ However, if a child younger than 18 years of age or an adult

³² Section 787.04(2), F.S.; The offense is ranked as a Level 4 offense on the OSRC.

³³ Section 787.04(3), F.S.; The offense is ranked as a Level 4 offense on the OSRC.

³⁴ Section 787.04(4), F.S.

³⁵ "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.

³⁶ Sections 787.06(3)(a)2., (b), (c)2., (d), (e)2., and (f)2., F.S.

³⁷ 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.

³⁸ "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.

³⁹ "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.

⁴⁰ Section 787.06(3)(g), F.S.

⁴¹ 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.⁴²

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.⁴³

Human Smuggling

Section 787.07, F.S.,⁴⁴ 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.⁴⁵ However, a person who transports a minor into this state in violation of this prohibition commits a second degree felony.^{46, 47}

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 establishment⁴⁸ 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.⁴⁹

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

⁴² Section 787.06(3)(g), F.S.; The offense is ranked as a Level 10 offense on the OSRC.

⁴³ Section 787.06(9), F.S.

⁴⁴ 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).

⁴⁵ Section 787.07(1), F.S.

⁴⁶ Section 787.07(3), F.S.

⁴⁷ 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.

⁴⁸ "Adult entertainment establishment" includes adult bookstores, adult theaters, special cabaret, and unlicensed massage establishments. Section 847.001(2), F.S.

⁴⁹ 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.⁵⁰

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.⁵¹

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 child⁵² 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.⁵³

Criminal Punishment Code

The Criminal Punishment Code⁵⁴ (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).⁵⁵ 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.⁵⁶

⁵⁰ Section 787.30(3), F.S.

⁵¹ Section 787.30(4), F.S.

⁵² "Child" means any person, whose identity is known or unknown, younger than 18 years of age. Section 847.001(10), F.S.

⁵³ The offense is ranked as a Level 7 offense on the OSRC.

⁵⁴ 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.

⁵⁵ 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.

⁵⁶ 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.⁵⁷ Absent mitigation,⁵⁸ 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.⁵⁹

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 fide⁶⁰ belief that such victim is over the specified age.^{61,62}

⁵⁷ Section 921.0024, F.S., Unless otherwise noted, information on the Code is from this source.

⁵⁸ 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.

⁵⁹ 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.

⁶⁰ "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).

⁶¹ *State v. Sorakrai*, 543 So. 2d 294 (Fla. 2d DCA 1989)

⁶² *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 16 into 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 Department of Corrections. The EDR provides that while current offender numbers are low, it is not known how increasing the age threshold to 16 as well as felony levels and degrees might expand the potential offender pool. Per FDLE, in FY 23-24, there were four misdemeanor arrests and no felony arrests for luring or enticing a child under 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 DOC, there were no new commitments to prison in FY 23-24 for violations of s. 787.025.⁶³

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 787.025 and 921.0022 of the Florida Statutes. This bill creates section 787.001 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:

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.

⁶³ 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).

B. Amendments:

None.

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

By the Committee on Criminal Justice; and Senator Leek

591-02560-25

20251360c1

1 A bill to be entitled
 2 An act relating to controlled substances; amending s.
 3 893.03, F.S.; excepting from the Schedule I controlled
 4 substance xylazine drug products approved by the
 5 United States Food and Drug Administration for certain
 6 use; amending s. 893.13, F.S.; providing criminal
 7 penalties and requiring a mandatory minimum term of
 8 imprisonment if a person sells, manufactures, or
 9 delivers or possesses with intent to sell,
 10 manufacture, or deliver xylazine; amending s. 893.135,
 11 F.S.; creating the offense of trafficking in xylazine;
 12 providing criminal penalties and requiring a mandatory
 13 minimum term of imprisonment and fines based on the
 14 quantity of the controlled substance involved in the
 15 offense; providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Paragraph (c) of subsection (1) of section
 20 893.03, Florida Statutes, is amended to read:
 21 893.03 Standards and schedules.—The substances enumerated
 22 in this section are controlled by this chapter. The controlled
 23 substances listed or to be listed in Schedules I, II, III, IV,
 24 and V are included by whatever official, common, usual,
 25 chemical, trade name, or class designated. The provisions of
 26 this section shall not be construed to include within any of the
 27 schedules contained in this section any excluded drugs listed
 28 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
 29 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical

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30 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
 31 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
 32 Anabolic Steroid Products."
 33 (1) SCHEDULE I.—A substance in Schedule I has a high
 34 potential for abuse and has no currently accepted medical use in
 35 treatment in the United States and in its use under medical
 36 supervision does not meet accepted safety standards. The
 37 following substances are controlled in Schedule I:
 38 (c) Unless specifically excepted or unless listed in
 39 another schedule, any material, compound, mixture, or
 40 preparation that contains any quantity of the following
 41 hallucinogenic substances or that contains any of their salts,
 42 isomers, including optical, positional, or geometric isomers,
 43 homologues, nitrogen-heterocyclic analogs, esters, ethers, and
 44 salts of isomers, homologues, nitrogen-heterocyclic analogs,
 45 esters, or ethers, if the existence of such salts, isomers, and
 46 salts of isomers is possible within the specific chemical
 47 designation or class description:
 48 1. Alpha-Ethyltryptamine.
 49 2. 4-Methylaminorex (2-Amino-4-methyl-5-phenyl-2-
 50 oxazoline).
 51 3. Aminorex (2-Amino-5-phenyl-2-oxazoline).
 52 4. DOB (4-Bromo-2,5-dimethoxyamphetamine).
 53 5. 2C-B (4-Bromo-2,5-dimethoxyphenethylamine).
 54 6. Bufotenine.
 55 7. Cannabis.
 56 8. Cathinone.
 57 9. DET (Diethyltryptamine).
 58 10. 2,5-Dimethoxyamphetamine.

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

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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. Methylone (3,4-Methylenedioxy-methcathinone).
107 41. MDPV (3,4-Methylenedioxy-pyrovalerone).
108 42. Methylmethcathinone.
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-acetylcathinone.
 162 91. 3,4-Methylenedioxy-N-acetylmethcathinone.
 163 92. 3,4-Methylenedioxy-N-acetylethcathinone.
 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-pyrrolidinohexanophenone).

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 (Pyrrolidinovalerophenone) 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-Methylenedioxyamphetamine).

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. Naphthylmethylenindenes.—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. Phenylacetylindoles and Phenylacetylinindazoles.—Any

461 compound containing a phenylacetylindole or phenylacetylinindazole

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. Quinolinylindolecarboxylates,

549 Quinolinylindazolecarboxylates, Quinolinylindolecarboxamides,

550 and Quinolinylindazolecarboxamides.—Any compound containing a

551 quinolinylindole carboxylate, quinolinylindazole carboxylate,

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552 isoquinolinylindole carboxylate, isoquinolinylindazole

553 carboxylate, quinolinylindole carboxamide, quinolinylindazole

554 carboxamide, isoquinolinylindole carboxamide, or

555 isoquinolinylindazole 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-Quinolinyl 1-pentylindole-3-carboxylate).

560 (II) Fluoro PB-22 (8-Quinolinyl 1-(fluoropentyl)indole-3-

561 carboxylate).

562 (III) BB-22 (8-Quinolinyl 1-(cyclohexylmethyl)indole-3-

563 carboxylate).

564 (IV) FUB-PB-22 (8-Quinolinyl 1-(4-fluorobenzyl)indole-3-

565 carboxylate).

566 (V) NPB-22 (8-Quinolinyl 1-pentylindazole-3-carboxylate).

567 (VI) Fluoro NPB-22 (8-Quinolinyl 1-(fluoropentyl)indazole-

568 3-carboxylate).

569 (VII) FUB-NPB-22 (8-Quinolinyl 1-(4-fluorobenzyl)indazole-

570 3-carboxylate).

571 (VIII) THJ (8-Quinolinyl 1-pentylindazole-3-carboxamide).

572 (IX) Fluoro THJ (8-Quinolinyl 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 pentylindazole-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 alkylendioxy, 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-acetylethcathinone.
 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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987 893.13, Florida Statutes, is amended to read:
 988 893.13 Prohibited acts; penalties.—
 989 (1)
 990 (i) Except as authorized by this chapter, a person commits
 991 a felony of the first degree, punishable as provided in s.
 992 775.082, s. 775.083, or s. 775.084, and must be sentenced to a
 993 mandatory minimum term of imprisonment of 3 years, if:
 994 1. The person sells, manufactures, or delivers, or
 995 possesses with intent to sell, manufacture, or deliver, any of
 996 the following:
 997 a. Alfentanil, as described in s. 893.03(2)(b)1.;
 998 b. Carfentanil, as described in s. 893.03(2)(b)6.;
 999 c. Fentanyl, as described in s. 893.03(2)(b)9.;
 1000 d. Sufentanil, as described in s. 893.03(2)(b)30.;
 1001 e. A fentanyl derivative, as described in s.
 1002 893.03(1)(a)63.;
 1003 f. Xylazine, as described in s. 893.03(1)(c)37.;
 1004 g. A controlled substance analog, as described in s.
 1005 893.0356, of any substance described in sub-subparagraphs a.-f.
 1006 ~~sub-subparagraphs a.-e.~~; or
 1007 h.g. A mixture containing any substance described in sub-
 1008 subparagraphs a.-g. ~~sub-subparagraphs a.-f.~~; and
 1009 2. The substance or mixture listed in subparagraph 1. is in
 1010 a form that resembles, or is mixed, granulated, absorbed, spray-
 1011 dried, or aerosolized as or onto, coated on, in whole or in
 1012 part, or solubilized with or into, a product, when such product
 1013 or its packaging further has at least one of the following
 1014 attributes:
 1015 a. Resembles the trade dress of a branded food product,

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1016 consumer food product, or logo food product;
 1017 b. Incorporates an actual or fake registered copyright,
 1018 service mark, or trademark;
 1019 c. Resembles candy, cereal, a gummy, a vitamin, or a
 1020 chewable product, such as a gum or gelatin-based product; or
 1021 d. Contains a cartoon character imprint.
 1022 Section 3. Paragraph (c) of subsection (1) of section
 1023 893.135, Florida Statutes, is amended to read:
 1024 893.135 Trafficking; mandatory sentences; suspension or
 1025 reduction of sentences; conspiracy to engage in trafficking.—
 1026 (1) Except as authorized in this chapter or in chapter 499
 1027 and notwithstanding the provisions of s. 893.13:
 1028 (c)1. A person who knowingly sells, purchases,
 1029 manufactures, delivers, or brings into this state, or who is
 1030 knowingly in actual or constructive possession of, 4 grams or
 1031 more of any morphine, opium, hydromorphone, or any salt,
 1032 derivative, isomer, or salt of an isomer thereof, including
 1033 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
 1034 (3)(c)4., or 4 grams or more of any mixture containing any such
 1035 substance, but less than 30 kilograms of such substance or
 1036 mixture, commits a felony of the first degree, which felony
 1037 shall be known as "trafficking in illegal drugs," punishable as
 1038 provided in s. 775.082, s. 775.083, or s. 775.084. If the
 1039 quantity involved:
 1040 a. Is 4 grams or more, but less than 14 grams, such person
 1041 shall be sentenced to a mandatory minimum term of imprisonment
 1042 of 3 years and shall be ordered to pay a fine of \$50,000.
 1043 b. Is 14 grams or more, but less than 28 grams, such person
 1044 shall be sentenced to a mandatory minimum term of imprisonment

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1045 of 15 years and shall be ordered to pay a fine of \$100,000.

1046 c. Is 28 grams or more, but less than 30 kilograms, such
1047 person shall be sentenced to a mandatory minimum term of
1048 imprisonment of 25 years and shall be ordered to pay a fine of
1049 \$500,000.

1050 2. A person who knowingly sells, purchases, manufactures,
1051 delivers, or brings into this state, or who is knowingly in
1052 actual or constructive possession of, 28 grams or more of
1053 hydrocodone, as described in s. 893.03(2)(a)1.k., codeine, as
1054 described in s. 893.03(2)(a)1.g., or any salt thereof, or 28
1055 grams or more of any mixture containing any such substance,
1056 commits a felony of the first degree, which felony shall be
1057 known as "trafficking in hydrocodone," punishable as provided in
1058 s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:

1059 a. Is 28 grams or more, but less than 50 grams, such person
1060 shall be sentenced to a mandatory minimum term of imprisonment
1061 of 3 years and shall be ordered to pay a fine of \$50,000.

1062 b. Is 50 grams or more, but less than 100 grams, such
1063 person shall be sentenced to a mandatory minimum term of
1064 imprisonment of 7 years and shall be ordered to pay a fine of
1065 \$100,000.

1066 c. Is 100 grams or more, but less than 300 grams, such
1067 person shall be sentenced to a mandatory minimum term of
1068 imprisonment of 15 years and shall be ordered to pay a fine of
1069 \$500,000.

1070 d. Is 300 grams or more, but less than 30 kilograms, such
1071 person shall be sentenced to a mandatory minimum term of
1072 imprisonment of 25 years and shall be ordered to pay a fine of
1073 \$750,000.

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1074 3. A person who knowingly sells, purchases, manufactures,
1075 delivers, or brings into this state, or who is knowingly in
1076 actual or constructive possession of, 7 grams or more of
1077 oxycodone, as described in s. 893.03(2)(a)1.q., or any salt
1078 thereof, or 7 grams or more of any mixture containing any such
1079 substance, commits a felony of the first degree, which felony
1080 shall be known as "trafficking in oxycodone," punishable as
1081 provided in s. 775.082, s. 775.083, or s. 775.084. If the
1082 quantity involved:

1083 a. Is 7 grams or more, but less than 14 grams, such person
1084 shall be sentenced to a mandatory minimum term of imprisonment
1085 of 3 years and shall be ordered to pay a fine of \$50,000.

1086 b. Is 14 grams or more, but less than 25 grams, such person
1087 shall be sentenced to a mandatory minimum term of imprisonment
1088 of 7 years and shall be ordered to pay a fine of \$100,000.

1089 c. Is 25 grams or more, but less than 100 grams, such
1090 person shall be sentenced to a mandatory minimum term of
1091 imprisonment of 15 years and shall be ordered to pay a fine of
1092 \$500,000.

1093 d. Is 100 grams or more, but less than 30 kilograms, such
1094 person shall be sentenced to a mandatory minimum term of
1095 imprisonment of 25 years and shall be ordered to pay a fine of
1096 \$750,000.

1097 4.a. A person who knowingly sells, purchases, manufactures,
1098 delivers, or brings into this state, or who is knowingly in
1099 actual or constructive possession of, 4 grams or more of:

- 1100 (I) Alfentanil, as described in s. 893.03(2)(b)1.;
- 1101 (II) Carfentanil, as described in s. 893.03(2)(b)6.;
- 1102 (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-subparagraphs

1108 (I)-(V); or

1109 (VII) A mixture containing any substance described in sub-

1110 sub-subparagraphs (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-subparagraph 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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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.

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 1360

INTRODUCER: Criminal Justice Committee and Senator Leek

SUBJECT: Controlled Substances

DATE: April 14, 2025

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

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.¹

The bill amends s. 893.13, F.S., to provide that it is a first degree felony,² 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.

¹ 15 U.S.C. 278u.

² 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.³ Xylazine is also known as “tranq”⁴ 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.⁵ Naloxene is an FDA approved medicine used to quickly reverse an opioid overdose.⁶ Research has shown xylazine is often added to illicit opioids, including fentanyl, and people report using xylazine-containing fentanyl to lengthen its euphoric effects.⁷

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”⁸ 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

³ Section 893.03(1), F.S.

⁴ 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).

⁵ 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).

⁶ Drugs.com, *Naloxene*, <https://www.drugs.com/naloxone.html> (last visited March 10, 2025)

⁷ National Institute on Drug Abuse, *Xylazine Research Topics*, available at <https://nida.nih.gov/research-topics/xylazine> (last visited on March 11, 2025).

⁸ 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.⁹ 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.^{10,11}

Section 893.13(1)(i), F.S., specifies that a person commits a first degree felony¹² 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;

⁹ See e.g., s. 893.13(1)(a) and (b) and (6), F.S.

¹⁰ 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.

¹¹ Section 893.13(1)(a)2., F.S.

¹² 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;¹³
- A controlled substance analog¹⁴ of any previously described substance or a fentanyl derivative; or
- A mixture containing any previously described substance or a fentanyl derivative or analog.¹⁵

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 \$500,000.¹⁶

There is currently no offense for trafficking in xylazine.

¹³ See s. 893.03(1)(a)62., F.S.

¹⁴ See s. 893.0356(2)(a), F.S.

¹⁵ Section 893.135(1)(c)4.a.(I)-(VII), F.S.

¹⁶ 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.¹⁷ 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 years¹⁸ 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.¹⁹

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 xylazine²⁰ 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.

¹⁷ 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).

¹⁸ Sections 775.082, 775.083, or 775.084, F.S.

¹⁹ Sections 893.13(1)(i), F.S.

²⁰ 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.²¹

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.

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

²¹ 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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20251444c1

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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59 accessing automatically sealed criminal history
 60 records for certain purposes; creating s. 943.0413,
 61 F.S.; creating the Critical Infrastructure Mapping
 62 Grant Program within the Department of Law
 63 Enforcement; providing eligibility; specifying
 64 requirements for maps created by the program;
 65 authorizing the department to adopt rules; providing
 66 effective dates.

67
 68 Be It Enacted by the Legislature of the State of Florida:

69
 70 Section 1. Section 316.2675, Florida Statutes, is created
 71 to read:

72 316.2675 Motor vehicle kill switches; prohibited uses.-

73 (1) A person may not use a device that allows a person,
 74 other than the person in physical control of a motor vehicle, to
 75 shut off that vehicle's engine or prevent the engine from
 76 starting. This subsection does not apply to any of the
 77 following:

78 (a) A law enforcement officer in the course of his or her
 79 duties in order to prevent the commission of a felony.

80 (b) Any subscription, membership, or other recurring-
 81 payment programs or leased electronic consumer products, which
 82 are used with the consent of the owner of the vehicle.

83 (c) A mechanism or feature that is used with the consent of
 84 the owner of the vehicle and:

85 1. Addresses an imminent critical safety issue impacting a
 86 mechanical or software component of a motor vehicle;

87 2. Activates when a driver of a motor vehicle is

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88 incapacitated, suffers a medical emergency, or experiences a
 89 loss of consciousness;

90 3. Takes corrective action in a motor vehicle with an
 91 engaged partial driving automation feature if the driver is not
 92 attentive or engaged in the driving task and does not respond to
 93 warnings;

94 4. Brings a motor vehicle with an engaged automated driving
 95 system to a minimal-risk condition; or

96 5. Automatically shuts off the engine or motor of an idling
 97 motor vehicle that has been left on for an extended period of
 98 time while in the park position.

99 (2) A person who violates subsection (1) commits a
 100 misdeemeanor of the second degree, punishable as provided in s.
 101 775.082 or s. 775.083.

102 Section 2. Subsection (6) is added to section 321.04,
 103 Florida Statutes, to read:

104 321.04 Personnel of the highway patrol; rank
 105 classifications; probationary status of new patrol officers;
 106 subsistence; special assignments.-

107 (6) When patrol officers repay mileage for off-duty uses of
 108 official vehicles, such funds may not be deposited in the
 109 General Revenue Fund but shall be retained by the Florida
 110 Highway Patrol for its use.

111 Section 3. Subsection (2) of section 775.0823, Florida
 112 Statutes, is amended to read:

113 775.0823 Violent offenses committed against specified
 114 justice system personnel.-The Legislature does hereby provide
 115 for an increase and certainty of penalty for any person
 116 convicted of a violent offense against any law enforcement or

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117 correctional officer, as defined in s. 943.10(1), (2), (3), (6),
 118 (7), (8), or (9); against any state attorney elected pursuant to
 119 s. 27.01 or assistant state attorney appointed under s. 27.181;
 120 against any public defender elected pursuant to s. 27.50 or
 121 regional counsel appointed pursuant to s. 27.511(3); against any
 122 court-appointed counsel appointed under s. 27.40 or defense
 123 attorney in a criminal proceeding; or against any justice or
 124 judge of a court described in Art. V of the State Constitution,
 125 which offense arises out of or in the scope of the officer's
 126 duty as a law enforcement or correctional officer, the state
 127 attorney's or assistant state attorney's duty as a prosecutor or
 128 investigator, the public defender or regional counsel acting in
 129 his or her capacity as defense counsel, the court-appointed
 130 counsel or defense attorney in a criminal proceeding acting in
 131 his or her capacity as defense counsel, or the justice's or
 132 judge's duty as a judicial officer, as follows:

133 (2) For attempted murder in the first degree as described
 134 in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083,
 135 or s. 775.084 with a mandatory minimum sentence of 25 years
 136 imprisonment.

137
 138 Notwithstanding s. 948.01, with respect to any person who is
 139 found to have violated this section, adjudication of guilt or
 140 imposition of sentence shall not be suspended, deferred, or
 141 withheld.

142 Section 4. Section 790.051, Florida Statutes, is amended to
 143 read:

144 790.051 Exemption from licensing requirements; law
 145 enforcement officers.-Law enforcement officers and correctional

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146 probation officers, as defined in s. 943.10(3), are exempt from
 147 the licensing and penal provisions of this chapter when acting
 148 at any time within the scope or course of their official duties
 149 or when acting at any time in the line of or performance of
 150 duty.

151 Section 5. Paragraph (a) of subsection (1) of section
 152 790.052, Florida Statutes, is amended to read:

153 790.052 Carrying concealed firearms; off-duty law
 154 enforcement officers.-

155 (1)(a) All persons holding active certifications from the
 156 Criminal Justice Standards and Training Commission as law
 157 enforcement officers or correctional officers as defined in s.
 158 943.10(1), (2), (6), (7), (8), or (9), all judges, and all state
 159 attorneys and assistant state attorneys shall have the right to
 160 carry, on or about their persons, concealed firearms, during
 161 off-duty hours, at the discretion of their superior officers,
 162 and may perform those law enforcement functions that they
 163 normally perform during duty hours, utilizing their weapons in a
 164 manner which is reasonably expected of on-duty officers in
 165 similar situations.

166 Section 6. Section 817.49, Florida Statutes, is amended to
 167 read:

168 817.49 False reports of commission of crimes; penalty.-

169 (1) Except as provided in subsection (2), whoever willfully
 170 imparts, conveys, or causes to be imparted or conveyed to a law
 171 enforcement officer or employee of a public safety agency false
 172 information or reports concerning the alleged commission of any
 173 crime under the laws of this state, knowing such information or
 174 report to be false, when no such crime has actually been

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175 committed, commits a felony ~~misdemeanor~~ of the third ~~first~~
 176 degree, punishable as provided in s. 775.082, ~~or~~ s. 775.083, or
 177 s. 775.084.

178 (2) (a) As used in this section, the term "public safety
 179 agency" means a law enforcement agency, professional or
 180 volunteer fire department, emergency medical service, ambulance
 181 service, or other public entity that dispatches or provides
 182 first responder services to respond to crimes, to assist victims
 183 of crimes, or to apprehend offenders.

184 (b) If the willful making of a false report of a crime as
 185 set forth in this section results in a response by a federal,
 186 state, district, municipal, or other public safety agency and
 187 the response results in:

188 1. Great bodily harm, permanent disfigurement, or permanent
 189 disability to any person as a proximate result of lawful conduct
 190 arising out of a response, the person making such report commits
 191 a felony of the second ~~third~~ degree, punishable as provided in
 192 s. 775.082, s. 775.083, or s. 775.084.

193 2. Death to any person as a proximate result of lawful
 194 conduct arising out of a response, the person making such report
 195 commits a felony of the first ~~second~~ degree, punishable as
 196 provided in s. 775.082, s. 775.083, or s. 775.084.

197 (3) State attorneys shall vigorously prosecute persons
 198 charged with making a false report of a crime. If probable cause
 199 exists to charge an individual, charges must be filed and a
 200 physical arrest initiated, if possible.

201 ~~(4)(3)~~ A court shall order any person convicted of
 202 violating this section to pay restitution, which shall include
 203 full payment for any cost incurred by a responding public safety

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204 agency.

205 Section 7. Subsection (5) is added to section 943.135,
 206 Florida Statutes, to read:

207 943.135 Requirements for continued employment.—

208 (5) A certified law enforcement officer who is not employed
 209 by a law enforcement agency may retain his or her certification
 210 as long as he or she otherwise complies with the requirements
 211 for certification, including compliance with continuing
 212 education requirements.

213 Section 8. Present subsection (4) of section 943.1718,
 214 Florida Statutes, is redesignated as subsection (5), and a new
 215 subsection (4) is added to that section, to read:

216 943.1718 Body cameras; policies and procedures.—

217 (4) Artificial intelligence may be used to review, monitor,
 218 enhance, or otherwise interact with a body camera worn by a
 219 first responder as defined in s. 112.1815(1) or any video,
 220 photograph, or other product produced with, through, or by such
 221 a body camera; however, any information or identification
 222 obtained through artificial intelligence must be subject to
 223 human oversight and may not be the sole basis for an arrest.

224 Section 9. Section 951.27, Florida Statutes, is amended to
 225 read:

226 951.27 Blood tests of inmates.—

227 (1) Each county and each municipal detention facility shall
 228 have a written procedure developed, in consultation with the
 229 facility medical provider, establishing conditions under which
 230 an inmate will be tested for infectious disease, including human
 231 immunodeficiency virus pursuant to s. 775.0877, which procedure
 232 is consistent with guidelines of the Centers for Disease Control

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233 and Prevention and recommendations of the Correctional Medical
 234 Authority. It is not unlawful for the person receiving the test
 235 results to divulge the test results to the sheriff or chief
 236 correctional officer. These procedures must include
 237 circumstances that warrant the immediate testing of an arrestee
 238 upon booking and must require that testing results be provided
 239 to any first responder or criminal justice professional who has
 240 been exposed to bodily fluids or bloodborne pathogens from the
 241 arrestee.

242 (2) Except as otherwise provided in this subsection,
 243 serologic blood test results obtained pursuant to subsection (1)
 244 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
 245 I of the State Constitution. However, such results may be
 246 provided to employees or officers of the sheriff or chief
 247 correctional officer who are responsible for the custody and
 248 care of the affected inmate and have a need to know such
 249 information, and as provided in ss. 775.0877 and 960.003. In
 250 addition, upon request of the victim or the victim's legal
 251 guardian, or the parent or legal guardian of the victim if the
 252 victim is a minor, the results of any HIV test performed on an
 253 inmate arrested for any sexual offense involving oral, anal, or
 254 female genital penetration by, or union with, the sexual organ
 255 of another, must be disclosed to the victim or the victim's
 256 legal guardian, or to the parent or legal guardian of the victim
 257 if the victim is a minor. In such cases, the county or municipal
 258 detention facility shall furnish the test results to the
 259 Department of Health, which is responsible for disclosing the
 260 results to public health agencies as provided in s. 775.0877 and
 261 to the victim or the victim's legal guardian, or the parent or

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262 legal guardian of the victim if the victim is a minor, as
 263 provided in s. 960.003(3). As used in this subsection, the term
 264 "female genitals" includes the labia minora, labia majora,
 265 clitoris, vulva, hymen, and vagina.

266 (3) The results of any serologic blood test on an inmate
 267 are a part of that inmate's permanent medical file. Upon
 268 transfer of the inmate to any other correctional facility, such
 269 file is also transferred, and all relevant authorized persons
 270 must be notified of positive HIV test results, as required in s.
 271 775.0877.

272 (4) A first responder or criminal justice professional who,
 273 in the lawful performance of his or her duties, is exposed to a
 274 potential communicable disease or bloodborne pathogen by a
 275 subject who is arrested and booked into a county or municipal
 276 detention facility shall notice the detention facility upon
 277 booking or within 24 hours after the exposure. If the first
 278 responder or criminal justice professional is incapacitated and
 279 cannot provide this notice, this responsibility falls upon his
 280 or her employing department. This notice must invoke immediate
 281 testing of the inmate, if it has not already been done,
 282 according to the written procedures of the detention facility,
 283 and such testing is required before release of the inmate. The
 284 results of the testing must be handled in accordance with s.
 285 775.0877(2).

286 Section 10. Paragraphs (c), (d), and (f) of subsection (3)
 287 of section 921.0022, Florida Statutes, are amended to read:
 288 921.0022 Criminal Punishment Code; offense severity ranking
 289 chart.-

290 (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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299			home.
	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, 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.
306	(1) (e) 5.		
	379.2431	3rd	Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.
	(1) (e) 6.		
307	379.2431	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
	(1) (e) 7.		
308	400.9935 (4) (a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.

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309	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
310	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
311	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
312	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
313	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
314	626.902 (1) (a) &	3rd	Representing an

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315	(b)		unauthorized insurer.	
316	697.08	3rd	Equity skimming.	
	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.	
317	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.	
318	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.	
319	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.	
320	810.09(2)(b)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.	
321				

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	810.145(2)(c)	3rd	Digital voyeurism; 19 years of age or older.	
322	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.	
323	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.	
324	812.015(8)(b)	3rd	Retail theft with intent to sell; conspires with others.	
325	812.081(2)	3rd	Theft of a trade secret.	
326	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.	
327	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.	
328	817.233	3rd	Burning to defraud insurer.	
329	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> 3rd	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.	
353	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	
354			controlled substance.	
	893.13(8)(a)3.	3rd	Knowingly write a	
			prescription for a	
			controlled substance for a	
			fictitious person.	
355	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.	
356	918.13(1)	3rd	Tampering with or	
			fabricating physical	
			evidence.	
357				

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	944.47	3rd	Introduce contraband to	
	(1)(a)1. & 2.		correctional facility.	
358	944.47(1)(c)	2nd	Possess contraband while	
			upon the grounds of a	
			correctional institution.	
359	985.721	3rd	Escapes from a juvenile	
			facility (secure detention	
			or residential commitment	
			facility).	
360				
361	(d) LEVEL 4			
362				
	Florida	Felony		
	Statute	Degree	Description	
363	104.155	3rd	Unqualified noncitizen	
			electors voting; aiding	
			or soliciting noncitizen	
			electors in voting.	
364	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	

	591-03137A-25		20251444c1	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,

	591-03137A-25		20251444c1	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

	591-03137A-25		20251444c1	
			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	<u>Interfering with a</u> Deprive law enforcement, correctional, or correctional probation <u>officer's officer of</u> 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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			witness, victim, or informant.
424	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
425	916.1085 (2)(c)1.	3rd	Introduction of 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) & (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			
433	Florida Statute	Felony Degree	Description
434	316.027(2)(b)	2nd	Leaving the scene of a crash involving serious bodily injury.
435	316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
436	400.9935(4)(c)	2nd	Operating a clinic, or offering services requiring licensure, without a license.
	499.0051(2)	2nd	Knowing forgery of transaction history, transaction information, or transaction

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437			statement.
438	499.0051(3)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
439	499.0051(4)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
440	775.0875(1)	3rd	Taking firearm from law enforcement officer.
441	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
442	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
443	784.041	3rd	Felony battery; domestic battery by strangulation.
444	784.048(3)	3rd	Aggravated stalking; credible threat.
	784.048(5)	3rd	Aggravated stalking of

	591-03137A-25		20251444c1	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.

