

SB 858 by **Negron (CO-INTRODUCERS) Joyner, Evers**; (Compare to H 0037) Knowingly and Willfully Giving False Information to a Law Enforcement Officer

SB 80 by **Joyner (CO-INTRODUCERS) Smith**; Human Trafficking

CS/SB 208 by **HR, Joyner**; (Identical to H 0653) Health Care Fraud

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SB 210 by **Wise**; (Similar to CS/H 0135) Costs of Prosecution, Investigation, and Representation

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SB 278 by **Sachs**; (Identical to H 0125) Preventing Deaths from Drug-related Overdoses

SB 638 by **Hays**; (Identical to H 4073) Florida Motor Vehicle Theft Prevention Authority

CS/SB 834 by **ED, ED**; (Identical to H 0949) Juvenile Justice Education and Workforce Programs

SB 950 by **Simmons (CO-INTRODUCERS) Storms**; (Identical to H 1099) Stalking and Aggravated Stalking

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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Dean, Vice Chair

MEETING DATE: Thursday, January 12, 2012

TIME: 10:15 a.m.—12:15 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Evers, Chair; Senator Dean, Vice Chair; Senators Bennett, Hays, Margolis, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 858 Negron (Compare H 37, H 49, H 259, S 84, S 86, S 146)	Knowingly and Willfully Giving False Information to a Law Enforcement Officer; Providing that it is a third-degree felony for a person to knowingly and willfully give false information to a law enforcement officer conducting a missing person investigation involving a child 16 years of age or younger with the intent to mislead the officer or impede the investigation if the child suffers great bodily harm, permanent disability, permanent disfigurement, or death; providing criminal penalties, etc. CJ 01/12/2012 Favorable JU BC	Favorable Yeas 6 Nays 0
2	SB 80 Joyner	Human Trafficking; Requiring operators of massage establishments to maintain valid work authorization documents on the premises for each employee who is not a United States citizen; requiring presentation of such documents upon request of a law enforcement officer; prohibiting the use of a massage establishment license for the purpose of lewdness, assignation, or prostitution; providing criminal penalties, etc. HR 11/03/2011 Favorable CJ 01/12/2012 Favorable BC	Favorable Yeas 6 Nays 0
3	CS/SB 208 Health Regulation / Joyner (Identical H 653, Compare S 1316)	Health Care Fraud; Revising the grounds under which the Department of Health or corresponding board is required to refuse to admit a candidate to an examination and refuse to issue or renew a license, certificate, or registration of a health care practitioner; providing an exception; providing that all persons who were denied renewal of licensure, certification, or registration under s. 456.0635(3), F.S., may regain licensure, certification, or registration only by completing the application process for initial licensure; providing an exception, etc. HR 11/03/2011 Fav/CS CJ 01/12/2012 Fav/CS BC	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Thursday, January 12, 2012, 10:15 a.m.—12:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 210 Wise (Similar CS/H 135)	Costs of Prosecution, Investigation, and Representation; Providing for the withholding of unpaid costs of prosecution and representation from the return of a cash bond posted on behalf of a criminal defendant; requiring a notice on bond forms of such possible withholding; providing liability for the cost of prosecution and investigation for persons whose cases are disposed of under specified provisions; requiring courts to impose the costs of prosecution and investigation; prohibiting the court from converting the costs of prosecution and investigation to any form of community service; clarifying the types of cases that are subject to the collection and dispensing of cost payments by the clerk of the court, etc. CJ 11/03/2011 Temporarily Postponed CJ 01/12/2012 Fav/CS JU BC	Fav/CS Yeas 6 Nays 0
5	SB 278 Sachs (Identical H 125)	Preventing Deaths from Drug-related Overdoses; Cites this act as the "911 Good Samaritan Act;" providing that a person acting in good faith who seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for specified offenses in certain circumstances; providing that a person who experiences a drug-related overdose and needs medical assistance may not be charged, prosecuted, or penalized for specified offenses in certain circumstances; providing that the protections from prosecution for specified offenses are not grounds for suppression of evidence in other prosecutions; amending mitigating circumstances under which a departure from the lowest permissible criminal sentence is reasonably justified to include circumstances in which a defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose, etc. CJ 11/03/2011 Temporarily Postponed CJ 01/12/2012 Favorable HR	Favorable Yeas 6 Nays 0
6	SB 638 Hays (Identical H 4073)	Florida Motor Vehicle Theft Prevention Authority; Repealing provisions relating to the Florida Motor Vehicle Theft Prevention Authority; repealing provisions relating to a short title, purpose, definitions, establishment, compensation of members, personnel, powers and duties, and expenditures, etc. GO 12/05/2011 Favorable CJ 01/12/2012 Favorable BC	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Thursday, January 12, 2012, 10:15 a.m.—12:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 834 Education Pre-K - 12 / Education Pre-K - 12 (Identical H 949)	Juvenile Justice Education and Workforce Programs; Providing legislative intent regarding juvenile justice education and workforce-related programs; requiring that the Department of Juvenile Justice verify that each juvenile justice education program meets specified minimum standards; creating the Florida Juvenile Justice Education Act; requiring that each juvenile justice education program involve the regional workforce board or economic development agency and local postsecondary institutions to determine the occupational areas for the education and workforce-related program; requiring that school districts and private providers be held accountable for student performance outcomes; requiring that each school district and private provider develop the education transition plan component during the course of the youth's stay in a juvenile justice program, etc. ED 11/17/2011 Workshop-Discussed ED 12/06/2011 Fav/CS CJ 01/12/2012 Temporarily Postponed BC	Temporarily Postponed
8	SB 950 Simmons (Identical H 1099)	Stalking and Aggravated Stalking; Providing that a person who makes a threat with the intent to place another person in reasonable fear for his or her safety or the safety of his or her immediate family commits the offense of aggravated stalking under certain circumstances; increasing the criminal penalties for certain offenses of aggravated stalking; requiring that the sentencing court consider issuing an injunction that restrains a defendant from any contact with the victim for up to 10 years; amending provisions relating to the offense severity ranking chart of the Criminal Punishment Code, etc. CJ 01/12/2012 Temporarily Postponed JU BC	Temporarily Postponed

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.			
Criminal Conflict and Civil Regional Counsel - First District Court of Appeal			
9	Lewis, Jeffrey E. Esquire ()	07/01/2015	Recommend Confirm Yeas 6 Nays 0
Secretary of Corrections			
10	Tucker, Kenneth S. ()	Pleasure of Governor	Recommend Confirm Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Thursday, January 12, 2012, 10:15 a.m.—12:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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Other related meeting documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: SB 858

INTRODUCER: Senators Negron and Joyner

SUBJECT: Knowingly & Willfully Giving False Information to Law Enforcement in Certain Missing Children Investigations

DATE: January 3, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Favorable
2.			JU	
3.			BC	
4.				
5.				
6.				

I. Summary:

SB 858 implements the recommendation of the Senate Select Committee on Protecting Florida's Children to amend s. 837.055, F.S., which currently makes it a first degree misdemeanor to knowingly and willfully provide false information to law enforcement during a missing person or felony criminal investigation. Specifically, the bill creates a third degree felony offense for persons who knowingly and willfully provide false information with the intent to mislead or impede a law enforcement officer in a missing person investigation involving a child 16 years of age or younger, and such child suffers great bodily harm, permanent disability, permanent disfigurement, or death.

This bill substantially amends s. 837.055 of the Florida Statutes.

II. Present Situation

SB 858 is a consensus product by the Senate Select Committee on Protecting Florida's Children that was created by President Haridopolos on August 10, 2011, in the wake of the Casey Anthony verdict.¹ The committee was charged with examining the various policy options to

¹ Caylee Anthony was almost three years old when last seen alive on June 16th, 2008 at the Anthony residence. She was reported missing by her grandmother on July 15, 2008. Casey Anthony, the mother of Caylee, was indicted on charges of first degree murder, aggravated child abuse, aggravated manslaughter of a child, and providing false information to law enforcement and she pled not guilty. Caylee's skeletal remains were located in a wooded area near the family residence on December 11, 2008. On July 5, 2011, the jury found Casey Anthony not guilty of murder, aggravated child abuse, and aggravated manslaughter of a child, but guilty of four counts of providing false information to law enforcement. Anthony received a sentence of one year in jail and a \$1,000 fine for each count.

further advance the protection of children and determine whether changes to current law were needed.

The committee identified the relevant laws on child abuse and false information in missing children investigations. The committee examined ch. 827, F.S., relating to the abuse of children, s. 406.12, F.S., relating to the duty to report a death, and s. 837.055, F.S., relating to knowingly giving false information to law enforcement during a missing person investigation. Particular attention was given to the following statutes and their relationship to the circumstances in the Anthony case.

Section 827.03, F.S., relates to the abuse, aggravated abuse, and neglect of children. Child abuse is defined as intentionally inflicting physical or mental injury on a child, committing an intentional act reasonably expected to result in physical or mental injury to a child, or actively encouraging the commission of an act resulting in physical or mental injury to a child. It is a third degree felony offense to knowingly or willfully abuse a child without causing great bodily harm, permanent disability, or permanent disfigurement. s. 827.03(1), F.S.

Aggravated child abuse is defined as committing aggravated battery on a child; willfully torturing, maliciously punishing, or willfully and unlawfully caging a child; or knowingly or willfully abusing a child, thereby causing great bodily harm, permanent disability, or permanent disfigurement. It is a first degree felony to commit aggravated child abuse. s. 827.03(2), F.S.

Neglect is defined as a caregiver's failure or omission to provide a child with care and supervision necessary to maintain the child's physical and mental health that a prudent person would consider essential for the well-being of the child; or a caregiver's failure to make reasonable efforts to protect a child from abuse, neglect, or exploitation by another person. s. 827.03(3)(a), F.S. It is a second degree felony to willfully or by culpable negligence neglect a child, thereby causing great bodily harm, permanent disability, or permanent disfigurement. s. 827.03(3)(b), F.S. It is a third degree felony to willfully or by culpable negligence neglect a child without causing any great bodily harm, permanent disability, or permanent disfigurement. s. 827.03(3)(c), F.S.

Section 837.055, F.S., criminalizes providing false information to law enforcement during a missing person investigation. The law states that whoever knowingly and willfully gives false information to a law enforcement officer who is conducting a missing person investigation or a felony criminal investigation with the intent to mislead the officer or impede the investigation commits a misdemeanor of the first degree.

After reviewing these laws and receiving testimony from child abuse officials, law enforcement, prosecutors, and defense counsel, the committee recommended the creation of a third degree felony offense for persons who knowingly and willfully provide false information to law enforcement with the intent to mislead or impede a missing child investigation when the child is 16 years of age or younger and suffers great bodily harm or death.

III. Effect of Proposed Changes:

SB 858 implements the recommendation of the Senate Select Committee on Protecting Florida's Children by amending s. 837.055, F.S., to create a third degree felony offense for persons who knowingly and willfully provide false information with the intent to mislead or impede a law enforcement officer in a missing person investigation involving a child 16 years of age or younger, and such child suffers great bodily harm, permanent disability, permanent disfigurement, or death. (The current first degree misdemeanor offense will remain applicable in all other missing person or felony criminal investigations, provided the requisite criminal elements for that offense exist.)

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

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

Persons found guilty of the newly created third degree felony offense will be subject to a potential fine of up to \$5,000 rather than potentially up to \$1,000 (currently applicable in a first degree misdemeanor case). Similarly, such persons will be subject to an increase in potential imprisonment of up to five years in prison for the felony offense, rather than potentially up to one year in county jail for the misdemeanor offense.

C. Government Sector Impact:

On December 14, 2011, the Criminal Justice Impact Conference determined that the bill will have an insignificant fiscal impact upon prison beds within the Department of Corrections.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Negrón

28-00372B-12

2012858__

A bill to be entitled
An act relating to knowingly and willfully giving
false information to a law enforcement officer;
amending s. 837.055, F.S.; providing that it is a
third-degree felony for a person to knowingly and
willfully give false information to a law enforcement
officer conducting a missing person investigation
involving a child 16 years of age or younger with the
intent to mislead the officer or impede the
investigation if the child suffers great bodily harm,
permanent disability, permanent disfigurement, or
death; providing criminal penalties; providing an
effective date.

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

Section 1. Section 837.055, Florida Statutes, is amended to
read:

837.055 False information to law enforcement during
investigation.—

(1) Whoever knowingly and willfully gives false information
to a law enforcement officer who is conducting a missing person
investigation or a felony criminal investigation with the intent
to mislead the officer or impede the investigation commits a
misdemeanor of the first degree, punishable as provided in s.
775.082 or s. 775.083.

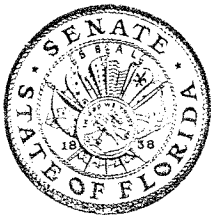
(2) Whoever knowingly and willfully gives false information
to a law enforcement officer who is conducting a missing person
investigation involving a child 16 years of age or younger with

28-00372B-12

2012858__

30 the intent to mislead the officer or impede the investigation
31 and the child who is the subject of the investigation suffers
32 great bodily harm, permanent disability, permanent
33 disfigurement, or death commits a felony of the third degree,
34 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

35 Section 2. This act shall take effect July 1, 2012.



SENATOR JOE NEGRON
28th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Budget - Subcommittee on Health and Human Services
Appropriations, *Chair*
Budget, *Vice Chair*
Banking and Insurance
Communications, Energy, and Public Utilities
Higher Education
Reapportionment
Rules

SELECT COMMITTEE:

Protecting Florida's Children, *Chair*

JOINT COMMITTEE:

Legislative Budget Commission

December 7, 2011

The Honorable Greg Evers, Chair
Committee on Criminal Justice
510 Knott Building
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 858

Dear Chairman Evers:

I would like to request Senate Bill 858 relating to knowingly and willfully giving false information to a law enforcement officer be placed on the agenda for the next scheduled committee meeting.

Thank you, in advance, for your consideration of this request.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Joe Negron", written over a horizontal line.

Joe Negron
State Senator
District 28

JN/hd

c: Amanda Cannon, Staff Director

REPLY TO:

- ☐ 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665
- ☐ 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5088

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic False Reports to Law Enforcement Bill Number 858
Name Skye Henning (if applicable)
Job Title Citizen Amendment Barcode _____ (if applicable)
Address 242 Office Plaza Dr Phone 766-8808
Street Tallahassee E-mail _____
City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

Representing Fraternal Order of Police

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic Missing Children Investigation Bill Number 858
Name Terri Poore (if applicable)
Amendment Barcode _____ (if applicable)

Job Title Director of Public Affairs
Address 1820 E Park Ave Ste 100 Phone 297-2000
Tallahassee FL 32301 E-mail tpoore@fcasv.org
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Council Against Sexual Violence

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic _____

Bill Number 858
(if applicable)

Name Meghan Hobza

Amendment Barcode _____
(if applicable)

Job Title Governmental Affairs

Address 10521 SW Village Center Dr Ste 101
Port St Lucie, FL 34987
Street City State Zip

Phone (772) 485-0693

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Broward County Sheriff's Office

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

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 Criminal Justice Committee

BILL: SB 80

INTRODUCER: Senator Joyner

SUBJECT: Human Trafficking

DATE: December 9, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davlandes	Stovall	HR	Favorable
2.	Cellon	Cannon	CJ	Favorable
3.			BC	
4.				
5.				
6.				

I. Summary:

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

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

This bill creates section 480.0535, Florida Statutes.

II. Present Situation:

Human Trafficking

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

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

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

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

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

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

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

Federal Trafficking Law

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

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

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

⁴ *Id.* at 3.

⁵ *Supra* fn. 1.

⁶ *Id.*

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

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

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

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

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

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

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

⁹ *Id.* at 3

¹⁰ *Id.*

¹¹ *Id.* at 48.

Florida Statewide Task Force on Human Trafficking

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

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

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

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

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

¹² See ch. 2009-95, Laws of Florida.

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

¹⁴ *Id.*

¹⁵ *Id.*

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

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

Human Trafficking in Florida

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

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

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

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

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

¹⁹ *Supra* fn. 16.

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

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

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

Florida Laws on Human Trafficking, Sex Trafficking, and Prostitution

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

Section 787.06(3), F.S., provides that it is a second-degree felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S., (maximum imprisonment of 15 years, maximum fine of \$10,000, or penalties applicable for a habitual offender) for any person to knowingly:

- Engage, or attempt to engage, in human trafficking with the intent or knowledge that the trafficked person will be subjected to forced labor or services; or
- Benefit financially by receiving anything of value from participation in a venture that has subjected a person to forced labor or services.

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

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

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

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

²² *Supra* fn. 20.

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

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

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

Florida Regulation of Massage Therapists and Massage Establishments

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

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

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

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

Section 480.43, F.S., provides that a massage establishment license is required at any facility where massage therapy services are offered by a licensed massage therapist and directs the board

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

²⁵ Section 480.042, F.S.

²⁶ Rule 64B7-25.001(3), F.A.C.

²⁷ Section 480.046(1)(n), F.S.

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

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

to adopt application criteria. It also provides that massage establishment licenses may not be transferred to a new owner, but they may be transferred to a new location if the new location is inspected and approved by the board and an application and inspection fee is paid. A license may be transferred from one business name to another if approved by the board and if an application fee has been paid.

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

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

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

I-551 Permanent Residence Card, Employment Authorization Document

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

³⁰ Rule 64B7-26.003, F.A.C.

³¹ Rule 64B7-26.004, F.A.C.

³² Rule 64B7-26.005, F.A.C.

³³ Section 456.0635, F.S.

³⁴ Section 456.063, F.S.

³⁵ Section 480.047, F.S.

³⁶ Section 456.065, F.S.

³⁷ *Id.*

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

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

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

III. Effect of Proposed Changes:

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

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

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

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

A person who violates any provisions of the bill commits:

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

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

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

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

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

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

B. Public Records/Open Meetings Issues:

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

C. Trust Funds Restrictions:

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

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

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

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

VIII. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Joyner

18-00037-12

201280__

1 A bill to be entitled
2 An act relating to human trafficking; creating s.
3 480.0535, F.S.; requiring operators of massage
4 establishments to maintain valid work authorization
5 documents on the premises for each employee who is not
6 a United States citizen; requiring presentation of
7 such documents upon request of a law enforcement
8 officer; prohibiting the use of a massage
9 establishment license for the purpose of lewdness,
10 assignation, or prostitution; providing criminal
11 penalties; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 480.0535, Florida Statutes, is created
16 to read:

17 480.0535 Documents required while offering or providing
18 massage services.-

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

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

28 1. A valid I-551 permanent resident card; or

29 2. A valid government-issued employment authorization

18-00037-12

201280__

30 document.

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

35 (2) A person operating a massage establishment may not
36 knowingly use a license for operation of a massage establishment
37 issued under s. 480.043 for the purpose of lewdness,
38 assignment, or prostitution, as these terms are defined in s.
39 796.07, at any massage establishment location or structure, or
40 any part thereof, including any trailer or other conveyance.

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

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

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

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ARTHENIA L. JOYNER

Democratic Leader Pro Tempore
18th District

COMMITTEES:

Budget - Subcommittee on Criminal and Civil Justice
Appropriations, *Vice Chair*
Judiciary, *Vice Chair*
Budget
Budget - Subcommittee on Higher Education
Appropriations
Communications, Energy, and Public Utilities
Rules - Subcommittee on Ethics and Elections
Transportation
Reapportionment

SELECT COMMITTEE:

Protecting Florida's Children, *Vice Chair*

JOINT COMMITTEE:

Legislative Auditing Committee

November 3, 2011

Senator Greg Evers, Chair
Senate Committee on Criminal Justice
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chairman:

This is to request that Senate Bill 80 related to human trafficking be placed on the agenda for the Committee on Criminal Justice. Your consideration of this request is greatly appreciated.

Sincerely,

A handwritten signature in cursive script, reading "Arthenia L. Joyner".

Arthenia L. Joyner

ALJ/rr

REPLY TO:

- ☐ 508 W Dr. Martin Luther King Jr. Blvd, Suite C, Tampa, Florida 33603-3415 (813) 233-4277
- ☐ 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5059

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic Trafficking

Bill Number 80
(if applicable)

Name Terri Poore

Amendment Barcode _____
(if applicable)

Job Title Director of Public Affairs

Address 1820 E Park Ste 100

Phone 297-2000

Tam FL 32301
City State Zip

E-mail tpoore@fcasv.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Council Against Sexual Violence

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Jan 12, 12
Meeting Date

Topic _____

Bill Number 80
(if applicable)

Name Allison Carvajal

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida State Massage Assoc

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

11/2/12
Meeting Date

Topic Human Trafficking

Bill Number 80
(if applicable)

Name Sheila Hopkins

Amendment Barcode _____
(if applicable)

Job Title Associate Director

Address 201 W. Park
Street

Phone 850-205-6826

Tallahassee FL 32301
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Fl. Catholic Conference

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

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 Criminal Justice Committee

BILL: CS/CS/SB 208

INTRODUCER: Criminal Justice Committee; Health Regulation Committee; and Senator Joyner

SUBJECT: Health Care Fraud

DATE: January 12, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davlandes	Stovall	HR	Fav/CS
2.	Erickson	Cannon	CJ	Fav/CS
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill amends current law relating to the licensure responsibility and authority of the Department of Health (DOH) over health professions and occupations. The bill also amends current law relating to the grounds for a board, or the DOH if there is no applicable board, to refuse to admit certain candidates seeking licensure to any examination and refuse to issue or renew a license, certificate, or registration to certain applicants.

The bill will result in a recurring increase in workload to the DOH to implement and in non-recurring costs for rulemaking. The bill will also result in a recurring increase in workload and costs to the Agency for Health Care Administration (AHCA) concerning data sharing infrastructure with the DOH. Costs are indeterminate.

This bill substantially amends sections 456.036 and 456.0635, Florida Statutes.

II. Present Situation:

The Legislature created s. 456.0635, F.S., in 2009 with the enactment of CS/CS/CS/SB 1986, a comprehensive bill designed to address systemic health care fraud in Florida. That bill increased

the Medicaid program's authority to address fraud, particularly as it relates to home health services; increased health care facility and health care practitioner licensing standards to keep fraudulent actors from obtaining a health care license in Florida; and created disincentives to commit Medicaid fraud by increasing the administrative penalties for committing such fraud, posting sanctioned and terminated Medicaid providers on the AHCA website, and creating additional criminal felonies for committing health care fraud; among other anti-fraud provisions.¹

Health Care Practitioner Licensure Authority of the Department of Health

The DOH is responsible for the licensure of most health care practitioners in the state.

Chapter 456, F.S., provides general provisions for the regulation of health care professions in addition to the regulatory authority in specific practice acts for each profession or occupation. Section 456.001, F.S., defines "health care practitioner" as any person licensed under:

- Chapter 457 (acupuncture)
- Chapter 458 (medical practice)
- Chapter 459 (osteopathic medicine)
- Chapter 460 (chiropractic medicine)
- Chapter 461 (podiatric medicine)
- Chapter 462 (naturopathy)
- Chapter 463 (optometry)
- Chapter 464 (nursing)
- Chapter 465 (pharmacy)
- Chapter 466 (dentistry)
- Chapter 467 (midwifery)
- Part I, part II, part III, part V, part X, part XIII, or part XIV of chapter 468 (speech-language pathology and audiology; nursing home administration; occupational therapy; respiratory therapy; dietetics and nutrition practice; athletic trainers; and orthotics, prosthetics, and pedorthics)
- Chapter 478 (electrolysis)
- Chapter 480 (massage practice)
- Part III or part IV of chapter 483 (clinical laboratory personnel and medical physicists)
- Chapter 484 (dispensing of optical devices and hearing aids)
- Chapter 486 (physical therapy practice)
- Chapter 490 (psychological services)
- Chapter 491 (clinical, counseling, and psychotherapy services)

Current law² prohibits the DOH and the medical boards within the DOH from allowing any person to sit for an examination who has been:

- Convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under ch. 409, F.S.,³ ch. 817, F.S.,⁴ ch. 893, F.S.,⁵ 21 U.S.C. ss. 801-970,⁶ or

¹ See ch. 2009-223, L.O.F.

² See s. 456.0635, F.S.

³ Ch. 409, F.S., "Social and Economic Assistance," is in Title XXX, "Social Welfare," and includes the Florida Medicaid and Kidcare programs, among other programs.

42 U.S.C. ss. 1395-1396,⁷ unless the sentence and any subsequent period of probation for such conviction or pleas ended more than 15 years prior to the date of the application;

- Terminated for cause from the Florida Medicaid program, unless the applicant has been in good standing with the Florida Medicaid program for the most recent 5 years; or
- Terminated for cause, pursuant to the appeals procedures established by the state or Federal Government, from any other state Medicaid program or the federal Medicare program, unless the applicant has been in good standing with a state Medicaid program or the federal Medicare program for the most recent 5 years and the termination occurred at least 20 years prior to the date of application.

The DOH and the medical boards must refuse to issue or renew a license, certificate, or registration if an applicant or person affiliated with that applicant has violated any of the provisions listed above.