	591-03137A-25		20251444c1	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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458	794.05(1)	2nd	Unlawful sexual activity with specified minor.
	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age; offender less than 18 years.
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

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	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

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	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> 2nd		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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	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

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			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.

496

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

497

498

499

Section 11. Section 843.025, Florida Statutes, is amended
to read:

500

501

843.025 Interfering with an officer's ~~Depriving officer of~~
means of protection or communication.—

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(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):

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(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.

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(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.

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(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.

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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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605 goods or services from a health care provider and false reports
606 of a communicable disease.

607 37. Section 817.505, relating to patient brokering.

608 38. Section 817.568, relating to fraudulent use of personal
609 identification, if the offense was a felony of the first or
610 second degree.

611 39. Section 825.102, relating to abuse, aggravated abuse,
612 or neglect of an elderly person or a disabled adult.

613 40. Section 825.1025, relating to lewd or lascivious
614 offenses committed upon or in the presence of an elderly person
615 or a disabled person.

616 41. Section 825.103, relating to exploitation of an elderly
617 person or a disabled adult, if the offense was a felony.

618 42. Section 826.04, relating to incest.

619 43. Section 827.03, relating to child abuse, aggravated
620 child abuse, or neglect of a child.

621 44. Section 827.04, relating to contributing to the
622 delinquency or dependency of a child.

623 45. Former s. 827.05, relating to negligent treatment of
624 children.

625 46. Section 827.071, relating to sexual performance by a
626 child.

627 47. Section 831.30, relating to fraud in obtaining
628 medicinal drugs.

629 48. Section 831.31, relating to the sale; manufacture;
630 delivery; or possession with intent to sell, manufacture, or
631 deliver of any counterfeit controlled substance, if the offense
632 was a felony.

633 49. Section 843.01, relating to resisting arrest with

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634 violence.

635 50. Section 843.025, relating to interfering with ~~depriving~~
636 a law enforcement, correctional, or correctional probation
637 officer's ~~officer of the~~ means of protection or communication.

638 51. Section 843.12, relating to aiding in an escape.

639 52. Section 843.13, relating to aiding in the escape of
640 juvenile inmates of correctional institutions.

641 53. Chapter 847, relating to obscenity.

642 54. Section 874.05, relating to encouraging or recruiting
643 another to join a criminal gang.

644 55. Chapter 893, relating to drug abuse prevention and
645 control, if the offense was a felony of the second degree or
646 greater severity.

647 56. Section 895.03, relating to racketeering and collection
648 of unlawful debts.

649 57. Section 896.101, relating to the Florida Money
650 Laundering Act.

651 58. Section 916.1075, relating to sexual misconduct with
652 certain forensic clients and reporting of such sexual
653 misconduct.

654 59. Section 944.35(3), relating to inflicting cruel or
655 inhuman treatment on an inmate resulting in great bodily harm.

656 60. Section 944.40, relating to escape.

657 61. Section 944.46, relating to harboring, concealing, or
658 aiding an escaped prisoner.

659 62. Section 944.47, relating to introduction of contraband
660 into a correctional institution.

661 63. Section 985.701, relating to sexual misconduct in
662 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 ~~videe~~ 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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837 substance, battery by strangulation, human smuggling, human
 838 trafficking, or any other felony that involves the use or threat
 839 of physical force or violence against any individual.

840 Section 16. For the purpose of incorporating the amendment
 841 made by this act to section 914.25, Florida Statutes, in
 842 references thereto, subsections (1), (2), and (5) of section
 843 914.27, Florida Statutes, are reenacted to read:

844 914.27 Confidentiality of victim and witness information.—

845 (1) Information held by any state or local law enforcement
 846 agency, state attorney, the statewide prosecutor, the Victim and
 847 Witness Protection Review Committee created pursuant to s.
 848 943.031, or the Department of Law Enforcement which discloses:

849 (a) The identity or location of a victim or witness who has
 850 been identified or certified for protective or relocation
 851 services pursuant to s. 914.25;

852 (b) The identity or location of an immediate family member
 853 of a victim or witness who has been identified or certified
 854 pursuant to s. 914.25;

855 (c) Relocation sites, techniques, or procedures utilized or
 856 developed as a result of the victim and witness protective
 857 services afforded by s. 914.25; or

858 (d) The identity or relocation site of any victim, witness,
 859 or immediate family member of a victim or witness who has made a
 860 relocation of permanent residence by reason of the victim's or
 861 witness's involvement in the investigation or prosecution giving
 862 rise to certification for protective or relocation services
 863 pursuant to s. 914.25;

864
 865 is confidential and exempt from the provisions of s. 119.07(1)

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866 and s. 24(a), Art. I of the State Constitution. Such information
 867 may be shared by law enforcement agencies, state attorneys, and
 868 the statewide prosecutor to facilitate the protective or
 869 relocation services provided pursuant to s. 914.25 and to
 870 support the prosecution efforts of the state attorneys and the
 871 statewide prosecutor. Any information so shared must remain
 872 confidential and exempt in the hands of any agency or entity to
 873 which the information is provided.

874 (2) If a victim or witness is identified for protective
 875 services under s. 914.25 and is later denied certification, the
 876 identity and location information exempt pursuant to paragraphs
 877 (1)(a) and (b) becomes public information, unless otherwise
 878 provided by law.

879 (5) For the purposes of effectively implementing s. 914.25,
 880 any state or local law enforcement agency, state attorney, or
 881 the statewide prosecutor may provide written notification to an
 882 agency as defined in s. 119.011 or to a business entity
 883 operating under contract with, licensed by, or having any other
 884 business relationship with an agency, or providing services
 885 pursuant to s. 914.25, that information described in subsection
 886 (1) held by that agency or business is confidential and exempt
 887 from public disclosure. The state or local law enforcement
 888 agency, state attorney, or the statewide prosecutor providing
 889 such written notification shall also provide written
 890 notification to the agency or business as to when, in accordance
 891 with this section, identity and location information exempted
 892 pursuant to paragraphs (1)(a) and (b) can be made publicly
 893 available.

894 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.



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LEGISLATIVE ACTION

Senate

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House

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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40 Representatives.

41 3. One member appointed by the President of the Senate.

42 (b) Members of the board shall serve 2-year terms. Any
43 vacancy on the board must be filled within 3 months. At least
44 three board members must be active, retired, or former law
45 enforcement officers or firefighters.

46 Section 3. Section 316.2675, Florida Statutes, is created
47 to read:

48 316.2675 Motor vehicle kill switches; prohibited uses.—

49 (1) A person may not use a device that allows a person,
50 other than the person in physical control of a motor vehicle, to
51 shut off that vehicle's engine or prevent the engine from
52 starting. This subsection does not apply to any of the
53 following:

54 (a) A law enforcement officer in the course of his or her
55 duties in order to prevent the commission of a felony.

56 (b) Any subscription, membership, or other recurring-
57 payment programs or leased electronic consumer products, which
58 are used with the consent of the owner of the vehicle.

59 (c) A mechanism or feature that is used with the consent of
60 the owner of the vehicle and:

61 1. Addresses an imminent critical safety issue impacting a
62 mechanical or software component of a motor vehicle;

63 2. Activates when a driver of a motor vehicle is
64 incapacitated, suffers a medical emergency, or experiences a
65 loss of consciousness;

66 3. Takes corrective action in a motor vehicle with an
67 engaged partial driving automation feature if the driver is not
68 attentive or engaged in the driving task and does not respond to



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69 warnings;

70 4. Brings a motor vehicle with an engaged automated driving
71 system to a minimal-risk condition; or

72 5. Automatically shuts off the engine or motor of an idling
73 motor vehicle that has been left on for an extended period of
74 time while in the park position.

75 (2) A person who violates subsection (1) commits a
76 misdemeanor of the second degree, punishable as provided in s.
77 775.082 or s. 775.083.

78 Section 4. Subsection (2) of section 775.0823, Florida
79 Statutes, is amended to read:

80 775.0823 Violent offenses committed against specified
81 justice system personnel.—The Legislature does hereby provide
82 for an increase and certainty of penalty for any person
83 convicted of a violent offense against any law enforcement or
84 correctional officer, as defined in s. 943.10(1), (2), (3), (6),
85 (7), (8), or (9); against any state attorney elected pursuant to
86 s. 27.01 or assistant state attorney appointed under s. 27.181;
87 against any public defender elected pursuant to s. 27.50 or
88 regional counsel appointed pursuant to s. 27.511(3); against any
89 court-appointed counsel appointed under s. 27.40 or defense
90 attorney in a criminal proceeding; or against any justice or
91 judge of a court described in Art. V of the State Constitution,
92 which offense arises out of or in the scope of the officer's
93 duty as a law enforcement or correctional officer, the state
94 attorney's or assistant state attorney's duty as a prosecutor or
95 investigator, the public defender or regional counsel acting in
96 his or her capacity as defense counsel, the court-appointed
97 counsel or defense attorney in a criminal proceeding acting in



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98 his or her capacity as defense counsel, or the justice's or
99 judge's duty as a judicial officer, as follows:

100 (2) For attempted murder in the first degree as described
101 in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083,
102 or s. 775.084 with a mandatory minimum sentence of 25 years
103 imprisonment.

104
105 Notwithstanding s. 948.01, with respect to any person who is
106 found to have violated this section, adjudication of guilt or
107 imposition of sentence shall not be suspended, deferred, or
108 withheld.

109 Section 5. Section 790.051, Florida Statutes, is amended to
110 read:

111 790.051 Exemption from licensing requirements; law
112 enforcement officers.—Law enforcement officers and correctional
113 probation officers, as defined in s. 943.10(3), are exempt from
114 the licensing and penal provisions of this chapter when acting
115 at any time within the scope or course of their official duties
116 or when acting at any time in the line of or performance of
117 duty.

118 Section 6. Paragraph (a) of subsection (1) of section
119 790.052, Florida Statutes, is amended to read:

120 790.052 Carrying concealed firearms; off-duty law
121 enforcement officers.—

122 (1) (a) All persons holding active certifications from the
123 Criminal Justice Standards and Training Commission as law
124 enforcement officers or correctional officers as defined in s.
125 943.10(1), (2), (6), (7), (8), or (9), all judges, and all state
126 attorneys and assistant state attorneys shall have the right to



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127 carry, on or about their persons, concealed firearms, during
128 off-duty hours, at the discretion of their superior officers,
129 and may perform those law enforcement functions that they
130 normally perform during duty hours, utilizing their weapons in a
131 manner which is reasonably expected of on-duty officers in
132 similar situations.

133 Section 7. Subsection (4) is added to section 817.49,
134 Florida Statutes, to read:

135 817.49 False reports of commission of crimes; penalty.—

136 (4) The Legislature finds that the false reporting of
137 crimes is a threat to public safety and a threat to the safety
138 of law enforcement officers and other first responders. As such,
139 the Legislature encourages each state attorney to adopt a pro-
140 prosecution policy for the false reporting of crimes as
141 prohibited in this section.

142
143 ===== T I T L E A M E N D M E N T =====

144 And the title is amended as follows:

145 Delete lines 2 - 27

146 and insert:

147 An act relating to public safety; amending s.
148 112.1815, F.S.; authorizing first responder amputees
149 to continue to serve as first responders under certain
150 circumstances; creating s. 112.195, F.S.; creating the
151 Florida Medal of Valor and the Florida Blue/Red Heart
152 Medal; providing requirements for such medals;
153 creating a board to evaluate applications for awarding
154 such medals; providing for board membership; creating
155 s. 316.2675, F.S.; prohibiting the use of motor



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156 vehicle kill switches; providing exceptions; providing
157 criminal penalties; amending s. 775.0823, F.S.;
158 providing a minimum mandatory sentence for attempted
159 murder of specified justice system personnel; amending
160 s. 790.051, F.S.; providing correctional probation
161 officers with the same firearms rights as law
162 enforcement officers; amending s. 790.052, F.S.;
163 providing that specified persons may carry concealed
164 firearms under certain circumstances and use them in
165 the same manner as on-duty law enforcement officers;
166 amending s. 817.49, F.S.; providing legislative
167 findings concerning prosecution of the false reporting
168 of crimes; 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.)

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

BILL: CS/SB 1444

INTRODUCER: Criminal Justice Committee and Senator Collins

SUBJECT: Criminal Justice

DATE: April 14, 2025

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1444 amends current law regarding criminal justice. Specifically, the bill:

- 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. A violation is a second degree misdemeanor.¹
- Amends s. 321.04, F.S., to require the Florida Highway Patrol (FHP) officer's repayment of mileage for off-duty use to be retained by the FHP and not deposited in the General Revenue Fund.
- 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.²
- 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 their weapons in a manner which is reasonably expected of on-duty officers in similar situations.

¹ 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.

² Section 782.04, F.S.

- Amends s. 817.49, F.S., regarding false reports of the commission of crimes, to increase penalties for making a false report.
- 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.”
- Creates s. 943.0413, F.S., 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.
- 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.
- Amends s. 943.135, F.S., to allow certified law enforcement officers not employed by a law enforcement agency to be able to retain certification if he or she complies with the certification requirements and continuing education requirements.
- Amends s. 943.1718, F.S., to provide that artificial intelligence may be utilized to review an officer’s or first responder’s body camera; however, any information obtained through such use must be subject to human oversight and may not be the sole basis for an arrest.
- 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. 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.
- Amends ss. 397.417 and 921.022, F.S., to make conforming changes.

The bill authorizes FHP to retain any funds repaid relating to mileage for off-duty use, which will have an indeterminate, negative impact to the General Revenue Fund. 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.

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.³

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.⁴ The certification of any officer who fails to meet the mandatory retraining requirement shall become inactive.⁵

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.⁶

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.⁷

Body Cameras

Florida law defines a “body camera” as a portable electronic recording device that is worn on a law enforcement officer’s body and that records audio and video data in the course of the officer performing his or her official duties and responsibilities.⁸ Although Florida law does not require a law enforcement agency to acquire and use body cameras, it does require a law enforcement agency⁹ that permits its law enforcement officers¹⁰ to wear body cameras to establish policies and procedures addressing the proper use, maintenance, and storage of body cameras and the data recorded by body cameras.

³ 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).

⁴ 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).

⁵ Section 943.1395(4), F.S.

⁶ Section 790.051, F.S.

⁷ Section 790.052(1)(a), F.S.

⁸ Section 119.071(2)(1)1.a. and 943.1718(1)(a), F.S.

⁹ A “law enforcement agency” is defined in s. 943.1718(1)(b), F.S., as an agency that has a primary mission of preventing and detecting crime and enforcing the penal, criminal, traffic, and motor vehicle laws of the state and in furtherance of that primary mission employs law enforcement officers as defined in s. 943.10, F.S.

¹⁰ A “law enforcement officer” is defined in s. 943.1718(1)(c), F.S., as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

Florida law also requires a law enforcement agency that permits its law enforcement officers to wear body cameras to retain audio and video data recorded by body cameras in accordance with the requirements of s. 119.021, F.S. (maintenance of public records), except as otherwise provided by law. Periodic reviews of actual agency body camera practices are required to ensure conformity with the agency's policies and procedures.¹¹

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.¹²

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 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.

Repayment of Mileage

Currently, if a member of the Florida Highway Patrol (FHP) uses an official department vehicle for off-duty police employment, the member will reimburse the FHP for gas, maintenance, and repairs by paying the currently accepted reimbursement rate.¹³ These reimbursements are deposited into the General Revenue Fund.

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.¹⁴

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,

¹¹ Section 943.1718(3), F.S.

¹² Section 951.27(1), F.S.

¹³ The Florida Department of Highway Safety and Motor Vehicles, *Florida Highway Patrol Policy Manual Policy Number 5.08*, available at <https://www.flhsmv.gov/pdf/fhp/policies/0508.pdf> (last visited March 28, 2025).

¹⁴ 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).

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.¹⁵
- 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.¹⁶

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.¹⁷

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 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.¹⁸ 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.¹⁹ 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.²⁰

¹⁵ Sections 775.082, 775.083, or 775.084, F.S.

¹⁶ Sections 775.082, 775.083, or 775.084, F.S.

¹⁷ 18 U.S.C.A. § 1038

¹⁸ 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).

¹⁹ 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).

²⁰ 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).

Criminal Punishment Code and Sentencing

The Criminal Punishment Code²¹ (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).²² 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.²³

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.²⁴ Absent mitigation,²⁵ the

²¹ 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.

²² 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.

²³ 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.

²⁴ Section 921.0024, F.S., unless otherwise noted, information on the Code is from this source.

²⁵ 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.²⁶

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.²⁷ 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,²⁸ state attorney,²⁹ assistant state attorney³⁰, public defender³¹ regional counsel³² 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,³³ if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

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.³⁴

²⁶ 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.

²⁷ 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).

²⁸ Section 943.10(1), (2), (3), (6), (7), (8), or (9), F.S.

²⁹ Section 27.01, F.S.

³⁰ Section 27.181, F.S.

³¹ Section 27.50, F.S.

³² Section 27.511(3), F.S.

³³ Section 782.04(1), F.S.

³⁴ A person is not eligible for automatic sealing if the dismissal was pursuant to ss. 916.145 or 985.19, F.S.

- A not guilty verdict was rendered by a judge or jury.³⁵
- A judgement of acquittal was rendered by the jury.³⁶

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.³⁷ There is no limitation on the number of records that a person may have automatically sealed.³⁸

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.³⁹

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.⁴⁰

“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.”⁴¹ 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.⁴²

“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:

³⁵ A person is not eligible for automatic sealing if the defendant was found not guilty by reason of insanity.

³⁶ Section 943.0595(2)(a), F.S.

³⁷ Section 943.0595(3), F.S.

³⁸ Section 943.0595(2)(b), F.S.

³⁹ Section 943.0595(3), F.S.

⁴⁰ 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).

⁴¹ 42 U.S.C. § 5195c(e).

⁴² Section 119.0725(1)(b), F.S.

- 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 creates s. 316.2675, F.S., relating to motor vehicle kill switches, to prohibit the use of devices that allows a person other than the person in physical control of a motor vehicle to shut off or prevent a vehicle's engine from starting. This does not apply to law enforcement officers performing their duties to prevent felonies; any subscriptions or memberships that are used with the consent of the vehicle owner; or any mechanism or feature that is used with consent of the vehicle owner. Persons who utilize such devices in violation of this section are subject to second degree misdemeanor penalties.⁴³

Section 2 amends s. 321.04, F.S., to prohibit funds repaid by FHP patrol officers for mileage for off-duty uses of official vehicles from being deposited into the General Revenue Fund and require such funds to be retained by the FHP.

Section 3 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.⁴⁴

Section 4 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 5 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 6 amends s. 817.49, F.S., regarding false reports of the commission of crimes to increase penalties from a misdemeanor to a third degree felony. If such crime results in bodily harm or disfigurement, the penalty increases from a third degree felony to a second degree felony. If such

⁴³ 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.

⁴⁴ Section 782.04, F.S.

crime results in death arising out of the response, the penalty increases from a second degree felony to a first degree felony.

The bill provides that state attorneys shall “vigorously” prosecute false reports 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.

Section 7 amends s. 943.135, F.S., to allow certified law enforcement officers not employed by a law enforcement agency to be able to retain certification if he or she complies with the certification requirements and continuing education requirements.

Section 8 amends s. 943.1718, F.S., to provide that artificial intelligence may be utilized to review an officer’s or first responder’s body camera; however, any information obtained through such use must be subject to human oversight and may not be the sole basis for an arrest.

Section 9 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 11 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 15 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 18 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 19 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 10, 12, 13, and 14 amend ss. 921.022, 397.417, 420.06241, and 435.04, F.S., respectively, to make conforming changes.

Sections 16 and 17 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 20 provides that the bill takes effect on October 1, 2025, except as otherwise expressly provided in this act (sections 18 and 19, 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 either one of these felonies. 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.⁴⁵

The bill also directs FHP officers' repayments of mileage for off-duty use from the General Revenue Fund to the Florida Highway Patrol. This provision will have an indeterminate negative fiscal impact on the General Revenue Fund.

VI. Technical Deficiencies:

The bill does not specify where the Florida Department of Highway Safety and Motor Vehicles will deposit the repayment of mileage. Clarification is needed to stipulate if these funds will be deposited into an Employee Benefit Trust Fund Account or other fund.

⁴⁵ Office of Economic and Demographic Research, *SB 1444 Criminal Justice*, (on file with the Senate Committee on Criminal Justice)

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: 321.04, 775.0823, 790.051, 790.052, 817.49, 843.025, 914.25, 943.135, 943.1718, 951.27, 921.0022, 943.0595

This bill creates sections 316.2675 and 943.0413 of the Florida Statutes.

This bill reenacts section 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 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.

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

By the Committee on Criminal Justice; and Senator Burgess

591-03148-25

20251450c1

1 A bill to be entitled
 2 An act relating to arrest and detention of individuals
 3 with significant medical conditions; creating s.
 4 901.1501, F.S.; defining the term "person with a
 5 significant medical condition"; providing that a law
 6 enforcement officer may use his or her discretion in
 7 determining whether to make an immediate arrest of
 8 such person; providing construction; providing an
 9 effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 901.1501, Florida Statutes, is created
 14 to read:

15 901.1501 Immediate arrest of a person with a significant
 16 medical condition.-

17 (1) As used in this section, the term "person with a
 18 significant medical condition" means a person who is a patient
 19 or resident of a hospital licensed under chapter 395, a nursing
 20 home facility licensed under part II of chapter 400, or an
 21 assisted living facility licensed under part I of chapter 429.

22 (2) In determining whether to make an immediate arrest of a
 23 person with a significant medical condition, including an arrest
 24 for an offense committed against an elderly person or a disabled
 25 adult, a law enforcement officer may use his or her discretion
 26 based on the totality of the circumstances, including
 27 consideration of whether the person is a current or continued
 28 threat to public safety or himself or herself or a flight risk,
 29 and may consider all available lawful methods of making an

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

591-03148-25

20251450c1

30 arrest, including seeking an arrest warrant under s. 901.02.
 31 (3) This section does not prohibit a law enforcement
 32 officer from arresting a person without a warrant under s.
 33 901.15, or making such an arrest by any lawful method.
 34 Section 2. This act shall take effect July 1, 2025.

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

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 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>	<u>Fav/CS</u>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

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.¹ Residents of a hospital,² nursing home facility³ or an assisted living facility⁴ 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 officer⁵ 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.⁶ 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.⁷

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.⁸

¹ 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).

² 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.

³ "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

⁴ "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.

⁵ Section 943.10(1), F.S.

⁶ Section 901.02, F.S.

⁸ Section 901.16, F.S.

⁸ 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.⁹

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.”¹⁰ 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.¹¹ 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.¹²

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.”¹³ 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.¹⁴

⁹ Section 901.15, F.S.

¹⁰ Fl. R. Crim. P. 3.130

¹¹ *Id.*

¹² Fl. R. Crim. P. 3.131

¹³ Section 907.041(5)(a), F.S.

¹⁴ 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 a positive 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.¹⁵

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.

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

¹⁵ 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

591-02845-25

20251604c1

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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591-02845-25

20251604c1

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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20251604c1

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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591-02845-25

20251604c1

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.

96

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

98

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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117 255.05(10), s. 337.18(1), or s. 713.23(1)(e), and except for an
118 action for a deficiency judgment governed by paragraph (6)(g)
119 ~~(6)(h)~~.

120 (6) WITHIN ONE YEAR.—

121 (f) Except for actions described in subsection (9), or a
122 petition challenging a criminal conviction, all petitions;
123 extraordinary writs; tort actions, including those under s.
124 768.28(14); or other actions which concern any condition of
125 confinement of a prisoner a petition for extraordinary writ,
126 other than a petition challenging a criminal conviction, filed
127 by or on behalf of a prisoner as defined in s. 57.085. Any
128 petition, writ, or action brought under this paragraph must be
129 commenced within 1 year after the time the incident, conduct, or
130 conditions occurred or within 1 year after the time the
131 incident, conduct, or conditions were discovered, or should have
132 been discovered.

133 ~~(g) Except for actions described in subsection (9), an~~
134 ~~action brought by or on behalf of a prisoner, as defined in s.~~
135 ~~57.085, relating to the conditions of the prisoner's~~
136 ~~confinement.~~

137 Section 3. Section 760.701, Florida Statutes, is created to
138 read:

139 760.701 Lawsuits by prisoners.—

140 (1) For the purposes of this section, the term "prisoner"
141 means any person incarcerated or detained in any jail, prison,
142 or other correctional facility who is accused of, convicted of,
143 sentenced for, or adjudicated delinquent for violations of
144 criminal law or the terms and conditions of parole, probation,
145 pretrial release, or a diversionary program.

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146 (2) An action may not be brought by or on behalf of a
147 prisoner relating to the conditions of the prisoner's
148 confinement under 42 U.S.C. s. 1983, or any other state or
149 federal law, until such administrative remedies as are available
150 are fully exhausted.

151 (3) The court shall on its own motion or on the motion of a
152 party dismiss any action brought relating to the conditions of
153 the prisoner's confinement under 42 U.S.C. s. 1983, or any other
154 state or federal law, by a prisoner if the court is satisfied
155 that the action is frivolous, malicious, fails to state a claim
156 upon which relief can be granted, or seeks monetary relief from
157 a defendant who is immune from such relief. The court shall
158 review any such action pursuant to s. 57.085(6).

159 (4) An action may not be brought in state court by or on
160 behalf of a prisoner relating to the conditions of the
161 prisoner's confinement under 42 U.S.C. s. 1983, or any state
162 tort action, for mental or emotional injury suffered while in
163 custody without a prior showing of physical injury or the
164 commission of a sexual act as defined in 18 U.S.C. s. 2246(2).

165 (5) The time for bringing an action that concerns any
166 condition of confinement of a prisoner shall be the limitations
167 period as described in s. 95.11(6)(f).

168 Section 4. Paragraph (d) of subsection (2) of section
169 775.087, Florida Statutes, is amended, paragraph (e) is added to
170 that subsection, and paragraph (a) of that subsection is
171 republished, to read:

172 775.087 Possession or use of weapon; aggravated battery;
173 felony reclassification; minimum sentence.—

174 (2)(a)1. Any person who is convicted of a felony or an

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175 attempt to commit a felony, regardless of whether the use of a
 176 weapon is an element of the felony, and the conviction was for:

- 177 a. Murder;
- 178 b. Sexual battery;
- 179 c. Robbery;
- 180 d. Burglary;
- 181 e. Arson;
- 182 f. Aggravated battery;
- 183 g. Kidnapping;
- 184 h. Escape;
- 185 i. Aircraft piracy;
- 186 j. Aggravated child abuse;
- 187 k. Aggravated abuse of an elderly person or disabled adult;
- 188 l. Unlawful throwing, placing, or discharging of a
 189 destructive device or bomb;
- 190 m. Carjacking;
- 191 n. Home-invasion robbery;
- 192 o. Aggravated stalking;
- 193 p. Trafficking in cannabis, trafficking in cocaine, capital
 194 importation of cocaine, trafficking in illegal drugs, capital
 195 importation of illegal drugs, trafficking in phencyclidine,
 196 capital importation of phencyclidine, trafficking in
 197 methaqualone, capital importation of methaqualone, trafficking
 198 in amphetamine, capital importation of amphetamine, trafficking
 199 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
 200 (GHB), trafficking in 1,4-Butanediol, trafficking in
 201 Phenethylamines, or other violation of s. 893.135(1);
- 202 q. Possession of a firearm by a felon; or
- 203 r. Human trafficking

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204
 205 and during the commission of the offense, such person actually
 206 possessed a "firearm" or "destructive device" as those terms are
 207 defined in s. 790.001, shall be sentenced to a minimum term of
 208 imprisonment of 10 years, except that a person who is convicted
 209 for possession of a firearm by a felon or burglary of a
 210 conveyance shall be sentenced to a minimum term of imprisonment
 211 of 3 years if such person possessed a "firearm" or "destructive
 212 device" during the commission of the offense. However, if an
 213 offender who is convicted of the offense of possession of a
 214 firearm by a felon has a previous conviction of committing or
 215 attempting to commit a felony listed in s. 775.084(1)(b)1. and
 216 actually possessed a firearm or destructive device during the
 217 commission of the prior felony, the offender shall be sentenced
 218 to a minimum term of imprisonment of 10 years.

219 2. Any person who is convicted of a felony or an attempt to
 220 commit a felony listed in sub-subparagraphs 1.a.-p. or sub-
 221 subparagraph 1.r., regardless of whether the use of a weapon is
 222 an element of the felony, and during the course of the
 223 commission of the felony such person discharged a "firearm" or
 224 "destructive device" as defined in s. 790.001 shall be sentenced
 225 to a minimum term of imprisonment of 20 years.

226 3. Any person who is convicted of a felony or an attempt to
 227 commit a felony listed in sub-subparagraphs 1.a.-p. or sub-
 228 subparagraph 1.r., regardless of whether the use of a weapon is
 229 an element of the felony, and during the course of the
 230 commission of the felony such person discharged a "firearm" or
 231 "destructive device" as defined in s. 790.001 and, as the result
 232 of the discharge, death or great bodily harm was inflicted upon

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233 any person, the convicted person shall be sentenced to a minimum
 234 term of imprisonment of not less than 25 years and not more than
 235 a term of imprisonment of life in prison.