Implementation of Current Law by the Department of Health

Neither the DOH nor the boards deny licensure based on an applicant's termination for cause from the federal Medicare program because federal law does not implement such terminations "for cause." The DOH does not deny licensure renewal based on an applicant's termination for cause from the federal Medicare program for the same reason.

The DOH applies the denial of renewals to offenses occurring after July 1, 2009, when s. 456.0635, F.S., took effect.

III. Effect of Proposed Changes:

Section 1 amends s. 456.0635, F.S. The catch line is changed from "Medicaid fraud; disqualification for license, certificate, or registration," to "Health care fraud; disqualification for license, certificate, or registration." Other references in the statute to the general subject of "Medicaid fraud" are changed to "health care fraud." References to "candidate" vs. "candidate or applicant" are also standardized throughout the bill.

The bill separates the disqualifications for licensure, certification, or registration from those relating to licensure renewal into two different statutory subsections.

The bill requires a board or the DOH to refuse to admit a candidate to any examination and to refuse to issue a license to any applicant who has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under ch. 409, F.S., ch. 817, F.S., ch. 893, F.S., or similar felony offenses committed in another state or jurisdiction. The bill deletes the provision in current law that nullifies the prohibition if the sentence and probation period ended more than 15 years prior to the date of application, and replaces it with the following provisions:

⁴ Ch. 817, F.S., "Fraudulent Practices," is in Title XLVI, "Crimes."

⁵ Ch. 893, F.S., "Drug Abuse Prevention and Control," is in Title XLVI, "Crimes."

⁶ 21 U.S.C. ss. 801-970 create the Controlled Substances Act, which regulates the registration of manufacturers, distributors, and dispensers of controlled substances at the federal level.

⁷ 42 U.S.C. ss. 1395-1396 create the federal Medicare, Medicaid, and Children's Health Insurance programs.

- For felonies of the first or second degree, the prohibition expires when the sentence and probation period have ended more than 15 years before the date of application.
- For felonies of the third degree, the prohibition expires when the sentence and probation period have ended more than 10 years before the date of application, except for felonies of the third degree under s. 893.13(6)(a), F.S.⁸
- For felonies of the third degree under s. 893.13(6)(a), F.S., the prohibition expires when the sentence and probation period have ended more than 5 years before the date of application.

An applicant or candidate who has been convicted of or pled guilty or nolo contendere to any state felony listed above is eligible for initial licensure without any prohibition if he or she successfully completes a drug court program for that felony and provides proof that the plea has been withdrawn or the charges have been dismissed.⁹ As a result of this provision and a similar provision relevant to renewals (described below), the DOH or the board will have statutory authority to not deny licensure or renewal based upon the original plea. This change will also allow the DOH to not rule on applications filed while the applicant is enrolled in the drug court program.

The bill moves into a new paragraph the requirement for a board or the DOH to refuse to admit a candidate to any examination and to refuse to issue a license to any applicant who has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970 or 42 U.S.C. ss. 1395-1396, unless the sentence and any probation period for such conviction or plea ended more than 15 years before the date of the application.

The bill deletes reference to “terminated for cause” from the federal Medicare program as a ground for which a board or the DOH is required to deny a license and creates a new standard to exclude applicants currently listed on the U.S. Department of Health and Human Services Office of Inspector General’s List of Excluded Individuals and Entities.

The bill specifies that the prohibitions above relating to examination, licensure, certification, or registration do not apply to applicants for initial licensure or certification who were enrolled in a

⁸ Section 893.13(6)(a), F.S. makes it unlawful for any person to be in actual or constructive possession of a controlled substance unless such controlled substance was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or to be in actual or constructive possession of a controlled substance except as otherwise authorized by ch. 893, F.S.

⁹ This provision and a somewhat similar provision included in the section relevant to licensure renewals are intended to address individuals who have pled guilty or nolo contendere in order to avail these individuals of the transfer provisions of s. 910.035, F.S. Section 910.035(1), F.S., which applies in cases where an indictment or information is pending, provides that “a defendant arrested or held in a county other than that in which an indictment or information is pending against him or her may state in writing that he or she wishes to plead guilty or nolo contendere, to waive trial in the county in which the indictment or information is pending.” Section 910.035(2), F.S., which applies in cases where an indictment or information is not pending, provides that “a defendant arrested on a warrant issued upon a complaint in a county other than the county of arrest may state in writing that he or she wishes to plead guilty or nolo contendere, to waive trial in the county in which the warrant was issued, and to consent to disposition of the case in the county in which the defendant was arrested, subject to the approval of the prosecuting attorney of the court in which the indictment or information is pending.” Finally, s. 910.035(5), F.S., provides any person eligible for participation in a drug court treatment program pursuant to s. 948.08(6), F.S., may be eligible to have the case transferred to a county other than that in which the charge arose if the drug court program agrees and several conditions are met.

DOH- or board-recognized educational or training program on or before July 1, 2009, and who applied for licensure after July 1, 2012.

The bill creates a new statutory subsection relating to license *renewal* that requires a board or the DOH to deny renewal to applicants who, after July 1, 2009, have been convicted of or pled guilty or nolo contendere to the same felony offenses listed under the subsection on initial licensure. The same 5, 10, and 15-year prohibition periods apply concerning eligibility for relicensure after a felony as for initial licensure after a felony. Applicants who have been convicted of or pled guilty or nolo contendere to specified state felonies are eligible for license renewal without any prohibition period if they are currently enrolled in a drug court program that allows the withdrawal of the plea for that felony upon successful completion of the program.

The bill also includes the same provisions for denying licensure renewal as those described above for initial examination, licensure, certification, and registration, relative to exclusion from the Medicare program and termination from Medicaid programs in Florida or in other states.

Section 2 amends s. 456.036, F.S. Any person who has been denied renewal of licensure, certification, or registration under s. 456.0635(3), F.S., may only regain licensure, certification, or registration by undergoing the procedure for initial licensure as defined by a board or the department. However, a person who was denied renewal between July 1, 2009 and June 30, 2012 is not required to retake any examinations which would otherwise be necessary for initial licensure.

Section 3 provides that the effective date of the bill is July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

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

C. Trust Funds Restrictions:

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

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will affect the ability of certain applicants to become licensed or to renew a license, thereby affecting their ability to qualify or remain qualified for gainful employment within certain occupations regulated by the DOH. The bill will apply the statutory licensure prohibitions to persons with felony convictions or pleas effective in other states the same as they are applied to persons with felony convictions or pleas effective in Florida. This will create more equity in the application of the law and should result in more mandatory denials among persons within that demographic. However, the bill also relaxes the standards in other ways, such as the “sliding scale” for the prohibition’s duration based on the type of felony, which should result in fewer mandatory denials under those circumstances.

C. Government Sector Impact:

The DOH will experience a recurring increase in workload to implement the bill and non-recurring costs for rulemaking, the costs of which are indeterminate. Increased workload will derive from the additional screening procedures that the DOH will conduct on applicants and re-applicants, including:¹⁰

- Analyzing the laws of other states to determine which are similar to chs. 409, 817, or 893, F.S., and which applicants have violated such laws.
- Verifying that the applicants have not committed Medicaid fraud in other states or federal health care fraud.
- Determining whether enough time has passed between applicants’ criminal convictions under chs. 409, 817, or 893, F.S., and their requests for licensure.

The AHCA will also experience a recurring increase in workload and costs to build and maintain an information sharing infrastructure with the department for the additional data which will be collected by the DOH under this bill. The exact fiscal impact is indeterminate.¹¹

VI. Technical Deficiencies:

Under the bill, persons who have been convicted of or pled guilty or nolo contendere to certain state felonies are eligible for initial licensure, certification, or registration without a prohibition period if they successfully complete a pretrial intervention or drug diversion program for that felony. There is also a somewhat similar provision concerning pretrial intervention or drug diversion programs in the section relevant to licensure renewals.

According to the department, while pretrial intervention programs cover many of the offenses that disqualify a person from licensure, they do not require a plea or conviction, and therefore,

¹⁰ Department of Health, *2012 Bill Analysis, Economic Statement, and Fiscal Note for SB 208*. A copy of this analysis is on file with the Senate Health Regulation Committee.

¹¹ Agency for Health Care Administration, *2012 Bill Analysis and Economic Impact Statement for SB 208*. A copy of this analysis is on file with the Senate Health Regulation Committee.

participation in pretrial intervention programs currently is not disqualifying and need not be addressed in statute.

VII. Related Issues:

Since s. 456.0635, F.S., was enacted, 21 U.S.C. Subchapter 13, the Controlled Substances Act, has been amended to include a s. 971, regarding notification, suspension of shipment, and penalties with respect to importation and exportation of certain chemicals. The bill as currently written does not authorize initial or renewal license disqualification of health care professionals for violations of this section; only felonies under 21 U.S.C. ss. 801-970 may result in denial of licensure.

The bill does not contain any guidance or standards for determining what constitutes a “similar felony offense committed in another state or jurisdiction.” Criminal statutes are different in every state. When licensure or renewal is denied based on a “similar” felony committed in another state or jurisdiction, the applicant may be encouraged to challenge the denial and argue that without specific standards within Florida law, the characteristics of the out-of-state felony cannot be justified by the DOH in keeping with legislative intent as being adequately “similar” to any certain offense within chs. 409, 817, or 893, F.S. However, a counterargument is that there are numerous statutes which require a determination of whether an offense in another jurisdiction is similar to a Florida offense and which do not provide any guidance or standards for making that determination.¹²

VIII. Additional Information:

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

CS by Criminal Justice on January 12, 2012:

The CS clarifies provisions relating to pleas. An applicant or candidate who has been convicted of or pled guilty or nolo contendere to a specified state felony is eligible for initial licensure without any prohibition if he or she successfully completes a drug court program for that felony and provides proof that the plea has been withdrawn or the charges have been dismissed. Applicants who have been convicted of or pled guilty or nolo contendere to a specified state felony are eligible for license renewal without any prohibition period if they are currently enrolled in a drug court program that allows the withdrawal of the plea for that felony upon successful completion the program.

CS by Health Regulation on November 3, 2011:

The CS clarifies that persons who have been convicted of or pled guilty or nolo contendere to certain state felonies are eligible for initial licensure, certification, or registration without a prohibition period if they successfully complete a pretrial intervention or drug diversion program for that felony. A similar provision concerning pretrial intervention or drug diversion programs has been clarified in the subsection of the CS concerning license renewals.

¹² See e.g., ss. 39.0139, 311.12, 322.03, 373.6055, 393.0655, 408.809, 430.0402, 435.03, 435.04, 464.018, 468.3101, 744.474, 775.21, 943.0435, 948.30, 985.644, and 1012.467, F.S.

The CS alters the time frame for an exemption to the above provisions for students. Students who were enrolled in a department-approved training program before July 1, 2009 and who applied for initial licensure after July 1, 2012 are eligible regardless of the presence or timing of past state or federal felonies. Both of these dates were July 1, 2011 in SB 208.

The CS amends the effective dates relating to license renewals for applicants with felony convictions or plea of guilty or nolo contendere (both effective dates are changed to July 1, 2009). It also applies the tiered waiting periods described under the initial licensure provisions to renewals as well.

The CS replaces section 2 of SB 208 with a provision that any person who was denied license renewal under s. 456.0635(3), F.S., may only regain his or her license by undergoing the initial licensure procedures defined by the relevant board or the department. The CS provides an exception for persons who were denied renewal between July 1, 2009 and June 30, 2012; these applicants are not required to retake any examinations normally needed for initial licensure.

B. Amendments:

None.



236046

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Smith) recommended the following:

Senate Amendment

Delete lines 32 - 92
and insert:

(a) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under chapter 409, chapter 817, or chapter 893, or a similar felony offense committed in another state or jurisdiction, unless the candidate or applicant has successfully completed a drug court program for that felony and provides proof that the plea has been withdrawn or the charges have been dismissed. Any such conviction or plea shall exclude the applicant or candidate from



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licensure, examination, certification, or registration 21 U.S.C.
ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the sentence and
any subsequent period of probation for such conviction or plea
pleas ended: more than 15 years prior to the date of the
application;

1. For felonies of the first or second degree, more than 15
years before the date of application.

2. For felonies of the third degree, more than 10 years
before the date of application, except for felonies of the third
degree under s. 893.13(6) (a).

3. For felonies of the third degree under s. 893.13(6) (a),
more than 5 years before the date of application;

(b) Has been convicted of, or entered a plea of guilty or
nolo contendere to, regardless of adjudication, a felony under
21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the
sentence and any subsequent period of probation for such
conviction or plea ended more than 15 years before the date of
the application;

(c) Has been terminated for cause from the Florida
Medicaid program pursuant to s. 409.913, unless the candidate or
applicant has been in good standing with the Florida Medicaid
program for the most recent 5 years;

(d) Has been terminated for cause, pursuant to the
appeals procedures established by the state or Federal
Government, from any other state Medicaid program or the federal
Medicare program, unless the candidate or applicant has been in
good standing with a state Medicaid program or the federal
Medicare program for the most recent 5 years and the termination
occurred at least 20 years before prior to the date of the



236046

application; or-

(e) Is currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities.

This subsection does not apply to candidates or applicants for initial licensure or certification who were enrolled in an educational or training program on or before July 1, 2009, which was recognized by a board or, if there is no board, recognized by the department, and who applied for licensure after July 1, 2012.

(3) The department shall refuse to renew a license, certificate, or registration of any applicant if the applicant or any principal, officer, agent, managing employee, or affiliated person of the applicant:

(a) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under chapter 409, chapter 817, or chapter 893, or a similar felony offense committed in another state or jurisdiction, unless the applicant is currently enrolled in a drug court program that allows the withdrawal of the plea for that felony upon successful completion of that program. Any such conviction or plea excludes the applicant or candidate from licensure, examination, certification, or registration unless the sentence and any subsequent period of probation for such conviction or plea ended:

By the Committee on Health Regulation; and Senator Joyner

588-00842A-12

2012208c1

A bill to be entitled
An act relating to health care fraud; amending s.
456.0635, F.S.; revising the grounds under which the
Department of Health or corresponding board is
required to refuse to admit a candidate to an
examination and refuse to issue or renew a license,
certificate, or registration of a health care
practitioner; providing an exception; amending s.
456.036, F.S.; providing that all persons who were
denied renewal of licensure, certification, or
registration under s. 456.0635(3), F.S., may regain
licensure, certification, or registration only by
completing the application process for initial
licensure; providing an exception; providing an
effective date.

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

Section 1. Section 456.0635, Florida Statutes, is amended
to read:

456.0635 Health care ~~Medicaid~~ fraud; disqualification for
license, certificate, or registration.—

(1) Health care ~~Medicaid~~ fraud in the practice of a health
care profession is prohibited.

(2) Each board within the jurisdiction of the department,
or the department if there is no board, shall refuse to admit a
candidate to any examination and refuse to issue ~~or renew~~ a
license, certificate, or registration to any applicant if the
candidate or applicant or any principal, officer, agent,

588-00842A-12

2012208c1

managing employee, or affiliated person of the applicant, ~~has been:~~

(a) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under chapter 409, chapter 817, or chapter 893, or a similar felony offense committed in another state or jurisdiction, unless the candidate or applicant has successfully completed a pretrial intervention or drug diversion program for that felony. Any such conviction or plea shall exclude the applicant or candidate from licensure, examination, certification, or registration 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the sentence and any subsequent period of probation for such conviction or plea ~~pleas ended: more than 15 years prior to the date of the application;~~

1. For felonies of the first or second degree, more than 15 years before the date of application.

2. For felonies of the third degree, more than 10 years before the date of application, except for felonies of the third degree under s. 893.13(6) (a).

3. For felonies of the third degree under s. 893.13(6) (a), more than 5 years before the date of application;

(b) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396, unless the sentence and any subsequent period of probation for such conviction or plea ended more than 15 years before the date of the application;

(c) ~~(b)~~ Has been terminated for cause from the Florida Medicaid program pursuant to s. 409.913, unless the candidate or

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2012208c1

applicant has been in good standing with the Florida Medicaid program for the most recent 5 years;

(d) Has been terminated for cause, pursuant to the appeals procedures established by the state ~~or Federal Government, from any other state Medicaid program or the federal Medicare program,~~ unless the candidate or applicant has been in good standing with a state Medicaid program ~~or the federal Medicare program~~ for the most recent 5 years and the termination occurred at least 20 years before ~~prior to~~ the date of the application; or-

(e) Is currently listed on the United States Department of Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities.

This subsection does not apply to candidates or applicants for initial licensure or certification who were enrolled in an educational or training program on or before July 1, 2009, which was recognized by a board or, if there is no board, recognized by the department, and who applied for licensure after July 1, 2012.

(3) The department shall refuse to renew a license, certificate, or registration of any applicant if the applicant or any principal, officer, agent, managing employee, or affiliated person of the applicant:

(a) Has been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a felony under chapter 409, chapter 817, or chapter 893, or a similar felony offense committed in another state or jurisdiction since July 1, 2009, unless the applicant is currently enrolled in or has

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2012208c1

88 successfully completed a pretrial intervention or drug diversion
89 program for that felony. Any such conviction or plea shall
90 exclude the applicant from renewal of licensure, certification,
91 or registration unless the sentence and any subsequent period of
92 probation for such conviction or plea ended:

93 1. For felonies of the first or second degree, more than 15
94 years before the date of application.

95 2. For felonies of the third degree, more than 10 years
96 before the date of application, except for felonies of the third
97 degree under s. 893.13(6) (a).

98 3. For felonies of the third degree under s. 893.13(6) (a),
99 more than 5 years before the date of application.

100 (b) Has been convicted of, or entered a plea of guilty or
101 nolo contendere to, regardless of adjudication, a felony under
102 21 U.S.C. ss. 801-970, or 42 U.S.C. ss. 1395-1396 since July 1,
103 2009, unless the sentence and any subsequent period of probation
104 for such conviction or plea ended more than 15 years before the
105 date of the application.

106 (c) Has been terminated for cause from the Florida Medicaid
107 program pursuant to s. 409.913, unless the applicant has been in
108 good standing with the Florida Medicaid program for the most
109 recent 5 years.

110 (d) Has been terminated for cause, pursuant to the appeals
111 procedures established by the state, from any other state
112 Medicaid program, unless the applicant has been in good standing
113 with a state Medicaid program for the most recent 5 years and
114 the termination occurred at least 20 years before the date of
115 the application.

116 (e) Is currently listed on the United States Department of

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2012208c1

117 Health and Human Services Office of Inspector General's List of
118 Excluded Individuals and Entities.

119 (4)~~(3)~~ Licensed health care practitioners shall report
120 allegations of health care ~~Medicaid~~ fraud to the department,
121 regardless of the practice setting in which the alleged health
122 care ~~Medicaid~~ fraud occurred.

123 (5)~~(4)~~ The acceptance by a licensing authority of a
124 licensee's ~~candidate's~~ relinquishment of a license which is
125 offered in response to or anticipation of the filing of
126 administrative charges alleging health care ~~Medicaid~~ fraud or
127 similar charges constitutes the permanent revocation of the
128 license.

129 Section 2. Present subsections (14) and (15) of section
130 456.036, Florida Statutes, are renumbered as subsections (15)
131 and (16), respectively, and a new subsection (14) is added to
132 that section, to read:

133 456.036 Licenses; active and inactive status; delinquency.—

134 (14) A person who has been denied renewal of licensure,
135 certification, or registration under s. 456.0635(3) may regain
136 licensure, certification, or registration only by meeting the
137 qualifications and completing the application process for
138 initial licensure as defined by the board, or the department if
139 there is no board. However, a person who was denied renewal of
140 licensure, certification, or registration under s. 24 of chapter
141 2009-223, Laws of Florida, between July 1, 2009, and June 30,
142 2012, is not required to retake and pass examinations applicable
143 for initial licensure, certification, or registration.

144 Section 3. This act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ARTHENIA L. JOYNER

Democratic Leader Pro Tempore
18th District

COMMITTEES:

Budget - Subcommittee on Criminal and Civil Justice
Appropriations, *Vice Chair*
Judiciary, *Vice Chair*
Budget
Budget - Subcommittee on Higher Education
Appropriations
Communications, Energy, and Public Utilities
Rules - Subcommittee on Ethics and Elections
Transportation
Reapportionment

SELECT COMMITTEE:

Protecting Florida's Children, *Vice Chair*

JOINT COMMITTEE:

Legislative Auditing Committee

November 16, 2011

Senator Greg Evers, Chair
Senate Committee on Criminal Justice
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chairman:

This is to request that CS/Senate Bill 208 related to health care fraud be placed on the agenda for the Committee on Criminal Justice. Your consideration of this request is greatly appreciated.

Sincerely,

A handwritten signature in cursive script, reading "Arthenia L. Joyner".

Arthenia L. Joyner

ALJ/rr

REPLY TO:

- ☐ 508 W Dr. Martin Luther King Jr. Blvd, Suite C, Tampa, Florida 33603-3415 (813) 233-4277
- ☐ 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5059

Senate's Website: www.flsenate.gov

MIKE HARIDOPOLOS
President of the Senate

MICHAEL S. "MIKE" BENNETT
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic Nurse Licensure / health care fraud

Bill Number 208
(if applicable)

Name Alisa Snow

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address 1030 E. LaFayette
Street

Phone 850-443-1319

Tallahassee, FL
City State Zip

E-mail alisa@snowstrategies.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Nurses Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic support bill

Bill Number SB 208
(if applicable)

Name PEGGY RIGSBY

Amendment Barcode _____
(if applicable)

Job Title Dir of Gov. Services

Address 307 W. PARK AVE

Phone 850-224-3907

Street

Tallahassee FL 32301

City

State

Zip

E-mail prigsby@fhca.org

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA HEALTH CARE ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic Nurse Licensure/Healthcare Fraud

Bill Number 208
(if applicable)

Name Cheryl Lynn Juchniewicz

Amendment Barcode _____
(if applicable)

Job Title Student / Nursing Lab Student Worker
Polk State CC

Address 495 2nd ST SE
Street

Phone (352) 234-0799

Winter Haven, FL 33880
City State Zip

E-mail CJuchniewicz@my.polk.edu

Speaking: ☐ For ☐ Against ☒ Information

Representing Self, FNA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

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 Criminal Justice Committee

BILL: CS/SB 210

INTRODUCER: Criminal Justice Committee and Senator Wise

SUBJECT: Costs of Prosecution, Investigation and Representation

DATE: January 12, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.			JU	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill includes costs of prosecution and costs of representation among those fees, costs and penalties that shall be withheld from cash bond posted on behalf of a defendant. The bill clarifies that the clerk of court shall collect and dispense cost payments in cases that are disposed of by any lawful manner. The bill also requires the assessment of costs of prosecution in juvenile delinquency proceedings.

This bill substantially amends the following sections of the Florida Statutes: 903.286, 938.27 and 985.032.

II. Present Situation:

Costs of Prosecution

Section 938.27, F.S., provides that convicted persons are liable for costs of prosecution at the rate of \$50 in misdemeanor or criminal traffic offense cases and \$100 in felony criminal cases,

unless the prosecutor proves that costs are higher in the particular case before the court.¹ The costs of prosecution are deposited into the State Attorneys Revenue Trust Fund.²

Convicted persons are also liable for payment of investigative costs incurred by a law enforcement agency, fire department, or the Department of Financial Services and the Office of Financial Regulation of the Financial Services Commission.³ Conviction, for this purpose, includes a determination of guilt, or of violation of probation or community control, which is a result of a plea, trial, or violation proceeding, regardless of whether adjudication is withheld.⁴

Costs of Representation

Section 938.29, F.S., provides that convicted persons are liable for payment of the \$50 public defender application fee under s. 27.52(1)(b), F.S., and attorney's fees and costs if he or she received assistance from the public defender's office, a special assistant public defender, the office of criminal conflict and civil regional counsel, or a private conflict attorney, or who has received due process services after being found indigent for costs.

Costs of representation may be imposed at the rate of \$50 in misdemeanor or criminal traffic offense cases and \$100 in felony criminal cases. The court may set a higher amount upon showing of sufficient proof of higher fees or costs incurred. The costs of representation are deposited into the Indigent Criminal Defense Trust Fund.

The court may order payment of the assessed application fee and attorney's fees and costs as a condition of probation, of suspension of sentence, or of withholding the imposition of sentence. The clerk within the county where the defendant was tried or received services from a public defender is responsible for enforcing, satisfying, compromising, settling, subordinating, releasing or otherwise disposing of any debt or lien imposed.

Clerks to Collect and Disburse Funds

Section 28.246(2), F.S., requires the clerk of the circuit court (clerk) to establish and maintain a system of accounts receivable for court-related fees, charges, and costs.

The clerk may accept partial payments for all fees, charges, and costs in accordance with the terms of an established payment plan.⁵ The clerk may enter into a payment plan when an individual is determined to be indigent for costs by the court.⁶

¹ Section 938.27(8), F.S.

² *Id.*

³ Section 938.27(1), F.S.

⁴ *Id.*

⁵ Section 28.246(4), F.S.

⁶ A monthly payment amount, calculated based upon all fees and all anticipated costs, is presumed to correspond to the person's ability to pay if the amount does not exceed 2 percent of the person's annual net income, as defined in s. 27.52(1), divided by 12. Section 28.246(4), F.S.

Criminal Traffic Case Disposition

The clerk of the court is authorized by s. 318.14, F.S., to dispose of certain misdemeanor criminal traffic violations in which the defendant shows the clerk that he or she is in compliance with the law under which the charge was made prior to the court date. Examples of these traffic offenses include operating a motor vehicle without a valid registration under s. 320.131, F.S., and presenting invalid proof of insurance under s. 316.646, F.S. The clerk is statutorily authorized to accept a nolo contendere plea, waive the misdemeanor fines, and assess costs listed in s. 318.14(10)(b), F.S.

Cash Bond Used to Pay Fines, Costs, and Fees

Section 903.286, F.S., authorizes the clerk to withhold the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent⁷ to pay the following:

- Court fees;
- Court costs; and
- Criminal penalties.

If sufficient funds are not available to pay the above costs, the clerk will immediately obtain payment from the defendant or enroll the defendant in a payment plan pursuant to s. 28.246, F.S.

All cash bond forms must prominently display a notice explaining that all funds are subject to forfeiture and withholding by the clerk for the payment of the above costs on behalf of the criminal defendant regardless of who posted the funds.

Delinquency Cases Exempt

Currently juveniles who are adjudicated delinquent or have had adjudication of delinquency withheld are not required to pay the costs of prosecution.

III. Effect of Proposed Changes:

The bill adds the costs of prosecution and the costs of representation by the public defender to the list of costs a clerk is required to withhold from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent. If such payments are not made from the cash bond, the clerk is required to obtain payment from a defendant or, if sufficient funds are not available, require the defendant to enroll in a payment plan. Cash bond forms must display notice of the funds being subject to forfeiture for payment of costs of prosecution as well as other costs, fees, and fines.

The clerk is required to collect and disburse costs of prosecution in all cases, regardless of whether the cases are disposed of before a judge in open court. These cases may include criminal traffic violations disposed of pursuant to s. 318.14(10), F.S.⁸ (See the Technical Deficiencies section below.)

⁷ Licensed pursuant to ch. 648, F.S.

⁸ In these cases the defendant may elect to show proof of compliance to the clerk of the court and enter a plea of nolo contendere. The clerk is authorized by s. 318.14(10), F.S., to assess certain fees. The assessment and collection of costs of prosecution are not specified therein. Although the statutory provision in s. 938.27(6), F.S., requires the clerk to “collect and disburse cost payments in any case,” which would include costs of prosecution and investigation listed in subsection (8) of

The bill requires that costs of prosecution be assessed from juveniles who have been adjudicated delinquent or have adjudication of delinquency withheld.

The bill provides an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Costs of prosecution should be assessed by the court in delinquency cases which is a new cost not previously assessed.

C. Government Sector Impact:

This bill appears to have a positive impact on state attorneys and public defenders because:

1. The costs of prosecution and costs of representation will be withheld by the clerk from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent. This will likely result in a positive fiscal impact as the cost of prosecution will be deducted from any cash bonds posted on behalf of a criminal defendant.
2. The costs of prosecution will now be assessed from juveniles who have been adjudicated delinquent or have adjudication of delinquency withheld. This will likely result in a positive fiscal impact as these costs were not assessed in these specific cases in the past.

VI. Technical Deficiencies:

State attorneys have reported that costs of prosecution are not being collected in criminal traffic cases that are disposed of by the clerk of the court prior to a court appearance by the defendant as authorized in s. 318.14, F.S. If the bill is intended to address this issue, it is suggested that clarity could be gained by adding a cross-reference to s. 938.27(6), F.S., as amended by the bill, within s. 318.14(10), F.S.

VII. Related Issues:

None.

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

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

CS by Criminal Justice on January 12, 2012:

The Committee Substitute deleted the parts of the bill that provided for the assessment of costs of prosecution in cases that are dismissed after completion of felony and misdemeanor drug court programs.

The Committee Substitute also deleted the prohibition in the bill against a court converting costs of prosecution to community service.

B. Amendments:

None.



487206

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/12/2012	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 54 - 164
and insert:

(1) In all criminal and violation-of-probation or community-control cases, convicted persons are liable for payment of the costs of prosecution, including investigative costs incurred by law enforcement agencies, by fire departments for arson investigations, and by investigations of the Department of Financial Services or the Office of Financial Regulation of the Financial Services Commission, if requested by such agencies. The court shall include these costs in every



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judgment rendered against the convicted person. For purposes of this section, "convicted" means a determination of guilt, or of violation of probation or community control, which is a result of a plea, trial, or violation proceeding, regardless of whether adjudication is withheld.

(2)(a) The court shall impose the costs of prosecution and investigation notwithstanding the defendant's present ability to pay. The court shall require the defendant to pay the costs within a specified period or in specified installments.

(b) The end of such period or the last such installment shall not be later than:

1. The end of the period of probation or community control, if probation or community control is ordered;

2. Five years after the end of the term of imprisonment imposed, if the court does not order probation or community control; or

3. Five years after the date of sentencing in any other case.

However, in no event shall the obligation to pay any unpaid amounts expire if not paid in full within the period specified in this paragraph.

(c) If not otherwise provided by the court under this section, costs shall be paid immediately.

(3) If a defendant is placed on probation or community control, payment of any costs under this section shall be a condition of such probation or community control. The court may revoke probation or community control if the defendant fails to pay these costs.



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(4) Any dispute as to the proper amount or type of costs shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of costs incurred is on the state attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant is on the defendant. The burden of demonstrating such other matters as the court deems appropriate is upon the party designated by the court as justice requires.

(5) Any default in payment of costs may be collected by any means authorized by law for enforcement of a judgment.

(6) The clerk of the court shall collect and dispense cost payments in any case regardless of whether the disposition of the case takes place before the judge in open court or in any other manner provided by law.

(7) Investigative costs that are recovered shall be returned to the appropriate investigative agency that incurred the expense. Such costs include actual expenses incurred in conducting the investigation and prosecution of the criminal case; however, costs may also include the salaries of permanent employees. Any investigative costs recovered on behalf of a state agency must be remitted to the Department of Revenue for deposit in the agency operating trust fund, and a report of the payment must be sent to the agency, except that any investigative costs recovered on behalf of the Department of Law Enforcement shall be deposited in the department's Forfeiture and Investigative Support Trust Fund under s. 943.362.

(8) Costs for the state attorney shall be set in all cases at no less than \$50 per case when a misdemeanor or criminal traffic offense is charged and no less than \$100 per case when a



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felony offense is charged, including a proceeding in which the underlying offense is a violation of probation or community control. The court may set a higher amount upon a showing of sufficient proof of higher costs incurred. Costs recovered on behalf of the state attorney under this section shall be deposited into the State Attorneys Revenue Trust Fund to be used during the fiscal year in which the funds are collected, or in any subsequent fiscal year, for actual expenses incurred in investigating and prosecuting criminal cases, which may include the salaries of permanent employees, or for any other purpose authorized by the Legislature.

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

And the title is amended as follows:

Delete lines 9 - 20

and insert:

clarifying the types of cases that are subject to the collection and dispensing of cost payments by the clerk of the court; amending s. 985.032, F.S.;

By Senator Wise

5-00064B-12

2012210__

1 A bill to be entitled
2 An act relating to costs of prosecution,
3 investigation, and representation; amending s.
4 903.286, F.S.; providing for the withholding of unpaid
5 costs of prosecution and representation from the
6 return of a cash bond posted on behalf of a criminal
7 defendant; requiring a notice on bond forms of such
8 possible withholding; amending s. 938.27, F.S.;
9 providing liability for the cost of prosecution and
10 investigation for persons whose cases are disposed of
11 under specified provisions; requiring courts to impose
12 the costs of prosecution and investigation;
13 prohibiting the court from converting the costs of
14 prosecution and investigation to any form of community
15 service; clarifying the types of cases that are
16 subject to the collection and dispensing of cost
17 payments by the clerk of the court; amending s.
18 938.29, F.S.; providing liability for attorney's fees
19 and costs for persons whose cases are disposed of
20 under specified provisions; amending s. 985.032, F.S.;
21 providing for assessment of costs of prosecution
22 against a juvenile who has been adjudicated delinquent
23 or has adjudication of delinquency withheld; providing
24 an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

27
28 Section 1. Section 903.286, Florida Statutes, is amended to
29 read:

5-00064B-12

2012210__

30 903.286 Return of cash bond; requirement to withhold unpaid
31 fines, fees, court costs; cash bond forms.—

32 (1) Notwithstanding s. 903.31(2), the clerk of the court
33 shall withhold from the return of a cash bond posted on behalf
34 of a criminal defendant by a person other than a bail bond agent
35 licensed pursuant to chapter 648 sufficient funds to pay any
36 unpaid costs of prosecution, costs of representation as provided
37 by s. 27.52, court fees, court costs, and criminal penalties. If
38 sufficient funds are not available to pay all unpaid costs of
39 prosecution, costs of representation as provided by s. 27.52,
40 court fees, court costs, and criminal penalties, the clerk of
41 the court shall immediately obtain payment from the defendant or
42 enroll the defendant in a payment plan pursuant to s. 28.246.

43 (2) All cash bond forms used in conjunction with the
44 requirements of s. 903.09 must prominently display a notice
45 explaining that all funds are subject to forfeiture and
46 withholding by the clerk of the court for the payment of costs
47 of prosecution, costs of representation as provided by s. 27.52,
48 court fees, court costs, and criminal penalties on behalf of the
49 criminal defendant regardless of who posted the funds.

50 Section 2. Section 938.27, Florida Statutes, is amended to
51 read:

52 938.27 Judgment for costs of prosecution and investigation
53 ~~on conviction.~~—

54 (1) In all criminal and violation-of-probation or
55 community-control cases, convicted persons and persons whose
56 cases are disposed of pursuant to s. 948.08(6)(c) or s.
57 948.16(2) are liable for payment of the costs of prosecution,
58 including investigative costs incurred by law enforcement

5-00064B-12

2012210__

59 agencies, by fire departments for arson investigations, and by
60 investigations of the Department of Financial Services or the
61 Office of Financial Regulation of the Financial Services
62 Commission, if requested by such agencies. The court shall
63 include these costs in every judgment rendered against the
64 convicted person. For purposes of this section, "convicted"
65 means a determination of guilt, or of violation of probation or
66 community control, which is a result of a plea, trial, or
67 violation proceeding, regardless of whether adjudication is
68 withheld.

69 (2) (a) Notwithstanding any other law, court rule, or
70 administrative order, the court shall impose upon the defendant
71 the costs of prosecution and investigation. The costs of
72 prosecution and investigation may not be converted to any form
73 of court-ordered community service to be served in lieu of the
74 obligation to pay the costs of prosecution and investigation.

75 (b) ~~(a)~~ The court shall impose the costs of prosecution and
76 investigation notwithstanding the defendant's present ability to
77 pay. The court shall require the defendant to pay the costs
78 within a specified period or in specified installments.

79 (c) ~~(b)~~ The end of such period or the last such installment
80 shall not be later than:

81 1. The end of the period of probation or community control,
82 if probation or community control is ordered;

83 2. Five years after the end of the term of imprisonment
84 imposed, if the court does not order probation or community
85 control; or

86 3. Five years after the date of sentencing in any other
87 case.

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88
89 However, in no event shall the obligation to pay any unpaid
90 amounts expire if not paid in full within the period specified
91 in this paragraph.

92 (d)~~(e)~~ If not otherwise provided by the court under this
93 section, costs shall be paid immediately.

94 (3) If a defendant is placed on probation or community
95 control, payment of any costs under this section shall be a
96 condition of such probation or community control. The court may
97 revoke probation or community control if the defendant fails to
98 pay these costs.

99 (4) Any dispute as to the proper amount or type of costs
100 shall be resolved by the court by the preponderance of the
101 evidence. The burden of demonstrating the amount of costs
102 incurred is on the state attorney. The burden of demonstrating
103 the financial resources of the defendant and the financial needs
104 of the defendant is on the defendant. The burden of
105 demonstrating such other matters as the court deems appropriate
106 is upon the party designated by the court as justice requires.

107 (5) Any default in payment of costs may be collected by any
108 means authorized by law for enforcement of a judgment.

109 (6) The clerk of the court shall collect and dispense cost
110 payments in any case regardless of whether the disposition of
111 the case takes place before the judge in open court or in any
112 other manner provided by law.

113 (7) Investigative costs that are recovered shall be
114 returned to the appropriate investigative agency that incurred
115 the expense. Such costs include actual expenses incurred in
116 conducting the investigation and prosecution of the criminal

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117 case; however, costs may also include the salaries of permanent
118 employees. Any investigative costs recovered on behalf of a
119 state agency must be remitted to the Department of Revenue for
120 deposit in the agency operating trust fund, and a report of the
121 payment must be sent to the agency, except that any
122 investigative costs recovered on behalf of the Department of Law
123 Enforcement shall be deposited in the department's Forfeiture
124 and Investigative Support Trust Fund under s. 943.362.

125 (8) Costs for the state attorney shall be set in all cases
126 at no less than \$50 per case when a misdemeanor or criminal
127 traffic offense is charged and no less than \$100 per case when a
128 felony offense is charged, including a proceeding in which the
129 underlying offense is a violation of probation or community
130 control. The court may set a higher amount upon a showing of
131 sufficient proof of higher costs incurred. Costs recovered on
132 behalf of the state attorney under this section shall be
133 deposited into the State Attorneys Revenue Trust Fund to be used
134 during the fiscal year in which the funds are collected, or in
135 any subsequent fiscal year, for actual expenses incurred in
136 investigating and prosecuting criminal cases, which may include
137 the salaries of permanent employees, or for any other purpose
138 authorized by the Legislature.

139 Section 3. Paragraph (a) of subsection (1) of section
140 938.29, Florida Statutes, is amended to read:

141 938.29 Legal assistance; lien for payment of attorney's
142 fees or costs.—

143 (1)(a) A defendant who is convicted of a criminal act or a
144 violation of probation or community control or whose case is
145 disposed of pursuant to s. 948.08(6)(c) or s. 948.16(2) and who

5-00064B-12

2012210__

146 has received the assistance of the public defender's office, a
147 special assistant public defender, the office of criminal
148 conflict and civil regional counsel, or a private conflict
149 attorney, or who has received due process services after being
150 found indigent for costs under s. 27.52, shall be liable for
151 payment of the assessed application fee under s. 27.52 and
152 attorney's fees and costs. Attorney's fees and costs shall be
153 set in all cases at no less than \$50 per case when a misdemeanor
154 or criminal traffic offense is charged and no less than \$100 per
155 case when a felony offense is charged, including a proceeding in
156 which the underlying offense is a violation of probation or
157 community control. The court may set a higher amount upon a
158 showing of sufficient proof of higher fees or costs incurred.
159 For purposes of this section, "convicted" means a determination
160 of guilt, or of violation of probation or community control,
161 which is a result of a plea, trial, or violation proceeding,
162 regardless of whether adjudication is withheld. The court shall
163 include these fees and costs in every judgment rendered against
164 the convicted person.

165 Section 4. Section 985.032, Florida Statutes, is amended to
166 read:

167 985.032 Legal representation for delinquency cases.—

168 (1) For cases arising under this chapter, the state
169 attorney shall represent the state.

170 (2) A juvenile who has been adjudicated delinquent or has
171 adjudication of delinquency withheld shall be assessed costs of
172 prosecution as provided in s. 938.27.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12

Meeting Date

Topic Costs of Prosecution, Defense

Name Bob Dillinger

Job Title Public Defender - 6th Circuit

Address 14250 45th St N

Clearwater 33762

City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing PD ASSOC

Bill Number 210
(if applicable)

Amendment Barcode _____
(if applicable)

Phone 727-464-6865

E-mail pd6@pinellascounty.org

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/12/12

Meeting Date

Topic COSTS OF PROS/REPRESENTATION

Bill Number 210/AS AMENDED
(if applicable)

Name MONICA HOFHEINZ

Amendment Barcode _____
(if applicable)

Job Title ASSISTANT STATE ATTORNEY

Address 201 SE 6TH ST

Phone 954-831-8543

Street

FTL

City

FL

State

33301

Zip

E-mail hofsa17@sao17.state.fl.us

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA PROSECUTING ATTORNEY ASSOC

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

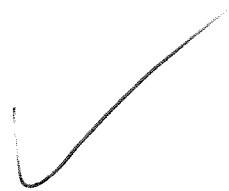
While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/20/11)



The Florida Senate
Committee Agenda Request



To: Senator Greg Evers, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: September 21, 2011

I respectfully request that **Senate Bill # 210**, relating to Costs of Prosecution, be placed on the:

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

A handwritten signature in cursive script, reading "Stephen R. Wise", is written above a horizontal line.

Senator Stephen R. Wise
Florida Senate, District 5

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 Criminal Justice Committee

BILL: SB 278

INTRODUCER: Senator Sachs

SUBJECT: Preventing Deaths from Drug-related Overdoses

DATE: October 19, 2011

REVISED: 01/10/12

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Favorable
2.			HR	
3.				
4.				
5.				
6.				

I. Summary:

The bill creates the “911 Good Samaritan Act” and provides that:

- A person making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the person’s seeking medical assistance.
- A person who experiences a drug-related overdose and is in need of medical assistance may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the overdose and the need for medical assistance.

The bill states that the above-described protection from prosecution for possession offenses may not be grounds for suppression of evidence in other criminal prosecutions. The bill also adds the following to the list of mitigating circumstances a judge may consider when departing from the lowest permissible sentence: The defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.

This bill substantially amends section 921.0026, Florida Statutes. The bill creates section 893.21, Florida Statutes.

II. Present Situation:

Florida law currently contains a number of provisions that provide immunity from civil liability to persons in specified instances. Florida law also contains various provisions that allow criminal

defendants to have their sentences reduced or suspended in certain instances. A description of these provisions follows.

Florida “Good Samaritan” Laws

The Good Samaritan Act, codified in s. 768.13, F.S., provides immunity from civil liability for those who render emergency care and treatment to individuals in need of assistance. The statute provides immunity for liability for civil damages to any person who:

- Gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations or at the scene of an emergency, without objection of the injured victim, if that person acts as an ordinary reasonable and prudent person would have acted under the same or similar circumstances.¹
- Participates in emergency response activities of a local, state, or federal emergency response or management agency, if that person acts prudently and within the scope of his or her training.²
- Gratuitously and in good faith renders emergency care or treatment to an injured animal at the scene of an emergency if that person acts as an ordinary reasonable and prudent person would have acted under the same or similar circumstances.³

Section 768.1325(3), F.S., provides that a person is immune from civil liability for any harm resulting from the use or attempted use of an automated external defibrillator device on a victim of a perceived medical emergency, without objection of the victim.

Section 768.1355(1), F.S., entitled the Florida Volunteer Protection Act, provides that any person who volunteers to perform any service for any nonprofit organization without compensation will incur no civil liability for any act or omission that results in personal injury or property damage if:

- The person was acting in good faith within the scope of any official duties performed under the volunteer service and the person was acting as an ordinary reasonable and prudent person would have acted under the same or similar circumstances; and
- The injury or damage was not caused by any wanton or willful misconduct on the part of the person in the performance of the duties.

Reduction or Suspension of Criminal Sentence

Section 921.186, F.S., allows the state attorney to move the sentencing court to reduce or suspend the sentence of persons convicted of a felony who provide substantial assistance in the identification, arrest, or conviction of any accomplice, accessory, coconspirator, or principal of the defendant, or of any other person engaged in felonious criminal activity.

¹ Section 768.13(2)(a), F.S.

² Section 768.13(2)(d), F.S.

³ Section 768.13(3), F.S.

Mitigating Circumstances

The Criminal Punishment Code applies to sentencing for felony offenses committed on or after October 1, 1998. Criminal offenses are ranked in the “offense severity ranking chart”⁴ from level one (least severe) to level 10 (most severe) and are assigned points based on the severity of the offense as determined by the Legislature. If an offense is not listed in the ranking chart, it defaults to a ranking based on the degree of the felony.⁵

The points are added in order to determine the “lowest permissible sentence” for the offense. A judge cannot impose a sentence below the lowest permissible sentence unless the judge makes written findings that there are “circumstances or factors that reasonably justify the downward departure.”⁶ Mitigating circumstances under which a departure from the lowest permissible sentence is reasonably justified include:

- The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.
- The defendant acted under extreme duress or under the domination of another person.
- The defendant cooperated with the state to resolve the current offense or any other offense.⁷

Currently, there are no mitigating circumstances related to defendants who make a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.

Possession of a Controlled Substance

Controlled substances are designated in s. 893.03, F.S., and are commonly referred to as “scheduled” drugs. The scheduled drugs are listed in Schedules I-V according to the potential for abuse or addiction, currently accepted medical use in treatment in the United States, and relative degree of danger to the user.

Generally, simple possession of a controlled substance is a third-degree felony punishable by up to five years in prison and a fine up to \$5,000.⁸ This is the “catch-all” offense, and all other drug offenses are specified “exceptions” to this general rule.

For example, two exceptions to the general rule are that simple possession of not more than 20 grams of cannabis⁹ and simple possession of not more than 3 grams of the substances listed in paragraphs 46-50 of Schedule I (c) are first-degree misdemeanors punishable by up to one year in jail and a fine up to \$1,000.¹⁰

⁴ Section 921.0022, F.S.

⁵ Section 921.0024, F.S., provides that a defendant’s sentence is calculated based on points assigned for factors including: the offense for which the defendant is being sentenced; injury to the victim; additional offenses that the defendant committed at the time of the primary offense; and the defendant’s prior record and other aggravating factors.

⁶ Section 921.0026, F.S.

⁷ *Id.*

⁸ Section 893.13(6)(a), F.S.

⁹ For the purposes of s. 893.13(6)(b), F.S., cannabis is defined as all parts of any plant of the genus *Cannabis*, whether growing or not, and the seeds thereof.

¹⁰ Section 893.13(6)(b), F.S.

Simple possession of *more than* 10 grams of any substance named in paragraphs (a) and (b) of Schedule I¹¹ is specified as a first-degree felony punishable by up to 30 years in prison and a fine up to \$10,000.¹² Because it is not otherwise specified and therefore falls under the general rule, possession of *not more than* 10 grams of those same substances constitutes a third degree felony offense.¹³

Paragraphs (1)(a)-(l) of s. 893.135, F.S., prohibit the possession of various *larger quantities* of controlled substances as trafficking offenses. Drug trafficking offenses carry minimum mandatory prison sentences that increase in severity as the amount or weight of the drug possessed increases, including capital crimes if deaths result from the manufacture or importation of the drug.

To further illustrate the application of the general rule that simple possession of a controlled substance is a third degree felony unless there is a specified “exception,” remember that possession of *not more than 20 grams* of cannabis is a first degree misdemeanor. Under the trafficking statute, possession of *more than 25 pounds* of cannabis is a first degree felony. Because it is not otherwise specified, possession of *more than 20 grams but 25 pounds or less* of cannabis is a third degree felony offense under the general simple possession statute, s. 893.13(6)(a), F.S.

Proving the Crimes of Possession and Possession “With Intent to...”

Possession of controlled substances are generally punished according to the gram-weight of the substance and the listing of the substance in the Schedules found in s. 893.03, F.S. Sale, delivery, manufacture and purchase of controlled substances are punished more severely than simple possession of those substances and the sentences are also increased if the crime is committed within the specified vicinity of certain areas. The same holds true for the offenses of possession *with intent to* sell, manufacture, deliver or purchase controlled substances.

Proof of *actual* sale, manufacture, delivery or purchase is provided by direct evidence, generally eyewitness testimony from a person who actually participated in or saw a transaction occur or who witnessed drug manufacturing taking place.

In order to prove that a person possesses a controlled substance *with intent to* sell, manufacture, deliver or purchase the substance, prosecutors must prove the element of intent. This can be much more difficult. The evidence should show that the controlled substance is not intended for personal use, thereby allowing a jury to draw the inference that the substance is possessed with the intent to sell, manufacture, deliver or purchase it. In order to prove intent, such evidence as incriminating statements can be used but it is more likely to be shown using circumstantial evidence like the quantity of the substance in the person’s possession, its packaging, or whether drug paraphernalia is available.¹⁴

¹¹ These controlled substances include such designer drugs (created from synthetic substances) as Flunitrazepam, commonly known as “roofies,” as well as codeine, heroin and morphine.

¹² Section 893.13(6)(c), F.S.

¹³ Section 893.13(6)(a), F.S.

¹⁴ See *Lee v. State*, 51 So.3d 600 (Fla.2d DCA 2011); *Richards v. State*, 37 So.3d 925 (Fla. 4th DCA 2010).

911 Good Samaritan Laws in Other States

In New Mexico, the 911 Good Samaritan Act prevents the prosecution for drug possession based on evidence “gained as a result of the seeking of medical assistance” to treat a drug overdose.¹⁵ This law, which took effect in June 2007, was the first of its kind in the country.¹⁶

While many states have considered similar Good Samaritan immunity legislation, Alaska, Connecticut, New York, and Washington are the only other states to have passed such a law.¹⁷

III. Effect of Proposed Changes:

Section 1 provides that this act may be cited as the “911 Good Samaritan Act.”