236 (d) It is the intent of the Legislature that offenders who
 237 actually possess, carry, display, use, threaten to use, or
 238 attempt to use firearms or destructive devices be punished to
 239 the fullest extent of the law, and the minimum terms of
 240 imprisonment imposed pursuant to this subsection shall be
 241 imposed for each qualifying felony count for which the person is
 242 convicted. The court shall impose any term of imprisonment
 243 provided for in this subsection consecutively ~~to any other term~~
 244 ~~of imprisonment imposed for any other felony offense.~~

245 (e) If a conviction enumerated in subparagraph (a)1. is
 246 committed in conjunction with any other felony offense, the
 247 court may impose any term of imprisonment provided for in this
 248 subsection consecutively to any other term of imprisonment
 249 imposed for any other felony offense.

250 Section 5. Section 922.10, Florida Statutes, is amended to
 251 read:

252 922.10 Execution of death sentence; executioner.—A death
 253 sentence shall be executed by electrocution, ~~or~~ lethal
 254 injection, or a method not deemed unconstitutional nor cruel and
 255 unusual in accordance with s. 922.105. The warden of the state
 256 prison shall designate the executioner. The warrant authorizing
 257 the execution shall be read to the convicted person immediately
 258 before execution.

259 Section 6. Subsection (3) of section 922.105, Florida
 260 Statutes, is amended to read:

261 922.105 Execution of death sentence; prohibition against

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262 reduction of death sentence as a result of determination that a
 263 method of execution is unconstitutional.—

264 (3) If electrocution or lethal injection is held to be
 265 unconstitutional or cruel and unusual by the Florida Supreme
 266 Court under the State Constitution, or held to be
 267 unconstitutional or cruel and unusual by the United States
 268 Supreme Court under the United States Constitution, or if the
 269 United States Supreme Court declines to review any judgment
 270 holding a method of execution to be unconstitutional or cruel
 271 and unusual under the United States Constitution made by the
 272 Florida Supreme Court or the United States Court of Appeals that
 273 has jurisdiction over Florida, or if the acquisition of
 274 chemicals necessary for lethal injection by the department
 275 becomes impossible or impractical, all persons sentenced to
 276 death for a capital crime shall be executed by a method not
 277 deemed unconstitutional nor cruel and unusual ~~any constitutional~~
 278 ~~method of execution.~~

279 Section 7. Present paragraphs (b) through (e) of subsection
 280 (4) of section 934.425, Florida Statutes, are redesignated as
 281 paragraphs (e) through (h), respectively, and new paragraphs
 282 (b), (c), and (d) are added to that subsection, to read:

283 934.425 Installation or use of tracking devices or tracking
 284 applications; exceptions; penalties.—

285 (4) This section does not apply to:

286 (b) A correctional officer, a correctional probation
 287 officer, or any other officer or support personnel, as those
 288 terms are defined in s. 943.10, of the Department of Corrections
 289 who lawfully installs, places, or uses a tracking device or
 290 tracking application on a person in his or her care, custody, or

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291 control and in the course and scope of his or her employment.

292 (c) A juvenile probation officer, an authorized agent or
 293 designee, or delinquency program staff, as those terms are
 294 defined in s. 985.03, of the Department of Juvenile Justice who
 295 lawfully installs, places, or uses a tracking device or tracking
 296 application on a person in his or her care, custody, or control
 297 and in the course and scope of his or her employment.

298 (d) A person authorized to install, place, or use a
 299 tracking device or tracking application pursuant to a court
 300 order.

301 Section 8. Section 945.41, Florida Statutes, is amended to
 302 read:

303 945.41 Mental health treatment for inmates; legislative
 304 intent of ss. 945.40-945.49.-

305 (1) INTENT.-It is the intent of the Legislature that:

306 (a) ~~mentally ill~~ Inmates in the custody of the department
 307 who have a mental illness ~~of Corrections~~ receive an evaluation
 308 and appropriate treatment for their mental illness through a
 309 continuum of outpatient and inpatient mental health treatment
 310 and services.

311 (b) The department is authorized to purchase treatment
 312 materials and equipment to support inmate rehabilitation; to
 313 ameliorate disabling mental symptoms associated with impairment
 314 in behavioral functioning, sensory and motor skills, and impulse
 315 control; and to improve adaptive coping skills consistent with
 316 the department's jurisdiction as described in s. 945.025.

317 (c) Sections 945.40-945.49 do not supplement, amend, or
 318 change the responsibilities of the Department of Children and
 319 Families pursuant to chapter 916, the Forensic Client Services

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320 Act, which governs forensic services for persons who are
 321 incompetent to proceed as defined in s. 916.106.

322 (2) INDIVIDUAL DIGNITY AND TREATMENT.-

323 (a) An inmate in the custody of the department shall be
 324 offered treatment that is suited to his or her needs as
 325 determined by health care staff.

326 (b) The department shall provide mental health treatment
 327 and services to inmates and may contract with any entities,
 328 persons, or agencies qualified to provide such treatment and
 329 services.

330 (c) Inmates receiving mental health treatment and services
 331 shall be offered the opportunity to participate in the
 332 development of a written individualized treatment plan and be
 333 provided a copy of such plan before its implementation. ~~It is~~
 334 ~~further the intent of the Legislature that:~~

335 (d) ~~(1)~~ Inmates in the custody of the department who have
 336 mental illnesses that require hospitalization and intensive
 337 mental health ~~psychiatric~~ inpatient treatment and services or
 338 care shall be offered ~~receive~~ appropriate treatment or care in
 339 an inpatient setting ~~Department of Corrections mental health~~
 340 ~~treatment facilities~~ designated for that purpose. Inmates who
 341 have mental illnesses that require intensive hospitalization-
 342 level mental health inpatient treatment and services shall be
 343 transferred to a department mental health treatment facility
 344 designated for that purpose ~~The Department of Corrections shall~~
 345 ~~provide mental health services to inmates committed to it and~~
 346 ~~may contract with any entities, persons, or agencies qualified~~
 347 ~~to provide such services.~~

348 (e) ~~(2)~~ Mental health treatment facilities shall be secure

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349 and adequately equipped and staffed for the provision of mental
 350 health ~~treatment and services~~. Inmates shall be offered the
 351 least restrictive appropriate available treatment and services
 352 based on their assessed needs and best interests and consistent
 353 with improvement of their condition for facilitation of
 354 appropriate adjustment within the correctional environment
 355 ~~services and that, to the extent possible, such services be~~
 356 ~~provided in the least restrictive manner consistent with optimum~~
 357 ~~improvement of the inmate's condition.~~

358 (3) EXPRESS AND INFORMED CONSENT.-

359 (a) A mentally competent inmate offered mental health
 360 treatment within the department shall give his or her express
 361 and informed consent for such treatment. Before giving such
 362 consent, the following information shall be provided and
 363 explained in plain language to the inmate:

364 1. The proposed treatment.

365 2. The purpose of the treatment.

366 3. The common risks, benefits, and side effects of the
 367 treatment and the specific dosage range for a medication, if
 368 applicable.

369 4. Alternative treatment modalities.

370 5. The approximate length of treatment.

371 6. The potential effects of stopping treatment.

372 7. How treatment will be monitored.

373 8. That any consent given for treatment may be revoked
 374 orally or in writing before or during the treatment period by
 375 the inmate or by a person legally authorized to make health care
 376 decisions on behalf of the inmate.

377 (b) Inmates who are determined to be incompetent to consent

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378 to treatment shall receive treatment deemed to be necessary for
 379 their appropriate care and for the safety of the inmate or
 380 others in accordance with the procedures established in ss.
 381 945.40-945.49.

382 (4)(3) PAROLE.-Inmates who are transferred to any facility
 383 for the purpose of mental health treatment and services shall be
 384 given consideration for parole and be eligible for release by
 385 reason of gain-time allowances as provided in s. 944.291 and
 386 release by expiration of sentence, consistent with guidelines
 387 established for that purpose by the department.

388 (5)(4) YOUTHFUL OFFENDERS.-Any inmate sentenced as a
 389 youthful offender, or designated as a youthful offender by the
 390 department under chapter 958, who is transferred pursuant to
 391 this act to a mental health treatment facility shall be
 392 separated from other inmates, if necessary, as determined by the
 393 warden of the mental health treatment facility.

394 (6)(5) TREATMENT FACILITIES.-The department may designate
 395 mental health treatment facilities for adult, youthful, and
 396 female offenders or may contract with other appropriate
 397 entities, persons, or agencies for such services.

398 (7) EMERGENCY MEDICAL TREATMENT.-Notwithstanding any other
 399 provision of this section, when the express and informed consent
 400 of an inmate placed in a mental health treatment facility in
 401 accordance with s. 945.44 cannot be obtained or the inmate is
 402 incompetent to consent to treatment, the warden of a mental
 403 health treatment facility, or his or her designated
 404 representative, under the direction of the inmate's attending
 405 physician, may authorize nonpsychiatric, emergency surgical
 406 treatment or other routine medical treatment if such treatment

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407 is deemed lifesaving or there is a situation threatening serious
 408 bodily harm to the inmate.

409 Section 9. Section 945.42, Florida Statutes, is amended to
 410 read:

411 945.42 Definitions; ss. 945.40-945.49.—As used in ss.
 412 945.40-945.49, the following terms shall have the meanings
 413 ascribed to them, unless the context shall clearly indicate
 414 otherwise:

415 (1) "Court" means the circuit court.

416 (2) "Crisis stabilization care" means an inpatient a level
 417 of care that is less restrictive and ~~intensive~~ intense than care
 418 provided in a mental health treatment facility, that includes a
 419 broad range of evaluation and treatment and services provided
 420 within a secure and highly structured residential setting ~~or~~
 421 ~~locked residential setting~~, and that is intended for inmates who
 422 are experiencing acute psychological ~~emotional~~ distress and who
 423 cannot be adequately evaluated and treated in a transitional
 424 care unit or infirmary isolation management room. Such treatment
 425 and services are ~~is also~~ more intense than treatment and
 426 services provided in a transitional care unit and are ~~is~~ devoted
 427 principally toward rapid stabilization of acute symptoms and
 428 conditions.

429 (3) "Department" means the Department of Corrections.

430 (4) "Express and informed consent" means consent
 431 voluntarily given in writing by a competent inmate, after
 432 sufficient explanation and disclosure of the subject matter
 433 involved, to enable the inmate to make a knowing and willful
 434 decision without any element of force, fraud, deceit, duress, or
 435 other form of constraint or coercion.

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436 (5) "Gravely disabled" means a condition in which an
 437 inmate, as a result of a diagnosed mental illness, is:

438 (a) In danger of serious physical harm resulting from the
 439 inmate's failure to provide for his or her essential physical
 440 needs of food, clothing, hygiene, health, or safety without the
 441 assistance of others; or

442 (b) Experiencing a substantial deterioration in behavioral
 443 functioning evidenced by the inmate's unremitting decline in
 444 volitional control over his or her actions.

445 (6) "Incompetent to consent to treatment" means a state in
 446 which an inmate's judgment is so affected by mental illness that
 447 he or she lacks the capacity to make a well-reasoned, willful,
 448 and knowing decision concerning his or her medical or mental
 449 health treatment and services. The term is distinguished from
 450 the term "incompetent to proceed," as defined in s. 916.106, and
 451 refers only to an inmate's inability to provide express and
 452 informed consent for medical or mental health treatment and
 453 services.

454 ~~(4) "Director" means the Director for Mental Health~~
 455 ~~Services of the Department of Corrections or his or her~~
 456 ~~designee.~~

457 ~~(5) "In immediate need of care and treatment" means that an~~
 458 ~~inmate is apparently mentally ill and is not able to be~~
 459 ~~appropriately cared for in the institution where he or she is~~
 460 ~~confined and that, but for being isolated in a more restrictive~~
 461 ~~and secure housing environment, because of the apparent mental~~
 462 ~~illness.~~

463 ~~(a)1. The inmate is demonstrating a refusal to care for~~
 464 ~~himself or herself and without immediate treatment intervention~~

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465 is likely to continue to refuse to care for himself or herself,
 466 and such refusal poses an immediate, real, and present threat of
 467 substantial harm to his or her well-being; or

468 ~~2. There is an immediate, real, and present threat that the~~
 469 ~~inmate will inflict serious bodily harm on himself or herself or~~
 470 ~~another person, as evidenced by recent behavior involving~~
 471 ~~causing, attempting, or threatening such harm;~~

472 ~~(b) The inmate is unable to determine for himself or~~
 473 ~~herself whether placement is necessary; and~~

474 ~~(c) All available less restrictive treatment alternatives~~
 475 ~~that would offer an opportunity for improvement of the inmate's~~
 476 ~~condition have been clinically determined to be inappropriate.~~

477 (7)(6) "In need of care and treatment" means that an inmate
 478 has a mental illness for which inpatient services in a mental
 479 health treatment facility are necessary and ~~that, but for being~~
 480 ~~isolated in a more restrictive and secure housing environment,~~
 481 because of the mental illness:

482 (a) But for being isolated in a more restrictive and secure
 483 housing environment:

484 1. The inmate is demonstrating a refusal to care for
 485 himself or herself and without treatment is likely to continue
 486 to refuse to care for himself or herself, and such refusal poses
 487 a real and present threat of substantial harm to his or her
 488 well-being; or

489 2. There is a substantial likelihood that in the near
 490 future the inmate will inflict serious bodily harm on himself or
 491 herself or another person, as evidenced by recent behavior
 492 causing, attempting, or threatening such harm.†

493 (b) The inmate is incompetent to consent to treatment and

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494 is unable or is refusing to provide express and informed consent
 495 to treatment.

496 ~~(c)(b)~~ The inmate is unable to determine for himself or
 497 herself whether placement is necessary.† ~~and~~

498 ~~(d)(c)~~ All available less restrictive treatment
 499 alternatives that would offer an opportunity for improvement of
 500 the inmate's condition have been clinically determined to be
 501 inappropriate.

502 ~~(8)(7)~~ "Inmate" means any person committed to the custody
 503 of the Department of Corrections.

504 (9) "Involuntary examination" means a psychiatric
 505 examination performed at a mental health treatment facility to
 506 determine whether an inmate should be placed in the mental
 507 health treatment facility for inpatient mental health treatment
 508 and services.

509 (10) "Likelihood of serious harm" means:

510 (a) A substantial risk that the inmate will inflict serious
 511 physical harm upon his or her own person, as evidenced by
 512 threats or attempts to commit suicide or the actual infliction
 513 of serious physical harm on self;

514 (b) A substantial risk that the inmate will inflict
 515 physical harm upon another person, as evidenced by behavior
 516 which has caused such harm or which places any person in
 517 reasonable fear of sustaining such harm; or

518 (c) A reasonable degree of medical certainty that the
 519 inmate will suffer serious physical or mental harm, as evidenced
 520 by the inmate's recent behavior demonstrating an inability to
 521 refrain from engaging in self-harm behavior.

522 ~~(11)(8)~~ "Mental health treatment facility" means any

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523 extended treatment or hospitalization-level unit within the
 524 corrections system which the Assistant Secretary for Health
 525 Services of the department specifically designates by rule to
 526 provide acute mental health ~~psychiatric~~ care and which may
 527 include involuntary treatment and therapeutic intervention in
 528 contrast to less intensive levels of care such as outpatient
 529 mental health care, transitional mental health care, or crisis
 530 stabilization care. The term does not include a forensic
 531 facility as defined in s. 916.106.

532 (12)-(9) "Mental illness" or "mentally ill" means an
 533 impairment of the mental or emotional processes that exercise
 534 conscious control of one's actions or of the ability to perceive
 535 or understand reality, which impairment substantially interferes
 536 with the person's ability to meet the ordinary demands of
 537 living. However, for the purposes of transferring an inmate to a
 538 mental health treatment facility, the term does not include a
 539 developmental disability as defined in s. 393.063, simple
 540 intoxication, or conditions manifested only by antisocial
 541 behavior or substance abuse addiction. However, an individual
 542 who is developmentally disabled may also have a mental illness.

543 (13)-(10) "Psychiatrist" means a medical practitioner
 544 licensed pursuant to chapter 458 or chapter 459 who has
 545 primarily diagnosed and treated nervous and mental disorders for
 546 a period of not less than 3 years inclusive of psychiatric
 547 residency.

548 (14)-(11) "Psychological professional" means a behavioral
 549 practitioner who has an approved doctoral degree in psychology
 550 as defined in s. 490.003(3)(b) ~~s. 490.003(3)~~ and is employed by
 551 the department or who is licensed as a psychologist pursuant to

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552 chapter 490.

553 (15)-(12) "Secretary" means the Secretary of Corrections.

554 (16)-(13) "Transitional mental health care" means a level of
 555 care that is more intensive than outpatient care, but less
 556 intensive than crisis stabilization care, and is characterized
 557 by the provision of traditional mental health treatment and
 558 services, treatments such as group and individual therapy,
 559 activity therapy, recreational therapy, and psychotropic
 560 medications in the context of a secure, structured residential
 561 setting. Transitional mental health care is indicated for an
 562 inmate a person with chronic or residual symptomatology who does
 563 not require crisis stabilization care or acute mental health
 564 psychiatric care, but whose impairment in functioning
 565 nevertheless renders him or her incapable of adjusting
 566 satisfactorily within the general inmate population.

567 (17) "Treatment" means psychotropic medications prescribed
 568 by a medical practitioner licensed pursuant to chapter 458 or
 569 chapter 459, including those laboratory tests and related
 570 medical procedures that are essential for the safe and effective
 571 administration of a psychotropic medication and psychological
 572 interventions and services, such as group and individual
 573 psychotherapy, activity therapy, recreational therapy, and music
 574 therapy. The term does not include forensic services for inmate
 575 defendants who are incompetent to proceed as defined in s.
 576 916.106.

577 (18)-(14) "Warden" means the warden of a state corrections
 578 facility or his or her designee.

579 Section 10. Section 945.43, Florida Statutes, is amended to
 580 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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639 inmate is confined. The warden of the institution where the
 640 mental health treatment facility is located shall petition the
 641 circuit court serving the county for an order authorizing the
 642 placement and treatment of the inmate. The petition must be
 643 supported by the expert opinion of at least one of the inmate's
 644 treating psychiatrists.

645 (b) The inmate shall be provided with a copy of the
 646 petition along with the proposed treatment, the basis for the
 647 proposed treatment, the names of the examining experts, and the
 648 date, time, and location of the hearing. After considering the
 649 public safety and security concerns presented by transporting
 650 the inmate or in conducting onsite hearings, the court may order
 651 that the hearing be conducted by electronic means or in person
 652 at the facility or at another location designated by the court.
 653 If the hearing is ordered by the court to be conducted at a
 654 location other than the facility, the department is authorized
 655 to transport the inmate to the location of the hearing.

656 (c) The inmate may have an attorney represent him or her at
 657 the hearing, and, if the inmate is indigent, the court shall
 658 appoint the office of the public defender or private counsel
 659 pursuant to s. 27.40(1) to represent the inmate at the hearing.
 660 An attorney representing the inmate shall have access to the
 661 inmate and any records, including medical or mental health
 662 records, which are relevant to the representation of the inmate.

663 (d) The hearing on the petition for involuntary placement
 664 and treatment shall be held as expeditiously as possible after
 665 the petition is filed, but no later than 14 calendar days after
 666 filing. The court may appoint a general or special magistrate to
 667 preside over the hearing. The inmate may testify or not, as he

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668 or she chooses, may cross-examine witnesses testifying on behalf
 669 of the facility, and may present his or her own witnesses.

670 (e) The court may waive the presence of the inmate at the
 671 hearing if the waiver is consistent with the best interests of
 672 the inmate and the inmate's counsel does not object. One of the
 673 inmate's physicians whose opinion supported the petition shall
 674 appear as a witness at the hearing.

675 (3) ORDERS FOR INVOLUNTARY PLACEMENT AND TREATMENT.—

676 (a) If the court finds by clear and convincing evidence
 677 that the inmate meets the criteria specified in paragraph
 678 (1) (a), the court must order that the inmate be involuntarily
 679 placed in the mental health treatment facility for a period not
 680 to exceed 6 months.

681 (b) If the court finds by clear and convincing evidence
 682 that the inmate meets the criteria specified in paragraph
 683 (1) (b), the court may order that the inmate be involuntarily
 684 treated for a period not to exceed 6 months, concurrent with an
 685 order for placement in the mental health treatment facility. In
 686 determining whether to order involuntary treatment under this
 687 paragraph, the court must consider the inmate's expressed
 688 preference regarding treatment; whether the inmate is able to
 689 express a preference; the probability of adverse side effects;
 690 the prognosis for the inmate without treatment; the prognosis
 691 for the inmate with treatment; and any other factors the court
 692 deems relevant.

693 (4) STATUS HEARINGS AND CONTINUING JURISDICTION.—An order
 694 authorizing involuntary placement and treatment must allow such
 695 placement and treatment for a period not to exceed 6 months
 696 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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755 being released from its custody to a receiving or mental health
 756 treatment facility for involuntary examination or placement.
 757 Such transport shall be made to a facility that is specified by
 758 the Department of Children and Families as able to meet the
 759 specific needs of the individual. If the Department of Children
 760 and Families does not specify a facility, transport shall ~~may~~ be
 761 made to the nearest receiving facility.

762 Section 14. Section 945.47, Florida Statutes, is amended to
 763 read:

764 945.47 Discharge of inmate from mental health treatment.—

765 (1) An inmate who has been placed in a mental health
 766 treatment facility ~~transferred~~ for the purpose of mental health
 767 treatment shall be discharged from treatment by the warden under
 768 the following conditions:

769 (a) If the inmate is no longer in need of care and
 770 treatment, as defined in s. 945.42, he or she may be transferred
 771 out of the mental health treatment facility and provided with
 772 appropriate mental health services; or

773 (b) If the inmate's sentence expires during his or her
 774 treatment, but he or she is no longer in need of care and
 775 treatment as an inpatient, the inmate may be released with a
 776 recommendation for outpatient treatment, pursuant to ~~the~~
 777 ~~provisions of~~ ss. 945.40-945.49.

778 (2) At any time that an inmate who has received mental
 779 health treatment while in the custody of the department becomes
 780 eligible for release under supervision or upon end of sentence,
 781 a record of the inmate's mental health treatment may be provided
 782 to the Florida Commission on Offender Review, ~~and~~ to the
 783 Department of Children and Families to arrange postrelease

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784 aftercare placement, and to prospective recipient inpatient
 785 health care or residential facilities upon request. The record
 786 shall include, at a minimum, a summary of the inmate's
 787 diagnosis, length of stay in treatment, clinical history,
 788 prognosis, prescribed medication, treatment plan, and
 789 recommendations for aftercare services.

790 Section 15. Section 945.48, Florida Statutes, is amended to
 791 read:

792 (Substantial rewording of section. See
 793 s. 945.48, F.S., for present text.)

794 945.48 Emergency treatment orders and use of force.—

795 (1) EMERGENCY MEDICATION.—The department is authorized to
 796 involuntarily administer psychotropic medication to an inmate on
 797 an emergency basis without following the procedure outlined in
 798 s. 945.43 only as specified in this section. An emergency
 799 treatment order for psychotropic medication may be provided to
 800 the inmate upon the written order of a physician licensed
 801 pursuant to chapter 458 or chapter 459 in an emergency not
 802 exceeding 72 hours, excluding weekends and legal holidays. An
 803 emergency exists when an inmate with a mental illness presents
 804 an immediate threat of:

805 (a) Bodily harm to self or others; or

806 (b) Extreme deterioration in behavioral functioning
 807 secondary to the mental illness.

808 (2) PSYCHOTROPIC MEDICATION.—Psychotropic medication may be
 809 administered only when the medication constitutes an appropriate
 810 treatment for a mental illness and its symptoms and alternative
 811 treatments are not available or indicated, or would not be
 812 effective. If after the 72-hour period the inmate has not given

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813 express and informed consent to the medication initially
 814 refused, the inmate's treating physician shall refer the inmate
 815 to a mental health treatment facility for an involuntary
 816 examination in accordance with the procedures described in s.
 817 945.43. Upon such referral, the warden shall, within 48 hours,
 818 excluding weekends and legal holidays, transfer the inmate to a
 819 mental health treatment facility. Upon transfer of the inmate
 820 for an involuntary examination, the emergency treatment order
 821 may be continued upon the written order of a physician as long
 822 as the physician has determined that the emergency continues to
 823 present a danger to the safety of the inmate or others and the
 824 criteria described in this subsection are satisfied. If
 825 psychotropic medication is still recommended after the
 826 emergency, it may only be administered after following the
 827 procedures outlined in s. 945.44.

828 (3) USE OF FORCE.—An employee or agent of the department is
 829 authorized to apply physical force upon an inmate when and to
 830 the extent that it reasonably appears necessary to effectuate
 831 the treatment of an inmate as described in this section, for the
 832 application of psychiatric restraint, to effectuate clinically
 833 necessary hygiene, or pursuant to a valid court order issued
 834 under s. 945.44 or s. 945.485. The requirements of s. 944.35
 835 shall be followed when using force to effectuate such treatment,
 836 apply such restraint, or effectuate such hygiene.

837 Section 16. Section 945.485, Florida Statutes, is created
 838 to read:

839 945.485 Management and treatment for self-injurious
 840 behaviors.—

841 (1) The Legislature finds that nonsuicidal self-injurious

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842 behaviors in correctional institutions, or acts intended to
 843 cause bodily harm but not death, have increased in the
 844 correctional environment. Self-injurious behavior may include
 845 nonsuicidal self-injury or self-mutilation, such as cutting,
 846 reopening wounds, and ingesting or inserting foreign objects or
 847 dangerous instruments into the body. These behaviors pose a
 848 significant threat to inmates, staff, and, in many cases, the
 849 safe and secure operation of the correctional institution. In
 850 addition, self-injurious behaviors, coupled with the inmate's
 851 repeated refusals to provide express and informed consent for
 852 medical treatment and care, are a significant challenge for
 853 correctional medical and mental health professionals, resulting
 854 in higher costs for medical services, and may result in
 855 inadvertent mortality in the incarcerated population.

856 (2) In accordance with s. 945.6402, the Legislature finds
 857 that an inmate retains the fundamental right of self-
 858 determination regarding decisions pertaining to his or her own
 859 health, including the right to choose or refuse medical
 860 treatment or life-saving medical procedures. However, the
 861 inmate's right to privacy and decisionmaking regarding medical
 862 treatment may be outweighed by compelling state interests.

863 (3) When an inmate is engaging in active or ongoing self-
 864 injurious behavior and has refused to provide express and
 865 informed consent for treatment related to the self-injurious
 866 behavior, the warden of the facility where the inmate is housed
 867 shall consult with the inmate's treating physician regarding the
 868 inmate's medical and mental health status, current medical and
 869 mental health treatment needs, and competency to provide express
 870 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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932 established, by clear and convincing evidence, a compelling
 933 state interest sufficient to outweigh the inmate's right to
 934 refuse treatment. The court shall consider all of the following:

- 935 1. Preservation of the life of the inmate.
- 936 2. Prevention of suicide.
- 937 3. Protection of innocent third parties.
- 938 4. Maintenance of the ethical integrity of the medical
 939 profession.
- 940 5. Preservation of the security, internal order, or
 941 discipline of the institution.
- 942 6. Rehabilitation of the inmate.
- 943 7. Any other compelling state interest.

944 (g) If the court determines that there are compelling state
 945 interests sufficient to override the inmate's right to refuse
 946 treatment, the court shall enter an order authorizing emergency
 947 surgical intervention or other medical services, narrowly
 948 tailored and in the least intrusive manner possible, only as
 949 necessary to remedy the threat to the safety of third parties or
 950 the security, internal order, or discipline of the institution.
 951 Emergency surgical intervention or other medical services
 952 authorized by the court may be carried out at the institution or
 953 at a licensed hospital, as applicable.

954 (5) This section does not repeal by implication any
 955 provision of s. 766.103, the Florida Medical Consent Law, or s.
 956 768.13, the Good Samaritan Act. For all purposes, the Florida
 957 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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958 945.49 Operation and administration.—

959 (2) ~~RULES.—The department, in cooperation with the Mental~~
 960 ~~Health Program Office of the Department of Children and~~
 961 ~~Families,~~ shall adopt rules necessary for administration of ss.
 962 945.40-945.49 in accordance with chapter 120.

963 Section 18. Section 945.6402, Florida Statutes, is created
 964 to read:

965 945.6402 Inmate health care advance directives.—

966 (1) DEFINITIONS.—The terms used in this section have the
 967 same meanings as in s. 765.101 unless otherwise specified in
 968 this section. For purposes of this section, the term:

- 969 (a) "Health care facility" has the same meaning as in s.
 970 765.101 and includes any correctional institution or facility
 971 where health care is provided.
- 972 (b) "Incapacity" or "incompetent" means an inmate is
 973 physically or mentally unable to communicate a willful and
 974 knowing health care decision.
- 975 (c) "Informed consent" means consent voluntarily given by
 976 an inmate after a sufficient explanation and disclosure of the
 977 subject matter involved to enable the inmate to have a general
 978 understanding of the treatment or procedure and the medically
 979 acceptable alternatives, including the substantial risks and
 980 hazards inherent in the proposed treatment or procedures, and to
 981 make a knowing health care decision without coercion or undue
 982 influence.
- 983 (d) "Inmate" means any person committed to the custody of
 984 the department.
- 985 (e) "Ombudsman" means an individual designated and
 986 specifically trained by the department to identify conditions

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987 that may pose a threat to the rights, health, safety, and
 988 welfare of inmates in a health care facility and who may be
 989 appointed to serve as a proxy for an inmate who is physically or
 990 mentally unable to communicate a willful and knowing health care
 991 decision.

992 (f) "Proxy" means a competent adult who has not been
 993 expressly designated to make health care decisions for a
 994 particular incapacitated inmate, but who, nevertheless, is
 995 authorized pursuant to s. 765.401 and as specified in this
 996 section to make health care decisions for such inmate.

997 (g) "Proxy review team" means a team of at least five
 998 members, appointed by the Assistant Secretary for Health
 999 Services. The team shall be composed of, at a minimum, one
 1000 physician licensed pursuant to chapter 458 or chapter 459, one
 1001 psychologist licensed pursuant to chapter 490, one nurse
 1002 licensed pursuant to chapter 464, and one department chaplain.