Section 2 creates s. 893.21, F.S., to provide that a person who in good faith seeks medical assistance for an individual experiencing a drug-related overdose may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the person’s seeking medical assistance.

The bill provides that a person who experiences a drug-related overdose and is in need of medical assistance may not be charged, prosecuted, or penalized for possession of a controlled substance if the evidence for possession was obtained as a result of the overdose and the need for medical assistance.

The bill states that the above-described protection from prosecution for possession offenses may not be grounds for suppression of evidence in other criminal prosecutions.

Because there is no stated exclusion from being charged, prosecuted or penalized for a person who has committed any other offenses or who has an outstanding arrest warrant, such an exclusion should not be presumed.

Section 3 amends s. 921.0026, F.S., to add the following to the list of mitigating circumstances a judge may consider when departing from the lowest permissible sentence: “The defendant was making a good faith effort to obtain or provide medical assistance for an individual experiencing a drug-related overdose.”

Section 4 provides an effective date for the bill of October 1, 2012.

¹⁵ Drug Policy Alliance, “Preventing Overdose, Saving Lives,” March 2009, <http://www.drugpolicy.org/library/overdose2009.cfm> (last visited April 21, 2011).

¹⁶ *Id.*

¹⁷ Alaska Statute section 12.55.155(d)(19); effective September 2008. Connecticut Public Act No. 11-210.; effective 2011. Laws of New York s. 220.78; effective September 2011. Revised Code of Washington 69.50.315; effective June 2010.

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

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

B. Public Records/Open Meetings Issues:

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

C. Trust Funds Restrictions:

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

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

On March 2, 2011, the Criminal Justice Impact Conference (CJIC) determined that an identical bill considered during the 2011 Legislative Session would have no impact on the Department of Corrections. Although the bill has not yet been reviewed by CJIC this Session, it is unlikely that the analysis or outcome will change relative to last Session's determination.

VI. Technical Deficiencies:

Although no technical deficiencies are noted it is suggested that, depending upon the intended effect of the bill, a reference to section 893.13(6), Florida Statutes, (the simple possession statute) would clarify that persons who are in possession of trafficking amounts of controlled substances are not meant to benefit from the bill's provisions. Likewise persons who possess a controlled substance with the intent to sell, deliver, manufacture or purchase would be eliminated from claiming the benefits of the bill.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Sachs

30-00340-12

2012278__

1 A bill to be entitled
2 An act relating to preventing deaths from drug-related
3 overdoses; providing a short title; creating s.
4 893.21, F.S.; providing that a person acting in good
5 faith who seeks medical assistance for an individual
6 experiencing a drug-related overdose may not be
7 charged, prosecuted, or penalized for specified
8 offenses in certain circumstances; providing that a
9 person who experiences a drug-related overdose and
10 needs medical assistance may not be charged,
11 prosecuted, or penalized for specified offenses in
12 certain circumstances; providing that the protections
13 from prosecution for specified offenses are not
14 grounds for suppression of evidence in other
15 prosecutions; amending s. 921.0026, F.S.; amending
16 mitigating circumstances under which a departure from
17 the lowest permissible criminal sentence is reasonably
18 justified to include circumstances in which a
19 defendant was making a good faith effort to obtain or
20 provide medical assistance for an individual
21 experiencing a drug-related overdose; providing an
22 effective date.

23
24 WHEREAS, some research suggests that in a majority of cases
25 of fatal drug overdose another person was aware of or present
26 during the decedent's fatal drug use and that in one-third of
27 the cases someone recognized the decedent's distress, and

28 WHEREAS, many people cite fear of police involvement or
29 fear of arrest as their primary reason for not seeking immediate

30-00340-12

2012278__

30 help for a person thought to be experiencing a drug overdose,
31 and

32 WHEREAS, it is in the public interest to encourage a person
33 who is aware of or present during another individual's drug
34 overdose to seek medical assistance for that individual, NOW,
35 THEREFORE,

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. This act may be cited as the "911 Good Samaritan
40 Act."

41 Section 2. Section 893.21, Florida Statutes, is created to
42 read:

43 893.21 Drug-related overdoses; medical assistance; immunity
44 from prosecution.-

45 (1) A person acting in good faith who seeks medical
46 assistance for an individual experiencing a drug-related
47 overdose may not be charged, prosecuted, or penalized pursuant
48 to this chapter for possession of a controlled substance if the
49 evidence for possession of a controlled substance was obtained
50 as a result of the person's seeking medical assistance.

51 (2) A person who experiences a drug-related overdose and is
52 in need of medical assistance may not be charged, prosecuted, or
53 penalized pursuant to this chapter for possession of a
54 controlled substance if the evidence for possession of a
55 controlled substance was obtained as a result of the overdose
56 and the need for medical assistance.

57 (3) Protection in this section from prosecution for
58 possession offenses under this chapter may not be grounds for

30-00340-12

2012278__

59 suppression of evidence in other criminal prosecutions.

60 Section 3. Paragraph (n) is added to subsection (2) of
61 section 921.0026, Florida Statutes, to read:

62 921.0026 Mitigating circumstances.—This section applies to
63 any felony offense, except any capital felony, committed on or
64 after October 1, 1998.

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

68 (n) The defendant was making a good faith effort to obtain
69 or provide medical assistance for an individual experiencing a
70 drug-related overdose.

71 Section 4. This act shall take effect October 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12

Meeting Date

Topic Good Samaritan

Bill Number 278
(if applicable)

Name FRANK Messersmith

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2901 Sk Bradford
Street
Tall FL
City State Zip

Phone 576-5858

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Sheriffs Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

★ Waive
in support

Meeting Date _____

Topic Drug-related overdoses

Bill Number SB 278
(if applicable)

Name Jill Gran

Amendment Barcode _____
(if applicable)

Job Title FL Alch + drug Abuse Assoc

Address 2868 Mahan Dr
Street

Phone _____

Tallahassee FL
City State Zip

E-mail jill@fadaa.org

Speaking: ☒ For ☐ Against ☐ Information

Waive in support

Representing FADAA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

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 Criminal Justice Committee

BILL: SB 638

INTRODUCER: Senator Hays

SUBJECT: Florida Motor Vehicle Theft Prevention Authority

DATE: December 15, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jenkins	Roberts	GO	Favorable
2.	Cellon	Cannon	CJ	Favorable
3.			BC	
4.				
5.				
6.				

I. Summary:

This bill repeals the following sections of the Florida Statutes:

- Section 860.151, F.S., (Short title);
- Section 860.152, F.S., (Purpose);
- Section 860.153, F.S., (Definitions);
- Section 860.154, F.S., (Florida Motor Vehicle Theft Prevention Authority);
- Section 860.155, F.S., (Compensation of members);
- Section 860.156, F.S., (Personnel);
- Section 860.157, F.S., (Powers and duties of the authority); and
- Section 860.158, F.S., (Florida Motor Vehicle Theft Prevention Authority Expenditures).

The bill also amends s. 713.78, F.S., (Liens for recovering, towing, or storing vehicles and vessels) to remove a reference to the Florida Motor Vehicle Theft Prevention Authority.

II. Present Situation:

In 1992, the Legislature created the Florida Motor Vehicle Theft Prevention Act (the Act).¹ The purpose of the Act was to prevent, combat, and reduce motor vehicle theft in Florida, and to improve and support the law enforcement, prosecution, and administration of motor vehicle theft laws.² The Act also established the Florida Motor Vehicle Theft Prevention Authority (the Authority), within the Department of Legal Affairs.³

¹ Chapter 1992-145, L.O.F.

² Section 860.152, F.S.

³ Section 860.154, F.S.

Powers and Duties of the Authority

The powers and duties of the Authority include:

- Applying for, soliciting, receiving, establishing priorities for, allocating, disbursing, contracting for, and spending funds that are made available to the Authority from any source to effectuate the purposes of the Act;
- Assessing the scope of the problem of motor vehicle theft;
- Developing and sponsoring the implementation of statewide plans and strategies to combat motor vehicle theft and to improve the administration of the motor vehicle theft laws and provide an effective forum for identification of critical problems associated with motor vehicle theft;
- Coordinating the development, adoption, and implementation of plans and strategies relating to interagency or intergovernmental cooperation with respect to motor vehicle theft law enforcement; and
- Providing an annual report on the activities of the Authority to specified entities.⁴

Membership of the Authority

The powers and duties of the Authority are vested in and exercised by a Board of Directors (Board), established within the Authority, which includes the following members:

- The Chief Financial Officer or his or her designee;
- The executive director of the Department of Highway Safety and Motor Vehicles;
- The executive director of the Department of Law Enforcement; and
- Six additional members, each of whom are appointed by the Attorney General as follows: a state attorney or city or county executive, a chief executive law enforcement official, a sheriff, one representative of companies authorized to sell motor vehicle insurance, one representative of insurers authorized to write motor vehicle insurance in this state, and one representative of purchasers of motor vehicle insurance in this state who is not employed by or connected with the business of insurance.⁵

Florida Motor Vehicle Theft Prevention Trust Fund

In addition to the Authority, the Act created the Florida Motor Vehicle Theft Prevention Trust Fund (Trust Fund).⁶ The Trust Fund was funded pursuant to s. 320.08046, F.S., which appropriated 18 percent of a \$1 license tax⁷ surcharge (vehicle registration fee) to the Trust Fund.⁸ Trust Fund dollars were required to be used to:

- Pay the Authority's cost to administer the Board and the Trust Fund; and
- Achieve the purposes and objectives of the Act.⁹

⁴ Section 860.157, F.S.

⁵ Section 860.154, F.S.

⁶ Chapter 1992-145, L.O.F.

⁷ See section 320.08, F.S.

⁸ In 1992, s. 320.08045, F.S., imposed a 50 cent surcharge on each license tax, which was deposited into the Trust Fund. This statute was repealed in 1995. That same year, s. 320.08046, F.S., was amended to revise the surcharge on license taxes and to provide guidelines for surcharge distribution to the Trust Fund. See ch. 1992-145, L.O.F., and ch. 1995-267, L.O.F.

⁹ Chapter 1992-145, L.O.F.

In 2003, the Legislature terminated the Trust Fund and amended s. 320.08046, F.S., to remove the language appropriating 18 percent of the \$1 license tax surcharge to the Trust Fund.¹⁰ As a result, the Authority has not been funded since 2003.¹¹ According to the Office of the Attorney General (OAG), the OAG has not administered the Authority since funding was eliminated. However, statutes relating to the Authority still exist, despite the program not being operational.

Auto theft is much less prevalent today than it was in 1992 when the Florida Motor Vehicle Theft Prevention Authority was established.¹² In fact, the Florida Department of Law Enforcement reports that the occurrence of auto theft in Florida has decreased by nearly fifty percent since 2003 when the Authority stopped operating.¹³

III. Effect of Proposed Changes:

The bill repeals statutes relating to the Authority. Specifically, the bill repeals the following provisions:

- Section 860.151, F.S., (Short title);
- Section 860.152, F.S., (Purpose);
- Section 860.153, F.S., (Definitions);
- Section 860.154, F.S., (Florida Motor Vehicle Theft Prevention Authority);
- Section 860.155, F.S., (Compensation of members);
- Section 860.156, F.S., (Personnel);
- Section 860.157, F.S., (Powers and duties of the authority); and
- Section 860.158, F.S., (Florida Motor Vehicle Theft Prevention Authority Expenditures).

The bill also makes a conforming change to s. 713.78, F.S., (Liens for recovering, towing, or storing vehicles and vessels), to delete a reference to s. 860.158, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁰ Chapter 2003-179, L.O.F.

¹¹ Verified by Senate Budget Subcommittee on Criminal and Civil Justice Appropriations.

¹² There were 105,553 auto theft incidents reported in 1992, compared to 41,433 in 2010. *See* Florida Statistical Analysis Center: FDLE (1989-2010), Crime in Florida, Florida Uniform Crime Report.

¹³ There were 81,536 auto theft incidents reported in 2003. *Id.*

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

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

None.

B. Amendments:

None.

By Senator Hays

20-00644-12

2012638__

1 A bill to be entitled
2 An act relating to the Florida Motor Vehicle Theft
3 Prevention Authority; repealing ss. 860.151, 860.152,
4 860.153, 860.154, 860.155, 860.156, 860.157, and
5 860.158, F.S., relating to the Florida Motor Vehicle
6 Theft Prevention Authority; repealing provisions
7 relating to a short title, purpose, definitions,
8 establishment, compensation of members, personnel,
9 powers and duties, and expenditures; amending s.
10 713.78, F.S.; conforming a cross-reference; providing
11 an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Sections 860.151, 860.152, 860.153, 860.154,
16 860.155, 860.156, 860.157, and 860.158, Florida Statutes, are
17 repealed.

18 Section 2. Paragraph (e) of subsection (13) of section
19 713.78, Florida Statutes, is amended to read:

20 713.78 Liens for recovering, towing, or storing vehicles
21 and vessels.—

22 (13)

23 (e) When a wrecker operator files a notice of wrecker
24 operator's lien under this subsection, the department shall
25 charge the wrecker operator a fee of \$2, which shall be
26 deposited into the General Revenue Fund ~~established under s.~~
27 ~~860.158~~. A service charge of \$2.50 shall be collected and
28 retained by the tax collector who processes a notice of wrecker
29 operator's lien.

20-00644-12

2012638__

30

Section 3. This act shall take effect July 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic Motor Vehicle Theft Prevention Repealer

Bill Number 638
(if applicable)

Name Andrew Fay

Amendment Barcode _____
(if applicable)

Job Title Legislative Coordinator

Address Capitol Plaz
Street

Phone 850-245-0155

Toll address
City State Zip

E-mail Andrew.Fay@myfloridalegal.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Attorney General's Office

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

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 Criminal Justice Committee

BILL: CS/SB 834

INTRODUCER: Education Pre-K - 12 Committee; and Education Pre-K - 12 Committee

SUBJECT: Education Programs for Juvenile Justice Students

DATE: January 3, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carrouth	Matthews	ED	Fav/CS
2.	Dugger	Cannon	CJ	Pre-meeting
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill is the culmination of the committee's interim project on education in Department of Juvenile Justice (DJJ) facilities.¹ It includes the recommendations of the Juvenile Justice Education Workgroup to improve the education outcomes of youth in DJJ facilities. The bill requires an evaluation of the effectiveness of school districts and private providers based upon the attainment of relevant academic and workforce skills that increase the likelihood of success upon release from a DJJ facility. School districts and private providers would be prohibited from providing educational services to youth in DJJ facilities if they fail to meet the above performance outcomes.

This bill substantially amends sections 985.46 and 985.618, creates section 1003.515, repeals section 1003.52, and makes conforming changes to sections 985.632, 1001.42, 1002.20, 1002.45, and 1011.62 of the Florida Statutes.

¹ Senate Interim Report 2012-219, Delivery of Educational Services in the Department of Juvenile Justice Services, available at <http://www.flsenate.gov/Committees/InterimProjects/2012/>.

II. Present Situation:

Statutory requirements

Section 1003.52, F.S., establishes the educational expectations for DJJ youth in residential and day treatment programs.² The Department of Education (DOE) currently serves as the lead agency for juvenile justice education programs, curriculum, support services, and resources. Although district school boards are responsible for providing educational services to youth in juvenile justice programs, the DOE and DJJ are responsible for reporting the academic performance of students in juvenile justice programs, developing academic and career guidance to district school boards and providers in educational programming, and prescribing the roles of program personnel and school district or provider collaboration strategies.³

Current law states that education is the single most important factor in the rehabilitation of adjudicated delinquent youth and that the goal of the juvenile justice system is to allow these youth the opportunity to obtain a high-quality education.⁴ Unfortunately, the law only requires an education program that supports treatment goals and leads to a high school diploma or equivalent.⁵ Data collected on student achievement is based primarily on learning gains in reading and mathematics.⁶ Given the serious academic deficits many of these youth bring to the programs and the significant hurdles they will face in obtaining gainful employment, DJJ education programs must go beyond a high school diploma or equivalent and offer workforce skills that will lead to employment.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) reported concerns with a lack of meaningful student outcomes in DJJ facilities and recommended the evaluation of youth based on outcomes proven to reduce delinquency—continuing education and meaningful employment.⁷ Instead, educational programs are currently assigned quality assurance ratings based on on-site reviews and interviews of education services personnel.⁸

² DJJ programs provide oversight for approximately 150 residential, day treatment, and prevention programs in 43 counties. The majority of programs are operated under contract by private providers for services such as mental health, substance abuse treatment, plans for restitution, and transition services so that youth successfully re-enter their home communities.

³ s. 1003.52(1), F.S.

⁴ *Id.*

⁵ s. 1003.52(5), F.S.

⁶ Approximately 15 percent of DJJ students demonstrated learning gains in mathematics and reading during FY 2009-2010. Eighty-five percent failed to read on grade level and 78 percent scored below grade level on mathematics. See page 4, www.fldoe.org/ese/pdf/jj_annual.pdf.

⁷ OPPAGA Report 08-07, available at: <http://www.oppaga.state.fl.us/ReportsYearList.aspx?yearID=22>.

⁸ Quality assurance ratings include information relating to teacher certifications and qualifications, courses taught by each teacher, qualifications and duties of all educational support personnel, assessment information, progress monitoring data, and program characteristics (i.e., size, location, provider, career education level designated by the DJJ, security level, and age range of students), school names and numbers under which diplomas are reported, course offerings, class schedules, bell schedules, school calendars, curriculum information, fidelity checks, walk-through forms, and annual evaluations of the educational program. See also *Developing Effective Education in Department of Juvenile Justice and other Dropout Prevention Programs*, 2009-10, Department of Education, available at: www.fldoe.org/ese/pdf/jj_annual.pdf.

DJJ education program outcomes

The need to improve the educational outcomes of youth in DJJ facilities is documented through available data. On any given day, approximately 100,000 youth are in some form of juvenile justice placement, nationally.⁹ Obstacles to successful re-entry amplify the effects of the school-to-prison pipeline and increase the likelihood that these youth will find themselves returning to the justice system they just exited. Youth who return to school from juvenile justice placements have lower recidivism rates and a higher likelihood of successful re-entry into the community.¹⁰ Unfortunately, 79 percent of juvenile justice students in residential programs, who were age 16 or older and significantly behind academically, did not return to school upon release.¹¹

The Department of Education (DOE) provided data on youth released from DJJ programs over several years using information from the Florida Education and Training Placement Information Program (FETPIP). The DOE tracked youth in DJJ residential programs to determine occupational, educational, and subsequent judicial placement in the years following release from the program. To provide context, the DOE provided the same outcome information for high school dropouts and graduates. The chart shows that youth released from DJJ are returning to school at progressively lower rates over time. In addition, DJJ youth are similar to dropouts in that low percentages enroll in postsecondary education. Youth released from DJJ were also less likely to be employed than dropouts or high school graduates. Finally, DJJ youth, following release, are more likely to be incarcerated as adults than dropouts or high school graduates. Of those who were later incarcerated by the Department of Corrections, they were less likely to earn full time equivalent wages after leaving the DJJ program.

Information on DJJ Youth in Comparison to School Dropouts and High School Graduates

	Year Students Left Or Graduated 2006-07			Year Students Left or Graduated 2007-08		
	DJJ Leavers	Dropouts	HS Grads	DJJ Leavers	Dropouts	HS Grads
1. Number of students	7,395	25,144	127,258	6,041	19,640	131,128
2. Number and percent who returned to HS or MS at any point following release	2430	7,879	NA	634	5,471	NA
	33%	31%		10%	28%	
3. Number and percentage of DJJ Leavers who received a GED	1,557	NA	NA	1,288	NA	NA
	21%			21%		

⁹ See *The School to Prison Pipeline and Back*, New York Law School Review, Volume 54, 2009-10, pg. 1116, available at: www.nyls.edu/index.php?cID=2666.

¹⁰ *Id.*

¹¹ *Juvenile Justice Students Face Barriers to High School Graduation and Job Training*, OPPAGA, Report No. 10-55 (October 2010.)

	Year Students Left Or Graduated 2006-07			Year Students Left or Graduated 2007-08		
	DJJ Leavers	Dropouts	HS Grads	DJJ Leavers	Dropouts	HS Grads
4. Number and percent who enrolled in Postsecondary ED in the year following their release - continuing education	390 0%	1,520 6%	80,057 63%	364 6%	1,274 6%	82,741 63%
5. Number and percent who were employed in the year after release	1,502 20%	9,234 37%	69,117 54%	866 14%	5,437 28%	62,890 48%
6. Of those who were employed, number and percent who were employed with full time equivalent wages in the year after their release ¹²	231 15%	2,011 22%	15,032 22%	135 16%	1,239 28%	10,613 17%
7. Number and percent who were later incarcerated in a DOC facility (Followed through 2009-10)	1,197 16%	874 3%	271 0%	600 10%	503 3%	159 0%
8. Of those that were later incarcerated in a DOC facility, the number and percent employed in the year after release with full time equivalent wages ¹	20 2%	16 2%	29 11%	3 0%	2 0%	8 5%

Source: Florida Education and Training Placement Information Program

* Percentages less than .50% are rounded to (whole percentages) 0%.

Youth released from DJJ programs are most likely to reoffend within the first nine months of release.¹³ Of these recidivists, more than half will be rearrested within the first four months following program release. Although Florida and federal law¹⁴ require state and local agencies to provide for effective re-entry of youth into the community, 13 of the state's 67 school districts automatically place students in an alternative education setting despite recommendations from the DJJ program staff and statutory requirements to use those recommendations in re-entry placement decisions.¹⁵ Youth who have been involved in juvenile and criminal activity are not provided sufficient re-entry support to ensure that they do not re-offend.

The Center for Smart Justice¹⁶ reports that the \$240 million the state spends annually on residential facilities is not making Florida safer, but instead more vulnerable. Residential

¹² Full-time is determined by the wages equal to or greater than "minimum wages *13 weeks* 40 hours." If the wage amount is equal to or greater than this number, FETPIP considers the individual full-time for the quarter.

¹³ DJJ CAR Report, 2009-09, page 115.

¹⁴ Sections 1401(a), 1417(a), and 1422(d) of PL 107-110, No Child Left Behind Act of 2001; Sections 1003.52(5) (13)(i) and 985.618(1)(a)(b), F.S.; and State Board Rule 6A-6.05281.

¹⁵ See <http://www.fldoe.org/ese/sdte.asp>.

¹⁶ The Florida TaxWatch Center for Smart Justice was established in 2010 as a statewide research organization to ensure statewide justice reform through proven, cost-effective measures. The center is led by a board of civic and business leaders from across the state. See www.floridataxwatch.org/centers/CSJ/aboutsmartjustice.php.

facilities have higher recidivism rates than community-based alternatives, and repeated studies have proven that institutional programs make low-risk children more likely to re-offend.¹⁷

Juvenile Justice Education Workgroup

The Juvenile Justice Education Workgroup was created in the summer of 2011 to bring together stakeholders in juvenile justice education. The workgroup heard testimony concerning youth education outcomes in juvenile justice facilities. Cognizant of the significant challenges these youth will face in obtaining gainful employment, the workgroup recommended a revised accountability structure to evaluate the effectiveness of the education. In particular, the workgroup recommended evaluating DJJ education programs on the following: youth attainment of industry certifications in targeted, high-demand and high-wage fields; continuing education at the secondary or postsecondary level; job placement or self-employment; and attainment of postsecondary credit.

High-demand and high-wage employment

In an effort to improve the alignment of coursework to skills needed in high demand occupations, the Career and Professional Academy Act was enacted by the 2007 Legislature.¹⁸ The legislation requires the collaborative development of a strategic 5-year plan by school districts, regional workforce boards, postsecondary institutions, and private businesses to determine relevant workforce-related educational offerings to be delivered within the K-12 arena. As a result of the legislation, the number of career academies in the state's secondary schools has increased dramatically. High school students earned a total of 803 industry certifications in high demand occupations during the 2007-08 school year and 8,629 certifications in the 2009-10 school year.¹⁹ Of particular importance, the development of the 5-year plan specifically requires that strategies be included to involve youth in DJJ facilities.²⁰ During the 2010-11 FY, grant funding supported industry certifications for youth in DJJ programs through virtual course offerings. As a result of the funding, the DJJ reports that 72 youth earned OSHA (Office of Safety and Health Administration) industry certifications, 60 earned industry certifications in Microsoft Office Suites, and 13 earned OSHA+certifications (OSHA plus add-on certification in Aggression Management and/or Blood-borne Pathogens).²¹

III. Effect of Proposed Changes:

The Department of Juvenile Justice (DJJ)

The bill is a comprehensive effort to transform educational opportunities for youth in DJJ programs. Under the bill, the DOE is given authority to develop performance ratings for school

¹⁷ The Juvenile Justice Blueprint Commission found that youth who are kept in programs for prolonged lengths of time after treatment goals are achieved often begin to deteriorate and may be more likely to re-offend once release is finally achieved. See the *Report of the Blueprint Commission: Getting Smart About Juvenile Justice*, available at: <http://www.djj.state.fl.us/blueprint/index.html>.

¹⁸ ch. 2007-216, L.O.F.

¹⁹ Presentation by the Department of Education, Chancellor for Career and Adult Education, August 24, 2011, on file with the committee.

²⁰ See s. 1003.491(3)(j), F.S.

²¹ Data provided by DJJ Office of Educational Services, on file with the committee.

district and private providers based on identified student outcomes. School districts or private providers who fail to meet established performance thresholds for two consecutive years or two years out of three, based on the specified outcomes, would no longer provide educational services to these youth. Instead, the school district would be required to contract with a school district or private provider with a high-performance rating to offer educational and workforce-related services to youth in these programs. Under the bill, the DJJ would be required to verify that this provision is met.

The DJJ, in consultation with the DOE, the Department of Economic Opportunity, school districts, and private providers, would adopt rules to implement provisions in the bill for which the DJJ is given responsibility.

The State Board of Education, in consultation with the DJJ, the Department of Economic Opportunity, school districts, and private providers, would adopt rules to establish performance ratings based on levels of attainment of outcomes. The bill requires the performance ratings to be weighted based on the rigor in attaining specified outcomes. Performance categories would include high, adequate, and failing. For purposes of determining performance ratings, school districts and private providers would be held accountable for student outcomes until such time that the youth is released from DJJ supervision.

Performance Outcomes

Education outcomes are designed to promote the successful return of adjudicated youth to their communities through employment in high demand occupations or continuing education. Outcomes established under the bill would differ based on the age-appropriate needs of the youth. Those of middle-school age would be required to meet at least one of the following outcomes:

- Attainment of an industry certification in a targeted occupation²² and continuing education;²³
- Attainment of occupational completion points²⁴ in a targeted occupation and continuing education;
- Attainment of secondary or postsecondary credit and continuing education; or
- Achievement of academic progress in reading and mathematics²⁵ and continuing education.

²² In order to provide workforce skills in high demand occupations, the bill requires that industry certifications for these students be limited to those included on the Industry Certification Funding List pursuant to s. 1011.62(1)(o), F.S.

²³ For purposes of measuring student outcomes, continuing education would be defined based on the individual youth. Students of compulsory attendance age, for example, would be expected to continue their education within the secondary school arena in a supportive environment and an academic area that has meaning to them. Older youth who have attained a partial industry certification would enroll in an educational environment to complete the training, while those having attained full industry certification may wish to enhance those credentials with additional coursework.

²⁴ Occupational Completion Points (OCPs) are selected sets of student performance standards that fall between established occupational completion points, as identified in vocational job preparatory course descriptions. These selected standards guide the student in completing a modified program and developing marketable skills. See <http://www.fldoe.org/workforce/programs/ss5.asp>.

²⁵ Section 1003.52(3)(b), F.S., requires the DOE to select a valid assessment tool to measure learning gains in mathematics and reading.

High-school age youth would be required to meet at least one of the following outcomes:

- Attainment of an industry certification in a targeted occupation;²⁶
- Attainment of occupational completion points in a targeted occupation and continuing education to complete the industry certification;
- Attainment of occupational completion points and obtaining employment earning full-time wages;
- Attainment of a high school diploma or its equivalent and continuing education;
- Attainment of a high school diploma or its equivalent and job placement or self employment in a position earning full-time wages;
- Job placement or self-employment in an area for which the youth earned an industry certification;
- Earning secondary or postsecondary credit and continuing education; or
- Achievement of academic progress in reading and mathematics²⁷ and continuing education.

Industry Certifications for Targeted Occupations

In an effort to promote academic engagement and relevant workforce skills, the bill establishes youth attainment of industry certifications as a key performance outcome. The DJJ program must collaborate with the regional workforce board and postsecondary institutions to determine the occupational areas of emphasis in the program. This provision will ensure that employment positions are currently or forecast to be available in the area in which the student is pursuing the certification. Additionally, it provides opportunities for industry certified volunteers from the community to provide support.

Access to Educational and Workforce-related Virtual Courses and Virtual Counseling

The bill requires juvenile justice education programs to provide access to virtual education instruction and virtual counseling to support the educational and workforce skills needed for adjudicated youth. This provision supports efficient use of the youth's time in a DJJ facility, by accelerating instructional opportunities during evenings and weekends, and expands access to courses, many of which result in high-demand industry certifications.²⁸

School District Contracts with Private Providers

School districts would continue to provide educational services or contract with a private provider to meet specified student outcomes, contingent upon a designated level of performance over time. The bill also establishes that school districts that contract for educational services may not dictate personnel decisions beyond requirements for the health, safety and welfare of the youth if the contracted provider maintains a high performance rating. This provision promotes flexibility to employ instructors who are highly effective in working with at-risk youth. Also,

²⁶ The Industry Certification Funding List is available at: <https://www.fldoe.org/workforce/fcpea/pdf/1011icfl.pdf>.

²⁷ Section 1003.52(3)(b), F.S., requires the DOE to select a common assessment tool to measure academic progress in mathematics and reading.

²⁸ All 145 industry certifications earned by youth in DJJ programs during FY 2010-11 (OSHA and Microsoft Office Suites) were completed through virtual education courses.

districts would be prohibited from placing a youth in an alternative school setting once released from the DJJ program without the consultation of the lead educational instructor in the DJJ facility. This provision promotes decisions made in the best interest of the youth and supports the transition and re-entry plan established during program stay.

Development of Transitions Plans for Successful Reintegration

The bill requires that an educational component to the transition plan be developed for youth to specify educational and other services to be provided during the youth's stay in the DJJ program, as well as services to be provided upon release. The educational component of the transition plan, developed in collaboration with the youth and the youth's family, would govern decisions regarding educational, workforce, and other services to ensure successful reintegration into the community.

Annual Report to the Legislature

The DJJ, with assistance from the DOE, school districts, and private providers, is required to submit an annual report to the Legislature beginning December 31, 2013. The report must include data on the level of attainment of performance outcomes by DJJ youth and include comparisons by demographics, by district and provider, and with students in traditional educational settings. The report must address the use of virtual education in attainment of outcomes and implementation of transition and reintegration plans for successful re-entry of youth into the community. Additionally, the report must provide recommendations for improving outcome measures and additional cost savings.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private providers that fail to meet performance expectations for two consecutive years or two out of three years would be barred from providing education services to youth in DJJ

facilities. These entities may experience a reduction in revenue. High-performing providers may experience a positive fiscal impact.

The cost savings to taxpayers, although indeterminate, may be significant. Criminologists estimate that steering just one high-risk delinquent teen away from a life of crime saves society \$3 million to \$6 million in reduced victim costs and criminal justice expenses, plus increased wages and tax payments over the young person's lifetime.²⁹

C. Government Sector Impact:

School districts that fail to meet performance expectations for two consecutive years or two out of three years would experience a reduction in revenue. High-performing school districts may experience a positive revenue impact.

Government cost savings, although indeterminate, may be significant. Youth are more likely to successfully return to their communities with educational success and meaningful workforce skills. When youth are successful, future crime and costly incarceration is prevented.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by the Education Pre-K – 12 Committee on December 6, 2011:

The committee substitute:

- Places authority to determine school district and private provider performance with the Department of Education, rather than the Department of Juvenile Justice;
- Adds occupational completion points as an acceptable youth outcome, provided the youth is placed in employment or continues his or her education to full industry certification;
- Adds academic progress in reading and mathematics as an outcome for high school age youth, provided that they continue their education upon release from the program;
- Removes student completion of comprehensive career exploration as a performance outcome;

²⁹ Missouri's current director of adult corrections credits their Department of Youth Services practices with saving the state millions of dollars by reducing the recidivism of juvenile offenders into adult prisons. See the Missouri Model, available at: www.aecf.org/~media/Pubs/.../MOModel/MO_Fullreport_webfinal.pdf.

- Requires that virtual education and workforce related counseling be made available to youth in education programs in juvenile justice facilities;
- Provides autonomy to private providers when selecting personnel, provided that they maintain high performing status; and
- Requires that an educational component be included in the transition plan developed during the youth's stay in a program and that the educational component drive decisions for youth when they are released.

B. Amendments:

None.

By the Committees on Education Pre-K - 12; and Education Pre-K - 12

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1 A bill to be entitled
2 An act relating to juvenile justice education and
3 workforce programs; amending s. 985.46, F.S.;
4 requiring that each juvenile committed to a juvenile
5 justice commitment program have a transition plan upon
6 release; requiring that the transition plan include an
7 education transition plan component and information
8 regarding delinquency treatment and intervention
9 services that are accessible upon exiting the program;
10 amending s. 985.618, F.S.; providing legislative
11 intent regarding juvenile justice education and
12 workforce-related programs; requiring that the
13 Department of Juvenile Justice verify that each
14 juvenile justice education program meets specified
15 minimum standards; requiring that the effectiveness of
16 the programs be determined by implementing systematic
17 data collection, data analysis, and evaluations;
18 requiring that the programs be evaluated based on
19 student performance outcomes; providing duties for the
20 department; requiring that an annual report be
21 submitted to the Governor and the Legislature by a
22 specified date; requiring that the department
23 collaborate with certain entities to adopt rules;
24 amending ss. 985.632 and 1001.42, F.S.; conforming
25 provisions to changes made by the act; conforming
26 cross-references; amending ss. 1002.20 and 1002.45,
27 F.S.; conforming cross-references; creating s.
28 1003.515, F.S.; providing a short title; providing
29 purposes of the Florida Juvenile Justice Education

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30 Act; providing responsibilities for school districts
31 and private providers contracted by school districts
32 to offer education services to youth in juvenile
33 justice education programs; requiring that each
34 juvenile justice education program involve the
35 regional workforce board or economic development
36 agency and local postsecondary institutions to
37 determine the occupational areas for the education and
38 workforce-related program; providing requirements for
39 education and workforce-related services in juvenile
40 justice programs; providing responsibilities for the
41 Department of Education; requiring that the department
42 identify school districts and private providers by
43 performance ratings; providing criteria for
44 determining performance ratings; requiring that the
45 department make available a common student assessment
46 to measure the academic progress in reading and
47 mathematics of youth in juvenile justice education
48 programs; requiring that school districts and private
49 providers be held accountable for student performance
50 outcomes; providing for program accountability;
51 requiring that a youth who exits the program attain an
52 industry certification, enroll in a program to
53 complete the industry certification, or enroll in and
54 continue his or her education based on a transition
55 plan; requiring that an education transition plan
56 component be incorporated in a youth's transition
57 plan; requiring that each school district and private
58 provider develop the education transition plan

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59 component during the course of the youth's stay in a
60 juvenile justice program; providing funding
61 requirements for the juvenile justice education
62 programs; prohibiting a district school board from
63 being charged rent, maintenance, utilities, or
64 overhead on facilities; requiring that the Department
65 of Juvenile Justice provide maintenance, repairs, and
66 remodeling of existing facilities; requiring that the
67 State Board of Education collaborate with the
68 Department of Juvenile Justice, the Department of
69 Economic Opportunity, school districts, and private
70 providers to adopt rules; repealing s. 1003.52, F.S.,
71 relating to educational services in Department of
72 Juvenile Justice programs; amending s. 1011.62, F.S.;
73 conforming a cross-reference; providing an effective
74 date.

75
76 Be It Enacted by the Legislature of the State of Florida:

77
78 Section 1. Subsection (6) is added to section 985.46,
79 Florida Statutes, to read:

80 985.46 Conditional release.—

81 (6) Each juvenile committed to a commitment program shall
82 have a transition plan upon release. Transition planning shall
83 begin for each juvenile upon placement in a commitment program
84 and shall result in an individual transition plan for each youth
85 before he or she is released. The transition plan shall be
86 developed with the participation of the youth, representatives
87 of the commitment program, school district personnel, and

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88 representatives of conditional release or postcommitment
89 probation programs, if appropriate. The transition plan shall
90 include an education transition plan component as provided in s.
91 1003.515(9), as well as information regarding pertinent
92 delinquency treatment and intervention services that are
93 accessible upon exiting the program.

94 (a) For a juvenile who is released on conditional release
95 or postcommitment probation status, the transition plan shall be
96 incorporated into the conditions of release.

97 (b) For a juvenile who is not released on conditional
98 release or postcommitment probation status, the transition plan
99 shall be explained to the youth and provided upon release, with
100 all necessary referrals having been made at least 30 days before
101 the youth exits the program.

102 (c) For a juvenile who participates in a day treatment
103 program, the transition plan shall be explained to the youth and
104 provided upon release. For a juvenile who participates in a day
105 treatment program and who is released on conditional release or
106 postcommitment probation status, the transition plan shall be
107 incorporated into the conditions of release.

108 Section 2. Section 985.618, Florida Statutes, is amended to
109 read:

110 (Substantial rewording of section. See
111 s. 985.618, F.S., for present text.)

112 985.618 Education and workforce-related programs.—

113 (1) The Legislature intends for youth in juvenile justice
114 programs to be provided a quality education that includes
115 workforce-related skills that lead to continuing education or
116 meaningful employment, or both, and that results in reduced

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117 rates of recidivism.

118 (2) The department shall verify that each juvenile justice
119 education program, at a minimum:

120 (a) Uses virtual course offerings that maximize learning
121 opportunities for adjudicated youth.

122 (b) Uses virtual counseling to address the educational and
123 workforce needs of adjudicated youth.

124 (c) Provides instruction from individuals who hold industry
125 credentials in the occupational area in which they teach.

126 (d) Provides instruction during evenings and weekends.

127 (e) Considers, before placement, the age, interests, prior
128 education, training, work experience, emotional and mental
129 abilities, and physical capabilities of the youth and the
130 duration of the term of placement imposed.

131 (f) Expends funds in a manner that directly supports the
132 attainment of successful student outcomes as specified in s.
133 1003.515(6) and that allows youth to engage in real work
134 situations whenever possible.

135 (3)(a) Program effectiveness shall be determined by
136 implementing systematic data collection, data analysis, and
137 education and workforce-related program evaluations pursuant to
138 ss. 985.632 and 1003.515.

139 (b) The evaluation of juvenile justice education and
140 workforce-related programs shall be based on the performance
141 outcomes provided in s. 1003.515(6).

142 (4) The department shall:

143 (a) Monitor the education performance of youth in juvenile
144 justice facilities.

145 (b) Prohibit school districts or private providers that

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146 have failing performance ratings from delivering the education
147 services as provided in s. 1003.515(7).

148 (c) Verify that a school district enters into a contract
149 with a high-performing school district or provider pursuant to
150 s. 1003.515(7) to deliver education services.

151 (5) The department, in collaboration with the Department of
152 Education and in consultation with the school districts and
153 private juvenile justice education program providers, shall
154 prepare an annual report containing the education performance
155 outcomes, based on the criteria in s. 1003.515(6), of youth in
156 juvenile justice education programs. The report shall delineate
157 the performance outcomes of youth in the state, in each school
158 district, and by each private provider, including the
159 performance outcomes of all major student populations and
160 genders, as determined by the Department of Juvenile Justice.
161 The report shall address the use and successful completion of
162 virtual instruction courses and the successful implementation of
163 transition and reintegration plans. The report must include an
164 analysis of the performance of youth over time, including, but
165 not limited to, additional education attainment, employment,
166 earnings, industry certification, and rates of recidivism. The
167 report must also include recommendations for improving
168 performance outcomes and for additional cost savings and
169 efficiencies. The report shall be submitted to the Governor, the
170 President of the Senate, and the Speaker of the House of
171 Representatives by December 31, 2013, and each year thereafter.

172 (6) The department shall collaborate with the Department of
173 Education, the Department of Economic Opportunity, school
174 districts, and private providers to adopt rules to administer

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175 this section.

176 Section 3. Subsection (3) of section 985.632, Florida
177 Statutes, is amended to read:

178 985.632 Quality assurance and cost-effectiveness.—

179 (3) The department shall annually collect and report cost
180 data for every program operated by the department or its
181 contracted provider ~~or contracted by the department~~. The cost
182 data shall conform to a format approved by the department and
183 the Legislature. Uniform cost data shall be reported and
184 collected for each education program operated by a school
185 district or private provider contracted by a school district
186 ~~state-operated and contracted programs~~ so that comparisons can
187 be made among programs. The Department of Education shall ensure
188 that there is accurate cost accounting for education programs
189 operated by school districts and private providers, ~~state-~~
190 ~~operated services~~ including market-equivalent rent and other
191 shared costs ~~cost~~. The cost of the education ~~educational~~ program
192 ~~provided to a residential facility~~ shall be reported and
193 included in the cost of a program. The Department of Education
194 shall submit ~~an~~ annual cost data report to the department
195 ~~President of the Senate, the Speaker of the House of~~
196 ~~Representatives, the Minority Leader of each house of the~~
197 ~~Legislature, the appropriate substantive and fiscal committees~~
198 ~~of each house of the Legislature, and the Governor, no later~~
199 ~~than December 1 of each year.~~ The annual cost data shall be
200 included in the annual report required under s. 985.618(5).
201 Cost-benefit analysis for juvenile justice education ~~educational~~
202 programs shall ~~will~~ be developed and implemented in
203 collaboration with and in cooperation with the Department of

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Education, local providers, and local school districts. ~~Cost~~
~~data for the report shall include data collected by the~~
~~Department of Education for the purposes of preparing the annual~~
~~report required by s. 1003.52(19).~~

Section 4. Paragraph (b) of subsection (18) of section
1001.42, Florida Statutes, is amended to read:

1001.42 Powers and duties of district school board.—The
district school board, acting as a board, shall exercise all
powers and perform all duties listed below:

(18) IMPLEMENT SCHOOL IMPROVEMENT AND ACCOUNTABILITY.—
Maintain a state system of school improvement and education
accountability as provided by statute and State Board of
Education rule. This system of school improvement and education
accountability shall be consistent with, and implemented
through, the district's continuing system of planning and
budgeting required by this section and ss. 1008.385, 1010.01,
and 1011.01. This system of school improvement and education
accountability shall comply with the provisions of ss. 1008.33,
1008.34, 1008.345, and 1008.385 and include the following:

(b) *Public disclosure.*—The district school board shall
provide information regarding the performance of students in ~~and~~
education ~~educational~~ programs as required pursuant to ss.
1008.22 and 1008.385 and implement a system of school reports as
required by statute and State Board of Education rule which
shall include schools operating for the purpose of providing
education ~~educational~~ services to youth in juvenile justice
education ~~Department of Juvenile Justice~~ programs, and for those
programs ~~schools~~, report on the data and education outcomes
~~elements~~ specified in s. 1003.515(6) ~~1003.52(19)~~. Annual public

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disclosure reports shall be in an easy-to-read report card format and shall include the school's grade, high school graduation rate calculated without GED tests, disaggregated by student ethnicity, and performance data as specified in state board rule.

Section 5. Subsection (20) of section 1002.20, Florida Statutes, is amended to read:

1002.20 K-12 student and parent rights.—Parents of public school students must receive accurate and timely information regarding their child's academic progress and must be informed of ways they can help their child to succeed in school. K-12 students and their parents are afforded numerous statutory rights including, but not limited to, the following:

(20) JUVENILE JUSTICE PROGRAMS.—Students who are in juvenile justice programs have the right to receive educational programs and services in accordance with the provisions of s. 1003.515 ~~1003.52~~.

Section 6. Paragraph (b) of subsection (1) of section 1002.45, Florida Statutes, is amended to read:

1002.45 Virtual instruction programs.—

(1) PROGRAM.—

(b) Each school district that is eligible for the sparsity supplement pursuant to s. 1011.62(7) shall provide all enrolled public school students within its boundaries the option of participating in part-time and full-time virtual instruction programs. Each school district that is not eligible for the sparsity supplement shall provide at least three options for part-time and full-time virtual instruction. All school districts must provide parents with timely written notification

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of an open enrollment period for full-time students of at least 90 days that ends no later than 30 days prior to the first day of the school year. The purpose of the program is to make quality virtual instruction available to students using online and distance learning technology in the nontraditional classroom. A school district virtual instruction program shall provide the following:

1. Full-time virtual instruction for students enrolled in kindergarten through grade 12.

2. Part-time virtual instruction for students enrolled in grades 9 through 12 courses that are measured pursuant to subparagraph (8)(a)2.

3. Full-time or part-time virtual instruction for students enrolled in dropout prevention and academic intervention programs under s. 1003.53, Department of Juvenile Justice education programs under s. 1003.515 ~~1003.52~~, core-curricula courses to meet class size requirements under s. 1003.03, or Florida College System institutions under this section.

Section 7. Section 1003.515, Florida Statutes, is created to read:

1003.515 The Florida Juvenile Justice Education Act.—

(1) SHORT TITLE.—This section may be cited as the “Florida Juvenile Justice Education Act.”

(2) LEGISLATIVE FINDING.—The Legislature finds that an education is the single most important factor in the rehabilitation of adjudicated youth who are in Department of Juvenile Justice programs.

(3) PURPOSES.—The purposes of this section are to:

(a) Provide performance-based outcome measures and

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291 accountability for juvenile justice education programs; and

292 (b) Improve academic and workforce-related outcomes so that
293 adjudicated and at-risk youth may successfully complete the
294 transition to and reenter the academic and workforce
295 environments.

296 (4) SCHOOL DISTRICT AND CONTRACTED EDUCATION PROVIDER
297 RESPONSIBILITIES.—

298 (a) A school district or private provider contracted by a
299 school district to offer education services to youth in a
300 juvenile justice education program shall:

301 1. Provide rigorous and relevant academic and workforce-
302 related curricula that will lead to industry certifications in
303 an occupational area of high demand identified in the Industry
304 Certification Funding list adopted by the State Board of
305 Education, or articulate to secondary or postsecondary-level
306 coursework, as appropriate.

307 2. Support state, local, and regional economic development
308 demands.

309 3. Make high-wage and high-demand careers more accessible
310 to adjudicated and at-risk youth.

311 4. Reduce rates of recidivism for adjudicated youth.

312 5. Provide access to the appropriate courses and
313 instruction to prepare youth for a standard high school diploma
314 or the GED examination, as appropriate.

315 6. Provide access to virtual education courses that are
316 appropriate to meet the requirements of academic or workforce-
317 related programs and the requirements for continuing education
318 specified in the youth's transition and postrelease plans.

319 7. Provide opportunities for earning credits toward high

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320 school graduation or credits that articulate to postsecondary
321 education institutions while the youth are in residential and
322 nonresidential juvenile justice facilities.

323 8. Ensure that the credits and partial credits earned by
324 youth are transferred and included in the youth's records as
325 part of the transition plan.

326 9. Ensure that the education program consists of the
327 appropriate academic, workforce-related, or exceptional
328 education curricula and related services that directly support
329 performance outcomes, which must be specified in each youth's
330 transition plan as required by subsection (9).

331 10. If the duration of a youth's stay in a program is less
332 than 40 days, ensure that the youth continues his or her
333 education or workforce-related training that leads to industry
334 certification in an occupational area of high demand.

335 11. Maintain an academic record for each youth who is
336 enrolled in a juvenile justice facility, as required by s.
337 1003.51, and ensure that the coursework, credits, partial
338 credits, occupational completion points, and industry
339 certifications earned by the youth are transferred and included
340 in the youth's transition plan pursuant to s. 985.46.

341 (b) Each school district and private provider shall ensure
342 that the following youth participate in the program:

343 1. Youth who are of compulsory school attendance age
344 pursuant to s. 1003.21.

345 2. Youth who are not of compulsory school attendance age
346 and who have not received a high school diploma or its
347 equivalent, if the youth is in a juvenile justice facility. Such
348 youth must participate in a workforce-related education program

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that leads to industry certification in an occupational area of high demand or job placement earning full-time wages.

3. Youth who have attained a high school diploma or its equivalent and who are not employed. Such youth must participate in a workforce-related education program that leads to industry certification in an occupational area of high demand or gainful employment earning full-time wages.

(5) PROGRAM REQUIREMENTS.—In compliance with the strategic 5-year plan under s. 1003.491, each juvenile justice education program shall, in collaboration with the regional workforce board or economic development agency and local postsecondary institutions, determine the appropriate occupational areas for the program. Juvenile justice education programs must:

(a) Ensure that rigorous academic and workforce-related coursework is offered and meets or exceeds appropriate state-approved subject area standards, and results in the attainment of industry certification and postsecondary credit, when appropriate;

(b) Ensure workforce-related instruction by industry-certified faculty;

(c) Maximize the use of private sector personnel;

(d) Use strategies to maximize the delivery of virtual instruction;

(e) Maximize instructional efficiency for youth in juvenile justice facilities;

(f) Provide opportunities for youth to earn weighted or dual enrollment credit for higher-level courses, when appropriate;

(g) Promote credit recovery; and

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378 (h) Provide instruction that results in competency,
379 certification, or credentials in workplace skills, including,
380 but not limited to, communication skills, interpersonal skills,
381 decisionmaking skills, work ethic, and the importance of
382 attendance and timeliness in the work environment.

383 (6) DEPARTMENT RESPONSIBILITIES.—

384 (a) The Department of Education shall identify school
385 districts and private providers as having one of the following
386 performance ratings as defined by State Board of Education rule:

387 1. High performance.

388 2. Adequate performance.

389 3. Failing performance.