1003 (2) LEGISLATIVE FINDINGS AND INTENT.-

1004 (a) In accordance with chapter 765, the Legislature finds
 1005 that an inmate retains the fundamental right of self-
 1006 determination regarding decisions pertaining to his or her own
 1007 health, including the right to choose or refuse medical
 1008 treatment. In accordance with chapter 765, this right is subject
 1009 to certain institutional interests, including the protection of
 1010 human life, the preservation of ethical standards in the medical
 1011 profession, and, for inmates committed to the custody of the
 1012 department, the security and good order of the institutional
 1013 setting.

1014 (b) To ensure that such right is not lost or diminished by
 1015 virtue of later physical or mental incapacity, the Legislature

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1016 intends that the procedures specified in chapter 765, and as
 1017 modified in this section for the institutional health care
 1018 setting, apply to incarcerated inmates. These procedures should
 1019 be less expensive and less restrictive than guardianship and
 1020 allow an inmate to plan for incapacity by executing a document
 1021 or orally designating another person to direct the course of his
 1022 or her health care or receive his or her health information, or
 1023 both, upon his or her incapacity. These procedures permit a
 1024 previously incapacitated inmate to exercise his or her full
 1025 right to make health care decisions as soon as the capacity to
 1026 make such decisions has been regained.

1027 (c) In order to ensure that the rights and intentions of an
 1028 inmate are respected when the inmate is not able to participate
 1029 actively in decisions concerning himself or herself, and to
 1030 encourage communication between the inmate, his or her family,
 1031 and his or her treating physicians, the Legislature declares
 1032 that the laws of this state recognize the right of a competent
 1033 incarcerated adult to make an advance directive instructing his
 1034 or her physicians to provide, withhold, or withdraw life-
 1035 prolonging procedures or to designate another person to make the
 1036 health care decision for him or her in the event that such
 1037 incarcerated person should become incapacitated and unable to
 1038 personally direct his or her health care. It is further the
 1039 intent of the Legislature that the department provide the
 1040 opportunity for inmates to make advance directives as specified
 1041 in this section.

1042 (d) The Legislature further recognizes that incarcerated
 1043 inmates may not avail themselves of the opportunity to make an
 1044 advance directive or, because of incarceration, may not have a

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1045 surrogate, as defined in s. 765.101, willing, able, or
 1046 reasonably available to make health care decisions on their
 1047 behalf. Additionally, because of incarceration, the individuals
 1048 designated in s. 765.401 who are eligible to serve as an
 1049 appointed proxy may not be reasonably available, willing, or
 1050 competent to make health care decisions for the inmate in the
 1051 event of incapacity. Thus, it is the intent of the Legislature
 1052 that the department have an efficient process that is less
 1053 expensive and less restrictive than guardianship for the
 1054 appointment of a proxy to allow for the expedient delivery of
 1055 necessary health care to an incarcerated inmate.

1056 (e) This section does not supersede the process for inmate
 1057 involuntary mental health treatment specified in ss. 945.40-
 1058 945.49.

1059 (3) CAPACITY OF INMATE; PROCEDURE.-

1060 (a) An inmate is presumed to be capable of making health
 1061 care decisions for himself or herself unless he or she is
 1062 determined to be incapacitated. When an inmate has
 1063 decisionmaking capacity, the inmate's wishes are controlling.
 1064 Each physician or health care provider must clearly communicate
 1065 the treatment plan and any change to the treatment plan before
 1066 implementation of the plan or any change to the plan. Incapacity
 1067 may not be inferred from an inmate's involuntary hospitalization
 1068 for mental illness or from his or her intellectual disability.

1069 (b) If an inmate's capacity to make health care decisions
 1070 for himself or herself or provide informed consent is in
 1071 question, the inmate's treating physician at the health care
 1072 facility where the inmate is located shall evaluate the inmate's
 1073 capacity and, if the evaluating physician concludes that the

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1074 inmate lacks capacity, enter that evaluation in the inmate's
 1075 medical record. If the evaluating physician has a question as to
 1076 whether the inmate lacks capacity, another physician shall also
 1077 evaluate the inmate's capacity, and if the second physician
 1078 finds that the inmate lacks the capacity to make health care
 1079 decisions for himself or herself or provide informed consent,
 1080 both physicians' evaluations shall be entered in the inmate's
 1081 medical record.

1082 (c) If the inmate is found to be incapacitated and has
 1083 designated a health care surrogate in accordance with chapter
 1084 765, the institution's or facility's health care staff shall
 1085 notify the surrogate and proceed as specified in chapter 765. If
 1086 the incapacitated inmate has not designated a health care
 1087 surrogate, the health care facility shall appoint a proxy to
 1088 make health care decisions for the inmate as specified in this
 1089 section.

1090 (d) A determination made pursuant to this section that an
 1091 inmate lacks the capacity to make health care decisions for
 1092 himself or herself may not be construed as a finding that an
 1093 inmate lacks capacity for any other purpose.

1094 (4) HEALTH CARE ADVANCE DIRECTIVE; PROCEDURE.-

1095 (a) In accordance with chapter 765, the department shall
 1096 offer inmates the opportunity to execute an advance directive as
 1097 defined in s. 765.101.

1098 (b) The department shall provide to each inmate written
 1099 information concerning advance directives and necessary forms to
 1100 allow inmates to execute an advance directive. The department
 1101 and its health care providers shall document in the inmate's
 1102 medical records whether the inmate has executed an advance

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1103 directive. Neither the department nor its health care providers
 1104 may require an inmate to execute an advance directive using the
 1105 department's forms. The inmate's advance directive shall travel
 1106 with the inmate within the department as part of the inmate's
 1107 medical record.

1108 (c) An advance directive may be amended or revoked at any
 1109 time by a competent inmate by means of:

1110 1. A signed, dated writing of intent to amend or revoke;
 1111 2. The physical cancellation or destruction of the advance
 1112 directive by the inmate or by another person in the inmate's
 1113 presence and at the inmate's direction;
 1114 3. An oral expression of intent to amend or revoke; or
 1115 4. A subsequently executed advance directive that is
 1116 materially different from a previously executed advance
 1117 directive.

1118 (5) PROXY.—

1119 (a) If an incapacitated inmate has not executed an advance
 1120 directive or designated a health care surrogate in accordance
 1121 with the procedures specified in chapter 765, or the designated
 1122 health care surrogate is no longer available to make health care
 1123 decisions, health care decisions may be made for the inmate by
 1124 any of the individuals specified in the priority order provided
 1125 in s. 765.401(1)(a)-(g) as proxy. Documentation of the efforts
 1126 to locate a proxy from the classes specified in s.
 1127 765.401(1)(a)-(g) shall be recorded in the inmate's medical
 1128 file.

1129 (b) If there are no individuals as specified in s.
 1130 765.401(1)(a)-(g) available, willing, or competent to act on
 1131 behalf of the inmate, and the inmate is housed in a correctional

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1132 institution or facility where health care is provided in a
 1133 nonhospital setting, the warden of the institution where the
 1134 inmate is housed, or the warden's designee, shall consult with
 1135 the Assistant Secretary for Health Services or his or her
 1136 designee, who shall appoint a department ombudsman to serve as
 1137 the proxy. This appointment terminates when the inmate regains
 1138 capacity or is no longer incarcerated in the custody of the
 1139 department. In accordance with chapter 765 and as provided in
 1140 this section, decisions to withhold or withdraw life-prolonging
 1141 procedures will be reviewed by the department's proxy review
 1142 team for compliance with chapter 765 and the requirements of
 1143 this section.

1144 (c) The ombudsman appointed to serve as the proxy is
 1145 authorized to request the assistance of the treating physician
 1146 and, upon request, a second physician not involved in the
 1147 inmate's care to assist the proxy in evaluating the inmate's
 1148 treatment.

1149 (d) In accordance with chapter 765, any health care
 1150 decision made by any appointed proxy under this section must be
 1151 based on the proxy's informed consent and on the decision that
 1152 the proxy reasonably believes the inmate would have made under
 1153 the circumstances. If there is no indication of what decision
 1154 the inmate would have made, the proxy may consider the inmate's
 1155 best interest in deciding that proposed treatments are to be
 1156 withheld or that treatments currently in effect are to be
 1157 withdrawn.

1158 (e) Before exercising the incapacitated inmate's rights to
 1159 select or decline health care, the proxy must comply with ss.
 1160 765.205 and 765.305, except that any proxy's decision to

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1161 withhold or withdraw life-prolonging procedures must be
 1162 supported by clear and convincing evidence that the decision
 1163 would have been the one the inmate would have made had he or she
 1164 been competent or, if there is no indication of what decision
 1165 the inmate would have made, that the decision is in the inmate's
 1166 best interest.

1167 (f) Notwithstanding s. 456.057 and pursuant to s. 945.10
 1168 and 45 C.F.R. part 164, subpart E, relevant protected health
 1169 information and mental health and medical records of an
 1170 incapacitated inmate may be disclosed to a proxy appointed to
 1171 make health care decisions for an inmate.

1172 (6) USE OF FORCE.—In addition to s. 944.35(1), an employee
 1173 of the department may apply reasonable physical force upon an
 1174 incapacitated inmate to administer medical treatment only by or
 1175 under the clinical supervision of a physician or his or her
 1176 designee and only to carry out a health care decision made in
 1177 accordance with this section and chapter 765.

1178 (7) IMMUNITY FROM LIABILITY.—A department health care
 1179 provider, ombudsman, or other employee who acts under the
 1180 direction of a health care provider as authorized in this
 1181 section or chapter 765 is not subject to criminal prosecution or
 1182 civil liability and may not be deemed to have engaged in
 1183 unprofessional conduct as a result of carrying out a health care
 1184 decision made in accordance with this section or chapter 765 on
 1185 an inmate's behalf.

1186 Section 19. Section 947.02, Florida Statutes, is amended to
 1187 read:

1188 947.02 Florida Commission on Offender Review; members,
 1189 appointment.—

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1190 (1) ~~Except as provided in s. 947.021,~~ The members of the
 1191 Florida commission on Offender Review shall be directly
 1192 appointed by the Governor and Cabinet ~~from a list of eligible~~
 1193 ~~applicants submitted by a parole qualifications committee.~~ The
 1194 appointments of members of the commission shall be certified to
 1195 the Senate by the Governor and Cabinet for confirmation, ~~and the~~
 1196 ~~membership of the commission shall include representation from~~
 1197 ~~minority persons as defined in s. 288.703.~~

1198 (2) If the Legislature decreases the membership of the
 1199 commission, all commission member terms of office shall expire
 1200 and new members of the commission must be appointed in
 1201 accordance with subsection (1). Members appointed to the
 1202 commission may be selected from incumbents A parole
 1203 qualifications committee shall consist of five persons who are
 1204 appointed by the Governor and Cabinet. One member shall be
 1205 designated as chair by the Governor and Cabinet. The committee
 1206 shall provide for statewide advertisement and the receiving of
 1207 applications for any position or positions on the commission and
 1208 shall devise a plan for the determination of the qualifications
 1209 of the applicants by investigations and comprehensive
 1210 evaluations, including, but not limited to, investigation and
 1211 evaluation of the character, habits, and philosophy of each
 1212 applicant. Each parole qualifications committee shall exist for
 1213 2 years. If additional vacancies on the commission occur during
 1214 this 2-year period, the committee may advertise and accept
 1215 additional applications; however, all previously submitted
 1216 applications shall be considered along with the new applications
 1217 according to the previously established plan for the evaluation
 1218 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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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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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.



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LEGISLATIVE ACTION

Senate

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House

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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11 proceeding or a collateral criminal proceeding.

12 Section 2. Paragraph (b) of subsection (2) and paragraphs
13 (f) and (g) of subsection (6) of section 95.11, Florida
14 Statutes, are amended to read:

15 95.11 Limitations other than for the recovery of real
16 property.—Actions other than for recovery of real property shall
17 be commenced as follows:

18 (2) WITHIN FIVE YEARS.—

19 (b) A legal or equitable action on a contract, obligation,
20 or liability founded on a written instrument, except for an
21 action to enforce a claim against a payment bond, which shall be
22 governed by the applicable provisions of paragraph (6) (e), s.
23 255.05(10), s. 337.18(1), or s. 713.23(1) (e), and except for an
24 action for a deficiency judgment governed by paragraph (6) (g)
25 ~~(6) (h)~~.

26 (6) WITHIN ONE YEAR.—

27 (f) Except for actions described in subsection (9), or a
28 petition challenging a criminal conviction, all petitions;
29 extraordinary writs; tort actions, including those under s.
30 768.28(14); or other actions which concern any condition of
31 confinement of a prisoner a petition for extraordinary writ,
32 other than a petition challenging a criminal conviction, filed
33 by or on behalf of a prisoner as defined in s. 57.085. Any
34 petition, writ, or action brought under this paragraph must be
35 commenced within 1 year after the time the incident, conduct, or
36 conditions occurred or within 1 year after the time the
37 incident, conduct, or conditions were discovered, or should have
38 been discovered.

39 ~~(g) Except for actions described in subsection (9), an~~



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40 ~~action brought by or on behalf of a prisoner, as defined in s.~~
41 ~~57.085, relating to the conditions of the prisoner's~~
42 ~~confinement.~~

43 Section 3. Section 760.701, Florida Statutes, is created to
44 read:

45 760.701 Lawsuits by prisoners.—

46 (1) For the purposes of this section, the term "prisoner"
47 means any person incarcerated or detained in any jail, prison,
48 or other correctional facility who is accused of, convicted of,
49 sentenced for, or adjudicated delinquent for violations of
50 criminal law or the terms and conditions of parole, probation,
51 pretrial release, or a diversionary program.

52 (2) An action may not be brought by or on behalf of a
53 prisoner relating to the conditions of the prisoner's
54 confinement under 42 U.S.C. s. 1983, or any other state or
55 federal law, until the administrative remedies available are
56 fully exhausted.

57 (3) The court shall on its own motion or on the motion of a
58 party dismiss any action brought relating to the conditions of
59 the prisoner's confinement under 42 U.S.C. s. 1983, or any other
60 state or federal law, by a prisoner if the court is satisfied
61 that the action is frivolous, malicious, fails to state a claim
62 upon which relief can be granted, or seeks monetary relief from
63 a defendant who is immune from such relief. The court shall
64 review any such action pursuant to s. 57.085(6).

65 (4) An action may not be brought in state court by or on
66 behalf of a prisoner relating to the conditions of the
67 prisoner's confinement under 42 U.S.C. s. 1983, or any state
68 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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- 98 m. Carjacking;
- 99 n. Home-invasion robbery;
- 100 o. Aggravated stalking;
- 101 p. Trafficking in cannabis, trafficking in cocaine, capital
- 102 importation of cocaine, trafficking in illegal drugs, capital
- 103 importation of illegal drugs, trafficking in phencyclidine,
- 104 capital importation of phencyclidine, trafficking in
- 105 methaqualone, capital importation of methaqualone, trafficking
- 106 in amphetamine, capital importation of amphetamine, trafficking
- 107 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
- 108 (GHB), trafficking in 1,4-Butanediol, trafficking in
- 109 Phenethylamines, or other violation of s. 893.135(1);
- 110 q. Possession of a firearm by a felon; or
- 111 r. Human trafficking,
- 112

113 and during the commission of the offense, such person actually
114 possessed a "firearm" or "destructive device" as those terms are
115 defined in s. 790.001, shall be sentenced to a minimum term of
116 imprisonment of 10 years, except that a person who is convicted
117 for possession of a firearm by a felon or burglary of a
118 conveyance shall be sentenced to a minimum term of imprisonment
119 of 3 years if such person possessed a "firearm" or "destructive
120 device" during the commission of the offense. However, if an
121 offender who is convicted of the offense of possession of a
122 firearm by a felon has a previous conviction of committing or
123 attempting to commit a felony listed in s. 775.084(1)(b)1. and
124 actually possessed a firearm or destructive device during the
125 commission of the prior felony, the offender shall be sentenced
126 to a minimum term of imprisonment of 10 years.



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127 2. Any person who is convicted of a felony or an attempt to
128 commit a felony listed in sub-subparagraphs 1.a.-p. or sub-
129 subparagraph 1.r., regardless of whether the use of a weapon is
130 an element of the felony, and during the course of the
131 commission of the felony such person discharged a "firearm" or
132 "destructive device" as those terms are defined in s. 790.001
133 shall be sentenced to a minimum term of imprisonment of 20
134 years.

135 3. Any person who is convicted of a felony or an attempt to
136 commit a felony listed in sub-subparagraphs 1.a.-p. or sub-
137 subparagraph 1.r., regardless of whether the use of a weapon is
138 an element of the felony, and during the course of the
139 commission of the felony such person discharged a "firearm" or
140 "destructive device" as those terms are defined in s. 790.001
141 and, as the result of the discharge, death or great bodily harm
142 was inflicted upon any person, the convicted person shall be
143 sentenced to a minimum term of imprisonment of not less than 25
144 years and not more than a term of imprisonment of life in
145 prison.

146 (d) It is the intent of the Legislature that offenders who
147 actually possess, carry, display, use, threaten to use, or
148 attempt to use firearms or destructive devices be punished to
149 the fullest extent of the law. The court shall impose, and the
150 minimum ~~term~~ terms of imprisonment required under paragraph (a)
151 ~~imposed pursuant to this subsection shall be imposed~~ for each
152 qualifying felony offense ~~count~~ for which the person is
153 convicted. If the offender is convicted of multiple felony
154 offenses for which paragraph (a) requires the imposition of a
155 minimum term of imprisonment, the court must ~~shall~~ impose any



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156 ~~such terms term of imprisonment provided for in this subsection~~
157 ~~consecutively to any other term of imprisonment imposed for any~~
158 ~~other felony offense.~~

159 (e) If an offender commits a felony listed in subparagraph
160 (a)1. in conjunction with any other felony offense not listed in
161 subparagraph (a)1., the court may impose any term of
162 imprisonment provided for in paragraph (a) consecutively to any
163 other term of imprisonment imposed for any other felony offense
164 not listed in subparagraph (a)1.

165 (3) (a)1. Any person who is convicted of a felony or an
166 attempt to commit a felony, regardless of whether the use of a
167 firearm is an element of the felony, and the conviction was for:

- 168 a. Murder;
- 169 b. Sexual battery;
- 170 c. Robbery;
- 171 d. Burglary;
- 172 e. Arson;
- 173 f. Aggravated battery;
- 174 g. Kidnapping;
- 175 h. Escape;
- 176 i. Sale, manufacture, delivery, or intent to sell,
177 manufacture, or deliver any controlled substance;
- 178 j. Aircraft piracy;
- 179 k. Aggravated child abuse;
- 180 l. Aggravated abuse of an elderly person or disabled adult;
- 181 m. Unlawful throwing, placing, or discharging of a
182 destructive device or bomb;
- 183 n. Carjacking;
- 184 o. Home-invasion robbery;



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185 p. Aggravated stalking;
186 q. Trafficking in cannabis, trafficking in cocaine, capital
187 importation of cocaine, trafficking in illegal drugs, capital
188 importation of illegal drugs, trafficking in phencyclidine,
189 capital importation of phencyclidine, trafficking in
190 methaqualone, capital importation of methaqualone, trafficking
191 in amphetamine, capital importation of amphetamine, trafficking
192 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
193 (GHB), trafficking in 1,4-Butanediol, trafficking in
194 Phenethylamines, or other violation of s. 893.135(1); or

195 r. Human trafficking,
196
197 and during the commission of the offense, such person possessed
198 a semiautomatic firearm and its high-capacity detachable box
199 magazine or a machine gun as defined in s. 790.001, shall be
200 sentenced to a minimum term of imprisonment of 15 years.

201 2. Any person who is convicted of a felony or an attempt to
202 commit a felony listed in subparagraph 1., regardless of whether
203 the use of a weapon is an element of the felony, and during the
204 course of the commission of the felony such person discharged a
205 semiautomatic firearm and its high-capacity box magazine or a
206 "machine gun" as defined in s. 790.001 shall be sentenced to a
207 minimum term of imprisonment of 20 years.

208 3. Any person who is convicted of a felony or an attempt to
209 commit a felony listed in subparagraph 1., regardless of whether
210 the use of a weapon is an element of the felony, and during the
211 course of the commission of the felony such person discharged a
212 semiautomatic firearm and its high-capacity box magazine or a
213 "machine gun" as defined in s. 790.001 and, as the result of the



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214 discharge, death or great bodily harm was inflicted upon any
215 person, the convicted person shall be sentenced to a minimum
216 term of imprisonment of not less than 25 years and not more than
217 a term of imprisonment of life in prison.

218 (d) It is the intent of the Legislature that offenders who
219 possess, carry, display, use, threaten to use, or attempt to use
220 a semiautomatic firearm and its high-capacity detachable box
221 magazine or a machine gun as defined in s. 790.001 be punished
222 to the fullest extent of the law. The court shall impose, and
223 the minimum term terms of imprisonment required under paragraph
224 (a) imposed pursuant to this subsection shall be imposed for
225 each qualifying felony offense count for which the person is
226 convicted. If the offender is convicted of multiple felony
227 offenses for which paragraph (a) requires the imposition of a
228 minimum term of imprisonment, the court must shall impose any
229 such terms term of imprisonment provided for in this subsection
230 consecutively to any other term of imprisonment imposed for any
231 other felony offense.

232 (e) If an offender commits a felony listed in subparagraph
233 (a)1. in conjunction with any other felony offense not listed in
234 subparagraph (a)1., the court may impose any term of
235 imprisonment provided for in paragraph (a) consecutively to any
236 other term of imprisonment imposed for any other felony offense
237 not listed in subparagraph (a)1.

238 Section 5. Present paragraphs (b) through (e) of subsection
239 (4) of section 934.425, Florida Statutes, are redesignated as
240 paragraphs (f) through (i), respectively, and new paragraphs (b)
241 through (e) are added to that subsection, to read:

242 934.425 Installation or use of tracking devices or tracking



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243 applications; exceptions; penalties.-

244 (4) This section does not apply to:

245 (b) A law enforcement officer as defined in s. 943.10, or
246 any local, state, federal, or military law enforcement agency,
247 who lawfully installs, places, or uses a tracking device or
248 application on another person while acting in the course or
249 scope of his or her employment.

250 (c) A correctional officer, a correctional probation
251 officer, or any other officer or support personnel, as those
252 terms are defined in s. 943.10, of the Department of Corrections
253 who lawfully installs, places, or uses a tracking device or
254 tracking application on a person in his or her care, custody, or
255 control and in the course and scope of his or her employment.

256 (d) A juvenile probation officer, an authorized agent or
257 designee, or delinquency program staff, as those terms are
258 defined in s. 985.03, of the Department of Juvenile Justice who
259 lawfully installs, places, or uses a tracking device or tracking
260 application on a person in his or her care, custody, or control
261 and in the course and scope of his or her employment.

262 (e) A person authorized to install, place, or use a
263 tracking device or tracking application pursuant to a court
264 order.

265 Section 6. Section 945.41, Florida Statutes, is amended to
266 read:

267 945.41 Mental health treatment for inmates; legislative
268 intent of ss. 945.40-945.49.-

269 (1) INTENT.-It is the intent of the Legislature that:

270 (a) ~~mentally ill~~ Inmates in the custody of the department
271 who have a mental illness ~~of Corrections~~ receive an evaluation



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272 and appropriate treatment for their mental illness through a
273 continuum of outpatient and inpatient mental health treatment
274 and services.

275 (b) The department is authorized to purchase treatment
276 materials and equipment to support inmate rehabilitation; to
277 ameliorate disabling mental symptoms associated with impairment
278 in behavioral functioning, sensory and motor skills, and impulse
279 control; and to improve adaptive coping skills consistent with
280 the department's jurisdiction as described in s. 945.025.

281 (c) Sections 945.40-945.49 do not supplement, amend, or
282 change the responsibilities of the Department of Children and
283 Families pursuant to chapter 916, the Forensic Client Services
284 Act, which governs forensic services for persons who are
285 incompetent to proceed as defined in s. 916.106.

286 (2) INDIVIDUAL DIGNITY AND TREATMENT.—

287 (a) An inmate in the custody of the department shall be
288 offered treatment that is suited to his or her needs as
289 determined by health care staff.

290 (b) The department shall provide mental health treatment
291 and services to inmates and may contract with any entities,
292 persons, or agencies qualified to provide such treatment and
293 services.

294 (c) Inmates receiving mental health treatment and services
295 shall be offered the opportunity to participate in the
296 development of a written individualized treatment plan and be
297 provided a copy of such plan before its implementation. ~~It is~~
298 ~~further the intent of the Legislature that:~~

299 ~~(d)(1) Inmates in the custody of the department who have~~
300 ~~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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359 mental health treatment facilities for adult, youthful, and
360 female offenders or may contract with other appropriate
361 entities, persons, or agencies for such services.

362 (7) EMERGENCY MEDICAL TREATMENT.—Notwithstanding any other
363 provision of this section, when the express and informed consent
364 of an inmate placed in a mental health treatment facility in
365 accordance with s. 945.44 cannot be obtained or the inmate is
366 incompetent to consent to treatment, the warden of a mental
367 health treatment facility, or his or her designated
368 representative, under the direction of the inmate's attending
369 physician, may authorize nonpsychiatric, emergency surgical
370 treatment or other routine medical treatment if such treatment
371 is deemed lifesaving or there is a situation threatening serious
372 bodily harm to the inmate.

373 Section 7. Section 945.42, Florida Statutes, is amended to
374 read:

375 945.42 Definitions; ss. 945.40-945.49.—As used in ss.
376 945.40-945.49, the following terms shall have the meanings
377 ascribed to them, unless the context shall clearly indicate
378 otherwise:

379 (1) "Court" means the circuit court.

380 (2) "Crisis stabilization care" means an inpatient a level
381 of care that is less restrictive and intensive ~~intense~~ than care
382 provided in a mental health treatment facility, that includes a
383 broad range of evaluation and treatment and services provided
384 within a secure and highly structured residential setting ~~or~~
385 ~~locked residential setting~~, and that is intended for inmates who
386 are experiencing acute psychological ~~emotional~~ distress and who
387 cannot be adequately evaluated and treated in a transitional



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388 care unit or infirmary isolation management room. Such treatment
389 and services are ~~is also~~ more intense than treatment and
390 services provided in a transitional care unit and ~~are is~~ devoted
391 principally toward rapid stabilization of acute symptoms and
392 conditions.

393 (3) "Department" means the Department of Corrections.

394 (4) "Express and informed consent" means consent
395 voluntarily given in writing by a competent inmate, after
396 sufficient explanation and disclosure of the subject matter
397 involved, to enable the inmate to make a knowing and willful
398 decision without any element of force, fraud, deceit, duress, or
399 other form of constraint or coercion.

400 (5) "Gravely disabled" means a condition in which an
401 inmate, as a result of a diagnosed mental illness, is:

402 (a) In danger of serious physical harm resulting from the
403 inmate's failure to provide for his or her essential physical
404 needs of food, clothing, hygiene, health, or safety without the
405 assistance of others; or

406 (b) Experiencing a substantial deterioration in behavioral
407 functioning evidenced by the inmate's unremitting decline in
408 volitional control over his or her actions.

409 (6) "Incompetent to consent to treatment" means a state in
410 which an inmate's judgment is so affected by mental illness that
411 he or she lacks the capacity to make a well-reasoned, willful,
412 and knowing decision concerning his or her medical or mental
413 health treatment and services. The term is distinguished from
414 the term incompetent to proceed, as defined in s. 916.106, and
415 refers only to an inmate's inability to provide express and
416 informed consent for medical or mental health treatment and



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417 services.

418 ~~(4) "Director" means the Director for Mental Health~~
419 ~~Services of the Department of Corrections or his or her~~
420 ~~designee.~~

421 ~~(5) "In immediate need of care and treatment" means that an~~
422 ~~inmate is apparently mentally ill and is not able to be~~
423 ~~appropriately cared for in the institution where he or she is~~
424 ~~confined and that, but for being isolated in a more restrictive~~
425 ~~and secure housing environment, because of the apparent mental~~
426 ~~illness:~~

427 ~~(a)1. The inmate is demonstrating a refusal to care for~~
428 ~~himself or herself and without immediate treatment intervention~~
429 ~~is likely to continue to refuse to care for himself or herself,~~
430 ~~and such refusal poses an immediate, real, and present threat of~~
431 ~~substantial harm to his or her well-being; or~~

432 ~~2. There is an immediate, real, and present threat that the~~
433 ~~inmate will inflict serious bodily harm on himself or herself or~~
434 ~~another person, as evidenced by recent behavior involving~~
435 ~~causing, attempting, or threatening such harm;~~

436 ~~(b) The inmate is unable to determine for himself or~~
437 ~~herself whether placement is necessary; and~~

438 ~~(c) All available less restrictive treatment alternatives~~
439 ~~that would offer an opportunity for improvement of the inmate's~~
440 ~~condition have been clinically determined to be inappropriate.~~

441 (7)~~(6)~~ "In need of care and treatment" means that an inmate
442 has a mental illness for which inpatient services in a mental
443 health treatment facility are necessary and ~~that, but for being~~
444 ~~isolated in a more restrictive and secure housing environment,~~
445 ~~because of the mental illness:~~



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446 (a) But for being isolated in a more restrictive and secure
447 housing environment:

448 1. The inmate is demonstrating a refusal to care for
449 himself or herself and without treatment is likely to continue
450 to refuse to care for himself or herself, and such refusal poses
451 a real and present threat of substantial harm to his or her
452 well-being; or

453 2. There is a substantial likelihood that in the near
454 future the inmate will inflict serious bodily harm on himself or
455 herself or another person, as evidenced by recent behavior
456 causing, attempting, or threatening such harm.†

457 (b) The inmate is incompetent to consent to treatment and
458 is unable or is refusing to provide express and informed consent
459 to treatment.

460 (c) ~~(b)~~ The inmate is unable to determine for himself or
461 herself whether placement is necessary.†~~and~~

462 (d) ~~(c)~~ All available less restrictive treatment
463 alternatives that would offer an opportunity for improvement of
464 the inmate's condition have been clinically determined to be
465 inappropriate.

466 (8) ~~(7)~~ "Inmate" means any person committed to the custody
467 of the Department of Corrections.

468 (9) "Involuntary examination" means a psychiatric
469 examination performed at a mental health treatment facility to
470 determine whether an inmate should be placed in the mental
471 health treatment facility for inpatient mental health treatment
472 and services.

473 (10) "Likelihood of serious harm" means:

474 (a) A substantial risk that the inmate will inflict serious



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475 physical harm upon his or her own person, as evidenced by
476 threats or attempts to commit suicide or the actual infliction
477 of serious physical harm on self;

478 (b) A substantial risk that the inmate will inflict
479 physical harm upon another person, as evidenced by behavior
480 which has caused such harm or which places any person in
481 reasonable fear of sustaining such harm; or

482 (c) A reasonable degree of medical certainty that the
483 inmate will suffer serious physical or mental harm, as evidenced
484 by the inmate's recent behavior demonstrating an inability to
485 refrain from engaging in self-harm behavior.

486 (11)-(8) "Mental health treatment facility" means any
487 extended treatment or hospitalization-level unit within the
488 corrections system which the Assistant Secretary for Health
489 Services of the department specifically designates by rule to
490 provide acute mental health ~~psychiatric~~ care and which may
491 include involuntary treatment and therapeutic intervention in
492 contrast to less intensive levels of care such as outpatient
493 mental health care, transitional mental health care, or crisis
494 stabilization care. The term does not include a forensic
495 facility as defined in s. 916.106.

496 (12)-(9) "Mental illness" or "mentally ill" means an
497 impairment of the mental or emotional processes that exercise
498 conscious control of one's actions or of the ability to perceive
499 or understand reality, which impairment substantially interferes
500 with the person's ability to meet the ordinary demands of
501 living. However, for the purposes of transferring an inmate to a
502 mental health treatment facility, the term does not include a
503 developmental disability as defined in s. 393.063, simple



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504 intoxication, or conditions manifested only by antisocial
505 behavior or substance abuse addiction. However, an individual
506 who is developmentally disabled may also have a mental illness.

507 (13)~~(10)~~ "Psychiatrist" means a medical practitioner
508 licensed pursuant to chapter 458 or chapter 459 who has
509 primarily diagnosed and treated nervous and mental disorders for
510 a period of not less than 3 years inclusive of psychiatric
511 residency.

512 (14)~~(11)~~ "Psychological professional" means a behavioral
513 practitioner who has an approved doctoral degree in psychology
514 as defined in s. 490.003(3)(b) ~~s. 490.003(3)~~ and is employed by
515 the department or who is licensed as a psychologist pursuant to
516 chapter 490.

517 (15)~~(12)~~ "Secretary" means the Secretary of Corrections.

518 (16)~~(13)~~ "Transitional mental health care" means a level of
519 care that is more intensive than outpatient care, but less
520 intensive than crisis stabilization care, and is characterized
521 by the provision of traditional mental health treatment and
522 services, ~~treatments~~ such as group and individual therapy,
523 activity therapy, recreational therapy, and psychotropic
524 medications in the context of a secure, structured residential
525 setting. Transitional mental health care is indicated for an
526 inmate ~~a person~~ with chronic or residual symptomatology who does
527 not require crisis stabilization care or acute mental health
528 ~~psychiatric~~ care, but whose impairment in functioning
529 nevertheless renders him or her incapable of adjusting
530 satisfactorily within the general inmate population.

531 (17) "Treatment" means psychotropic medications prescribed
532 by a medical practitioner licensed pursuant to chapter 458 or



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533 chapter 459, including those laboratory tests and related
534 medical procedures that are essential for the safe and effective
535 administration of a psychotropic medication and psychological
536 interventions and services, such as group and individual
537 psychotherapy, activity therapy, recreational therapy, and music
538 therapy. The term does not include forensic services for inmate
539 defendants who are incompetent to proceed as defined in s.
540 916.106.

541 (18)~~(14)~~ "Warden" means the warden of a state corrections
542 facility or his or her designee.

543 Section 8. Section 945.43, Florida Statutes, is amended to
544 read:

545 (Substantial rewording of section. See
546 s. 945.43, F.S., for present text.)

547 945.43 Involuntary examination.—

548 (1) If there is reason to believe that an inmate has a
549 mental illness and the inmate is in need of care and treatment,
550 the inmate's treating clinician may refer the inmate to a mental
551 health treatment facility for an involuntary examination. Upon
552 referral, the warden of the facility where the inmate is housed
553 shall transfer the inmate to a mental health treatment facility.

554 (2) Upon arrival to the mental health treatment facility,
555 the inmate shall be examined by a psychiatrist and a second
556 psychiatrist or psychological professional to determine whether
557 the inmate is in need of care and treatment.

558 (3) If, after the examination, the inmate is determined to
559 be in need of care and treatment, the psychiatrist shall propose
560 a recommended course of treatment that is essential to the care
561 of the inmate, and the warden shall initiate proceedings for



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562 placement of the inmate in the mental health treatment facility
563 and for involuntary treatment of the inmate as specified in s.
564 945.44. If the inmate is not in need of care and treatment, he
565 or she shall be transferred out of the mental health treatment
566 facility and provided with appropriate mental health services.

567 (4) The involuntary examination and initiation of court
568 proceedings for the placement and applicable involuntary
569 treatment of the inmate in the mental health treatment facility
570 shall be completed within 10 calendar days after arrival.

571 (5) The inmate may remain in the mental health treatment
572 facility pending a hearing after the timely filing of a petition
573 as described in s. 945.44. Pending a hearing, necessary
574 emergency treatment may be provided in the mental health
575 treatment facility upon the written order of a physician as
576 provided in s. 945.48.

577 Section 9. Section 945.44, Florida Statutes, is amended to
578 read:

579 (Substantial rewording of section. See
580 s. 945.44, F.S., for present text.)

581 945.44 Placement and treatment of an inmate in a mental
582 health treatment facility.-

583 (1) CRITERIA FOR INVOLUNTARY PLACEMENT OR TREATMENT.-

584 (a) An inmate may be placed in a mental health treatment
585 facility if he or she is mentally ill and is in need of care and
586 treatment.

587 (b) An inmate may receive involuntary treatment for which
588 the inmate is unable or has refused to provide express and
589 informed consent, if all of the following apply:

590 1. The inmate is mentally ill;



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591 2. The treatment is essential to the care of the inmate;

592 3. The treatment is not experimental and does not present
593 an unreasonable risk of serious, hazardous, or irreversible side
594 effects;

595 4. The inmate is gravely disabled or poses a likelihood of
596 serious harm; and

597 5. The inmate is incompetent to consent to treatment.

598 (2) HEARING PROCEDURES FOR PETITIONS FOR PLACEMENT AND
599 TREATMENT.—

600 (a) An inmate may be placed and involuntarily treated in a
601 mental health treatment facility after notice and hearing upon
602 the recommendation of the warden of the facility where the
603 inmate is confined. The warden of the institution where the
604 mental health treatment facility is located shall petition the
605 circuit court serving the county for an order authorizing the
606 placement and treatment of the inmate. The petition must be
607 supported by the expert opinion of at least one of the inmate's
608 treating psychiatrists.

609 (b) The inmate shall be provided with a copy of the
610 petition along with the proposed treatment, the basis for the
611 proposed treatment, the names of the examining experts, and the
612 date, time, and location of the hearing. After considering the
613 public safety and security concerns presented by transporting
614 the inmate or in conducting onsite hearings, the court may order
615 that the hearing be conducted by electronic means or in person
616 at the facility or at another location designated by the court.
617 If the hearing is ordered by the court to be conducted at a
618 location other than the facility, the department is authorized
619 to transport the inmate to the location of the hearing.



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620 (c) The inmate may have an attorney represent him or her at
621 the hearing, and, if the inmate is indigent, the court shall
622 appoint the office of the public defender or private counsel
623 pursuant to s. 27.40(1) to represent the inmate at the hearing.
624 An attorney representing the inmate shall have access to the
625 inmate and any records, including medical or mental health
626 records, which are relevant to the representation of the inmate.

627 (d) The hearing on the petition for involuntary placement
628 and treatment shall be held as expeditiously as possible after
629 the petition is filed, but no later than 14 calendar days after
630 filing. The court may appoint a general or special magistrate to
631 preside over the hearing. The inmate may testify or not, as he
632 or she chooses, may cross-examine witnesses testifying on behalf
633 of the facility, and may present his or her own witnesses.

634 (e) The court may waive the presence of the inmate at the
635 hearing if the waiver is consistent with the best interests of
636 the inmate and the inmate's counsel does not object. One of the
637 inmate's physicians whose opinion supported the petition shall
638 appear as a witness at the hearing.

639 (3) ORDERS FOR INVOLUNTARY PLACEMENT AND TREATMENT.—

640 (a) If the court finds by clear and convincing evidence
641 that the inmate meets the criteria specified in paragraph
642 (1) (a), the court must order that the inmate be involuntarily
643 placed in the mental health treatment facility for a period not
644 to exceed 6 months.

645 (b) If the court finds by clear and convincing evidence
646 that the inmate meets the criteria specified in paragraph
647 (1) (b), the court may order that the inmate be involuntarily
648 treated for a period not to exceed 6 months, concurrent with an



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649 order for placement in the mental health treatment facility. In
650 determining whether to order involuntary treatment under this
651 paragraph, the court must consider the inmate's expressed
652 preference regarding treatment, if the inmate is able to express
653 a preference; the probability of adverse side effects; the
654 prognosis for the inmate without treatment; the prognosis for
655 the inmate with treatment; and any other factors the court deems
656 relevant.

657 (4) STATUS HEARINGS AND CONTINUING JURISDICTION.—An order
658 authorizing involuntary placement and treatment must allow such
659 placement and treatment for a period not to exceed 6 months
660 following the date of the order. Unless the court is notified in
661 writing that the inmate has been discharged from the mental
662 health treatment facility because he or she is no longer in need
663 of care and treatment, has been transferred to another
664 institution of the department, or has been released from the
665 department's custody, the warden shall, before the expiration of
666 the initial order, file a notice with the court to set a status
667 hearing for an order authorizing the continuation of placement
668 and treatment for another period not to exceed 6 months. This
669 procedure shall be repeated until the inmate is no longer in
670 need of care and treatment. Placement and treatment may be
671 continued pending a hearing after the timely filing of any
672 petition.

673 (5) COPIES OF ORDERS.—The court shall provide a copy of its
674 order authorizing placement and treatment along with all
675 supporting documentation relating to the inmate's condition to
676 the warden of the mental health treatment facility.

677 (6) DISMISSAL OF PETITIONS.—If the court finds that



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678 criteria for placement and treatment are not satisfied, it shall
679 dismiss the petition and the inmate shall be transferred out of
680 the mental health treatment facility and provided with
681 appropriate mental health services.

682 Section 10. Section 945.45, Florida Statutes, is repealed.

683 Section 11. Present subsection (3) of section 945.46,
684 Florida Statutes, is renumbered as subsection (5) and amended,
685 and a new subsection (3) and subsection (4) are added to that
686 section, to read:

687 945.46 Initiation of involuntary placement proceedings with
688 respect to a mentally ill inmate scheduled for release.—

689 (3) The warden shall file, in the court in the county where
690 the inmate is located, petitions for involuntary inpatient
691 placement for inmates scheduled to be released. Upon filing, the
692 clerk of the court shall provide copies to the Department of
693 Children and Families, the inmate, and the state attorney and
694 public defender of the judicial circuit in which the inmate is
695 located. A fee may not be charged for the filing of a petition
696 under chapter 394. Within 1 court working day after the filing
697 of a petition for involuntary inpatient placement, the court
698 shall appoint the public defender to represent the inmate who is
699 the subject of the petition, unless the inmate is otherwise
700 represented by counsel. The clerk of the court shall immediately
701 notify the public defender of such appointment. Any attorney
702 representing the inmate shall have access to the inmate,
703 witnesses, and records relevant to the presentation of the
704 patient's case and shall represent the interests of the inmate,
705 regardless of the source of payment to the attorney. The state
706 attorney for the circuit in which the inmate is located shall



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707 represent the state, rather than the petitioning warden, as the
708 real party in interest in the proceeding. The remainder of the
709 proceedings shall be governed by chapter 394.

710 (4) After considering the public safety and security
711 concerns presented by transporting a mentally ill inmate or in
712 conducting an onsite hearing, the court may order that the
713 hearing be conducted by electronic means, at the facility in
714 person, or at another location designated by the court. If the
715 hearing is ordered by the court to be conducted at a location
716 other than the facility, the department is authorized to
717 transport the inmate to the location of the hearing.

718 (5) ~~(3)~~ The department may transport an individual who is
719 being released from its custody to a receiving or mental health
720 treatment facility for involuntary examination or placement.
721 Such transport shall be made to a facility that is specified by
722 the Department of Children and Families as able to meet the
723 specific needs of the individual. If the Department of Children
724 and Families does not specify a facility, transport shall ~~may~~ be
725 made to the nearest receiving facility.

726 Section 12. Section 945.47, Florida Statutes, is amended to
727 read:

728 945.47 Discharge of inmate from mental health treatment.—

729 (1) An inmate who has been placed in a mental health
730 treatment facility ~~transferred~~ for the purpose of mental health
731 treatment shall be discharged from treatment by the warden under
732 the following conditions:

733 (a) If the inmate is no longer in need of care and
734 treatment, as defined in s. 945.42, he or she may be transferred
735 out of the mental health treatment facility and provided with



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736 appropriate mental health services; or

737 (b) If the inmate's sentence expires during his or her
738 treatment, but he or she is no longer in need of care and
739 treatment as an inpatient, the inmate may be released with a
740 recommendation for outpatient treatment, pursuant to ~~the~~
741 ~~provisions of~~ ss. 945.40-945.49.

742 (2) At any time that an inmate who has received mental
743 health treatment while in the custody of the department becomes
744 eligible for release under supervision or upon end of sentence,
745 a record of the inmate's mental health treatment may be provided
746 to the Florida Commission on Offender Review, ~~and~~ to the
747 Department of Children and Families to arrange postrelease
748 aftercare placement, and to prospective recipient inpatient
749 health care or residential facilities upon request. The record
750 shall include, at a minimum, a summary of the inmate's
751 diagnosis, length of stay in treatment, clinical history,
752 prognosis, prescribed medication, treatment plan, and
753 recommendations for aftercare services.

754 Section 13. Section 945.48, Florida Statutes, is amended to
755 read:

756 (Substantial rewording of section. See
757 s. 945.48, F.S., for present text.)

758 945.48 Emergency treatment orders and use of force.—

759 (1) EMERGENCY MEDICATION.—The department is authorized to
760 involuntarily administer psychotropic medication to an inmate on
761 an emergency basis without following the procedure outlined in
762 s. 945.43 only as specified in this section. An emergency
763 treatment order for psychotropic medication may be provided to
764 the inmate upon the written order of a physician licensed



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765 pursuant to chapter 458 or chapter 459 in an emergency not
766 exceeding 72 hours, excluding weekends and legal holidays. An
767 emergency exists when an inmate with a mental illness presents
768 an immediate threat of:

769 (a) Bodily harm to self or others; or

770 (b) Extreme deterioration in behavioral functioning
771 secondary to the mental illness.

772 (2) PSYCHOTROPIC MEDICATION.—Psychotropic medication may be
773 administered only when the medication constitutes an appropriate
774 treatment for a mental illness and its symptoms and alternative
775 treatments are not available or indicated, or would not be
776 effective. If after the 72-hour period the inmate has not given
777 express and informed consent to the medication initially
778 refused, the inmate's treating physician shall refer the inmate
779 to a mental health treatment facility for an involuntary
780 examination in accordance with the procedures described in s.
781 945.43. Upon such referral, the warden shall, within 48 hours,
782 excluding weekends and legal holidays, transfer the inmate to a
783 mental health treatment facility. Upon transfer of the inmate
784 for an involuntary examination, the emergency treatment order
785 may be continued upon the written order of a physician as long
786 as the physician has determined that the emergency continues to
787 present a danger to the safety of the inmate or others and the
788 criteria described in this subsection are satisfied. If
789 psychotropic medication is still recommended after the
790 emergency, it may only be administered after following the
791 procedures outlined in s. 945.44.

792 (3) USE OF FORCE.—An employee or agent of the department is
793 authorized to apply physical force upon an inmate when and to



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794 the extent that it reasonably appears necessary to effectuate
795 the treatment of an inmate as described in this section, for the
796 application of psychiatric restraint, to effectuate clinically
797 necessary hygiene, or pursuant to a valid court order issued
798 under s. 945.44 or s. 945.485. The requirements of s. 944.35
799 shall be followed when using force to effectuate such treatment,
800 apply such restraint, or effectuate such hygiene.

801 Section 14. Section 945.485, Florida Statutes, is created
802 to read:

803 945.485 Management and treatment for self-injurious
804 behaviors.-

805 (1) The Legislature finds that nonsuicidal self-injurious
806 behaviors in correctional institutions, or acts intended to
807 cause bodily harm but not death, have increased in the
808 correctional environment. Self-injurious behavior may include
809 nonsuicidal self-injury or self-mutilation, such as cutting,
810 reopening wounds, and ingesting or inserting foreign objects or
811 dangerous instruments into the body. These behaviors pose a
812 significant threat to inmates, staff, and, in many cases, the
813 safe and secure operation of the correctional institution. In
814 addition, self-injurious behaviors, coupled with the inmate's
815 repeated refusals to provide express and informed consent for
816 medical treatment and care, are a significant challenge for
817 correctional medical and mental health professionals, resulting
818 in higher costs for medical services, and may result in
819 inadvertent mortality in the incarcerated population.

820 (2) In accordance with s. 945.6402, the Legislature finds
821 that an inmate retains the fundamental right of self-
822 determination regarding decisions pertaining to his or her own



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823 health, including the right to choose or refuse medical
824 treatment or life-saving medical procedures. However, the
825 inmate's right to privacy and decisionmaking regarding medical
826 treatment may be outweighed by compelling state interests.

827 (3) When an inmate is engaging in active or ongoing self-
828 injurious behavior and has refused to provide express and
829 informed consent for treatment related to the self-injurious
830 behavior, the warden of the facility where the inmate is housed
831 shall consult with the inmate's treating physician regarding the
832 inmate's medical and mental health status, current medical and
833 mental health treatment needs, and competency to provide express
834 and informed consent for treatment. The warden shall also
835 determine whether the inmate's self-injurious behavior presents
836 a danger to the safety of department staff or other inmates or
837 the security, internal order, or discipline of the institution.

838 (a) If the inmate's treating physician determines that the
839 inmate has a mental illness and is incompetent to consent to
840 treatment, the physician shall proceed in accordance with s.
841 945.6402 for any necessary surgical or medical services. If the
842 inmate is in need of care and treatment as defined in s. 945.42,
843 the inmate shall be referred to a mental health treatment
844 facility for an involuntary examination in accordance with s.
845 945.44.

846 (b) If the inmate is competent, refusing necessary surgical
847 or medical treatment, and engaging in active or ongoing self-
848 injurious behavior that presents a threat to the safety of
849 department staff or other inmates or the security, internal
850 order, or discipline of the institution, the warden shall follow
851 the procedure set forth in subsection (4).



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852 (4) (a) The warden, or his or her designated representative,
853 shall, on behalf of the state, petition the circuit court of the
854 county in which the inmate is residing or the county in which
855 the inmate is hospitalized for an order compelling the inmate to
856 submit to emergency surgical intervention or other medical
857 services to the extent necessary to remedy the threat to the
858 safety of staff or other inmates or the security, internal
859 order, or discipline of the institution. The petition must be
860 supported by the expert opinion of at least one of the inmate's
861 treating physicians and may be supported by other staff as
862 necessary.

863 (b) The inmate shall be provided with a copy of the
864 petition along with the proposed intervention, the basis for the
865 proposed intervention, the names of the testifying experts and
866 witnesses, and the date, time, and location of the hearing.
867 After considering the medical status of the inmate, public
868 safety, and security concerns presented by transporting the
869 inmate, the court may order that the hearing be conducted by
870 electronic means or in person at the institution or at another
871 location designated by the court. If the hearing is ordered by
872 the court to be conducted at a location other than the
873 institution, the department is authorized to transport the
874 inmate to the location of the hearing.

875 (c) The inmate may have an attorney represent him or her at
876 the hearing, and, if the inmate is indigent, the court shall
877 appoint the office of the public defender or private counsel
878 pursuant to s. 27.40(1) to represent the inmate at the hearing.
879 An attorney representing the inmate shall have access to the
880 inmate and any records, including medical or mental health



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881 records, which are relevant to the representation of the inmate.

882 (d) The hearing on the petition shall be held as
883 expeditiously as possible after the petition is filed, but no
884 later than 5 calendar days after filing. The court may appoint a
885 general or special magistrate to preside. The inmate may testify
886 or not, as he or she chooses, may cross-examine witnesses
887 testifying on behalf of the institution, and may present his or
888 her own witnesses.

889 (e) The court may waive the presence of the inmate at the
890 hearing if the waiver is consistent with the best interests of
891 the inmate and the inmate's counsel does not object.

892 (f) The court shall determine whether the warden has
893 established, by clear and convincing evidence, a compelling
894 state interest sufficient to outweigh the inmate's right to
895 refuse treatment. The court shall consider all of the following:

- 896 1. Preservation of the life of the inmate.
- 897 2. Prevention of suicide.
- 898 3. Protection of innocent third parties.
- 899 4. Maintenance of the ethical integrity of the medical
900 profession.
- 901 5. Preservation of the security, internal order, or
902 discipline of the institution.
- 903 6. Rehabilitation of the inmate.
- 904 7. Any other compelling state interest.

905 (g) If the court determines that there are compelling state
906 interests sufficient to override the inmate's right to refuse
907 treatment, the court shall enter an order authorizing emergency
908 surgical intervention or other medical services, narrowly
909 tailored and in the least intrusive manner possible, only as



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910 necessary to remedy the threat to the safety of third parties or
911 the security, internal order, or discipline of the institution.
912 Emergency surgical intervention or other medical services
913 authorized by the court may be carried out at the institution or
914 at a licensed hospital, as applicable.

915 (5) This section does not repeal by implication any
916 provision of s. 766.103, the Florida Medical Consent Law, or s.
917 768.13, the Good Samaritan Act. For all purposes, the Florida
918 Medical Consent Law and the Good Samaritan Act shall be
919 considered alternatives to this section.

920 Section 15. Subsection (2) of section 945.49, Florida
921 Statutes, is amended to read:

922 945.49 Operation and administration.—

923 (2) ~~RULES.—The department, in cooperation with the Mental~~
924 ~~Health Program Office of the Department of Children and~~
925 ~~Families,~~ shall adopt rules necessary for administration of ss.
926 945.40-945.49 in accordance with chapter 120.

927 Section 16. Section 945.6402, Florida Statutes, is created
928 to read:

929 945.6402 Inmate health care advance directives.—

930 (1) DEFINITIONS.—The terms used in this section have the
931 same meanings as in s. 765.101 unless otherwise specified in
932 this section. For purposes of this section, the term:

933 (a) "Health care facility" has the same meaning as in s.
934 765.101 and includes any correctional institution or facility
935 where health care is provided.

936 (b) "Incapacity" or "incompetent" means an inmate is
937 physically or mentally unable to communicate a willful and
938 knowing health care decision.



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939 (c) "Informed consent" means consent voluntarily given by
940 an inmate after a sufficient explanation and disclosure of the
941 subject matter involved to enable the inmate to have a general
942 understanding of the treatment or procedure and the medically
943 acceptable alternatives, including the substantial risks and
944 hazards inherent in the proposed treatment or procedures, and to
945 make a knowing health care decision without coercion or undue
946 influence.

947 (d) "Inmate" means any person committed to the custody of
948 the department.

949 (e) "Ombudsman" means an individual designated and
950 specifically trained by the department to identify conditions
951 that may pose a threat to the rights, health, safety, and
952 welfare of inmates in a health care facility and who may be
953 appointed to serve as a proxy for an inmate who is physically or
954 mentally unable to communicate a willful and knowing health care
955 decision.

956 (f) "Proxy" means a competent adult who has not been
957 expressly designated to make health care decisions for a
958 particular incapacitated inmate, but who, nevertheless, is
959 authorized pursuant to s. 765.401 and as specified in this
960 section to make health care decisions for such inmate.

961 (g) "Proxy review team" means a team of at least five
962 members, appointed by the Assistant Secretary for Health
963 Services. The team shall be composed of, at a minimum, one
964 physician licensed pursuant to chapter 458 or chapter 459, one
965 psychologist licensed pursuant to chapter 490, one nurse
966 licensed pursuant to chapter 464, and one department chaplain.

967 (2) LEGISLATIVE FINDINGS AND INTENT.-



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968 (a) In accordance with chapter 765, the Legislature finds
969 that an inmate retains the fundamental right of self-
970 determination regarding decisions pertaining to his or her own
971 health, including the right to choose or refuse medical
972 treatment. In accordance with chapter 765, this right is subject
973 to certain institutional interests, including the protection of
974 human life, the preservation of ethical standards in the medical
975 profession, and, for inmates committed to the custody of the
976 department, the security and good order of the institutional
977 setting.

978 (b) To ensure that such right is not lost or diminished by
979 virtue of later physical or mental incapacity, the Legislature
980 intends that the procedures specified in chapter 765, and as
981 modified in this section for the institutional health care
982 setting, apply to incarcerated inmates. These procedures should
983 be less expensive and less restrictive than guardianship and
984 allow an inmate to plan for incapacity by executing a document
985 or orally designating another person to direct the course of his
986 or her health care or receive his or her health information, or
987 both, upon his or her incapacity. These procedures permit a
988 previously incapacitated inmate to exercise his or her full
989 right to make health care decisions as soon as the capacity to
990 make such decisions has been regained.

991 (c) In order to ensure that the rights and intentions of an
992 inmate are respected when the inmate is not able to participate
993 actively in decisions concerning himself or herself, and to
994 encourage communication between the inmate, his or her family,
995 and his or her treating physicians, the Legislature declares
996 that the laws of this state recognize the right of a competent



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997 incarcerated adult to make an advance directive instructing his
998 or her physicians to provide, withhold, or withdraw life-
999 prolonging procedures or to designate another person to make the
1000 health care decision for him or her in the event that such
1001 incarcerated person should become incapacitated and unable to
1002 personally direct his or her health care. It is further the
1003 intent of the Legislature that the department provide the
1004 opportunity for inmates to make advance directives as specified
1005 in this section.

1006 (d) The Legislature further recognizes that incarcerated
1007 inmates may not avail themselves of the opportunity to make an
1008 advance directive or, because of incarceration, may not have a
1009 surrogate, as defined in s. 765.101, willing, able, or
1010 reasonably available to make health care decisions on their
1011 behalf. Additionally, because of incarceration, the individuals
1012 designated in s. 765.401 who are eligible to serve as an
1013 appointed proxy may not be reasonably available, willing, or
1014 competent to make health care decisions for the inmate in the
1015 event of incapacity. Thus, it is the intent of the Legislature
1016 that the department have an efficient process that is less
1017 expensive and less restrictive than guardianship for the
1018 appointment of a proxy to allow for the expedient delivery of
1019 necessary health care to an incarcerated inmate.

1020 (e) This section does not supersede the process for inmate
1021 involuntary mental health treatment specified in ss. 945.40-
1022 945.49.

1023 (3) CAPACITY OF INMATE; PROCEDURE.—

1024 (a) An inmate is presumed to be capable of making health
1025 care decisions for himself or herself unless he or she is



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1026 determined to be incapacitated. When an inmate has
1027 decisionmaking capacity, the inmate's wishes are controlling.
1028 Each physician or health care provider must clearly communicate
1029 the treatment plan and any change to the treatment plan before
1030 implementation of the plan or any change to the plan. Incapacity
1031 may not be inferred from an inmate's involuntary hospitalization
1032 for mental illness or from his or her intellectual disability.

1033 (b) If an inmate's capacity to make health care decisions
1034 for himself or herself or provide informed consent is in
1035 question, the inmate's treating physician at the health care
1036 facility where the inmate is located shall evaluate the inmate's
1037 capacity and, if the evaluating physician concludes that the
1038 inmate lacks capacity, enter that evaluation in the inmate's
1039 medical record. If the evaluating physician has a question as to
1040 whether the inmate lacks capacity, another physician shall also
1041 evaluate the inmate's capacity, and if the second physician
1042 finds that the inmate lacks the capacity to make health care
1043 decisions for himself or herself or provide informed consent,
1044 both physicians' evaluations shall be entered in the inmate's
1045 medical record.

1046 (c) If the inmate is found to be incapacitated and has
1047 designated a health care surrogate in accordance with chapter
1048 765, the institution's or facility's health care staff shall
1049 notify the surrogate and proceed as specified in chapter 765. If
1050 the incapacitated inmate has not designated a health care
1051 surrogate, the health care facility shall appoint a proxy to
1052 make health care decisions for the inmate as specified in this
1053 section.

1054 (d) A determination made pursuant to this section that an



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1055 inmate lacks the capacity to make health care decisions for
1056 himself or herself may not be construed as a finding that an
1057 inmate lacks capacity for any other purpose.

1058 (4) HEALTH CARE ADVANCE DIRECTIVE; PROCEDURE.—

1059 (a) In accordance with chapter 765, the department shall
1060 offer inmates the opportunity to execute an advance directive as
1061 defined in s. 765.101.

1062 (b) The department shall provide to each inmate written
1063 information concerning advance directives and necessary forms to
1064 allow inmates to execute an advance directive. The department
1065 and its health care providers shall document in the inmate's
1066 medical records whether the inmate has executed an advance
1067 directive. Neither the department nor its health care providers
1068 may require an inmate to execute an advance directive using the
1069 department's forms. The inmate's advance directive shall travel
1070 with the inmate within the department as part of the inmate's
1071 medical record.

1072 (c) An advance directive may be amended or revoked at any
1073 time by a competent inmate by means of:

1074 1. A signed, dated writing of intent to amend or revoke;

1075 2. The physical cancellation or destruction of the advance
1076 directive by the inmate or by another person in the inmate's
1077 presence and at the inmate's direction;

1078 3. An oral expression of intent to amend or revoke; or

1079 4. A subsequently executed advance directive that is
1080 materially different from a previously executed advance
1081 directive.