390 (b) The department shall consider the level of rigor
391 associated with the attainment of a particular outcome when
392 assigning weight to the outcome. The department shall use the
393 following criteria in determining a school district's or private
394 provider's performance rating:

395 1. One or more of the following outcomes for a youth who is
396 middle school age or younger:

397 a. Attaining an industry certification in an occupational
398 area of high demand identified in the Industry Certification
399 Funding list adopted by the State Board of Education, if
400 available and appropriate, and participating in continuing
401 education upon release from a juvenile justice facility.

402 b. Attaining occupational completion points in an
403 occupational area of high demand identified in the Industry
404 Certification Funding list adopted by the State Board of
405 Education and participating in continuing education upon release
406 from a juvenile justice facility.

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407 c. Completing secondary coursework and participating in
408 continuing education upon release from a juvenile justice
409 facility.

410 d. Achieving academic progress in reading and mathematics,
411 as measured by the statewide common assessment adopted by the
412 department for use in juvenile justice education programs, and
413 participating in continuing education upon release from a
414 juvenile justice facility.

415 2. One or more of the following outcomes for a youth who is
416 high school age:

417 a. Achieving academic progress in reading and mathematics,
418 as measured by the statewide common assessment adopted by the
419 department for use in juvenile justice education programs, and
420 participating in continuing education upon release from a
421 juvenile justice facility.

422 b. Earning secondary or postsecondary credit upon release
423 from a juvenile justice facility and participating in continuing
424 education upon release from a juvenile justice facility.

425 c. Attaining a high school diploma or its equivalent and
426 participating in continuing education at the postsecondary level
427 upon release from a juvenile justice facility.

428 d. Attaining a high school diploma or its equivalent and
429 obtaining job placement or self-employment in a position earning
430 full-time wages.

431 e. Attaining an industry certification in an occupational
432 area of high demand identified in the Industry Certification
433 Funding list adopted by the State Board of Education and
434 attaining job placement or self-employment earning full-time
435 wages in a position for which the student attained an industry

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certification.

f. Attaining occupational completion points in an occupational area of high demand identified in the Industry Certification Funding list adopted by the State Board of Education and job placement or self-employment in a position earning full-time wages.

g. Attaining occupational completion points in an occupational area of high demand identified in the Industry Certification Funding list adopted by the State Board of Education and participation in continuing education in order to complete the industry certification in that occupation.

(c) By September 1, 2012, the department shall make available a common student assessment to measure the academic progress in reading and mathematics of youth who are assigned to juvenile justice education programs.

For purposes of performance ratings, school districts and private providers shall be held accountable for the performance outcomes of youth until they are released from supervision by the Department of Juvenile Justice. This subsection does not abrogate the provisions of s. 1002.22 which relate to education records or the requirements of 20 U.S.C. s. 1232g, the Family Educational Rights and Privacy Act.

(7) PROGRAM ACCOUNTABILITY.—

(a) If a school district or private provider earns two consecutive failing performance ratings or two failing performance ratings in any 3-year period, as provided in subsection (6), the school district shall enter into a contract with a school district or private provider that has a high-

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465 performance rating to deliver the education services to the
466 youth in the program. The Department of Juvenile Justice may use
467 its statutory authority to sanction or prohibit a private
468 provider from delivering education services to youth under the
469 department's supervision due to noneducation reasons.

470 (b) Except as provided in paragraph (a), the school
471 district of the county in which the residential or
472 nonresidential care facility or juvenile assessment facility is
473 located shall deliver education services to youth in Department
474 of Juvenile Justice programs. A school district may enter into a
475 contract with a private provider to deliver the education
476 services in lieu of directly providing the education services.
477 The contract shall include performance criteria as provided in
478 subsection (6).

479 (c) When determining educational placement for youth who
480 enroll in a school district upon release, the school district
481 must consult with the lead educator of the juvenile justice
482 program to which the youth was last assigned and adhere to the
483 transition plan established under s. 985.46(6).

484 (d) If a private provider under contract with a school
485 district maintains a high-performance rating pursuant to
486 subsection (6), the school district may not require a private
487 provider to use the school district's personnel or require
488 qualifications of private provider personnel beyond those that
489 are necessary to protect the health, safety, and welfare of the
490 students, as determined by the Department of Juvenile Justice.

491 (e) Each school district must provide juvenile justice
492 education programs access to substitute classroom teachers used
493 by the school district.

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494 (8) EXITING PROGRAM.—Upon exiting a program, a youth must:

495 (a) Attain an industry certification in an occupational
496 area of high demand identified in the Industry Certification
497 Funding list adopted by the State Board of Education;

498 (b) Enroll in a program to complete the industry
499 certification;

500 (c) Be gainfully employed and earning full-time wages; or

501 (d) Enroll in and continue his or her education based on
502 the transition and postrelease plan provided in s. 958.46.

503 (9) EDUCATION TRANSITION PLAN COMPONENT.—

504 (a) The education transition plan component shall be
505 incorporated in the transition plan pursuant to s. 985.46(6).

506 (b) Each school district and private provider must develop
507 an education transition plan component during the course of a
508 youth's stay in a juvenile justice program which coordinates
509 academic and workforce services and assists the youth in
510 successful community reintegration upon the youth's release.

511 (c) The development of the education transition plan
512 component shall begin upon a youth's placement in the program.
513 The education transition plan component must include the
514 academic and workforce services to be provided during the
515 program stay and the establishment of services to be implemented
516 upon release. The appropriate personnel in the juvenile justice
517 education program, members of the community, the youth, and the
518 youth's family, when appropriate, shall collaborate to develop
519 the education transition plan component.

520 (d) Education planning for reintegration shall begin when
521 placement decisions are made and continue throughout the youth's
522 stay in order to provide for continuing education, job

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523 placement, and other necessary services. Individuals who are
524 responsible for reintegration shall coordinate activities to
525 ensure that the education transition plan component is
526 successfully implemented and a youth is provided access to
527 support services that will sustain the youth's success once he
528 or she is no longer under the supervision of the Department of
529 Juvenile Justice. The education transition plan component must
530 provide for continuing education, workforce development, or
531 meaningful job placement pursuant to the performance outcomes in
532 subsection (6). For purposes of this section, the term
533 "reintegration" means the process by which a youth returns to
534 the community following release from a juvenile justice program.

535 (10) FUNDING.—

536 (a) Youth who are participating in GED preparation programs
537 while under the supervision of the Department of Juvenile
538 Justice shall be funded at the basic program cost factor for
539 juvenile justice programs in the Florida Education Finance
540 Program (FEFP). Juvenile justice education programs shall be
541 funded in the appropriate FEFP program based on the education
542 services needed by the students in the programs pursuant to s.
543 1011.62.

544 (b) Juvenile justice education programs operated through a
545 contract with the Department of Juvenile Justice and under the
546 purview of the department's quality assurance standards and
547 performance outcomes shall receive the appropriate FEFP funding
548 for juvenile justice programs.

549 (c) A district school board shall fund the education
550 program in a juvenile justice facility at the same or higher
551 level of funding for equivalent students in the district school

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552 system based on the funds generated through the FEFP and funds
553 allocated from federal programs.

554 (d) Consistent with the rules of the State Board of
555 Education, district school boards shall request an alternative
556 full-time equivalent (FTE) survey for juvenile justice programs
557 experiencing fluctuations in student enrollment.

558 (e) The State Board of Education shall prescribe rules
559 relating to FTE count periods which must be the same for
560 juvenile justice programs and other public school programs. The
561 summer school period for students in juvenile justice programs
562 shall begin on the day immediately preceding the subsequent
563 regular school year. Students may be funded for no more than 25
564 hours per week of direct instruction; however, students shall be
565 provided access to virtual instruction in order to maximize the
566 most efficient use of time.

567 (11) FACILITIES.—The district school board may not be
568 charged any rent, maintenance, utilities, or overhead on the
569 facilities. Maintenance, repairs, and remodeling of existing
570 facilities shall be provided by the Department of Juvenile
571 Justice.

572 (12) RULEMAKING.—The State Board of Education shall
573 collaborate with the Department of Juvenile Justice, the
574 Department of Economic Opportunity, school districts, and
575 private providers to adopt rules pursuant to ss. 120.536(1) and
576 120.54 to administer this section.

577 Section 8. Section 1003.52, Florida Statutes, is repealed.

578 Section 9. Paragraph (f) of subsection (1) of section
579 1011.62, Florida Statutes, is amended to read:

580 1011.62 Funds for operation of schools.—If the annual

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581 allocation from the Florida Education Finance Program to each
582 district for operation of schools is not determined in the
583 annual appropriations act or the substantive bill implementing
584 the annual appropriations act, it shall be determined as
585 follows:

586 (1) COMPUTATION OF THE BASIC AMOUNT TO BE INCLUDED FOR
587 OPERATION.—The following procedure shall be followed in
588 determining the annual allocation to each district for
589 operation:

590 (f) *Supplemental academic instruction; categorical fund.*—

591 1. There is created a categorical fund to provide
592 supplemental academic instruction to students in kindergarten
593 through grade 12. This paragraph may be cited as the
594 "Supplemental Academic Instruction Categorical Fund."

595 2. Categorical funds for supplemental academic instruction
596 shall be allocated annually to each school district in the
597 amount provided in the General Appropriations Act. These funds
598 shall be in addition to the funds appropriated on the basis of
599 FTE student membership in the Florida Education Finance Program
600 and shall be included in the total potential funds of each
601 district. These funds shall be used to provide supplemental
602 academic instruction to students enrolled in the K-12 program.
603 Supplemental instruction strategies may include, but are not
604 limited to: modified curriculum, reading instruction, after-
605 school instruction, tutoring, mentoring, class size reduction,
606 extended school year, intensive skills development in summer
607 school, and other methods for improving student achievement.
608 Supplemental instruction may be provided to a student in any
609 manner and at any time during or beyond the regular 180-day term

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identified by the school as being the most effective and efficient way to best help that student progress from grade to grade and to graduate.

3. Effective with the 1999-2000 fiscal year, funding on the basis of FTE membership beyond the 180-day regular term shall be provided in the FEFP only for students enrolled in juvenile justice education programs or in education programs for juveniles placed in secure facilities or programs under s. 985.19. Funding for instruction beyond the regular 180-day school year for all other K-12 students shall be provided through the supplemental academic instruction categorical fund and other state, federal, and local fund sources with ample flexibility for schools to provide supplemental instruction to assist students in progressing from grade to grade and graduating.

4. The Florida State University School, as a lab school, is authorized to expend from its FEFP or Lottery Enhancement Trust Fund allocation the cost to the student of remediation in reading, writing, or mathematics for any graduate who requires remediation at a postsecondary educational institution.

5. ~~Beginning in the 1999-2000 school year,~~ Dropout prevention programs as defined in ss. 1003.515 ~~1003.52~~, 1003.53(1)(a), (b), and (c), and 1003.54 shall be included in group 1 programs under subparagraph (d)3.

Section 10. This act shall take effect upon becoming a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/SB 950

INTRODUCER: Criminal Justice Committee and Senators Simmons and Storms

SUBJECT: Stalking & Aggravated Stalking

DATE: January 19, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	Fav/CS
2.			JU	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="checked" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill amends the stalking statute, s. 784.048, F.S., by revising certain stalking definitions, primarily the definition of “credible threat.” It establishes a cause of action for an injunction for protection against stalking and cyberstalking, provides procedures and protections for obtaining a temporary or final injunction against stalking or cyberstalking (generally the same as exists for a domestic violence or repeat violence injunction), provides a first degree misdemeanor penalty for violating an injunction against stalking or cyberstalking (same as exists for a domestic violence or repeat violence injunction), and requires the court to consider issuing an injunction restraining a defendant from victim contact for up to ten years.

This bill substantially amends section 784.048 and creates sections 784.0485 and 784.0487 of the Florida Statutes.

II. Present Situation:

Stalking

Section 784.048, F.S., criminalizes the offense of stalking and aggravated stalking. Stalking is a first degree misdemeanor, punishable by serving up to one year in county jail and potentially paying up to a \$1,000 fine. Stalking is committed when a person willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person.¹

Aggravated stalking is a third degree felony, punishable by serving up to five years in prison and potentially paying up to a \$5,000 fine. There are four aggravated stalking offenses as follows. Willful, malicious, and repeated following, harassing, or cyberstalking a person while making a credible threat with the intent to place that person in reasonable fear of death or bodily injury for himself, his child, sibling, spouse, parent, or dependent is the first enumerated aggravated stalking offense in the statute.²

The second aggravated stalking offense occurs when a person, after an injunction for protection against repeat violence, sexual violence, dating violence, domestic violence, or any other court imposed prohibition of conduct toward the subject person or his property, knowingly, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks that person.³

The third aggravated stalking offense occurs when a person willfully, maliciously, and repeatedly follows, harasses, or cyberstalks a minor under 16 years of age.⁴ The last enumerated offense occurs when a person has been sentenced for sexual battery, a lewd or lascivious offense, or lewd or lascivious exhibition via computer transmission and has been issued a no contact order under s. 921.244, F.S., willfully, maliciously, and repeatedly follows, harasses, or cyberstalks the victim.⁵

The stalking law provides the following definitions. It defines “harass” as “engaging in a course of conduct directed at a specific person that causes substantial emotional distress and serves no legitimate purpose.”⁶ “Course of conduct” is defined as a “pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose.”⁷

“Credible threat” means it is made with the intent to cause the targeted person to reasonably fear for his or her safety. It must also be made against the life of, or threat to cause bodily injury to a person.”⁸ Lastly, “cyberstalk” is defined to mean engaging in a course of conduct to communicate through words or images by electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.⁹

¹ Section 784.048(2), F.S.

² Section 784.048(3), F.S.

³ Section 784.048(4), F.S.

⁴ Section 784.048(5), F.S.

⁵ Section 784.048(7), F.S.

⁶ Section 784.048(1), F.S.

⁷ Section 784.048(1)(b), F.S.

⁸ Section 784.048(1)(c), F.S.

⁹ Section 784.048(1)(d), F.S.

In 1995, the constitutionality of Florida's stalking statute was upheld by the Florida Supreme Court against an overbreadth and vagueness challenge.¹⁰

Injunctions for Protection against Domestic Violence, Repeat Violence, Sexual Violence, or Dating Violence

A victim of domestic violence¹¹ or a person who has reasonable cause to believe that he or she is in imminent danger of becoming a victim of domestic violence may seek protective injunctive relief.¹² In seeking protective injunctive relief, a person must file a sworn petition with the court that alleges the existence of domestic violence and includes specific facts and circumstances upon which relief is sought.¹³ The court must set a hearing at the earliest possible time after a petition is filed.¹⁴ The respondent must be personally served with a copy of the petition, financial affidavit, Uniform Child Custody Jurisdiction and Enforcement Act affidavit, if any, notice of hearing, and any temporary injunction that has been issued.¹⁵ The court can enforce a violation of an injunction through a civil or criminal contempt proceeding, or the state attorney may prosecute it as a first degree misdemeanor under s. 741.31, F.S.¹⁶ Either party may move the court to modify or dissolve an injunction at any time.¹⁷

Section 784.046, F.S., governs the issuance of injunctions for protection against repeat violence,¹⁸ dating violence,¹⁹ and sexual violence.²⁰ This statute basically parallels the provisions discussed above in the domestic violence law.

¹⁰ *Bouters v. State*, 659 So.2d 235 (1995), *cert.denied*, 116 S.Ct. 245, 516 U.S. 894, 133 L.Ed.2d 171.

¹¹ **Domestic violence** is defined as “any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, **stalking, aggravated stalking**, kidnapping, false imprisonment, or any criminal offense **resulting in physical injury or death of one family or household member by another family or household member**.” Section 741.28(2), F.S.

¹² Section 741.30(1), F.S.

¹³ Section 741.30(3), F.S.

¹⁴ Section 741.30(4), F.S.

¹⁵ *Id.* When an immediate and present danger of domestic violence exists, the court may grant a temporary injunction ex parte, pending a full hearing. Section 741.30(5), F.S.

¹⁶ Section 741.30(9), F.S.

¹⁷ Section 741.30(10), F.S.

¹⁸ Section 784.046(1)(a), F.S., defines **violence** as “any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, **stalking, aggravated stalking**, kidnapping, or false imprisonment, or any criminal offense **resulting in physical injury or death**, by a person against any other person.” Section 784.046(1)(b), F.S., defines **repeat violence** as “**two incidents of violence or stalking** committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner’s immediate family member.”

¹⁹ Dating violence is defined as “violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature.” The following factors come into play when determining the existence of such a relationship: (1) a dating relationship must have existed within the past six months; (2) the nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and (3) the persons involved in the relationship must have been involved over time and on a continuous basis during the course of the relationship. Dating violence does not include violence in a casual acquaintanceship or between individuals who have only engaged in ordinary fraternization. Section 784.046(1)(d), F.S.

²⁰ Sexual violence is defined as any one incident of “1. Sexual battery, as defined in chapter 794; 2. A lewd or lascivious act, as defined in chapter 800, committed upon or in the presence of a person younger than 16 years of age; 3. Luring or enticing a child, as described in chapter 787; 4. Sexual performance by a child, as described in chapter 827; or 5. Any other forcible felony wherein a sexual act is committed or attempted.” For purposes of this definition, it does not matter whether criminal charges based on the incident were filed, reduced, or dismissed by the state attorney. Section 784.046(1)(c), F.S.

Currently, a statutory cause of action does not exist specifically for an injunction for protection against stalking or cyberstalking. A person desiring such an injunction must pursue injunction relief through the domestic violence injunction statute or the repeat violence injunction statute as outlined above. The domestic violence definition requires "...stalking or aggravated stalking resulting in physical injury or death of one family or household member by another member."²¹ Similarly, the violence definition in the repeat violence statute requires "...stalking or aggravated stalking resulting in physical injury or death by one person against any other person."²² The repeat violence definition requires "...two incidents of stalking, one being within six months of the petition's filing, which are directed against the petitioner or an immediate family member."²³

III. Effect of Proposed Changes:

The bill amends the stalking statute, s. 784.048, F.S., by revising some of the stalking definitions, primarily the definition of "credible threat." It establishes a cause of action for an injunction for protection against stalking and cyberstalking, provides procedures and protections for obtaining a temporary or final injunction against stalking or cyberstalking (generally the same as exists for a domestic violence or repeat violence injunction), provides a first degree misdemeanor penalty for violating an injunction against stalking or cyberstalking (same as exists for a domestic violence or repeat violence injunction), and requires the court to consider issuing an injunction restraining a defendant from victim contact for up to ten years.

Stalking

The substantive changes to the definitions in the stalking statute largely consist of the revised definition of "credible threat." Under the bill, it means a "verbal or nonverbal threat (including one delivered by electronic communication), which places the targeted person in reasonable fear of his safety or that of his immediate family or household member, and made with the apparent ability to carry it out." However, it is not necessary to prove that the person making the threat had the intent to actually carry it out.

Additionally, the bill deletes the current language requiring that the credible threat be against the life of, or a threat to cause bodily injury to, a person. These changes should make it easier to establish aggravated stalking when a person willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another and makes a credible threat against that person.

The bill also provides a definition of "immediate family" to include a person's spouse, parent, child, grandparent, or sibling. "Household member" is defined as provided in the domestic violence statute to include spouses, former spouses, persons related by blood or marriage, persons presently residing together (or have in the past), or persons who have a child in common.

Injunctions for No Contact and for Protection Against Stalking and Cyberstalking

The bill requires the sentencing court to consider issuing an injunction restraining the defendant from any victim contact for up to ten years. The length of this restraining injunction is intended

²¹ See *supra* note 11.

²² See *supra* note 18.

²³ *Id.*

to be based upon the seriousness of the case facts, the probability of future violations, and the victim's safety. The court may issue the injunction regardless of whether the defendant is in prison, county jail, or on probation.

The bill also creates a statutory cause of action for an injunction for protection against stalking and cyberstalking, similar to the current causes of action for injunctions against domestic violence, repeat violence, sexual violence, and dating violence. The new cause of action, however, does not include a requirement that physical injury or death be involved. The bill allows a stalking victim to file a sworn petition for an injunction for protection against stalking or cyberstalking in circuit court.

The petition for protection must allege the incidents of stalking or cyberstalking and include specific facts and circumstances upon which relief is sought. The court may not require the petitioner to file a bond upon the issuance of the injunction, nor pay a filing fee. The clerk of the court must provide the petitioner with a certified copy of any protective injunction against stalking entered by the court.

Generally speaking, the bill provides procedures and protections for obtaining a temporary or final injunction against stalking or cyberstalking as currently exists for a domestic violence or repeat violence injunction. It also provides a first degree misdemeanor penalty for violating an injunction against stalking or cyberstalking, similar to the current criminal penalty that exists for violating a domestic violence or repeat violence injunction.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Violating an injunction against stalking or cyberstalking could potentially subject a person to a first degree misdemeanor penalty of serving up to one year in jail and paying up to \$1,000 in a fine.

C. Government Sector Impact:

Although there is no prison bed impact under the CS because the enhanced criminal penalties for aggravated stalking were deleted, there may be some fiscal impact upon local jails because violators of stalking injunctions can be incarcerated for up to one year in jail.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on January 19, 2012:**

- Deletes the enhanced criminal penalties for aggravated stalking and the conforming changes to the Criminal Punishment Code;
- Deletes mandatory attendance at a batterers' intervention program;
- Provides procedures and protections for obtaining a temporary or final injunction against stalking or cyberstalking (generally the same as exists for a domestic violence or repeat violence injunction); and
- Provides a first degree misdemeanor penalty for violating an injunction against stalking or cyberstalking (same as exists for a domestic violence or repeat violence injunction).

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2012	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 784.048, Florida Statutes, is amended to
read:

784.048 Stalking; definitions; penalties.—

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

(a) "Harass" means to engage in a course of conduct
directed at a specific person which ~~that~~ causes substantial
emotional distress to that ~~in such~~ person and serves no



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legitimate purpose.

(b) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidence evidencing a continuity of purpose. The term does not include constitutionally protected activity such as is not included within the meaning of "course of conduct." Such ~~constitutionally protected activity includes~~ picketing or other organized protests.

(c) "Credible threat" means a verbal or nonverbal threat, including a threat delivered by electronic communication or a threat implied by a pattern of conduct, or a combination of the two, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her immediate family or household member, as defined in s. 741.28, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section ~~made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause bodily injury to, a person.~~

(d) "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.



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42 (e) "Immediate family" means a person's spouse, parent,
43 child, grandparent, or sibling.

44 (2) A ~~Any~~ person who willfully, maliciously, and repeatedly
45 follows, harasses, or cyberstalks another person commits the
46 offense of stalking, a misdemeanor of the first degree,
47 punishable as provided in s. 775.082 or s. 775.083.

48 (3) A ~~Any~~ person who willfully, maliciously, and repeatedly
49 follows, harasses, or cyberstalks another person, ~~and makes a~~
50 ~~credible threat to that person with the intent to place that~~
51 ~~person in reasonable fear of death or bodily injury of the~~
52 ~~person, or the person's child, sibling, spouse, parent, or~~
53 ~~dependent,~~ commits the offense of aggravated stalking, a felony
54 of the third degree, punishable as provided in s. 775.082, s.
55 775.083, or s. 775.084.

56 (4) A ~~Any~~ person who, after an injunction for protection
57 against repeat violence, sexual violence, or dating violence
58 pursuant to s. 784.046, or an injunction for protection against
59 domestic violence pursuant to s. 741.30, or after any other
60 court-imposed prohibition of conduct toward the subject person
61 or that person's property, knowingly, willfully, maliciously,
62 and repeatedly follows, harasses, or cyberstalks another person
63 commits the offense of aggravated stalking, a felony of the
64 third degree, punishable as provided in s. 775.082, s. 775.083,
65 or s. 775.084.

66 (5) A ~~Any~~ person who willfully, maliciously, and repeatedly
67 follows, harasses, or cyberstalks a child ~~minor~~ under 16 years
68 of age commits the offense of aggravated stalking, a felony of
69 the third degree, punishable as provided in s. 775.082, s.
70 775.083, or s. 775.084.



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71 (6) A ~~Any~~ law enforcement officer may arrest, without a
72 warrant, any person that he or she has probable cause to believe
73 has violated ~~the provisions of~~ this section.

74 (7) A ~~Any~~ person who, after having been sentenced for a
75 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and
76 prohibited from contacting the victim of the offense under s.
77 921.244, willfully, maliciously, and repeatedly follows,
78 harasses, or cyberstalks the victim commits the offense of
79 aggravated stalking, a felony of the third degree, punishable as
80 provided in s. 775.082, s. 775.083, or s. 775.084.

81 (8) The punishment imposed under this section shall run
82 consecutive to any former sentence imposed for a conviction for
83 any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

84 (9) (a) The sentencing court shall consider, as a part of
85 any sentence, issuing an injunction restraining the defendant
86 from any contact with the victim, which may be valid for up to
87 10 years, as determined by the court. It is the intent of the
88 Legislature that the length of any such restraining order be
89 based upon the seriousness of the facts before the court, the
90 probability of future violations by the perpetrator, and the
91 safety of the victim and his or her immediate family.

92 (b) The injunction may be issued by the court even if the
93 defendant is sentenced to a state prison or a county jail or
94 even if the imposition of the sentence is suspended and the
95 defendant is placed on probation.