1082 (5) PROXY.—

1083 (a) If an incapacitated inmate has not executed an advance



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1084 directive or designated a health care surrogate in accordance
1085 with the procedures specified in chapter 765, or the designated
1086 health care surrogate is no longer available to make health care
1087 decisions, health care decisions may be made for the inmate by
1088 any of the individuals specified in the priority order provided
1089 in s. 765.401(1)(a)-(g) as proxy. Documentation of the efforts
1090 to locate a proxy from the classes specified in s.
1091 765.401(1)(a)-(g) shall be recorded in the inmate's medical
1092 file.

1093 (b) If there are no individuals as specified in s.
1094 765.401(1)(a)-(g) available, willing, or competent to act on
1095 behalf of the inmate, and the inmate is housed in a correctional
1096 institution or facility where health care is provided in a
1097 nonhospital setting, the warden of the institution where the
1098 inmate is housed, or the warden's designee, shall consult with
1099 the Assistant Secretary for Health Services or his or her
1100 designee, who shall appoint a department ombudsman to serve as
1101 the proxy. This appointment terminates when the inmate regains
1102 capacity or is no longer incarcerated in the custody of the
1103 department. In accordance with chapter 765 and as provided in
1104 this section, decisions to withhold or withdraw life-prolonging
1105 procedures will be reviewed by the department's proxy review
1106 team for compliance with chapter 765 and the requirements of
1107 this section.

1108 (c) The ombudsman appointed to serve as the proxy is
1109 authorized to request the assistance of the treating physician
1110 and, upon request, a second physician not involved in the
1111 inmate's care to assist the proxy in evaluating the inmate's
1112 treatment.



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1113 (d) In accordance with chapter 765, any health care
1114 decision made by any appointed proxy under this section must be
1115 based on the proxy's informed consent and on the decision that
1116 the proxy reasonably believes the inmate would have made under
1117 the circumstances. If there is no indication of what decision
1118 the inmate would have made, the proxy may consider the inmate's
1119 best interest in deciding that proposed treatments are to be
1120 withheld or that treatments currently in effect are to be
1121 withdrawn.

1122 (e) Before exercising the incapacitated inmate's rights to
1123 select or decline health care, the proxy must comply with ss.
1124 765.205 and 765.305, except that any proxy's decision to
1125 withhold or withdraw life-prolonging procedures must be
1126 supported by clear and convincing evidence that the decision
1127 would have been the one the inmate would have made had he or she
1128 been competent or, if there is no indication of what decision
1129 the inmate would have made, that the decision is in the inmate's
1130 best interest.

1131 (f) Notwithstanding s. 456.057 and pursuant to s. 945.10
1132 and 45 C.F.R. part 164, subpart E, relevant protected health
1133 information and mental health and medical records of an
1134 incapacitated inmate may be disclosed to a proxy appointed to
1135 make health care decisions for an inmate.

1136 (6) USE OF FORCE.—In addition to s. 944.35(1), an employee
1137 of the department may apply reasonable physical force upon an
1138 incapacitated inmate to administer medical treatment only by or
1139 under the clinical supervision of a physician or his or her
1140 designee and only to carry out a health care decision made in
1141 accordance with this section and chapter 765.



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1142 (7) IMMUNITY FROM LIABILITY.-A department health care
1143 provider, ombudsman, or other employee who acts under the
1144 direction of a health care provider as authorized in this
1145 section or chapter 765 is not subject to criminal prosecution or
1146 civil liability and may not be deemed to have engaged in
1147 unprofessional conduct as a result of carrying out a health care
1148 decision made in accordance with this section or chapter 765 on
1149 an inmate's behalf.

1150 Section 17. Section 947.02, Florida Statutes, is amended to
1151 read:

1152 947.02 Florida Commission on Offender Review; members,
1153 appointment.-

1154 (1) ~~Except as provided in s. 947.021,~~ The members of the
1155 ~~Florida~~ commission ~~on Offender Review~~ shall be directly
1156 appointed by the Governor and Cabinet ~~from a list of eligible~~
1157 ~~applicants submitted by a parole qualifications committee.~~ The
1158 appointments of members of the commission shall be certified to
1159 the Senate by the Governor and Cabinet for confirmation, ~~and the~~
1160 ~~membership of the commission shall include representation from~~
1161 ~~minority persons as defined in s. 288.703.~~

1162 (2) If the Legislature decreases the membership of the
1163 commission, all commission member terms of office shall expire
1164 and new members of the commission must be appointed in
1165 accordance with subsection (1). Members appointed to the
1166 commission may be selected from incumbents ~~A parole~~
1167 ~~qualifications committee shall consist of five persons who are~~
1168 ~~appointed by the Governor and Cabinet. One member shall be~~
1169 ~~designated as chair by the Governor and Cabinet. The committee~~
1170 ~~shall provide for statewide advertisement and the receiving of~~



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1171 ~~applications for any position or positions on the commission and~~
1172 ~~shall devise a plan for the determination of the qualifications~~
1173 ~~of the applicants by investigations and comprehensive~~
1174 ~~evaluations, including, but not limited to, investigation and~~
1175 ~~evaluation of the character, habits, and philosophy of each~~
1176 ~~applicant. Each parole qualifications committee shall exist for~~
1177 ~~2 years. If additional vacancies on the commission occur during~~
1178 ~~this 2-year period, the committee may advertise and accept~~
1179 ~~additional applications; however, all previously submitted~~
1180 ~~applications shall be considered along with the new applications~~
1181 ~~according to the previously established plan for the evaluation~~
1182 ~~of the qualifications of applicants.~~

1183 ~~(3) Within 90 days before an anticipated vacancy by~~
1184 ~~expiration of term pursuant to s. 947.03 or upon any other~~
1185 ~~vacancy, the Governor and Cabinet shall appoint a parole~~
1186 ~~qualifications committee if one has not been appointed during~~
1187 ~~the previous 2 years. The committee shall consider applications~~
1188 ~~for the commission seat, including the application of an~~
1189 ~~incumbent commissioner if he or she applies, according to~~
1190 ~~subsection (2). The committee shall submit a list of three~~
1191 ~~eligible applicants, which may include the incumbent if the~~
1192 ~~committee so decides, without recommendation, to the Governor~~
1193 ~~and Cabinet for appointment to the commission. In the case of an~~
1194 ~~unexpired term, the appointment must be for the remainder of the~~
1195 ~~unexpired term and until a successor is appointed and qualified.~~
1196 ~~If more than one seat is vacant, the committee shall submit a~~
1197 ~~list of eligible applicants, without recommendation, containing~~
1198 ~~a number of names equal to three times the number of vacant~~
1199 ~~seats; however, the names submitted may not be distinguished by~~



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1200 ~~seat, and each submitted applicant shall be considered eligible~~
1201 ~~for each vacancy.~~

1202 ~~(4) Upon receiving a list of eligible persons from the~~
1203 ~~parole qualifications committee, the Governor and Cabinet may~~
1204 ~~reject the list. If the list is rejected, the committee shall~~
1205 ~~reinitiate the application and examination procedure according~~
1206 ~~to subsection (2).~~

1207 ~~(5) Section 120.525 and chapters 119 and 286 apply to all~~
1208 ~~activities and proceedings of a parole qualifications committee.~~

1209 Section 18. Section 947.021, Florida Statutes, is repealed.

1210 Section 19. Subsection (2) of section 947.12, Florida
1211 Statutes, is amended to read:

1212 947.12 Members, employees, expenses.—

1213 ~~(2) The members of the examining board created in s. 947.02~~
1214 ~~shall each be paid per diem and travel expenses pursuant to s.~~
1215 ~~112.061 when traveling in the performance of their duties.~~

1216 Section 20. Paragraph (g) of subsection (1) and subsection
1217 (5) of section 957.04, Florida Statutes, are amended to read:

1218 957.04 Contract requirements.—

1219 (1) A contract entered into under this chapter for the
1220 operation of contractor-operated correctional facilities shall
1221 maximize the cost savings of such facilities and:

1222 (g) Require the contractor to be responsible for a range of
1223 dental, medical, and psychological services; diet; education;
1224 and work programs at least equal to those provided by the
1225 department in comparable facilities. The work and education
1226 programs must be designed to reduce recidivism, and include
1227 opportunities to participate in such work programs as authorized
1228 pursuant to s. 946.523. However, with respect to the dental,



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1229 medical, psychological, and dietary services, the department is
1230 authorized to exclude any or all of these services from a
1231 contract for private correctional services entered into under
1232 this chapter and retain responsibility for the delivery of those
1233 services, if the department finds it to be in the best interests
1234 of the state.

1235 ~~(5) Each contract entered into by the department must~~
1236 ~~include substantial minority participation unless demonstrated~~
1237 ~~by evidence, after a good faith effort, as impractical and must~~
1238 ~~also include any other requirements the department considers~~
1239 ~~necessary and appropriate for carrying out the purposes of this~~
1240 ~~chapter.~~

1241 Section 21. Subsection (3) of section 957.09, Florida
1242 Statutes, is amended to read:

1243 957.09 Applicability of chapter to other provisions of
1244 law.—

1245 ~~(3) The provisions of law governing the participation of~~
1246 ~~minority business enterprises are applicable to this chapter.~~

1247 Section 22. Subsection (2) of section 20.32, Florida
1248 Statutes, is amended to read:

1249 20.32 Florida Commission on Offender Review.—

1250 (2) All powers, duties, and functions relating to the
1251 appointment of the Florida Commission on Offender Review as
1252 provided in s. 947.02 ~~or s. 947.021~~ shall be exercised and
1253 performed by the Governor and Cabinet. ~~Except as provided in s.~~
1254 ~~947.021,~~ Each appointment shall be made from among the first
1255 three eligible persons on the list of the persons eligible for
1256 said position.

1257 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.

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 1604

INTRODUCER: Criminal Justice Committee and Senator Martin

SUBJECT: Corrections

DATE: April 14, 2025

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1604 amends multiple sections of law, including prepayment court costs and the statute of limitations on prisoners' lawsuits, execution methods for the death penalty, 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 allow 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.
- Amends ss. 922.10 and 922.105, F.S., to allow for the death sentence to be executed by a method not deemed unconstitutional nor cruel and unusual.

- Amends s. 934.425, F.S., to provide an exception to the criminal offense for the installation or use of a tracking device and allows for a correctional officer, correctional probation officer, or any other officer or support personnel as defined in s. 943.10, F.S., 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 and in the course or scope of his or her employment. Additionally, a person is 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. Additionally, 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 require the DOC to offer inmates the opportunity to execute an advance directive. The bill provides procedure relating to the capacity of an inmate, creates a process for a DOC ombudsman to serve as a proxy for an inmate that has not executed an advance directive, authorizes the use of force and provides immunity from liability, and defines terms.
- Amends s. 947.02, F.S., 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 membership of the FCOR to include representation from minority persons. The bill also eliminates the Parole Qualifications Committee.
- 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.
- Amends 957.09, F.S., to remove language relating to the participation of minority business enterprises.
- 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.¹

¹ Florida Department of Corrections, available at: <https://www.fdc.myflorida.com/> (last visited March 22, 2025).

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.² The federal law sought to reduce frivolous litigation, give correction officials the ability to remedy problems before litigation, and lighten the caseload for courts handling prisoner litigation.³

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. § 1983.⁴ 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.⁵ 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 act⁶ (as defined in section 2246 of Title 18).⁷

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.

² 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.")

³ 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).

⁴ 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.

⁵ 42 U.S.C.A. § 1997e(c)(1).

⁶ 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.

⁷ 42 U.S.C.A. § 1997e(e).

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:

‘[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.’”⁸

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.⁹

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,¹⁰ 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.¹¹ 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.¹²

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.¹³

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

⁸ *Siggers-El v. Barlow*, 433 F. Supp. 2d 811 (E.D. Mich. 2006)

⁹ *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)

¹⁰ 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.

¹¹ Section 95.11(6)(f), F.S.

¹² Section 95.11(6)(g), F.S.

¹³ Section 57.085(2), F.S.

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.¹⁴

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 crimes¹⁵ 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.¹⁶
- Discharged the firearm, must be sentenced to a minimum 20 year term of imprisonment.¹⁷
- 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.¹⁸

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.¹⁹

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.²⁰

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

¹⁴ Section 57.085(5), F.S.

¹⁵ 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.

¹⁶ 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.

¹⁷ Section 775.087(2)(a)2., F.S.

¹⁸ Section 775.087(2)(a)3., F.S.

¹⁹ Section 775.087(2)(c), F.S.

²⁰ Section 775.087(2)(d), F.S.

require the court to sentence a defendant to consecutive sentences when the sentences arise from the same criminal episode.²¹

Execution of the Death Penalty

On January 25, 2024, the state of Alabama executed a death row inmate using nitrogen gas. It marked the first time that a new execution method has been used in the United States since lethal injection, now the most commonly used method, was introduced in 1982. The inmate was not executed by lethal injection because authorities couldn't connect an IV line.²² On March 7, 2025, South Carolina executed an inmate by use of firing squad, the first inmate in 15 years to die by that method.²³

The company, Absolute Standards, which was identified as the source of lethal injection drugs used in 13 federal executions in 2020 and 2021, has said it will no longer produce the drug used in executions – pentobarbital. For more than a decade, departments of corrections across the United States have had difficulty acquiring some of the drugs traditionally used in lethal injection executions. Many drug manufacturers have explicitly banned the use of their products in executions and others have stopped producing these drugs completely.²⁴ Several states, such as Idaho, Mississippi, Oklahoma, Utah, and South Carolina, have enacted legislation to allow for the use of firing squad as a method of execution.²⁵

Florida Law

Currently under Florida law, a death sentence must be executed by electrocution or lethal injection. Pursuant to s. 922.105, F.S., a death sentence must be executed by lethal injection, unless the person sentenced to death affirmatively elects to be executed by electrocution. If either method is deemed unconstitutional, all persons sentenced to death will be executed by any constitutional method of execution.²⁶ No sentence of death shall be reduced as a result of a determination that a method of execution is declared unconstitutional under the State Constitution or the Constitution of the United States. In any case in which an execution method is declared unconstitutional, the death sentence must remain in force until the sentence can be lawfully executed by any valid method of execution.²⁷

²¹ *Williams v. State*, 186 So. 3d 989 (Fla. 2016)

²² Politico, *Alabama Execute a Man With Nitrogen Gas*, Associated Press (January 25, 2024), available at: <https://www.politico.com/news/2024/01/25/supreme-court-alabama-execution-00138007> (last visited March 19, 2025).

²³ AP News, *South Carolina Man Executed by Firing Squad*, Jeffrey Collins (March 7, 2025) available at: <https://apnews.com/article/firing-squad-execution-south-carolina-sigmond-c998f11ecd3fcbf117d55b682ce3604a> (last visited March 22, 2025).

²⁴ Death Penalty Information Center, *Federal Execution-Drug Supplier Says It Will No Longer Produce Pentobarbital for Executions*, (Updated March 14, 2025), available at: <https://deathpenaltyinfo.org/federal-execution-drug-supplier-says-it-will-no-longer-produce-pentobarbital-for-executions> (last visited March 19, 2025).

²⁵ Death Penalty Information Center, *Idaho Governor Signs Legislation Authorizing Firing Squad as State's Primary Execution Method*, Hayley Bedard (March 17, 2025), available at: <https://deathpenaltyinfo.org/idaho-governor-signs-legislation-authorizing-firing-squad-as-states-primary-execution-method> (last visited March 19, 2025).

²⁶ Section 922.105(3), F.S.

²⁷ Section 922.105(8), F.S.

A change in the method of execution does not increase the punishment or modify the penalty of death for capital murder. Any legislative change to the method of execution for the crime of capital murder does not violate s. 10, Art. I or s. 9, Art. X of the State Constitution.²⁸

Tracking Devices

Tracking devices²⁹ and tracking applications³⁰ 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.³¹

Unlawful Installation or Use of a Tracking Device or Application

Unless excepted, s. 934.425, F.S., it is a third degree felony³² 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.³³

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;³⁴ or
- The consenting person or the person to whom consent was given files an injunction for protection against the other person.³⁵

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;³⁶

²⁸ Section 922.105(5), F.S.

²⁹ "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.

³⁰ "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.

³¹ 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).

³² 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.

³³ Section 934.425(2), F.S.

³⁴ Section 934.425(3)(a), F.S.

³⁵ 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.

³⁶ Section 934.425(4)(a), F.S.

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, persons, or agencies qualified to provide such services.³⁷ 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.³⁸ 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.³⁹

The Corrections Mental Health Act provides key terminology necessary in determining criteria is met for crisis stabilization care⁴⁰ 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.⁴¹
- “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.⁴²
- “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

³⁷ Section 945.41(1), F.S.

³⁸ Section 945.49(2), F.S.

³⁹ Section 945.41(2), F.S.

⁴⁰ “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.

⁴¹ Section 945.42(9), F.S.

⁴² Section 945.42(5), F.S.

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 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.⁴³

- “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.⁴⁴

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.⁴⁵

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:⁴⁶

- 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

⁴³ Section 945.42(6), F.S.

⁴⁴ Section 945.42(13), F.S.

⁴⁵ Section 945.49, F.S.

⁴⁶ Section 945.43(2), F.S.

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:⁴⁷

- 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.⁴⁸ 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.⁴⁹

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.⁵⁰

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

⁴⁷ Section 945.43(3), F.S.

⁴⁸ Section 945.43(3)(a), F.S.

⁴⁹ Section 945.43(4), F.S.

⁵⁰ Section 945.44, F.S.

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.⁵¹

- 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.⁵²
- The hearing is an administrative hearing and conducted in accordance with ch. 120, F.S.,⁵³ 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.⁵⁴
- 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.⁵⁵
- 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.⁵⁶

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.⁵⁷ 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.⁵⁸

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.⁵⁹ 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.^{60,61}

⁵¹ Section 945.45(2)(a), F.S.

⁵² 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.

⁵³ Chapter 120, F.S., provides procedure for all administrative hearings.

⁵⁴ Section 945.45(3)(a), F.S.

⁵⁵ Section 945.45(3)(d), F.S.

⁵⁶ Section 945.45(3)(e), F.S.

⁵⁷ Section 945.45(3)(b), F.S.

⁵⁸ Section 945.45(3)(c), F.S.

⁵⁹ Section 945.46(1), F.S.

⁶⁰ 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.

⁶¹ Section 945.46(2), F.S.

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.⁶²

Discharge of an Inmate from Mental Health Treatment

An inmate must be discharged from mental health treatment under the following conditions:⁶³

- 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.⁶⁴

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.⁶⁵

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.⁶⁶

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.⁶⁷

⁶² Section 945.46(3), F.S.

⁶³ Section 945.47(1), F.S.

⁶⁴ Section 945.47(2), F.S.

⁶⁵ 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.

⁶⁶ Section 945.48(3), F.S.

⁶⁷ Section 945.48(4)(a), F.S.

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:⁶⁸

- 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.⁶⁹

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.⁷⁰

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.⁷¹

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.

⁶⁸ Section 945.48(4)(b), F.S.

⁶⁹ Section 945.48(4)(c), F.S.

⁷⁰ Section 945.48(5), F.S.

⁷¹ Section 945.48(6), F.S.

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 savings⁷² of such facilities and:

- Is not exempt from ch. 287, F.S., including the competitive solicitation requirements.
- 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.⁷³

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.⁷⁴

The FCOR consists of three commissioners⁷⁵ 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

⁷² 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.

⁷³ Section 957.04(1)(a)-(i), F.S.

⁷⁴ Florida Commission on Offender Review, *Organization*, available at: <https://www.fcor.state.fl.us/overview.shtml> (last visited March 20, 2025).

⁷⁵ 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.

representation from minority persons.^{76,77} Commissioners serve a term of six years, and no person is eligible to be appointed for more than two consecutive six year terms.⁷⁸

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.⁷⁹ 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 reinstate the application and examination procedure.⁸⁰

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 expedited appointments, the commissioners will be directly appointed by the Governor and Cabinet. The commission must include representation from minority persons.⁸¹

III. Effect of Proposed Changes:

The bill amends multiple sections of law regarding prepayment court costs and the statute of limitations on prisoners' lawsuits, execution methods for the death penalty, 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 be commenced 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.

⁷⁶ "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.

⁷⁷ Section 947.02(1), F.S.

⁷⁸ Section 947.03, F.S.

⁷⁹ Section 947.02(2), F.S.

⁸⁰ Section 947.02(4), F.S.

⁸¹ Section 947.021, F.S.

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.

Sentencing

The bill amends s. 775.087, F.S., to allow for a court to impose consecutive sentences for any person who is convicted for committing an offense listed under the 10-20-Life statute, in conjunction with any other felony offense, and mandates that the court impose any term of imprisonment under 10-20-Life consecutively.

The bill amends ss. 922.10 and 922.105, F.S., to allow for an inmate who has received the death sentence to be executed by a method not deemed unconstitutional nor cruel and unusual, if electrocution and lethal injection are deemed to be unconstitutional or cruel and unusual, or if the acquisition of chemicals necessary for lethal injection becomes impossible or impractical.

Tracking

The bill amends s. 934.425, F.S., to provide an exception to the criminal offense for the installation or use of a tracking device and allows for a correctional officer, correctional probation officer or any other officer or support personnel as defined in s. 943.10, F.S., 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. Additionally, a person is allowed 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 consent⁸² 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,”⁸³ “gravely disabled,”⁸⁴ “incompetent to consent to treatment,”⁸⁵ “involuntary examination,”⁸⁶ “likelihood of serious harm,”⁸⁷ and “treatment,”⁸⁸ and removes the definition and procedure for inmates that are “in immediate need of care and treatment.”

⁸² 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.

⁸³ “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.

⁸⁴ “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 unremitting decline in volitional control over his or her actions.

⁸⁵ “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.

⁸⁶ “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.

⁸⁷ “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.

⁸⁸ “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.

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 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 such 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,"⁸⁹ "incapacity,"⁹⁰ "informed consent,"⁹¹ "inmate,"⁹² "ombudsman,"⁹³ "proxy,"⁹⁴ and "proxy review team."⁹⁵

⁸⁹ "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.

⁹⁰ "Incapacity" or "Incompetent" means an inmate is physically or mentally unable to communicate a willful and knowing health care decision.

⁹¹ "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.

⁹² "Inmate" means any person committed to the custody of the DOC.

⁹³ "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.

⁹⁴ "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.

⁹⁵ "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 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.

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.,⁹⁶ 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 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 the Parole Qualifications Committee, and s. 947.021, F.S. is repealed.

⁹⁶ 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.

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.

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, 922.10, 922.105, 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 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.

By the Committee on Transportation; and Senator Pizzo

596-03166-25

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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.

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(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.

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 1782

INTRODUCER: Transportation Committee and Senator Pizzo

SUBJECT: Dangerous Excessive Speeding

DATE: April 14, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Shutes</u>	<u>Vickers</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

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,¹ 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.²

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.³

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.⁴ 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.⁵

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,⁶ subjecting a violator to the same range of fines.

Other speed-related violations may result in enhanced penalties. For example:

¹ 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.”

² IIHS, *Dangers of Speed*, available at <https://www.iihs.org/topics/speed#overview> (last visited April 11, 2025).

³ *Id.*

⁴ Section 316.183(1), F.S.

⁵ Section 318.18(3)(b), F.S.

⁶ 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.⁷

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.⁸

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.⁹

A conviction for reckless driving generally cannot be based on evidence of excessive speed alone.¹⁰ However, in limited cases, appellate courts in Florida have suggested “grossly excessive” speeding may alone be sufficient for a conviction.¹¹ 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.¹² 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 injury¹³ 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;¹⁴
- Any infraction related to unsecured loads;¹⁵ or

⁷ Section 318.18(3)(c), F.S.

⁸ Section 316.192(1), F.S.

⁹ Section 316.192(2), F.S.

¹⁰ *Luzardo v. State*, 147 So. 3d 1083, 1085 (Fla. 3d DCA 2014), *Hamilton v. State*, 439 So. 2d 238 (Fla. 2d DCA 1983).

¹¹ *Rubinger v. State*, 98 So. 3d 659, 662 (Fla. 4th DCA 2012).

¹² Section 318.19, F.S.

¹³ 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.

¹⁴ Section 316.172(1)(b), F.S.

¹⁵ Sections 316.520(1) and (2), F.S.

- Specified infractions involving exceeding the speed limit by 30 mph or more.^{16,17}

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.

¹⁶ Sections 316.183(2), s. 316.187, or s. 316.189, F.S.

¹⁷ 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

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1 A bill to be entitled
 2 An act relating to capital sex trafficking; creating
 3 s. 787.062, F.S.; providing legislative findings;
 4 providing definitions; providing penalties for persons
 5 convicted of the capital felony of human trafficking
 6 by use of physical force upon certain persons for sex;
 7 providing requirements for sentencing in certain
 8 capital cases; providing requirements for prosecutors
 9 of such cases; creating s. 921.1427, F.S.; providing
 10 legislative findings and intent; providing
 11 requirements for separate sentencing proceedings in
 12 certain capital felony cases; providing construction;
 13 providing applicability; providing for findings and
 14 recommended sentences by a jury; providing
 15 requirements for imposition of a sentence of life
 16 imprisonment or a sentence of death; providing
 17 requirements for a written court order in support of a
 18 sentence of life imprisonment or a sentence of death;
 19 providing for automatic review of sentences of death
 20 within a certain time period; specifying aggravating
 21 factors and mitigating circumstances; providing for
 22 victim impact evidence; providing for resentencing if
 23 provisions are found to be unconstitutional; providing
 24 applicability; amending s. 924.07, F.S.; authorizing
 25 the state to appeal from a sentence on the ground that
 26 it resulted from the failure of the circuit court to
 27 comply with specified sentencing procedure
 28 requirements; amending ss. 921.137 and 921.141, F.S.;;
 29 conforming provisions to changes made by the act;

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30 providing an effective date.
 31
 32 Be It Enacted by the Legislature of the State of Florida:
 33
 34 Section 1. Section 787.062, Florida Statutes, is created to
 35 read:
 36 787.062 Capital sex trafficking.—
 37 (1) The Legislature finds that human trafficking is a form
 38 of modern-day slavery, and victims of such schemes include young
 39 children, young teenagers, and persons with diminished mental
 40 capacity. The Legislature finds that victims of human
 41 trafficking are subjected to force for the purpose of sexual
 42 exploitation. Such crimes destroy the innocence of young
 43 children and violate all standards of decency held by civilized
 44 society.
 45 (2) As used in this section, the term:
 46 (a) "Human trafficking" has the same meaning as provided in
 47 s. 787.06(2).
 48 (b) "Physical force" means the touching, striking, causing
 49 of bodily harm, confining, or restraining of another.
 50 (c) "Sexual violence" means an act of any of the following:
 51 1. Sexual battery, as defined in s. 794.011(1).
 52 2. Lewd or lascivious battery, as defined in s. 800.04(4).
 53 3. Lewd or lascivious molestation, as defined in s.
 54 800.04(5).
 55 4. Lewd or lascivious conduct, as defined in s. 800.04(6).
 56 5. Sodomasochistic abuse or sexual bestiality as those
 57 terms are defined in s. 827.071(1).
 58 (3)(a) Except as provided in paragraph (b), a person who

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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

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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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117 the court deems to have probative value may be received,
 118 regardless of its admissibility under the exclusionary rules of
 119 evidence, provided the defendant is accorded a fair opportunity
 120 to rebut any hearsay statements. However, this subsection shall
 121 not be construed to authorize the introduction of any evidence
 122 secured in violation of the United States Constitution or the
 123 State Constitution. The state and the defendant or the
 124 defendant's counsel shall be permitted to present argument for
 125 or against a sentence of death.

126 (3) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This
 127 subsection applies only if the defendant has not waived his or
 128 her right to a sentencing proceeding by a jury.

129 (a) After hearing all of the evidence presented regarding
 130 aggravating factors and mitigating circumstances, the jury shall
 131 deliberate and determine if the state has proven, beyond a
 132 reasonable doubt, the existence of at least two aggravating
 133 factors set forth in subsection (7).

134 (b) The jury shall return findings identifying each
 135 aggravating factor found to exist. A finding that at least two
 136 aggravating factors exist must be unanimous. If the jury:

137 1. Does not unanimously find at least two aggravating
 138 factors, the defendant is ineligible for a sentence of death.

139 2. Unanimously finds at least two aggravating factors, the
 140 defendant is eligible for a sentence of death and the jury shall
 141 make a recommendation to the court as to whether the defendant
 142 shall be sentenced to life imprisonment without the possibility
 143 of parole or sentenced to death. The recommendation shall be
 144 based on a weighing of all of the following:

145 a. Whether sufficient aggravating factors exist.

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146 b. Whether aggravating factors exist which outweigh the
 147 mitigating circumstances found to exist.

148 c. Based on the considerations in sub-subparagraphs a. and
 149 b., whether the defendant should be sentenced to life
 150 imprisonment without the possibility of parole or sentenced to
 151 death.

152 (c) If at least eight jurors determine that the defendant
 153 should be sentenced to death, the jury's recommendation to the
 154 court shall be a sentence of death. If fewer than eight jurors
 155 determine that the defendant should be sentenced to death, the
 156 jury's recommendation to the court shall be a sentence of life
 157 imprisonment without the possibility of parole.

158 (4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.—

159 (a) If the jury has recommended a sentence of:

160 1. Life imprisonment without the possibility of parole, the
 161 court shall impose the recommended sentence of life imprisonment
 162 without the possibility of parole.

163 2. Death, the court, after considering each aggravating
 164 factor found by the jury and all mitigating circumstances, may
 165 impose a sentence of life imprisonment without the possibility
 166 of parole or a sentence of death. The court may consider only an
 167 aggravating factor that was unanimously found to exist by the
 168 jury. The court may impose a sentence of death only if the jury
 169 unanimously found at least two aggravating factors beyond a
 170 reasonable doubt.

171 (b) If the defendant waived his or her right to a
 172 sentencing proceeding by a jury, the court, after considering
 173 all aggravating factors and mitigating circumstances, may impose
 174 a sentence of life imprisonment without the possibility of

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175 parole or a sentence of death. The court may impose a sentence
 176 of death only if the court finds that at least two aggravating
 177 factors have been proven to exist beyond a reasonable doubt.

178 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE
 179 IMPRISONMENT OR DEATH.—In each case in which the court imposes a
 180 sentence of life imprisonment without the possibility of parole
 181 or death, the court shall, considering the records of the trial
 182 and the sentencing proceedings, enter a written order addressing
 183 the aggravating factors set forth in subsection (7) found to
 184 exist, the mitigating circumstances in subsection (8) reasonably
 185 established by the evidence, whether there are sufficient
 186 aggravating factors to warrant the death penalty, and whether
 187 the aggravating factors outweigh the mitigating circumstances
 188 reasonably established by the evidence. The court shall include
 189 in its written order the reasons for not accepting the jury's
 190 recommended sentence, if applicable. If the court does not issue
 191 its order requiring the death sentence within 30 days after the
 192 rendition of the judgment and sentence, the court shall impose a
 193 sentence of life imprisonment without the possibility of parole
 194 in accordance with s. 775.082.

195 (6) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
 196 conviction and sentence of death shall be subject to automatic
 197 review by the Supreme Court and disposition rendered within 2
 198 years after the filing of a notice of appeal. Such review by the
 199 Supreme Court shall have priority over all other cases and shall
 200 be heard in accordance with rules adopted by the Supreme Court.

201 (7) AGGRAVATING FACTORS.—Aggravating factors shall be
 202 limited to the following:

203 (a) The capital felony was committed by a person previously

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204 convicted of a felony violation under s. 787.06 or s. 787.062,
 205 and under sentence of imprisonment or placed on community
 206 control or on felony probation.

207 (b) The defendant was previously convicted of another
 208 capital felony or of a felony involving the use or threat of
 209 violence to the person.

210 (c) The capital felony was committed by a person designated
 211 as a sexual predator pursuant to s. 775.21 or a person
 212 previously designated as a sexual predator who had the sexual
 213 predator designation removed.

214 (d) The capital felony was committed by a sexual offender
 215 who is required to register pursuant to s. 943.0435 or a person
 216 previously required to register as a sexual offender who had
 217 such requirement removed.

218 (e) The defendant knowingly created a great risk of death
 219 to one or more persons such that participation in the offense
 220 constituted reckless indifference or disregard for human life.

221 (f) The defendant used a firearm or knowingly directed,
 222 advised, authorized, or assisted another to use a firearm to
 223 threaten, intimidate, assault, or injure a person in committing
 224 the offense or in furtherance of the offense.

225 (g) The capital felony was especially heinous, atrocious,
 226 or cruel.

227 (h) The victim of the capital felony was particularly
 228 vulnerable due to age or disability, or because the defendant
 229 stood in a position of familial or custodial authority over the
 230 victim.

231 (i) The capital felony was committed by a person subject to
 232 an injunction issued pursuant to s. 741.30 or s. 784.046, or a

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233 foreign protection order accorded full faith and credit pursuant
 234 to s. 741.315, and was committed against the petitioner who
 235 obtained the injunction or protection order or any spouse,
 236 child, sibling, or parent of the petitioner.

237 (j) The victim of the capital felony sustained serious
 238 bodily injury.

239 (8) MITIGATING CIRCUMSTANCES.—Mitigating circumstances
 240 shall include the following:

241 (a) The defendant has no significant history of prior
 242 criminal activity.

243 (b) The capital felony was committed while the defendant
 244 was under the influence of extreme mental or emotional
 245 disturbance.

246 (c) The defendant was an accomplice in the capital felony
 247 committed by another person, and the defendant's participation
 248 was relatively minor.

249 (d) The defendant was under extreme duress or under the
 250 substantial domination of another person.

251 (e) The capacity of the defendant to appreciate the
 252 criminality of her or his conduct or to conform her or his
 253 conduct to the requirements of law was substantially impaired.

254 (f) The age of the defendant at the time of the offense.

255 (g) The defendant could not have reasonably foreseen that
 256 her or his conduct in the course of the commission of the
 257 offense would cause or would create a grave risk of death to one
 258 or more persons.

259 (h) The existence of any other factors in the defendant's
 260 background that would mitigate against imposition of the death
 261 penalty.

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262 (9) VICTIM IMPACT EVIDENCE.—Once the prosecution has
 263 provided evidence of the existence of two or more aggravating
 264 factors as described in subsection (7), the prosecution may
 265 introduce, and subsequently argue, victim impact evidence to the
 266 jury. Such evidence shall be designed to demonstrate the
 267 victim's uniqueness as an individual human being and the
 268 physical and psychological harm to the victim. Characterizations
 269 and opinions about the crime, the defendant, and the appropriate
 270 sentence shall not be permitted as a part of victim impact
 271 evidence.

272 (10) CONSTITUTIONALITY.—Notwithstanding s. 775.082(2) or s.
 273 775.15, or any other provision of law, a sentence of death shall
 274 be imposed under this section notwithstanding existing case law
 275 that holds that such a sentence is unconstitutional under the
 276 State Constitution and the United States Constitution. In any
 277 case for which the Florida Supreme Court or the United States
 278 Supreme Court reviews a sentence of death imposed pursuant to
 279 this section, and in making such a review reconsiders the prior
 280 holdings in *Buford v. State of Florida*, 403 So. 2d 943 (Fla.
 281 1981), and *Kennedy v. Louisiana*, 554 U.S. 407 (2008), and
 282 determines that a sentence of death remains unconstitutional,
 283 the court having jurisdiction over the person previously
 284 sentenced to death shall cause such person to be brought before
 285 the court, and the court shall sentence such person to life
 286 imprisonment as provided in s. 775.082(1).

287 (11) APPLICABILITY.—This section applies to any capital
 288 felony under s. 787.062 that is committed on or after October 1,
 289 2025.

290 Section 3. Paragraph (o) is added to subsection (1) of

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291 section 924.07, Florida Statutes, to read:

292 924.07 Appeal by state.—

293 (1) The state may appeal from:

294 (o) The sentence in a case of capital human trafficking on
 295 the ground that it resulted from the circuit court's failure to
 296 comply with sentencing procedures under s. 921.1427, including
 297 by striking a notice of intent to seek the death penalty,
 298 refusing to impanel a capital jury, or otherwise granting relief
 299 that prevents the state from seeking a sentence of death.

300 Section 4. Subsection (4) of section 921.137, Florida
 301 Statutes, is amended to read:

302 921.137 Imposition of the death sentence upon an
 303 intellectually disabled defendant prohibited.—

304 (4) After a defendant who has given notice of his or her
 305 intention to raise intellectual disability as a bar to the death
 306 sentence is convicted of a capital felony and an advisory jury
 307 has returned a recommended sentence of death, the defendant may
 308 file a motion to determine whether the defendant is
 309 intellectually disabled. Upon receipt of the motion, the court
 310 shall appoint two experts in the field of intellectual
 311 disabilities who shall evaluate the defendant and report their
 312 findings to the court and all interested parties prior to the
 313 final sentencing hearing. Notwithstanding s. 921.141, s.
 314 921.142, ~~or~~ s. 921.1425, or s. 921.1427, the final sentencing
 315 hearing shall be held without a jury. At the final sentencing
 316 hearing, the court shall consider the findings of the court-
 317 appointed experts and consider the findings of any other expert
 318 which is offered by the state or the defense on the issue of
 319 whether the defendant has an intellectual disability. If the

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320 court finds, by clear and convincing evidence, that the
 321 defendant has an intellectual disability as defined in
 322 subsection (1), the court may not impose a sentence of death and
 323 shall enter a written order that sets forth with specificity the
 324 findings in support of the determination.

325 Section 5. Subsection (9) of section 921.141, Florida
 326 Statutes, is amended to read:

327 921.141 Sentence of death or life imprisonment for capital
 328 felonies; further proceedings to determine sentence.—

329 (9) APPLICABILITY.—This section does not apply to a person
 330 convicted or adjudicated guilty of a capital sexual battery
 331 under s. 794.011, a capital sex trafficking felony under
 332 787.062, or a capital drug trafficking felony under s. 893.135.

333 Section 6. This act shall take effect October 1, 2025.

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LEGISLATIVE ACTION

Senate

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House

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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11 787.06 Human trafficking.—

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

13 (i) "Sexual exploitation" means any violation of s.
14 794.011, excluding a violation of s. 794.011(10).

15 (5)(a) Any person 18 years of age or older who knowingly
16 initiates, organizes, plans, finances, directs, manages, or
17 supervises a venture that has subjected a child younger than 12
18 years of age, or a person who is mentally defective or mentally
19 incapacitated as those terms are defined in s. 794.011(1), to
20 human trafficking for sexual exploitation commits capital human
21 trafficking of vulnerable persons for sexual exploitation, a
22 capital felony punishable as provided in ss. 775.082 and
23 921.1427.

24 (b) For each instance of human trafficking of any
25 individual under paragraph (a), a separate crime is committed
26 and a separate punishment is authorized.

27 (c) In all capital cases under this subsection, the
28 procedure in s. 921.1427 shall be followed to determine a
29 sentence of death or life imprisonment.

30 (d) If the prosecutor intends to seek the death penalty,
31 the prosecutor must give notice to the defendant and file the
32 notice with the court within 45 days after arraignment. The
33 notice must contain a list of the aggravating factors the state
34 intends to prove and has reason to believe it can prove beyond a
35 reasonable doubt. The court may allow the prosecutor to amend
36 the notice upon a showing of good cause.

37 Section 2. Section 921.1427, Florida Statutes, is created
38 to read:

39 921.1427 Sentence of death or life imprisonment for capital



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40 human trafficking of vulnerable persons for sexual exploitation;
41 further proceedings to determine sentence.—

42 (1) INTENT.—

43 (a) The Legislature finds that a person who commits the
44 offense of initiating, organizing, planning, financing,
45 directing, managing, or supervising a venture that has subjected
46 a child younger than 12 years of age, or a person who is
47 mentally defective or mentally incapacitated, to human
48 trafficking for sexual exploitation in violation of s. 787.06(5)
49 imposes a great risk of death and danger to vulnerable members
50 of this state. Such crimes exploit society's most vulnerable
51 citizens, destroy the innocence of young children, and violate
52 all standards of decency held by civilized society, and persons
53 who commit such acts against such vulnerable persons may be
54 determined by the trier of fact to have a culpable mental state
55 of reckless indifference or disregard for human life.

56 (b) It is the intent of the Legislature that the procedure
57 in this section shall be followed, and a prosecutor must file
58 notice, as provided in s. 787.06(5), if he or she intends to
59 seek the death penalty.

60 (2) SEPARATE PROCEEDINGS ON ISSUE OF PENALTY.—Upon
61 conviction or an adjudication of guilt of a defendant of a
62 capital felony under s. 787.06(5), the court shall conduct a
63 separate sentencing proceeding to determine whether the
64 defendant should be sentenced to death or life imprisonment as
65 authorized by s. 775.082. The proceeding shall be conducted by
66 the trial judge before the trial jury as soon as practicable.
67 If, through impossibility or inability, the trial jury is unable
68 to reconvene for a hearing on the issue of penalty, having



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69 determined the guilt of the accused, the trial judge may summon
70 a special juror or jurors as provided in chapter 913 to
71 determine the issue of the imposition of the penalty. If the
72 trial jury has been waived, or if the defendant pleaded guilty,
73 the sentencing proceeding shall be conducted before a jury
74 impaneled for that purpose, unless waived by the defendant. In
75 the proceeding, evidence may be presented as to any matter that
76 the court deems relevant to the nature of the crime and the
77 character of the defendant and shall include matters relating to
78 any of the aggravating factors enumerated in subsection (7) and
79 for which notice has been provided pursuant to s. 787.06(5) or
80 mitigating circumstances enumerated in subsection (8). Any such
81 evidence that the court deems to have probative value may be
82 received, regardless of its admissibility under the exclusionary
83 rules of evidence, provided the defendant is accorded a fair
84 opportunity to rebut any hearsay statements. However, this
85 subsection shall not be construed to authorize the introduction
86 of any evidence secured in violation of the United States
87 Constitution or the State Constitution. The state and the
88 defendant or the defendant's counsel shall be permitted to
89 present argument for or against a sentence of death.

90 (3) FINDINGS AND RECOMMENDED SENTENCE BY THE JURY.—This
91 subsection applies only if the defendant has not waived his or
92 her right to a sentencing proceeding by a jury.

93 (a) After hearing all of the evidence presented regarding
94 aggravating factors and mitigating circumstances, the jury shall
95 deliberate and determine if the state has proven, beyond a
96 reasonable doubt, the existence of at least two aggravating
97 factors set forth in subsection (7).



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98 (b) The jury shall return findings identifying each
99 aggravating factor found to exist. A finding that at least two
100 aggravating factors exist must be unanimous. If the jury:

101 1. Does not unanimously find at least two aggravating
102 factors, the defendant is ineligible for a sentence of death.

103 2. Unanimously finds at least two aggravating factors, the
104 defendant is eligible for a sentence of death and the jury shall
105 make a recommendation to the court as to whether the defendant
106 shall be sentenced to life imprisonment without the possibility
107 of parole or to death. The recommendation shall be based on a
108 weighing of all of the following:

109 a. Whether sufficient aggravating factors exist.

110 b. Whether aggravating factors exist which outweigh the
111 mitigating circumstances found to exist.

112 c. Based on the considerations in sub-subparagraphs a. and
113 b., whether the defendant should be sentenced to life
114 imprisonment without the possibility of parole or to death.

115 (c) If at least eight jurors determine that the defendant
116 should be sentenced to death, the jury's recommendation to the
117 court shall be a sentence of death. If fewer than eight jurors
118 determine that the defendant should be sentenced to death, the
119 jury's recommendation to the court shall be a sentence of life
120 imprisonment without the possibility of parole.

121 (4) IMPOSITION OF SENTENCE OF LIFE IMPRISONMENT OR DEATH.-

122 (a) If the jury has recommended a sentence of:

123 1. Life imprisonment without the possibility of parole, the
124 court shall impose the recommended sentence of life imprisonment
125 without the possibility of parole.

126 2. Death, the court, after considering each aggravating



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127 factor found by the jury and all mitigating circumstances, may
128 impose a sentence of life imprisonment without the possibility
129 of parole or a sentence of death. The court may consider only an
130 aggravating factor that was unanimously found to exist by the
131 jury. The court may impose a sentence of death only if the jury
132 unanimously found at least two aggravating factors beyond a
133 reasonable doubt.

134 (b) If the defendant waived his or her right to a
135 sentencing proceeding by a jury, the court, after considering
136 all aggravating factors and mitigating circumstances, may impose
137 a sentence of life imprisonment without the possibility of
138 parole or a sentence of death. The court may impose a sentence
139 of death only if the court finds that at least two aggravating
140 factors have been proven to exist beyond a reasonable doubt.

141 (5) ORDER OF THE COURT IN SUPPORT OF SENTENCE OF LIFE
142 IMPRISONMENT OR DEATH.—In each case in which the court imposes a
143 sentence of life imprisonment without the possibility of parole
144 or death, the court shall, considering the records of the trial
145 and the sentencing proceedings, enter a written order addressing
146 the aggravating factors set forth in subsection (7) found to
147 exist, the mitigating circumstances in subsection (8) reasonably
148 established by the evidence, whether there are sufficient
149 aggravating factors to warrant the death penalty, and whether
150 the aggravating factors outweigh the mitigating circumstances
151 reasonably established by the evidence. The court shall include
152 in its written order the reasons for not accepting the jury's
153 recommended sentence, if applicable. If the court does not issue
154 its order requiring the death sentence within 30 days after the
155 rendition of the judgment and sentence, the court shall impose a



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156 sentence of life imprisonment without the possibility of parole
157 in accordance with s. 775.082.

158 (6) REVIEW OF JUDGMENT AND SENTENCE.—The judgment of
159 conviction and sentence of death shall be subject to automatic
160 review by the Supreme Court and disposition rendered within 2
161 years after the filing of a notice of appeal. Such review by the
162 Supreme Court shall have priority over all other cases and shall
163 be heard in accordance with rules adopted by the Supreme Court.

164 (7) AGGRAVATING FACTORS.—Aggravating factors shall be
165 limited to the following:

166 (a) The capital felony was committed by a person previously
167 convicted of a felony violation under s. 787.06 and under
168 sentence of imprisonment or placed on community control or on
169 felony probation.

170 (b) The defendant was previously convicted of another
171 capital felony or of a felony involving the use or threat of
172 violence to the person.

173 (c) The capital felony was committed by a person designated
174 as a sexual predator pursuant to s. 775.21 or a person
175 previously designated as a sexual predator who had the sexual
176 predator designation removed.

177 (d) The capital felony was committed by a sexual offender
178 who is required to register pursuant to s. 943.0435 or a person
179 previously required to register as a sexual offender who had
180 such requirement removed.

181 (e) The defendant knowingly created a great risk of death
182 to one or more persons such that participation in the offense
183 constituted reckless indifference or disregard for human life.

184 (f) The defendant used a firearm or knowingly directed,



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185 advised, authorized, or assisted another to use a firearm to
186 threaten, intimidate, assault, or injure a person in committing
187 the offense or in furtherance of the offense.

188 (g) The capital felony was especially heinous, atrocious,
189 or cruel.

190 (h) The victim of the capital felony was particularly
191 vulnerable due to age or disability, or because the defendant
192 stood in a position of familial or custodial authority over the
193 victim.

194 (i) The capital felony was committed by a person subject to
195 an injunction issued pursuant to s. 741.30 or s. 784.046, or a
196 foreign protection order accorded full faith and credit pursuant
197 to s. 741.315, and was committed against the petitioner who
198 obtained the injunction or protection order or any spouse,
199 child, sibling, or parent of the petitioner.

200 (j) The victim of the capital felony sustained serious
201 bodily injury.

202 (8) MITIGATING CIRCUMSTANCES.—Mitigating circumstances
203 shall include the following:

204 (a) The defendant has no significant history of prior
205 criminal activity.

206 (b) The capital felony was committed while the defendant
207 was under the influence of extreme mental or emotional
208 disturbance.

209 (c) The defendant was an accomplice in the capital felony
210 committed by another person, and the defendant's participation
211 was relatively minor.

212 (d) The defendant was under extreme duress or under the
213 substantial domination of another person.



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214 (e) The capacity of the defendant to appreciate the
215 criminality of her or his conduct or to conform his or her
216 conduct to the requirements of law was substantially impaired.

217 (f) The age of the defendant at the time of the offense.

218 (g) The defendant could not have reasonably foreseen that
219 his or her conduct in the course of the commission of the
220 offense would cause or would create a grave risk of death to one
221 or more persons.

222 (h) The existence of any other factors in the defendant's
223 background that would mitigate against imposition of the death
224 penalty.

225 (9) VICTIM IMPACT EVIDENCE.—Once the prosecution has
226 provided evidence of the existence of two or more aggravating
227 factors as described in subsection (7), the prosecution may
228 introduce, and subsequently argue, victim impact evidence to the
229 jury. Such evidence shall be designed to demonstrate the
230 victim's uniqueness as an individual human being and the
231 physical and psychological harm to the victim. Characterizations
232 and opinions about the crime, the defendant, and the appropriate
233 sentence shall not be permitted as a part of victim impact
234 evidence.

235 (10) CONSTITUTIONALITY.—Notwithstanding s. 775.082(2) or s.
236 775.15, or any other provision of law, a sentence of death shall
237 be imposed under this section notwithstanding existing case law
238 which holds that such a sentence is unconstitutional under the
239 State Constitution and the United States Constitution. In any
240 case for which the Florida Supreme Court or the United States
241 Supreme Court reviews a sentence of death imposed pursuant to
242 this section, and in making such a review reconsiders the prior



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243 holdings in *Buford v. State of Florida*, 403 So. 2d 943 (Fla.
244 1981), and *Kennedy v. Louisiana*, 554 U.S. 407 (2008), and
245 determines that a sentence of death remains unconstitutional,
246 the court having jurisdiction over the person previously
247 sentenced to death shall cause such person to be brought before
248 the court, and the court shall sentence such person to life
249 imprisonment as provided in s. 775.082(1).

250 (11) APPLICABILITY.—This section applies to any capital
251 felony under s. 787.06(5) that is committed on or after October
252 1, 2025.

253 Section 3. Paragraph (o) is added to subsection (1) of
254 section 924.07, Florida Statutes, to read:

255 924.07 Appeal by state.—

256 (1) The state may appeal from:

257 (o) The sentence in a case of capital human trafficking of
258 vulnerable persons for sexual exploitation on the ground that it
259 resulted from the circuit court's failure to comply with
260 sentencing procedures under s. 921.1427, including by striking a
261 notice of intent to seek the death penalty, refusing to impanel
262 a capital jury, or otherwise granting relief that prevents the
263 state from seeking a sentence of death.

264 Section 4. Subsection (2) of section 92.565, Florida
265 Statutes, is amended to read:

266 92.565 Admissibility of confession in sexual abuse cases.—

267 (2) In any criminal action in which the defendant is
268 charged with a crime against a victim under s. 787.06(3),
269 involving commercial sexual activity; s. 787.06(5); s. 794.011;
270 s. 794.05; s. 800.04; s. 826.04; s. 827.03, involving sexual
271 abuse; s. 827.04, involving sexual abuse; s. 827.071; or s.



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272 847.0135(5), or any other crime involving sexual abuse of
273 another, or with any attempt, solicitation, or conspiracy to
274 commit any of these crimes, the defendant's memorialized
275 confession or admission is admissible during trial without the
276 state having to prove a corpus delicti of the crime if the court
277 finds in a hearing conducted outside the presence of the jury
278 that the state is unable to show the existence of each element
279 of the crime, and having so found, further finds that the
280 defendant's confession or admission is trustworthy. Factors
281 which may be relevant in determining whether the state is unable
282 to show the existence of each element of the crime include, but
283 are not limited to, the fact that, at the time the crime was
284 committed, the victim was:

285 (a) Physically helpless, mentally incapacitated, or
286 mentally defective, as those terms are defined in s. 794.011;

287 (b) Physically incapacitated due to age, infirmity, or any
288 other cause; or

289 (c) Less than 12 years of age.

290 Section 5. Paragraph (e) of subsection (2) of section
291 456.51, Florida Statutes, is amended to read:

292 456.51 Consent for pelvic examinations.—

293 (2) A health care practitioner, a medical student, or any
294 other student receiving training as a health care practitioner
295 may not perform a pelvic examination on an anesthetized or
296 unconscious patient without the written consent of the patient
297 or the patient's legal representative executed specific to, and
298 expressly identifying, the pelvic examination. If the patient is
299 conscious, informed verbal consent must be obtained for the
300 pelvic examination in addition to any written consent obtained.



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301 Consent is not required if:

302 (e) The pelvic examination is administered pursuant to a
303 criminal investigation of an alleged violation related to child
304 abuse or neglect under s. 787.06(3)(a)1., (c)1., (f)1., or (g);
305 s. 787.06(5); chapter 794; chapter 796; chapter 800; chapter
306 827; or chapter 847.

307 Section 6. Paragraph (o) of subsection (1) of section
308 775.0877, Florida Statutes, is amended to read:

309 775.0877 Criminal transmission of HIV; procedures;
310 penalties.—

311 (1) In any case in which a person has been convicted of or
312 has pled nolo contendere or guilty to, regardless of whether
313 adjudication is withheld, any of the following offenses, or the
314 attempt thereof, which offense or attempted offense involves the
315 transmission of body fluids from one person to another:

316 (o) Sections 787.06(3)(b), (d), (f), and (g) and 787.06(5),
317 relating to human trafficking, the court shall order the
318 offender to undergo HIV testing, to be performed under the
319 direction of the Department of Health in accordance with s.
320 381.004, unless the offender has undergone HIV testing
321 voluntarily or pursuant to procedures established in s.
322 381.004(2)(h)6. or s. 951.27, or any other applicable law or
323 rule providing for HIV testing of criminal offenders or inmates,
324 subsequent to her or his arrest for an offense enumerated in
325 paragraphs (a)-(n) for which she or he was convicted or to which
326 she or he pled nolo contendere or guilty. The results of an HIV
327 test performed on an offender pursuant to this subsection are
328 not admissible in any criminal proceeding arising out of the
329 alleged offense.



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330 Section 7. Paragraph (a) of subsection (4) of section
331 775.21, Florida Statutes, is amended to read:

332 775.21 The Florida Sexual Predators Act.—

333 (4) SEXUAL PREDATOR CRITERIA.—

334 (a) For a current offense committed on or after October 1,
335 1993, upon conviction, an offender shall be designated as a
336 “sexual predator” under subsection (5), and subject to
337 registration under subsection (6) and community and public
338 notification under subsection (7) if:

339 1. The felony is:

340 a. A capital, life, or first degree felony violation, or
341 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
342 is a minor, or s. 787.06(3)(f) or (g), where the victim is a
343 minor; s. 787.06(5); s. 794.011, s. 800.04, or s. 847.0145, or a
344 violation of a similar law of another jurisdiction; or

345 b. Any felony violation, or any attempt thereof, of s.
346 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
347 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
348 (d), (f), or (g); former s. 787.06(3)(h); s. 787.06(5); s.
349 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
350 former s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; s.
351 827.071; s. 847.0135, excluding s. 847.0135(6); s. 847.0145; s.
352 895.03, if the court makes a written finding that the
353 racketeering activity involved at least one sexual offense
354 listed in this sub-subparagraph or at least one offense listed
355 in this sub-subparagraph with sexual intent or motive; s.
356 916.1075(2); or s. 985.701(1); or a violation of a similar law
357 of another jurisdiction, and the offender has previously been
358 convicted of or found to have committed, or has pled nolo



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359 | contendere or guilty to, regardless of adjudication, any
360 | violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s.
361 | 787.02, or s. 787.025(2)(c), where the victim is a minor; s.
362 | 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
363 | 787.06(5); s. 794.011, excluding s. 794.011(10); s. 794.05;
364 | former s. 796.03; former s. 796.035; s. 800.04; s. 825.1025; s.
365 | 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
366 | 847.0145; s. 895.03, if the court makes a written finding that
367 | the racketeering activity involved at least one sexual offense
368 | listed in this sub-subparagraph or at least one offense listed
369 | in this sub-subparagraph with sexual intent or motive; s.
370 | 916.1075(2); or s. 985.701(1); or a violation of a similar law
371 | of another jurisdiction;

372 | 2. The offender has not received a pardon for any felony or
373 | similar law of another jurisdiction that is necessary for the
374 | operation of this paragraph; and

375 | 3. A conviction of a felony or similar law of another
376 | jurisdiction necessary to the operation of this paragraph has
377 | not been set aside in any postconviction proceeding.

378 | Section 8. Subsection (3) of section 787.01, Florida
379 | Statutes, is amended to read:

380 | 787.01 Kidnapping; kidnapping of child under age 13,
381 | aggravating circumstances.—

382 | (3)(a) A person who commits the offense of kidnapping upon
383 | a child under the age of 13 and who, in the course of committing
384 | the offense, commits one or more of the following:

385 | 1. Aggravated child abuse, as defined in s. 827.03;

386 | 2. Sexual battery, as defined in chapter 794, against the
387 | child;



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388 3. Lewd or lascivious battery, lewd or lascivious
389 molestation, lewd or lascivious conduct, or lewd or lascivious
390 exhibition, in violation of s. 800.04 or s. 847.0135(5);

391 4. A violation of former s. 796.03 or s. 796.04, relating
392 to prostitution, upon the child;

393 5. Exploitation of the child or allowing the child to be
394 exploited, in violation of s. 450.151; or

395 6. A violation of s. 787.06(3) (g) or s. 787.06(5), relating
396 to human trafficking,
397 commits a life felony, punishable as provided in s. 775.082, s.
398 775.083, or s. 775.084.

399 (b) Pursuant to s. 775.021(4), nothing contained herein
400 shall be construed to prohibit the imposition of separate
401 judgments and sentences for the life felony described in
402 paragraph (a) and for each separate offense enumerated in
403 subparagraphs (a)1.-6. ~~(a)1.-5.~~

404 Section 9. Subsection (3) of section 787.02, Florida
405 Statutes, is amended to read:

406 787.02 False imprisonment; false imprisonment of child
407 under age 13, aggravating circumstances.—

408 (3) (a) A person who commits the offense of false
409 imprisonment upon a child under the age of 13 and who, in the
410 course of committing the offense, commits any offense enumerated
411 in subparagraphs 1.-6. ~~1.-5.~~, commits a felony of the first
412 degree, punishable by imprisonment for a term of years not
413 exceeding life or as provided in s. 775.082, s. 775.083, or s.
414 775.084.

415 1. Aggravated child abuse, as defined in s. 827.03;
416 2. Sexual battery, as defined in chapter 794, against the



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417 child;

418 3. Lewd or lascivious battery, lewd or lascivious
419 molestation, lewd or lascivious conduct, or lewd or lascivious
420 exhibition, in violation of s. 800.04 or s. 847.0135(5);

421 4. A violation of former s. 796.03 or s. 796.04, relating
422 to prostitution, upon the child;

423 5. Exploitation of the child or allowing the child to be
424 exploited, in violation of s. 450.151; or

425 6. A violation of s. 787.06(3)(g) or s. 787.06(5), relating
426 to human trafficking.

427 (b) Pursuant to s. 775.021(4), nothing contained herein
428 shall be construed to prohibit the imposition of separate
429 judgments and sentences for the first degree offense described
430 in paragraph (a) and for each separate offense enumerated in
431 subparagraphs (a)1.-6. ~~(a)1.-5.~~

432 Section 10. Subsection (4) of section 921.137, Florida
433 Statutes, is amended to read:

434 921.137 Imposition of the death sentence upon an
435 intellectually disabled defendant prohibited.-

436 (4) After a defendant who has given notice of his or her
437 intention to raise intellectual disability as a bar to the death
438 sentence is convicted of a capital felony and an advisory jury
439 has returned a recommended sentence of death, the defendant may
440 file a motion to determine whether the defendant is
441 intellectually disabled. Upon receipt of the motion, the court
442 shall appoint two experts in the field of intellectual
443 disabilities who shall evaluate the defendant and report their
444 findings to the court and all interested parties prior to the
445 final sentencing hearing. Notwithstanding s. 921.141, s.



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446 921.142, ~~or~~ s. 921.1425, or s. 921.1427, the final sentencing
447 hearing shall be held without a jury. At the final sentencing
448 hearing, the court shall consider the findings of the court-
449 appointed experts and consider the findings of any other expert
450 which is offered by the state or the defense on the issue of
451 whether the defendant has an intellectual disability. If the
452 court finds, by clear and convincing evidence, that the
453 defendant has an intellectual disability as defined in
454 subsection (1), the court may not impose a sentence of death and
455 shall enter a written order that sets forth with specificity the
456 findings in support of the determination.