96 Section 2. Section 784.0485, Florida Statutes, is created
97 to read:

98 784.0485 Stalking or cyberstalking; injunction; powers and
99 duties of court and clerk; petition; notice and hearing;



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temporary injunction; issuance of injunction; statewide
verification system; enforcement.—

(1) There is created a cause of action for an injunction
for protection against stalking or cyberstalking.

(a) A person who is the victim of stalking or cyberstalking
has standing in the circuit court to file a sworn petition for
an injunction for protection against stalking or cyberstalking.

(b) The cause of action for an injunction for protection
may be sought regardless of whether any other cause of action is
currently pending between the parties. However, the pendency of
any such cause of action shall be alleged in the petition.

(c) The cause of action for an injunction may be sought by
any affected person.

(d) The cause of action for an injunction does not require
either party to be represented by an attorney.

(e) The court may not issue mutual orders of protection;
however, the court is not precluded from issuing separate
injunctions for protection against stalking or cyberstalking if
each party has complied with this section. Compliance with this
section may not be waived.

(f) Notwithstanding chapter 47, a petition for an
injunction for protection against stalking or cyberstalking may
be filed in the circuit where the petitioner currently or
temporarily resides, where the respondent resides, or where the
stalking or cyberstalking occurred. There is no minimum
requirement of residency to petition for an injunction for
protection.

(2) (a) A bond is not required by the court for the entry of
an injunction.



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129 (b)1. The clerk of the court shall assist petitioners in
130 seeking both injunctions for protection against stalking and
131 enforcement of a violation thereof as specified in this section.

132 2. All offices of the clerk of the court shall provide
133 simplified petition forms for the injunction and any
134 modifications to and the enforcement thereof, including
135 instructions for completion.

136 3. The clerk of the court shall ensure the petitioner's
137 privacy to the extent practicable while completing the forms for
138 an injunction for protection against stalking or cyberstalking.

139 4. The clerk of the court shall provide a petitioner with a
140 minimum of two certified copies of the order of injunction, one
141 of which is serviceable and will inform the petitioner of the
142 process for service and enforcement.

143 5. The clerk of court and appropriate staff in each county
144 shall receive training in the effective assistance of
145 petitioners as provided or approved by the Florida Association
146 of Court Clerks.

147 6. The clerk of the court in each county shall make
148 available informational brochures on stalking when such a
149 brochure is provided by the local certified violence center.

150 7. The clerk of the court in each county shall distribute a
151 statewide uniform informational brochure to petitioners at the
152 time of filing for an injunction for protection against stalking
153 or cyberstalking when such brochures become available. The
154 brochure must include information about the effect of giving the
155 court false information.

156 (3)(a) The sworn petition shall allege the existence of
157 such stalking or cyberstalking and shall include the specific



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facts and circumstances for which relief is sought.

(b) The sworn petition shall be in substantially the following form:

PETITION FOR INJUNCTION FOR PROTECTION AGAINST STALKING

Before me, the undersigned authority, personally appeared
Petitioner....(Name)...., who has been sworn and says that
the following statements are true:

1. Petitioner resides at:....(address)....

(Petitioner may furnish the address to the court in a
separate confidential filing if, for safety reasons,
the petitioner requires the location of the current
residence to be confidential.)

2. Respondent resides at:....(last known address)....

3. Respondent's last known place of employment:....(name
of business and address)....

4. Physical description of respondent:....

5. Race....

6. Sex....

7. Date of birth....

8. Height....

9. Weight....

10. Eye color....

11. Hair color....

12. Distinguishing marks or scars....

13. Aliases of respondent:....



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(c) The petitioner shall describe any other cause of action currently pending between the petitioner and respondent. The petitioner shall also describe any previous attempt by the petitioner to obtain an injunction for protection against stalking or cyberstalking in this or any other circuit, and the result of that attempt. (Case numbers should be included, if available.)

(d) The petition must provide space for the petitioner to specifically allege that he or she is a victim of stalking or cyberstalking because respondent has:

(Mark all sections that apply and describe in the spaces below the incidents of stalking or cyberstalking specifying when and where they occurred, including, but not limited to, locations such as a home, school, or place of employment.)

.... Committed or threatened to commit stalking.

.... Previously threatened, harassed, stalked, cyberstalked, or physically abused the petitioner.

.... Threatened to harm the petitioner or family members or individuals closely associated with the petitioner.

.... Intentionally injured or killed a family pet.

.... Used, or has threatened to use, against the petitioner any weapons such as guns or knives.

.... A criminal history involving violence or the threat of violence (if known).

.... Another order of protection issued against him or her previously or from another jurisdiction, if known.

.... Destroyed personal property, including, but not



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limited to, telephones or other communication equipment,
clothing, or other items belonging to the petitioner.

(e) The petitioner seeks an injunction: (Mark appropriate
section or sections.)

.... Immediately restraining the respondent from committing
any acts of stalking or cyberstalking.

.... Restraining the respondent from committing any acts of
stalking or cyberstalking.

.... Providing any terms the court deems necessary for the
protection of a victim of stalking or cyberstalking, including
any injunctions or directives to law enforcement agencies.

(f) Every petition for an injunction against stalking or
cyberstalking must contain, directly above the signature line, a
statement in all capital letters and bold type not smaller than
the surrounding text, as follows:

I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT
THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE
UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
SECTION 837.02, FLORIDA STATUTES.

....(initials)....

(4) Upon the filing of the petition, the court shall set a
hearing to be held at the earliest possible time. The respondent
shall be personally served with a copy of the petition, notice
of hearing, and temporary injunction, if any, before the
hearing.



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245 (5) (a) If it appears to the court that an immediate and
246 present danger of stalking or cyberstalking exists, the court
247 may grant a temporary injunction ex parte, pending a full
248 hearing, and may grant such relief as the court deems proper,
249 including an injunction restraining the respondent from
250 committing any act of stalking or cyberstalking.

251 (b) In a hearing ex parte for the purpose of obtaining such
252 ex parte temporary injunction, evidence other than verified
253 pleadings or affidavits may not be used as evidence, unless the
254 respondent appears at the hearing or has received reasonable
255 notice of the hearing. A denial of a petition for an ex parte
256 injunction shall be by written order noting the legal grounds
257 for denial. If the only ground for denial is no appearance of an
258 immediate and present danger of stalking or cyberstalking, the
259 court shall set a full hearing on the petition for injunction
260 with notice at the earliest possible time. This paragraph does
261 not affect a petitioner's right to promptly amend any petition,
262 or otherwise be heard in person on any petition consistent with
263 the Florida Rules of Civil Procedure.

264 (c) Any such ex parte temporary injunction is effective for
265 a fixed period not to exceed 15 days. A full hearing, as
266 provided in this section, shall be set for a date no later than
267 the date when the temporary injunction ceases to be effective.
268 The court may grant a continuance of the hearing before or
269 during a hearing for good cause shown by any party, which shall
270 include a continuance to obtain service of process. An
271 injunction shall be extended if necessary to remain in full
272 force and effect during any period of continuance.

273 (6) (a) Upon notice and hearing, when it appears to the



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court that the petitioner is the victim of stalking or
cyberstalking, the court may grant such relief as the court
deems proper, including an injunction:

1. Restraining the respondent from committing any act of
stalking or cyberstalking.

2. Ordering the respondent to participate in treatment,
intervention, or counseling services to be paid for by the
respondent.

3. Referring a petitioner to a certified domestic violence
center. The court must provide the petitioner with a list of
certified domestic violence centers in the circuit which the
petitioner may contact.

4. Ordering such other relief as the court deems necessary
for the protection of a victim of stalking or cyberstalking,
including injunctions or directives to law enforcement agencies,
as provided in this section.

(b) When determining whether a petitioner has reasonable
cause to believe that there is a credible threat that he or she
is in imminent danger of becoming a victim of stalking or
cyberstalking, the court shall consider and evaluate all
relevant factors alleged in the petition, including, but not
limited to:

1. The history between the petitioner and the respondent,
including threats, harassment, stalking or cyberstalking, and
physical abuse.

2. Whether the respondent has attempted to harm the
petitioner or family members or individuals closely associated
with the petitioner.

3. Whether the respondent has intentionally injured or



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303 killed a family pet.

304 4. Whether the respondent has used, or has threatened to
305 use, against the petitioner any weapons such as guns or knives.

306 5. Whether the respondent has a criminal history involving
307 violence or the threat of violence.

308 6. The existence of a verifiable order of protection issued
309 previously or from another jurisdiction.

310 7. Whether the respondent has destroyed personal property,
311 including, but not limited to, telephones or other
312 communications equipment, clothing, or other items belonging to
313 the petitioner.

314
315 In making its determination under this paragraph, the court is
316 not limited to those factors enumerated in subparagraphs 1.-7.

317 (c) The terms of an injunction restraining the respondent
318 under subparagraph (a)1. or ordering other relief for the
319 protection of the victim under subparagraph (a)4. shall remain
320 in effect until modified or dissolved. Either party may move at
321 any time to modify or dissolve the injunction. Specific
322 allegations are not required. Such relief may be granted in
323 addition to other civil or criminal remedies.

324 (d) A temporary or final judgment on injunction for
325 protection against stalking or cyberstalking entered pursuant to
326 this section shall, on its face, indicate that:

327 1. The injunction is valid and enforceable in all counties
328 of this state.

329 2. Law enforcement officers may use their arrest powers
330 pursuant to s. 901.15(6) to enforce the terms of the injunction.

331 3. The court has jurisdiction over the parties and matter



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under the laws of this state and that reasonable notice and opportunity to be heard was given to the person against whom the order is sought sufficient to protect that person's right to due process.

4. The date that the respondent was served with the temporary or final order, if obtainable.

(e) The fact that a separate order of protection is granted to each opposing party is not legally sufficient to deny any remedy to either party or to prove that the parties are equally at fault or equally endangered.

(f) A final judgment on an injunction for protection against stalking or cyberstalking entered pursuant to this section may, on its face, provide that it is a violation of s. 790.233 and a misdemeanor of the first degree for the respondent to have in his or her care, custody, possession, or control any firearm or ammunition.

(g) All proceedings under this subsection shall be recorded. Recording may be by electronic means as provided by the Rules of Judicial Administration.

(7) The court shall allow an advocate from a state attorney's office, a law enforcement agency, or a certified violence center who is registered under s. 39.905 to be present with the petitioner or respondent during any court proceedings or hearings related to the injunction for protection if the petitioner or respondent has made such a request and the advocate is able to be present.

(8) (a) 1. The clerk of the court shall furnish a copy of the petition, notice of hearing, and temporary injunction, if any, to the sheriff or a law enforcement agency of the county where



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the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. When requested by the sheriff, the clerk of the court may transmit a facsimile copy of an injunction that has been certified by the clerk of the court, and this facsimile copy may be served in the same manner as a certified copy. Upon receiving a facsimile copy, the sheriff must verify receipt with the sender before attempting to serve it on the respondent. In addition, if the sheriff is in possession of an injunction for protection which has been certified by the clerk of the court, the sheriff may transmit a facsimile copy of that injunction to a law enforcement officer who shall serve it in the same manner as a certified copy. The clerk of the court shall furnish to the sheriff such information concerning the respondent's physical description and location as is required by the department to comply with the verification procedures set forth in this section. Notwithstanding any other law, the chief judge of each circuit, in consultation with the appropriate sheriff, may authorize a law enforcement agency within the jurisdiction to effect service. A law enforcement agency serving injunctions pursuant to this section shall use service and verification procedures consistent with those of the sheriff.

2. If an injunction is issued and the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner to assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against stalking, certified by



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the clerk of the court, from the petitioner and immediately
serve it upon a respondent who has been located but not yet
served.

3. An order issued, changed, continued, extended, or
vacated subsequent to the original service of documents
enumerated under subparagraph 1. shall be certified by the clerk
of the court and delivered to the parties at the time of the
entry of the order. The parties may acknowledge receipt of such
order in writing on the face of the original order. If a party
fails or refuses to acknowledge the receipt of a certified copy
of an order, the clerk shall note on the original order that
service was effected. If delivery at the hearing is not
possible, the clerk shall mail certified copies of the order to
the parties at the last known address of each party. Service by
mail is complete upon mailing. When an order is served pursuant
to this subsection, the clerk shall prepare a written
certification to be placed in the court file specifying the
time, date, and method of service and shall notify the sheriff.

4. If the respondent has been served previously with a
temporary injunction and has failed to appear at the initial
hearing on the temporary injunction, any subsequent petition for
injunction seeking an extension of time may be served on the
respondent by the clerk of the court by certified mail in lieu
of personal service by a law enforcement officer.

(b)1. Within 24 hours after the court issues an injunction
for protection against stalking or cyberstalking or changes,
continues, extends, or vacates an injunction for protection
against stalking or cyberstalking, the clerk of the court must
forward a certified copy of the injunction for service to the



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sheriff having jurisdiction over the residence of the
petitioner. The injunction must be served in accordance with
this subsection.

2. Within 24 hours after service of process of an
injunction for protection against stalking or cyberstalking upon
a respondent, the law enforcement officer must forward the
written proof of service of process to the sheriff having
jurisdiction over the residence of the petitioner.

3. Within 24 hours after the sheriff receives a certified
copy of the injunction for protection against stalking or
cyberstalking, the sheriff must make information relating to the
injunction available to other law enforcement agencies by
electronically transmitting such information to the Department
of Law Enforcement.

4. Within 24 hours after the sheriff or other law
enforcement officer has made service upon the respondent and the
sheriff has been so notified, the sheriff must make information
relating to the service available to other law enforcement
agencies by electronically transmitting such information to the
Department of Law Enforcement.

5. Within 24 hours after an injunction for protection
against stalking or cyberstalking is vacated, terminated, or
otherwise rendered no longer effective by ruling of the court,
the clerk of the court must notify the sheriff receiving
original notification of the injunction as provided in
subparagraph 2. That agency shall, within 24 hours after
receiving such notification from the clerk of the court, notify
the Department of Law Enforcement of such action of the court.

(9) (a) The court may enforce a violation of an injunction



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448 for protection against stalking or cyberstalking through a civil
449 or criminal contempt proceeding, or the state attorney may
450 prosecute it as a criminal violation under s. 784.0487. The
451 court may enforce the respondent's compliance with the
452 injunction through any appropriate civil and criminal remedies,
453 including, but not limited to, a monetary assessment or a fine.
454 The clerk of the court shall collect and receive such
455 assessments or fines. On a monthly basis, the clerk shall
456 transfer the moneys collected pursuant to this paragraph to the
457 State Treasury for deposit into the Domestic Violence Trust
458 Fund.

459 (b) If the respondent is arrested by a law enforcement
460 officer under s. 901.15(6) or for a violation of s. 784.0487,
461 the respondent shall be held in custody until brought before the
462 court as expeditiously as possible for the purpose of enforcing
463 the injunction and for admittance to bail in accordance with
464 chapter 903 and the applicable rules of criminal procedure,
465 pending a hearing.

466 (10) The petitioner or the respondent may move the court to
467 modify or dissolve an injunction at any time.

468 Section 3. Section 784.0487, Florida Statutes, is created
469 to read:

470 784.0487 Violation of an injunction for protection against
471 stalking or cyberstalking.—

472 (1) If the injunction for protection against stalking or
473 cyberstalking has been violated and the respondent has not been
474 arrested, the petitioner may contact the clerk of the circuit
475 court of the county in which the violation is alleged to have
476 occurred. The clerk shall assist the petitioner in preparing an



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affidavit in support of reporting the violation or directing the petitioner to the office operated by the court that has been designated by the chief judge of that circuit as the central intake point for violations of injunctions for protection where the petitioner can receive assistance in the preparation of the affidavit in support of the violation.

(2) The affidavit shall be immediately forwarded by the office assisting the petitioner to the state attorney of that circuit and to such judge as the chief judge determines to be the recipient of affidavits of violations of an injunction. If the affidavit alleges that a crime has been committed, the office assisting the petitioner shall also forward a copy of the petitioner's affidavit to the appropriate law enforcement agency for investigation. No later than 20 days after receiving the initial report, the local law enforcement agency shall complete its investigation and forward a report to the state attorney. The policy adopted by the state attorney in each circuit under s. 741.2901(2) shall include a policy regarding intake of alleged violations of injunctions for protection against stalking or cyberstalking under this section. The intake shall be supervised by a state attorney who has been designated and assigned to handle stalking or cyberstalking cases. The state attorney shall determine within 30 working days whether his or her office will file criminal charges or prepare a motion for an order to show cause as to why the respondent should not be held in criminal contempt, or prepare both as alternative findings, or file notice that the case remains under investigation or is pending subject to some other action.

(3) If the court has knowledge that the petitioner or



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another person is in immediate danger if the court does not act before the decision of the state attorney to proceed, the court shall immediately issue an order of appointment of the state attorney to file a motion for an order to show cause as to why the respondent should not be held in contempt. If the court does not issue an order of appointment of the state attorney, it shall immediately notify the state attorney that the court is proceeding to enforce the violation through criminal contempt.

(4) A person who willfully violates an injunction for protection against stalking or cyberstalking issued pursuant to s. 784.0485, or a foreign protection order accorded full faith and credit pursuant to s. 741.315, by:

(a) Going to, or being within 500 feet of, the petitioner's residence, school, place of employment, or a specified place frequented regularly by the petitioner and any named family or household member;

(b) Committing an act of stalking or cyberstalking against the petitioner;

(c) Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner;

(d) Telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly, unless the injunction specifically allows indirect contact through a third party;

(e) Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle, whether or not that vehicle is occupied;

(f) Defacing or destroying the petitioner's personal



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property, including the petitioner's motor vehicle; or
(g) Refusing to surrender firearms or ammunition if ordered
to do so by the court,
commits a misdemeanor of the first degree, punishable as
provided in s. 775.082 or s. 775.083.

(5) A person who suffers an injury or loss as a result of a
violation of an injunction for protection against stalking or
cyberstalking may be awarded economic damages for that injury or
loss by the court issuing the injunction. Damages includes costs
and attorney fees for enforcement of the injunction.

Section 4. This act shall take effect October 1, 2012.

===== 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 stalking and aggravated stalking;
amending s. 784.048, F.S.; redefining the terms
"course of conduct" and "credible threat" and defining
the term "immediate family"; providing that a person
who makes a threat which places another person in
reasonable fear for his or her safety or the safety of
his or her immediate family commits the offense of
aggravated stalking under certain circumstances;
requiring that the sentencing court consider issuing
an injunction that restrains a defendant from any
contact with the victim for up to 10 years; providing



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legislative intent regarding the length of any such
restraining order; creating s. 784.0485, F.S.;
creating a civil cause of action for an injunction for
protection against stalking or cyberstalking;
providing that the victim of stalking or
cyberstalking, has standing in the circuit court to
file a sworn petition for an injunction for protection
against stalking or cyberstalking; prohibiting a court
from issuing mutual orders of protection, but
authorizing the court to issue a separate injunction
for protection against stalking or cyberstalking if
each party has complied with the provisions of law;
providing for venue of the cause of action; providing
that a petitioner is not required to post a bond;
requiring the clerks of court to assist petitioners in
filing petitions with the court; requiring the clerk
of the court in each county to make available
informational brochures; providing a sample petition
for an injunction for protection against stalking or
cyberstalking; authorizing the court to grant a
temporary injunction ex parte, pending a full hearing,
under certain circumstances; authorizing the court to
grant such relief as the court deems necessary and
proper; providing procedures for an ex parte
injunction hearing; setting forth the relief the court
may grant if it finds that the petitioner is in
imminent danger of becoming a victim of stalking or
cyberstalking; setting forth the criteria the court
must consider at the hearing; requiring the court to



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allow an advocate from a state attorney's office, law enforcement agency, or certified violence center to be present with the petitioner or respondent during any court proceeding; requiring the clerk of the court to furnish a copy of the petition, notice of hearing, and temporary injunction, if any, to the sheriff or a law enforcement agency of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night; authorizing the court to order a law enforcement officer to accompany the petitioner; authorizing the court to enforce a violation of an injunction for protection against stalking or cyberstalking through a civil or criminal contempt proceeding; authorizing a state attorney to use criminal procedures for a violation of an injunction for protection; creating s. 784.0487, F.S.; providing procedures to follow when the respondent has violated the injunction for protection; providing legislative intent; providing criminal penalties; providing that a court may award a person who suffers an injury or loss as a result of a violation of an injunction for protection against stalking or cyberstalking economic damages for that injury or loss, including costs and attorney fees for enforcement of the injunction; providing an effective date.



117654

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2012	.	
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	.	
	.	

The Committee on Criminal Justice (Hays) recommended the following:

Senate Amendment to Amendment (363276) (with title amendment)

Delete lines 127 - 129
and insert:

(2) (a) Notwithstanding any other law, the clerk of court may not assess a filing fee to file a petition for protection against stalking or cyberstalking. However, subject to legislative appropriation, the clerk of the circuit court may, on a quarterly basis, submit to the Office of the State Courts Administrator a certified request for reimbursement for petitions for protection against stalking or cyberstalking



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issued by the court, at the rate of \$40 per petition. The
request for reimbursement shall be submitted in the form and
manner prescribed by the Office of the State Courts
Administrator. From this reimbursement, the clerk shall pay any
law enforcement agency serving the injunction the fee requested
by the law enforcement agency; however, this fee may not exceed
\$20.

(b) A bond is not required by the court for the entry of an
injunction.

(c)1. The clerk of the court shall assist petitioners in

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:

 Delete line 576
and insert:
 providing for venue of the cause of action;
 prohibiting the clerk of court from assessing a filing
 fee; providing an exception; providing



653478

LEGISLATIVE ACTION

Senate

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House

The Committee on Criminal Justice (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 784.048, Florida Statutes, is amended to
read:

784.048 Stalking; definitions; penalties.—

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

(a) "Harass" means to engage in a course of conduct
directed at a specific person which ~~that~~ causes substantial
emotional distress to that ~~in such~~ person and serves no
legitimate purpose.



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(b) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidence evidencing a continuity of purpose. The term does not include constitutionally protected activity such as is not included within the meaning of "course of conduct." Such ~~constitutionally protected activity includes~~ picketing or other organized protests.

(c) "Credible threat" means a verbal or nonverbal threat, including a threat delivered by electronic communication or a threat implied by a pattern of conduct, or a combination of the two, which places the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her immediate family or household member, as defined in s. 741.28, and which is made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section ~~made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause bodily injury to, a person.~~

(d) "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

(e) "Immediate family" means a person's spouse, parent,



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child, grandparent, or sibling.

(2) A ~~Any~~ person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of stalking, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) A ~~Any~~ person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person, and makes a credible threat to that person ~~with the intent to place that person in reasonable fear of death or bodily injury of the person, or the person's child, sibling, spouse, parent, or dependent,~~ commits the offense of aggravated stalking, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A ~~Any~~ person who, after an injunction for protection against repeat violence, sexual violence, or dating violence pursuant to s. 784.046, or an injunction for protection against domestic violence pursuant to s. 741.30, or after any other court-imposed prohibition of conduct toward the subject person or that person's property, knowingly, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the offense of aggravated stalking, a felony of the second ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) A ~~Any~~ person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks a child ~~minor~~ under 16 years of age commits the offense of aggravated stalking, a felony of the first ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6) A ~~Any~~ law enforcement officer may arrest, without a



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warrant, any person that he or she has probable cause to believe has violated ~~the provisions of~~ this section.

(7) A ~~Any~~ person who, after having been sentenced for a violation of s. 794.011, s. 800.04, or s. 847.0135(5) and prohibited from contacting the victim of the offense under s. 921.244, willfully, maliciously, and repeatedly follows, harasses, or cyberstalks the victim commits the offense of aggravated stalking, a felony of the first ~~third~~ degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) The punishment imposed under this section shall run consecutive to any former sentence imposed for a conviction for any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

(9) (a) The sentencing court shall consider, as a part of any sentence, issuing an injunction restraining the defendant from any contact with the victim, which may be valid for up to 10 years, as determined by the court. It is the intent of the Legislature that the length of any such restraining order be based upon the seriousness of the facts before the court, the probability of future violations by the perpetrator, and the safety of the victim and his or her immediate family.

(b) The injunction may be issued by the court even if the defendant is sentenced to a state prison or a county jail or even if the imposition of the sentence is suspended and the defendant is placed on probation.

(10) If the court finds the defendant guilty of stalking or aggravated stalking under this section, the court shall order the defendant to attend a batterers' intervention program pursuant to s. 741.281.

Section 2. Section 784.0485, Florida Statutes, is created



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to read:

784.0485 Stalking or cyberstalking; injunction; powers and duties of court and clerk; petition; notice and hearing; temporary injunction; issuance of injunction; statewide verification system; enforcement.-

(1) There is created a cause of action for an injunction for protection against stalking or cyberstalking.

(a) A person who is the victim of stalking or cyberstalking or who has reasonable cause to believe that he or she is in imminent danger of becoming the victim of an act of stalking or cyberstalking has standing in the circuit court to file a sworn petition for an injunction for protection against stalking or cyberstalking.

(b) The cause of action for an injunction for protection may be sought regardless of whether any other cause of action is currently pending between the parties. However, the pendency of any such cause of action shall be alleged in the petition.