457 Section 11. Subsection (9) of section 921.141, Florida
458 Statutes, is amended to read:

459 921.141 Sentence of death or life imprisonment for capital
460 felonies; further proceedings to determine sentence.—

461 (9) APPLICABILITY.— This section does not apply to a person
462 convicted or adjudicated guilty of a capital sexual battery
463 under s. 794.011, capital human trafficking of vulnerable
464 persons for sexual exploitation under s. 787.06(5), or a capital
465 drug trafficking felony under s. 893.135.

466 Section 12. Paragraph (h) of subsection (1) of section
467 943.0435, Florida Statutes, is amended to read:

468 943.0435 Sexual offenders required to register with the
469 department; penalty.—

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

471 (h)1. "Sexual offender" means a person who meets the
472 criteria in sub-subparagraph a., sub-subparagraph b., sub-
473 subparagraph c., or sub-subparagraph d., as follows:

474 a.(I) Has been convicted of committing, or attempting,



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475 | soliciting, or conspiring to commit, any of the criminal
476 | offenses proscribed in the following statutes in this state or
477 | similar offenses in another jurisdiction: s. 393.135(2); s.
478 | 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
479 | the victim is a minor; s. 787.06(3)(b), (d), (f), or (g); former
480 | s. 787.06(3)(h); s. 787.06(5); s. 794.011, excluding s.
481 | 794.011(10); s. 794.05; former s. 796.03; former s. 796.035; s.
482 | 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s.
483 | 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
484 | 847.0145; s. 895.03, if the court makes a written finding that
485 | the racketeering activity involved at least one sexual offense
486 | listed in this sub-sub-subparagraph or at least one offense
487 | listed in this sub-sub-subparagraph with sexual intent or
488 | motive; s. 916.1075(2); or s. 985.701(1); or any similar offense
489 | committed in this state which has been redesignated from a
490 | former statute number to one of those listed in this sub-sub-
491 | subparagraph; and

492 | (II) Has been released on or after October 1, 1997, from a
493 | sanction imposed for any conviction of an offense described in
494 | sub-sub-subparagraph (I) and does not otherwise meet the
495 | criteria for registration as a sexual offender under chapter 944
496 | or chapter 985. For purposes of this sub-sub-subparagraph, a
497 | sanction imposed in this state or in any other jurisdiction
498 | means probation, community control, parole, conditional release,
499 | control release, or incarceration in a state prison, federal
500 | prison, contractor-operated correctional facility, or local
501 | detention facility. If no sanction is imposed, the person is
502 | deemed to be released upon conviction;

503 | b. Establishes or maintains a residence in this state and



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504 who has not been designated as a sexual predator by a court of
505 this state but who has been designated as a sexual predator, as
506 a sexually violent predator, or any other sexual offender
507 designation in another state or jurisdiction and was, as a
508 result of such designation, subjected to registration or
509 community or public notification, or both, or would be if the
510 person were a resident of that state or jurisdiction, without
511 regard to whether the person otherwise meets the criteria for
512 registration as a sexual offender;

513 c. Establishes or maintains a residence in this state who
514 is in the custody or control of, or under the supervision of,
515 any other state or jurisdiction as a result of a conviction for
516 committing, or attempting, soliciting, or conspiring to commit,
517 any of the criminal offenses proscribed in the following
518 statutes or similar offense in another jurisdiction: s.
519 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
520 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
521 (d), (f), or (g); former s. 787.06(3)(h); s. 787.06(5); s.
522 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
523 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
524 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
525 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court
526 makes a written finding that the racketeering activity involved
527 at least one sexual offense listed in this sub-subparagraph or
528 at least one offense listed in this sub-subparagraph with sexual
529 intent or motive; s. 916.1075(2); or s. 985.701(1); or any
530 similar offense committed in this state which has been
531 redesignated from a former statute number to one of those listed
532 in this sub-subparagraph; or



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533 d. On or after July 1, 2007, has been adjudicated
534 delinquent for committing, or attempting, soliciting, or
535 conspiring to commit, any of the criminal offenses proscribed in
536 the following statutes in this state or similar offenses in
537 another jurisdiction when the juvenile was 14 years of age or
538 older at the time of the offense:

539 (I) Section 794.011, excluding s. 794.011(10);

540 (II) Section 800.04(4)(a)2. where the victim is under 12
541 years of age or where the court finds sexual activity by the use
542 of force or coercion;

543 (III) Section 800.04(5)(c)1. where the court finds
544 molestation involving unclothed genitals;

545 (IV) Section 800.04(5)(d) where the court finds the use of
546 force or coercion and unclothed genitals; or

547 (V) Any similar offense committed in this state which has
548 been redesignated from a former statute number to one of those
549 listed in this sub-subparagraph.

550 2. For all qualifying offenses listed in sub-subparagraph
551 1.d., the court shall make a written finding of the age of the
552 offender at the time of the offense.

553 For each violation of a qualifying offense listed in this
554 subsection, except for a violation of s. 794.011, the court
555 shall make a written finding of the age of the victim at the
556 time of the offense. For a violation of s. 800.04(4), the court
557 shall also make a written finding indicating whether the offense
558 involved sexual activity and indicating whether the offense
559 involved force or coercion. For a violation of s. 800.04(5), the
560 court shall also make a written finding that the offense did or
561 did not involve unclothed genitals or genital area and that the



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562 offense did or did not involve the use of force or coercion.

563 Section 13. Paragraph (f) of subsection (1) of section
564 944.606, Florida Statutes, is amended to read:

565 944.606 Sexual offenders; notification upon release.—

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

567 (f) "Sexual offender" means a person who has been convicted
568 of committing, or attempting, soliciting, or conspiring to
569 commit, any of the criminal offenses proscribed in the following
570 statutes in this state or similar offenses in another
571 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
572 787.02, or s. 787.025(2)(c), where the victim is a minor; s.
573 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
574 787.06(5); s. 794.011, excluding s. 794.011(10); s. 794.05;
575 former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8);
576 s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
577 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03,
578 if the court makes a written finding that the racketeering
579 activity involved at least one sexual offense listed in this
580 paragraph or at least one offense listed in this paragraph with
581 sexual intent or motive; s. 916.1075(2); or s. 985.701(1); or
582 any similar offense committed in this state which has been
583 redesignated from a former statute number to one of those listed
584 in this subsection, when the department has received verified
585 information regarding such conviction; an offender's
586 computerized criminal history record is not, in and of itself,
587 verified information.

588 Section 14. Paragraph (f) of subsection (1) of section
589 944.607, Florida Statutes, is amended to read:

590 944.607 Notification to Department of Law Enforcement of



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591 information on sexual offenders.-

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

593 (f) "Sexual offender" means a person who is in the custody
594 or control of, or under the supervision of, the department or is
595 in the custody of a contractor-operated correctional facility:

596 1. On or after October 1, 1997, as a result of a conviction
597 for committing, or attempting, soliciting, or conspiring to
598 commit, any of the criminal offenses proscribed in the following
599 statutes in this state or similar offenses in another
600 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
601 787.02, or s. 787.025(2)(c), where the victim is a minor; s.
602 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
603 787.06(5); s. 794.011, excluding s. 794.011(10); s. 794.05;
604 former s. 796.03; former s. 796.035; s. 800.04; s. 810.145(8);
605 s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
606 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145; s. 895.03,
607 if the court makes a written finding that the racketeering
608 activity involved at least one sexual offense listed in this
609 subparagraph or at least one offense listed in this subparagraph
610 with sexual intent or motive; s. 916.1075(2); or s. 985.701(1);
611 or any similar offense committed in this state which has been
612 redesignated from a former statute number to one of those listed
613 in this paragraph; or

614 2. Who establishes or maintains a residence in this state
615 and who has not been designated as a sexual predator by a court
616 of this state but who has been designated as a sexual predator,
617 as a sexually violent predator, or by another sexual offender
618 designation in another state or jurisdiction and was, as a
619 result of such designation, subjected to registration or



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620 community or public notification, or both, or would be if the
621 person were a resident of that state or jurisdiction, without
622 regard as to whether the person otherwise meets the criteria for
623 registration as a sexual offender.

624 Section 15. Subsection (1) of section 948.32, Florida
625 Statutes, is amended to read:

626 948.32 Requirements of law enforcement agency upon arrest
627 of persons for certain sex offenses.—

628 (1) When any state or local law enforcement agency
629 investigates or arrests a person for committing, or attempting,
630 soliciting, or conspiring to commit, a violation of s.
631 787.025(2)(c), s. 787.06(3)(g), s. 787.06(5), chapter 794,
632 former s. 796.03, s. 800.04, s. 827.071, s. 847.0133, s.
633 847.0135, or s. 847.0145, the law enforcement agency shall
634 contact the Department of Corrections to verify whether the
635 person under investigation or under arrest is on probation,
636 community control, parole, conditional release, or control
637 release.

638 Section 16. Subsection (2) of section 960.065, Florida
639 Statutes, is amended to read:

640 960.065 Eligibility for awards.—

641 (2) Any claim filed by or on behalf of a person who:

642 (a) Committed or aided in the commission of the crime upon
643 which the claim for compensation was based;

644 (b) Was engaged in an unlawful activity at the time of the
645 crime upon which the claim for compensation is based, unless the
646 victim was engaged in prostitution as a result of being a victim
647 of human trafficking as described in s. 787.06(3)(b), (d), (f),
648 or (g), or s. 787.06(5);



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649 (c) Was in custody or confined, regardless of conviction,
650 in a county or municipal detention facility, a state or federal
651 correctional facility, or a juvenile detention or commitment
652 facility at the time of the crime upon which the claim for
653 compensation is based;

654 (d) Has been adjudicated as a habitual felony offender,
655 habitual violent offender, or violent career criminal under s.
656 775.084; or

657 (e) Has been adjudicated guilty of a forcible felony
658 offense as described in s. 776.08, is ineligible for an award.

659 Section 17. This act shall take effect October 1, 2025.

660

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

662 And the title is amended as follows:

663 Delete everything before the enacting clause
664 and insert:

665 A bill to be entitled
666 An act relating to capital human trafficking of
667 vulnerable persons for sexual exploitation; An act
668 relating to capital human trafficking of vulnerable
669 persons for sexual exploitation; amending s. 787.06,
670 F.S.; providing a definition; prohibiting a person 18
671 years of age or older from knowingly initiating,
672 organizing, planning, financing, directing, managing,
673 or supervising a venture that has subjected a child
674 younger than 12 years of age, or a person who is
675 mentally defective or mentally incapacitated to human
676 trafficking for sexual exploitation; providing a
677 criminal penalty; requiring the state to give a



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678 specified notice if it intends to seek the death
679 penalty for a violation of the offense; creating s.
680 921.1427, F.S.; providing legislative intent;
681 providing for separate death penalty proceedings in
682 certain cases; providing for findings and recommended
683 sentences by a jury; providing for imposition of
684 sentence of life imprisonment or death; providing
685 requirements for a court order in support of a life
686 imprisonment or death sentence; providing for
687 automatic review of sentences of death within a
688 certain time period; specifying aggravating factors
689 and mitigating circumstances; providing for victim
690 impact evidence; providing for resentencing if
691 provisions are found to be unconstitutional; providing
692 applicability; amending s. 924.07, F.S.; authorizing
693 the state to appeal from a sentence on the ground that
694 it resulted from the failure of the circuit court to
695 comply with specified sentencing procedure
696 requirements; amending ss. 92.565, 456.51, 775.0877,
697 775.21, 787.01, 787.02, 921.137, 921.141, 943.0435,
698 944.606, 944.607, 948.32, and 960.065, F.S.;
699 conforming provisions to changes made by the act;
700 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: SB 1804

INTRODUCER: Senator Martin

SUBJECT: Capital Sex Trafficking

DATE: April 14, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	Favorable
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	Pre-meeting
3.	_____	_____	<u>FP</u>	_____

I. Summary:

SB 1804 creates a new crime, Capital Sex Trafficking, in s. 787.062, F.S. A person who knowingly engages in human trafficking by use of physical force for sexual violence upon a child less than 12 years of age, or upon a person who is mentally defective or mentally incapacitated commits capital sex trafficking, which is a capital felony.

A person younger than 18 years of age who commits capital sex trafficking commits a life felony.

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.

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.¹

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.²

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.³

¹ 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.

² *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.

³ Section 794.011(1)(j), F.S.

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.⁴ 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.⁵

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.⁶

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.⁷ Relying heavily on the *Gregg v. Georgia*⁸ decision from the prior term of court, the *Coker* court explained that the Eighth Amendment⁹ 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.”¹⁰

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.”¹¹ After performing such a review,¹² 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.”¹³ The court

⁴ 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).

⁵ 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).

⁶ *Gibson v. State*, 721 So.2d 363 (Fla. 2nd DCA, 1998).

⁷ *Coker v. Georgia*, 433 U.S. 584, (1977).

⁸ *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).

⁹ 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.

¹⁰ *Coker v. Georgia*, 433 U.S. 584, 592 (1977).

¹¹ *Coker v. Georgia*, 433 U.S. 584, 592 (1977).

¹² *Coker v. Georgia*, 433 U.S. 584, 593-597 (1977).

¹³ *Id.*

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.¹⁴

In 1981, the Florida Supreme Court, in *Buford v. State*,¹⁵ held that a death sentence for sexual battery by an adult upon a child, is constitutionally prohibited.¹⁶ 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.”¹⁷

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.”¹⁸

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.¹⁹

Like the *Coker* court, the *Kennedy* court found that there is a national consensus against the death penalty for child sexual battery.²⁰ This finding led the court to conclude that the death penalty is not a proportional punishment for the sexual battery of a child.²¹

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. . . .”²² This right,

¹⁴ “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)].

¹⁵ *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).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *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.

¹⁹ 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).

²⁰ 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).

²¹ *Kennedy v. Louisiana*, 554 U.S. 407, 422 (2008).

²² U.S. CONST. Amend. VI.

in conjunction with the Due Process Clause, requires that each element of a crime be proved to a jury beyond a reasonable doubt.²³

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.²⁴ 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.²⁵

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."²⁶ 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
- The judge is no longer permitted to "override" the jury's recommendation of a sentence of life imprisonment by imposing a sentence of death.²⁷

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."²⁸

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.²⁹

²³ *United States v. Gaudin*, 515 U.S. 506, 510 (1995).

²⁴ *Ring v. Arizona*, 536 U.S. 584, 592 (2002).

²⁵ *Id.* at 609.

²⁶ *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).

²⁷ Chapter 2016-13, L.O.F. (2016).

²⁸ *Hurst v. State*, 202 So.3d 40, 44, (Fla. 2016), *cert. den.*, 137 S.Ct. 2161 (2017).

²⁹ Chapter 2017-1, L.O.F. (2017).

Subsequent to the Legislature’s 2016 amendments to the death penalty sentencing proceedings, in an effort to comply with both *Hurst v. Florida*³⁰ and *Hurst v. State*,³¹ the Florida Supreme Court receded from its *Hurst v. State* opinion, eliminating the need for most of the statutory changes made in 2016.³²

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.³³

The *Poole* court left intact only the requirement that a unanimous jury find a statutory aggravating circumstance by a reasonable doubt standard of proof.³⁴ 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.³⁵

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.”³⁶

The selection decision involves determining “whether a defendant eligible for the death penalty should in fact receive that sentence.”³⁷ 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.³⁸

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:

³⁰ *Hurst v. Florida*, 577 U.S. 92 (2016).

³¹ *Hurst v. State*, 202 So.3d 40 (Fla. 2016), interpreting and applying *Hurst v. Florida*, 577 U.S. 92 (2016).

³² *Poole v. State*, 297 So. 3d 487 (Fla. 2020), receding from *Hurst v. State*, 202 So.3d 40 (Fla. 2016).

³³ *Poole v. State*, 297 So. 3d 487 (Fla. 2020).

³⁴ *Poole v. State*, 297 So. 3d 487 (Fla. 2020).

³⁵ *Poole v. State*, 297 So. 3d 487, 501 (Fla. 2020).

³⁶ *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).

³⁷ *Id.*

³⁸ *Poole v. State*, 297 So. 3d 487, 504 (Fla. 2020).

- Unanimous jury findings as to all of the aggravating factors that were proven beyond a reasonable doubt;
- That the aggravating factors are sufficient³⁹ to impose a death sentence;
- That the aggravating factors outweigh the mitigating factors;⁴⁰ and
- A unanimous jury recommendation of a sentence of death.⁴¹

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.⁴²

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:

- 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.⁴³

³⁹ [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).

⁴⁰ "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).

⁴¹ *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).

⁴² "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."

⁴³ Sections 921.141 and 921.142, F.S.

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.⁴⁴ 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.⁴⁵

III. Effect of Proposed Changes:

Capital Sex Trafficking

The crime created in s. 787.062, F.S., Capital Sex Trafficking, provides that a person who knowingly engages in human trafficking by use of physical force for sexual violence upon a child less than 12 years of age, or upon a person who is mentally defective⁴⁶ or mentally incapacitated⁴⁷ as those terms are defined in the bill, commits a capital felony.⁴⁸ This new capital felony can result in a sentence of death or life without the possibility of parole. A person younger than 18 years of age who violates s. 787.062, F.S., commits a life felony.⁴⁹

The bill defines “physical force” as the touching, striking, causing of bodily harm, confining, or restraining of another.

As provided in the bill, “sexual violence” means an act of any of the following:

- Sexual battery, as defined in s. 794.011(1), F.S.⁵⁰;

⁴⁴ 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, available at [Death Penalty for Child Sexual Abuse that Does Not Result in Death | Death Penalty Information Center](#), (last visited March 27, 2025).

⁴⁵ *Id.*

⁴⁶ “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.

⁴⁷ “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.

⁴⁸ As provided in ss. 775.082 and 921.1427, F.S.

⁴⁹ A person convicted of an offense that is not included in s. 782.04, F.S., but that is an offense that is a life felony or is punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment, or an offense that was reclassified as a life felony or an offense punishable by a term of imprisonment for life or by a term of years not exceeding life imprisonment, which was committed before the person attained 18 years of age may be punished by a term of imprisonment for life or a term of years equal to life imprisonment if the judge conducts a sentencing hearing in accordance with s. 921.1401, F.S., and finds that life imprisonment or a term of years equal to life imprisonment is an appropriate sentence. A person who is sentenced to a term of imprisonment of more than 20 years is entitled to a review of his or her sentence in accordance with s. 921.1402(2)(d), F.S.

⁵⁰ “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.

- Lewd or lascivious battery, as defined in s. 800.04(4), F.S.⁵¹;
- Lewd or lascivious molestation, as defined in s. 800.04(5), F.S.⁵²;
- Lewd or lascivious conduct, as defined in s. 800.04(6), F.S.⁵³; or
- Sadomasochistic abuse or sexual bestiality as those terms are defined in s. 827.071(1), F.S.

Death Penalty Procedure

The bill provides that in all capital cases under s. 787.062, F.S., the procedure in s. 921.1427, F.S., must be followed to determine a sentence of death or life imprisonment. 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.

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. 787.062(4), 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.

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 must include matters relating to any of the aggravating factors and for which notice has been provided pursuant to s. 787.062(4), F.S., or relating to any of the mitigating circumstances.

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

⁵¹ A person commits lewd or lascivious battery by: engaging in sexual activity with a person 12 years of age or older but less than 16 years of age; encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity. Section 800.04(4), F.S.

⁵² A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation. Section 800.04(5), F.S.

⁵³ A person who intentionally touches a person under 16 years of age in a lewd or lascivious manner or solicits a person under 16 years of age to commit a lewd or lascivious act, commits lewd or lascivious conduct. Section 800.04(6), F.S.

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.

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.

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.

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.

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.

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.

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 sex trafficking offense under s. 787.062, 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 sex trafficking 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.

The bill provides Legislative findings.

Newly created s. 921.1427, F.S., applies to any capital felony under s. 787.062, F.S., that is committed on or after October 1, 2025.

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*,⁵⁴ that a death sentence for sexual battery by an adult upon a child, is constitutionally prohibited.⁵⁵ 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.”⁵⁶

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁵⁴ *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).

⁵⁵ *Id.*

⁵⁶ *Id.*

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.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 924.07, 921.137, 921.141.

This bill creates the following sections of the Florida Statutes: 787.062, 921.1427,

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 the Committee on Criminal Justice; and Senator Martin

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1 A bill to be entitled
 2 An act relating to tampering with, harassing, or
 3 retaliating against court officials; amending s.
 4 836.12, F.S.; defining the term "administrative
 5 assistant"; providing criminal penalties for persons
 6 who knowingly and willfully threaten specified court
 7 personnel; providing criminal penalties for persons
 8 who knowingly and willfully harass specified court
 9 personnel with certain intent; creating s. 918.115,
 10 F.S.; defining terms; amending s. 918.12, F.S.;
 11 providing criminal penalties for persons who knowingly
 12 with certain intent tamper with court officials;
 13 providing criminal penalties for persons who
 14 intentionally harass court officials when such
 15 harassment has a specified outcome; creating s.
 16 918.125, F.S.; providing criminal penalties for
 17 persons who retaliate against court officials for
 18 their participation in official investigations or
 19 proceedings; providing enhanced criminal penalties if
 20 the retaliation results in bodily injury; amending ss.
 21 772.102, 895.02, and 921.0022, F.S.; conforming
 22 provisions to changes made by the act; providing an
 23 effective date.

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

26
 27 Section 1. Section 836.12, Florida Statutes, is amended to
 28 read:
 29 836.12 Threats or harassment.—

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30 (1) As used in this section, the term:
 31 (a) "Administrative assistant" means a court employee
 32 assigned to the office of a general or special magistrate or a
 33 child support enforcement hearing officer.
 34 (b) "Family member" means:
 35 1. An individual related to another individual by blood or
 36 marriage; or
 37 2. An individual who stands in loco parentis to another
 38 individual.
 39 (c) ~~(b)~~ "Judicial assistant" means a court employee assigned
 40 to the office of a specific judge or justice responsible for
 41 providing administrative, secretarial, and clerical support to
 42 the assigned judge or justice.
 43 (d) ~~(e)~~ "Law enforcement officer" means:
 44 1. A law enforcement officer as defined in s. 943.10; or
 45 2. A federal law enforcement officer as defined in s.
 46 901.1505.
 47 (2) (a) Except as provided in paragraph (b), any person who
 48 knowingly and willfully threatens a law enforcement officer, a
 49 state attorney, an assistant state attorney, a firefighter, a
 50 judge, a justice, a general magistrate, a special magistrate, a
 51 child support enforcement hearing officer, an administrative
 52 assistant, a judicial assistant, a clerk of the court, clerk
 53 personnel, or an elected official, or a family member of any
 54 such person, with death or serious bodily harm commits a
 55 misdemeanor of the first degree, punishable as provided in s.
 56 775.082 or s. 775.083.
 57 (b) A person who commits a second or subsequent violation
 58 of paragraph (a) commits a felony of the third degree,

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59 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

60 (3) Any person who knowingly and willfully harasses a law
61 enforcement officer, a state attorney, an assistant state
62 attorney, a firefighter, a judge, a justice, a general
63 magistrate, a special magistrate, a child support enforcement
64 hearing officer, an administrative assistant, a judicial
65 assistant, a clerk of the court, clerk personnel, or an elected
66 official, with the intent to intimidate or coerce such a person
67 to perform or refrain from performing a lawful duty, commits a
68 misdemeanor of the first degree, punishable as provided in s.
69 775.082 or s. 775.083.

70 Section 2. Section 918.115, Florida Statutes, is created to
71 read:

72 918.115 Definitions; ss. 918.12-918.125.—As used in ss.
73 918.12-918.125, the term:

74 (1) "Administrative assistant" means a court employee
75 assigned to the office of a specific general or special
76 magistrate or a child support enforcement hearing officer.

77 (2) "Bodily injury" means a cut, an abrasion, a bruise, a
78 burn, or a disfigurement; physical pain; illness; impairment of
79 the function of a bodily member, an organ, or a mental faculty;
80 or any other injury to the body, regardless of how temporary.

81 (3) "Court official" means any judge, justice, general
82 magistrate, special magistrate, grand juror, petit juror, clerk
83 of the court, deputy clerk of the court, judicial assistant,
84 administrative assistant, attorney, child support enforcement
85 hearing officer, bailiff, or court deputy.

86 (4) "Harass" means to engage in a course of conduct
87 directed at a specific person which causes substantial emotional

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88 distress in that person and serves no legitimate purpose.

89 (5) "Judicial assistant" means a court employee assigned to
90 the office of a specific judge or justice responsible for
91 providing administrative, secretarial, or clerical support to
92 the assigned judge or justice.

93 (6) "Misleading conduct" means any of the following:

94 (a) Knowingly making a false statement.

95 (b) Intentionally omitting information from a statement and
96 thereby causing a portion of such statement to be misleading, or
97 intentionally concealing a material fact and thereby creating a
98 false impression by such statement.

99 (c) With the intent to mislead, knowingly submitting or
100 inviting reliance on a writing or recording that is false,
101 forged, altered, or otherwise lacking in authenticity.

102 (d) With the intent to mislead, knowingly submitting or
103 inviting reliance on a sample, specimen, map, photograph,
104 boundary mark, or other object that is misleading in a material
105 respect.

106 (e) Knowingly using a trick, scheme, or device with the
107 intent to mislead.

108 (7) "Official investigation" means any investigation
109 instituted by a law enforcement agency or prosecuting officer of
110 the state or a political subdivision of the state or by the
111 Commission on Ethics.

112 (8) "Official proceeding" means any proceeding before a
113 judge or court or a grand jury.

114 (9) "Physical force" means physical action against another
115 person and includes confinement of a person.

116 Section 3. Section 918.12, Florida Statutes, is amended to

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117 read:

118 918.12 Tampering with or harassing a court official
 119 ~~jurors.~~

120 (1) TAMPERING WITH A COURT OFFICIAL.—

121 (a) A person who knowingly commits any of the following
 122 acts with the intent to cause or induce any court official to
 123 obstruct the administration of justice or affect the outcome of
 124 an official investigation or official proceeding, commits the
 125 crime of tampering with a court official:

- 126 1. Uses intimidation or physical force;
- 127 2. Threatens any person or attempts to do so;
- 128 3. Engages in misleading conduct toward any person; or
- 129 4. Offers pecuniary benefit or gain to any person.

130 (b) A person who violates paragraph (a) commits:

131 1. A felony of the third degree, punishable as provided in
 132 s. 775.082, s. 775.083, or s. 775.084, if the offense level of
 133 the affected official investigation or official proceeding is
 134 indeterminable.

135 2. A felony of the third degree, punishable as provided in
 136 s. 775.082, s. 775.083, or s. 775.084, if the official
 137 investigation or official proceeding affected involves the
 138 investigation or prosecution of a misdemeanor or noncriminal
 139 matter pending in county court.

140 3. A felony of the second degree, punishable as provided in
 141 s. 775.082, s. 775.083, or s. 775.084, if the official
 142 investigation or official proceeding affected involves the
 143 investigation or prosecution of a felony of the third degree or
 144 noncriminal matter pending in circuit court.

145 4. A felony of the first degree, punishable as provided in

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146 s. 775.082, s. 775.083, or s. 775.084, if the official
 147 investigation or official proceeding affected involves the
 148 investigation or prosecution of a felony of the second degree.

149 5. A felony of the first degree, punishable by a term of
 150 years not exceeding life or as provided in s. 775.082, s.
 151 775.083, or s. 775.084, if the official investigation or
 152 official proceeding affected involves the investigation or
 153 prosecution of a felony of the first degree or a felony of the
 154 first degree punishable by a term of years not exceeding life.

155 6. A life felony, punishable as provided in s. 775.082, s.
 156 775.083, or s. 775.084, if the official investigation or
 157 official proceeding affected involves the investigation or
 158 prosecution of a life or capital felony.

159 (2) HARASSING A COURT OFFICIAL.—

160 (a) A person who intentionally harasses a court official
 161 and thereby hinders, delays, prevents, or dissuades, or attempts
 162 to hinder, delay, prevent, or dissuade a court official from
 163 performing any of the following acts commits the crime of
 164 harassing a court official:

- 165 1. Attending an official proceeding;
- 166 2. Rendering a fair verdict based solely upon the evidence
 167 produced at an official proceeding and upon the law; or
- 168 3. Following the rules of juror behavior and deliberation
 169 as set forth by the judge.

170 (b) A person who violates paragraph (a) commits:

171 1. A misdemeanor of the first degree, punishable as
 172 provided in s. 775.082 or s. 775.083, if the official
 173 investigation or official proceeding affected involves the
 174 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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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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

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Florida Statute	Felony 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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411 517.07(1)	3rd	Failure to register securities.	
517.12(1)	3rd	Failure of dealer or associated person of a dealer of securities to register.	
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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	591-02566-25		20251838c1
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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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

	591-02566-25		20251838c1	
			exhibition; offender less than 18 years.	
431	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.	
437				

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	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.	
438	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	

	591-02566-25		20251838c1	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

	591-02566-25		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

	591-02566-25		20251838c1	
			concealed handcuff key	
457			by a person in custody.	
	843.025	3rd	Deprive law enforcement,	
			correctional, or	
			correctional probation	
			officer of means of	
			protection or	
458			communication.	
	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				

	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	3rd	Introduction of	
	(2) (c)1.		specified contraband	
			into certain DCF	
			facilities.	
469	918.12	3rd	Tampering with jurors.	
470				

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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.

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 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>	<u>Fav/CS</u>
2.	<u>Atchley</u>	<u>Harkness</u>	<u>ACJ</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>FP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

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.¹ Several states have enacted legislation to address a surge in both threats and actual acts of violence against judges and judicial personnel across America.²

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.³

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;

¹ 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).

² 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).

³ 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.⁴

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.⁵

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.⁶

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.

⁴ Section 914.22(1), F.S.

⁵ Section 914.22(2), F.S.

⁶ 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.⁷

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.⁸

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.⁹

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.¹⁰

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.

⁷ Section 914.22(4), F.S.

⁸ 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).

⁹ *Id.*

¹⁰ 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.¹¹

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.

¹¹ 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.