(c) The cause of action for an injunction may be sought by any affected person.

(d) The cause of action for an injunction does not require either party to be represented by an attorney.

(e) The court may not issue mutual orders of protection; however, the court is not precluded from issuing separate injunctions for protection against stalking or cyberstalking if each party has complied with this section. Compliance with this section may not be waived.

(f) Notwithstanding chapter 47, a petition for an injunction for protection against stalking or cyberstalking may be filed in the circuit where the petitioner currently or



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temporarily resides, where the respondent resides, or where the stalking or cyberstalking occurred. There is no minimum requirement of residency to petition for an injunction for protection.

(2) (a) Notwithstanding any other law, the clerk of court may not assess a filing fee to file a petition for protection against stalking or cyberstalking. However, subject to legislative appropriation, the clerk of the circuit court may, on a quarterly basis, submit to the Office of the State Courts Administrator a certified request for reimbursement for petitions for protection against stalking or cyberstalking issued by the court, at the rate of \$40 per petition. The request for reimbursement shall be submitted in the form and manner prescribed by the Office of the State Courts Administrator. From this reimbursement, the clerk shall pay any law enforcement agency serving the injunction the fee requested by the law enforcement agency; however, this fee may not exceed \$20.

(b) A bond is not required by the court for the entry of an injunction.

(c) 1. The clerk of the court shall assist petitioners in seeking both injunctions for protection against stalking and enforcement of a violation thereof as specified in this section.

2. All offices of the clerk of the court shall provide simplified petition forms for the injunction and any modifications to and the enforcement thereof, including instructions for completion.

3. The clerk of the court shall ensure the petitioner's privacy to the extent practicable while completing the forms for



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an injunction for protection against stalking or cyberstalking.

4. The clerk of the court shall provide a petitioner with a minimum of two certified copies of the order of injunction, one of which is serviceable and will inform the petitioner of the process for service and enforcement.

5. The clerk of court and appropriate staff in each county shall receive training in the effective assistance of petitioners as provided or approved by the Florida Association of Court Clerks.

6. The clerk of the court in each county shall make available informational brochures on stalking when such a brochure is provided by the local certified violence center.

7. The clerk of the court in each county shall distribute a statewide uniform informational brochure to petitioners at the time of filing for an injunction for protection against stalking or cyberstalking when such brochures become available. The brochure must include information about the effect of giving the court false information.

(3)(a) The sworn petition shall allege the existence of such stalking or cyberstalking and shall include the specific facts and circumstances for which relief is sought.

(b) The sworn petition shall be in substantially the following form:

PETITION FOR INJUNCTION FOR PROTECTION AGAINST STALKING

Before me, the undersigned authority, personally appeared Petitioner....(Name)...., who has been sworn and says that the following statements are true:



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1. Petitioner resides at:....(address)....
(Petitioner may furnish the address to the court in a
separate confidential filing if, for safety reasons,
the petitioner requires the location of the current
residence to be confidential.)
2. Respondent resides at:....(last known address)....
3. Respondent's last known place of employment:....(name
of business and address)....
4. Physical description of respondent:....
5. Race....
6. Sex....
7. Date of birth....
8. Height....
9. Weight....
10. Eye color....
11. Hair color....
12. Distinguishing marks or scars....
13. Aliases of respondent:....

(c) The petitioner shall describe any other cause of action
currently pending between the petitioner and respondent. The
petitioner shall also describe any previous attempt by the
petitioner to obtain an injunction for protection against
stalking or cyberstalking in this or any other circuit, and the
result of that attempt. (Case numbers should be included, if
available.)

(d) The petition must provide space for the petitioner to
specifically allege that he or she is a victim of stalking or



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cyberstalking or has reasonable cause to believe he or she is in
imminent danger of becoming a victim of stalking or
cyberstalking because respondent has:

(Mark all sections that apply and describe in the spaces below
the incidents of stalking or cyberstalking or threats to stalk
or cyberstalk, specifying when and where they occurred,
including, but not limited to, locations such as a home, school,
or place of employment.)

.... Committed or threatened to commit stalking.

.... Previously threatened, harassed, stalked,
cyberstalked, or physically abused the petitioner.

.... Threatened to harm the petitioner or family members or
individuals closely associated with the petitioner.

.... Intentionally injured or killed a family pet.

.... Used, or has threatened to use, against the petitioner
any weapons such as guns or knives.

.... A criminal history involving violence or the threat of
violence (if known).

.... Another order of protection issued against him or her
previously or from another jurisdiction, if known.

.... Destroyed personal property, including, but not
limited to, telephones or other communication equipment,
clothing, or other items belonging to the petitioner.

.... Engaged in any other behavior or conduct that leads
the petitioner to have reasonable cause to believe that he or
she is in imminent danger of becoming a victim of stalking or
cyberstalking.



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245 (e) The petitioner seeks an injunction: (Mark appropriate
246 section or sections.)

247 Immediately restraining the respondent from committing
248 any acts of stalking or cyberstalking.

249 Restraining the respondent from committing any acts of
250 stalking or cyberstalking.

251 Directing the respondent to participate in a
252 batterers' intervention program or other treatment pursuant to
253 s. 39.901.

254 Providing any terms the court deems necessary for the
255 protection of a victim of stalking or cyberstalking, including
256 any injunctions or directives to law enforcement agencies.

257 (f) Every petition for an injunction against stalking or
258 cyberstalking must contain, directly above the signature line, a
259 statement in all capital letters and bold type not smaller than
260 the surrounding text, as follows:

261
262 I HAVE READ EVERY STATEMENT MADE IN THIS PETITION AND
263 EACH STATEMENT IS TRUE AND CORRECT. I UNDERSTAND THAT
264 THE STATEMENTS MADE IN THIS PETITION ARE BEING MADE
265 UNDER PENALTY OF PERJURY, PUNISHABLE AS PROVIDED IN
266 SECTION 837.02, FLORIDA STATUTES.

267
268 (initials)....
269

270 (4) Upon the filing of the petition, the court shall set a
271 hearing to be held at the earliest possible time. The respondent
272 shall be personally served with a copy of the petition, notice
273 of hearing, and temporary injunction, if any, before the



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hearing.

(5) (a) If it appears to the court that an immediate and present danger of stalking or cyberstalking exists, the court may grant a temporary injunction ex parte, pending a full hearing, and may grant such relief as the court deems proper, including an injunction restraining the respondent from committing any act of stalking or cyberstalking.

(b) In a hearing ex parte for the purpose of obtaining such ex parte temporary injunction, evidence other than verified pleadings or affidavits may not be used as evidence, unless the respondent appears at the hearing or has received reasonable notice of the hearing. A denial of a petition for an ex parte injunction shall be by written order noting the legal grounds for denial. If the only ground for denial is no appearance of an immediate and present danger of stalking or cyberstalking, the court shall set a full hearing on the petition for injunction with notice at the earliest possible time. This paragraph does not affect a petitioner's right to promptly amend any petition, or otherwise be heard in person on any petition consistent with the Florida Rules of Civil Procedure.

(c) Any such ex parte temporary injunction is effective for a fixed period not to exceed 15 days. A full hearing, as provided in this section, shall be set for a date no later than the date when the temporary injunction ceases to be effective. The court may grant a continuance of the hearing before or during a hearing for good cause shown by any party, which shall include a continuance to obtain service of process. An injunction shall be extended if necessary to remain in full force and effect during any period of continuance.



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303 (6) (a) Upon notice and hearing, when it appears to the
304 court that the petitioner is the victim of stalking or
305 cyberstalking or has reasonable cause to believe that he or she
306 is in imminent danger of becoming a victim of stalking or
307 cyberstalking, the court may grant such relief as the court
308 deems proper, including an injunction:

309 1. Restraining the respondent from committing any act of
310 stalking or cyberstalking.

311 2. Ordering the respondent to participate in treatment,
312 intervention, or counseling services to be paid for by the
313 respondent.

314 3. Referring a petitioner to a certified domestic violence
315 center. The court must provide the petitioner with a list of
316 certified domestic violence centers in the circuit which the
317 petitioner may contact.

318 4. Ordering such other relief as the court deems necessary
319 for the protection of a victim of stalking or cyberstalking,
320 including injunctions or directives to law enforcement agencies,
321 as provided in this section.

322 (b) When determining whether a petitioner has reasonable
323 cause to believe that there is a credible threat that he or she
324 is in imminent danger of becoming a victim of stalking or
325 cyberstalking, the court shall consider and evaluate all
326 relevant factors alleged in the petition, including, but not
327 limited to:

328 1. The history between the petitioner and the respondent,
329 including threats, harassment, stalking or cyberstalking, and
330 physical abuse.

331 2. Whether the respondent has attempted to harm the



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petitioner or family members or individuals closely associated with the petitioner.

3. Whether the respondent has intentionally injured or killed a family pet.

4. Whether the respondent has used, or has threatened to use, against the petitioner any weapons such as guns or knives.

5. Whether the respondent has a criminal history involving violence or the threat of violence.

6. The existence of a verifiable order of protection issued previously or from another jurisdiction.

7. Whether the respondent has destroyed personal property, including, but not limited to, telephones or other communications equipment, clothing, or other items belonging to the petitioner.

8. Whether the respondent engaged in any other behavior or conduct that leads the petitioner to have reasonable cause to believe that he or she is in imminent danger of becoming a victim of stalking or cyberstalking.

In making its determination under this paragraph, the court is not limited to those factors enumerated in subparagraphs 1.-8.

(c) The terms of an injunction restraining the respondent under subparagraph (a)1. or ordering other relief for the protection of the victim under subparagraph (a)4. shall remain in effect until modified or dissolved. Either party may move at any time to modify or dissolve the injunction. Specific allegations are not required. Such relief may be granted in addition to other civil or criminal remedies.

(d) A temporary or final judgment on injunction for



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protection against stalking or cyberstalking entered pursuant to this section shall, on its face, indicate that:

1. The injunction is valid and enforceable in all counties of this state.

2. Law enforcement officers may use their arrest powers pursuant to s. 901.15(6) to enforce the terms of the injunction.

3. The court has jurisdiction over the parties and matter under the laws of this state and that reasonable notice and opportunity to be heard was given to the person against whom the order is sought sufficient to protect that person's right to due process.

4. The date that the respondent was served with the temporary or final order, if obtainable.

(e) An injunction for protection against stalking or cyberstalking entered pursuant to this section, on its face, may order that the respondent attend a batterers' intervention program as a condition of the injunction.

(f) The fact that a separate order of protection is granted to each opposing party is not legally sufficient to deny any remedy to either party or to prove that the parties are equally at fault or equally endangered.

(g) A final judgment on an injunction for protection against stalking or cyberstalking entered pursuant to this section must, on its face, indicate that it is a violation of s. 790.233 and a misdemeanor of the first degree for the respondent to have in his or her care, custody, possession, or control any firearm or ammunition.

(h) All proceedings under this subsection shall be recorded. Recording may be by electronic means as provided by



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the Rules of Judicial Administration.

(7) The court shall allow an advocate from a state attorney's office, a law enforcement agency, or a certified violence center who is registered under s. 39.905 to be present with the petitioner or respondent during any court proceedings or hearings related to the injunction for protection if the petitioner or respondent has made such a request and the advocate is able to be present.

(8)(a)1. The clerk of the court shall furnish a copy of the petition, notice of hearing, and temporary injunction, if any, to the sheriff or a law enforcement agency of the county where the respondent resides or can be found, who shall serve it upon the respondent as soon thereafter as possible on any day of the week and at any time of the day or night. When requested by the sheriff, the clerk of the court may transmit a facsimile copy of an injunction that has been certified by the clerk of the court, and this facsimile copy may be served in the same manner as a certified copy. Upon receiving a facsimile copy, the sheriff must verify receipt with the sender before attempting to serve it on the respondent. In addition, if the sheriff is in possession of an injunction for protection which has been certified by the clerk of the court, the sheriff may transmit a facsimile copy of that injunction to a law enforcement officer who shall serve it in the same manner as a certified copy. The clerk of the court shall furnish to the sheriff such information concerning the respondent's physical description and location as is required by the department to comply with the verification procedures set forth in this section. Notwithstanding any other law, the chief judge of each circuit, in consultation with the



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appropriate sheriff, may authorize a law enforcement agency within the jurisdiction to effect service. A law enforcement agency serving injunctions pursuant to this section shall use service and verification procedures consistent with those of the sheriff.

2. If an injunction is issued and the petitioner requests the assistance of a law enforcement agency, the court may order that an officer from the appropriate law enforcement agency accompany the petitioner to assist in the execution or service of the injunction. A law enforcement officer shall accept a copy of an injunction for protection against stalking, certified by the clerk of the court, from the petitioner and immediately serve it upon a respondent who has been located but not yet served.

3. An order issued, changed, continued, extended, or vacated subsequent to the original service of documents enumerated under subparagraph 1. shall be certified by the clerk of the court and delivered to the parties at the time of the entry of the order. The parties may acknowledge receipt of such order in writing on the face of the original order. If a party fails or refuses to acknowledge the receipt of a certified copy of an order, the clerk shall note on the original order that service was effected. If delivery at the hearing is not possible, the clerk shall mail certified copies of the order to the parties at the last known address of each party. Service by mail is complete upon mailing. When an order is served pursuant to this subsection, the clerk shall prepare a written certification to be placed in the court file specifying the time, date, and method of service and shall notify the sheriff.



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448 4. If the respondent has been served previously with a
449 temporary injunction and has failed to appear at the initial
450 hearing on the temporary injunction, any subsequent petition for
451 injunction seeking an extension of time may be served on the
452 respondent by the clerk of the court by certified mail in lieu
453 of personal service by a law enforcement officer.

454 (b)1. Within 24 hours after the court issues an injunction
455 for protection against stalking or cyberstalking or changes,
456 continues, extends, or vacates an injunction for protection
457 against stalking or cyberstalking, the clerk of the court must
458 forward a certified copy of the injunction for service to the
459 sheriff having jurisdiction over the residence of the
460 petitioner. The injunction must be served in accordance with
461 this subsection.

462 2. Within 24 hours after service of process of an
463 injunction for protection against stalking or cyberstalking upon
464 a respondent, the law enforcement officer must forward the
465 written proof of service of process to the sheriff having
466 jurisdiction over the residence of the petitioner.

467 3. Within 24 hours after the sheriff receives a certified
468 copy of the injunction for protection against stalking or
469 cyberstalking, the sheriff must make information relating to the
470 injunction available to other law enforcement agencies by
471 electronically transmitting such information to the Department
472 of Law Enforcement.

473 4. Within 24 hours after the sheriff or other law
474 enforcement officer has made service upon the respondent and the
475 sheriff has been so notified, the sheriff must make information
476 relating to the service available to other law enforcement



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agencies by electronically transmitting such information to the
Department of Law Enforcement.

5. Within 24 hours after an injunction for protection
against stalking or cyberstalking is vacated, terminated, or
otherwise rendered no longer effective by ruling of the court,
the clerk of the court must notify the sheriff receiving
original notification of the injunction as provided in
subparagraph 2. That agency shall, within 24 hours after
receiving such notification from the clerk of the court, notify
the Department of Law Enforcement of such action of the court.

(9) (a) The court may enforce a violation of an injunction
for protection against stalking or cyberstalking through a civil
or criminal contempt proceeding, or the state attorney may
prosecute it as a criminal violation under s. 784.0487. The
court may enforce the respondent's compliance with the
injunction through any appropriate civil and criminal remedies,
including, but not limited to, a monetary assessment or a fine.
The clerk of the court shall collect and receive such
assessments or fines. On a monthly basis, the clerk shall
transfer the moneys collected pursuant to this paragraph to the
State Treasury for deposit into the Domestic Violence Trust
Fund.

(b) If the respondent is arrested by a law enforcement
officer under s. 901.15(6) or for a violation of s. 741.31, the
respondent shall be held in custody until brought before the
court as expeditiously as possible for the purpose of enforcing
the injunction and for admittance to bail in accordance with
chapter 903 and the applicable rules of criminal procedure,
pending a hearing.



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506 (10) The petitioner or the respondent may move the court to
507 modify or dissolve an injunction at any time.

508 Section 3. Section 784.0487, Florida Statutes, is created
509 to read:

510 784.0487 Violation of an injunction for protection against
511 stalking or cyberstalking.—

512 (1) If the injunction for protection against stalking or
513 cyberstalking has been violated and the respondent has not been
514 arrested, the petitioner may contact the clerk of the circuit
515 court of the county in which the violation is alleged to have
516 occurred. The clerk shall assist the petitioner in preparing an
517 affidavit in support of reporting the violation or directing the
518 petitioner to the office operated by the court that has been
519 designated by the chief judge of that circuit as the central
520 intake point for violations of injunctions for protection where
521 the petitioner can receive assistance in the preparation of the
522 affidavit in support of the violation.

523 (2) The affidavit shall be immediately forwarded by the
524 office assisting the petitioner to the state attorney of that
525 circuit and to such judge as the chief judge determines to be
526 the recipient of affidavits of violations of an injunction. If
527 the affidavit alleges that a crime has been committed, the
528 office assisting the petitioner shall also forward a copy of the
529 petitioner's affidavit to the appropriate law enforcement agency
530 for investigation. No later than 20 days after receiving the
531 initial report, the local law enforcement agency shall complete
532 its investigation and forward a report to the state attorney.
533 The policy adopted by the state attorney in each circuit under
534 s. 741.2901(2) shall include a policy regarding intake of



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alleged violations of injunctions for protection against
stalking or cyberstalking under this section. The intake shall
be supervised by a state attorney who has been designated and
assigned to handle stalking or cyberstalking cases. The state
attorney shall determine within 30 working days whether his or
her office will file criminal charges or prepare a motion for an
order to show cause as to why the respondent should not be held
in criminal contempt, or prepare both as alternative findings,
or file notice that the case remains under investigation or is
pending subject to some other action.

(3) If the court has knowledge that the petitioner or
another person is in immediate danger if the court does not act
before the decision of the state attorney to proceed, the court
shall immediately issue an order of appointment of the state
attorney to file a motion for an order to show cause as to why
the respondent should not be held in contempt. If the court does
not issue an order of appointment of the state attorney, it
shall immediately notify the state attorney that the court is
proceeding to enforce the violation through criminal contempt.

(4) (a) A person who willfully violates an injunction for
protection against stalking or cyberstalking issued pursuant to
s. 784.0485, or a foreign protection order accorded full faith
and credit pursuant to s. 741.315, by:

1. Going to, or being within 500 feet of, the petitioner's
residence, school, place of employment, or a specified place
frequented regularly by the petitioner and any named family or
household member;

2. Committing an act of stalking or cyberstalking against
the petitioner;



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3. Committing any other violation of the injunction through an intentional unlawful threat, word, or act to do violence to the petitioner;

4. Telephoning, contacting, or otherwise communicating with the petitioner, directly or indirectly, unless the injunction specifically allows indirect contact through a third party;

5. Knowingly and intentionally coming within 100 feet of the petitioner's motor vehicle, whether or not that vehicle is occupied;

6. Defacing or destroying the petitioner's personal property, including the petitioner's motor vehicle; or

7. Refusing to surrender firearms or ammunition if ordered to do so by the court,

commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b)1. A respondent violates s. 790.233, and commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if he or she violates a temporary or final injunction for protection against stalking or cyberstalking by having in his or her care, custody, possession, or control a firearm or ammunition.

2. It is the intent of the Legislature that the prohibition regarding possession of a firearm or ammunition is consistent with federal law. Accordingly, this paragraph does not apply to a state or local officer, as defined in s. 943.10(14), who holds an active certification and who receives or possesses a firearm or ammunition for use in performing official duties on behalf of the officer's employing agency, unless otherwise prohibited by



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the employing agency.

(5) A person who suffers an injury or loss as a result of a violation of an injunction for protection against stalking or cyberstalking may be awarded economic damages for that injury or loss by the court issuing the injunction. Damages includes costs and attorney fees for enforcement of the injunction.

Section 4. Paragraphs (f) and (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(f) LEVEL 6

Florida Statute	Felony Degree	Description
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051(3)	2nd	Knowing forgery of pedigree papers.
499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement



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officer.

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

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

784.041 3rd Felony battery; domestic battery by
strangulation.

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

784.048(5) 1st Aggravated stalking of person under 16.
~~3rd~~

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

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

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

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

784.082(2) 2nd Aggravated assault by detained person on



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visitor or other detainee.

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

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

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

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

790.164(1) 2nd False report of deadly explosive, weapon
of mass destruction, or act of arson or
violence to state property.

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

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

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

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



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16 years; offender less than 18 years.

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

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

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

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

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

812.015 (9) (a) 2nd Retail theft; property stolen \$300 or more; second or subsequent conviction.

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

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

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



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639	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
640	825.102(1)	3rd	Abuse of an elderly person or disabled adult.
641	825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
642	825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
643	825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
644	827.03(1)	3rd	Abuse of a child.
645	827.03(3)(c)	3rd	Neglect of a child.
646	827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
647	836.05	2nd	Threats; extortion.
648	836.10	2nd	Written threats to kill or do bodily



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injury.

843.12 3rd Aids or assists person to escape.

847.011 3rd Distributing, offering to distribute, or
possessing with intent to distribute
obscene materials depicting minors.

847.012 3rd Knowingly using a minor in the
production of materials harmful to
minors.

847.0135(2) 3rd Facilitates sexual conduct of or with a
minor or the visual depiction of such
conduct.

914.23 2nd Retaliation against a witness, victim,
or informant, with bodily injury.

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.

944.40 2nd Escapes.

944.46 3rd Harboring, concealing, aiding escaped
prisoners.



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402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
456.065(2)	3rd	Practicing a health care profession without a license.
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
458.327(1)	3rd	Practicing medicine without a license.
459.013(1)	3rd	Practicing osteopathic medicine without a license.
460.411(1)	3rd	Practicing chiropractic medicine without a license.
461.012(1)	3rd	Practicing podiatric medicine without a license.



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462.17	3rd	Practicing naturopathy without a license.
463.015(1)	3rd	Practicing optometry without a license.
464.016(1)	3rd	Practicing nursing without a license.
465.015(2)	3rd	Practicing pharmacy without a license.
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
467.201	3rd	Practicing midwifery without a license.
468.366	3rd	Delivering respiratory care services without a license.
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
483.901(9)	3rd	Practicing medical physics without a license.
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
484.053	3rd	Dispensing hearing aids without a license.



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494.0018(2) 1st Conviction of any violation of ss.
494.001-494.0077 in which the total
money and property unlawfully obtained
exceeded \$50,000 and there were five or
more victims.

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.

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

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

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

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

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



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harbor or conceal a sexual predator.

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

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

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

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

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

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

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



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701	784.048 (4)	<u>2nd</u> 3rd	Aggravated stalking; violation of injunction or court order.
702	784.048 (7)	<u>2nd</u> 3rd	Aggravated stalking; violation of court order.
703	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
704	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
705	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
706	784.081 (1)	1st	Aggravated battery on specified official or employee.
707	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.
708	784.083 (1)	1st	Aggravated battery on code inspector.
709	790.07 (4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07 (1) or (2).
	790.16 (1)	1st	Discharge of a machine gun under specified circumstances.



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710	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
711	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
712	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
713	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
714	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
715	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.
716	796.03	2nd	Procuring any person under 16 years for prostitution.
717			



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718	800.04 (5) (c) 1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
719	800.04 (5) (c) 2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
720	806.01 (2)	2nd	Maliciously damage structure by fire or explosive.
721	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
722	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
723	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
724	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
725	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.



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726	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
727	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
728	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
729	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
730	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
731	812.131(2)(a)	2nd	Robbery by sudden snatching.
732	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
733	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.



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734

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

735

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

736

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

737

825.103(2)(b) 2nd Exploiting an elderly person or
disabled adult and property is valued
at \$20,000 or more, but less than
\$100,000.

738

827.03(3)(b) 2nd Neglect of a child causing great bodily
harm, disability, or disfigurement.

739

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

740

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



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741			
	838.015	2nd	Bribery.
742			
	838.016	2nd	Unlawful compensation or reward for official behavior.
743			
	838.021(3)(a)	2nd	Unlawful harm to a public servant.
744			
	838.22	2nd	Bid tampering.
745			
	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
746			
	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
747			
	872.06	2nd	Abuse of a dead human body.
748			
	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
749			
	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)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or



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publicly owned recreational facility or
community center.

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)4., within 1,000 feet
of property used for religious services
or a specified business site.

893.13(4)(a) 1st Deliver to minor cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d), (2)(a),
(2)(b), or (2)(c)4. drugs).

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

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

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

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

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



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758	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
759	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
760	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
761	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
762	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
763	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
764	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.



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765

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

766

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

767

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

768

943.0435(13) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

769

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

770

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

771

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

772

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



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944.607(13) 3rd Sexual offender; failure to report and
reregister; failure to respond to
address verification.

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

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

985.4815(13) 3rd Sexual offender; failure to report and
reregister; failure to respond to
address verification.

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

===== 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 stalking and aggravated stalking;
amending s. 784.048, F.S.; redefining the terms
"course of conduct" and "credible threat" and defining
the term "immediate family"; providing that a person
who makes a threat with the intent to place another



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person in reasonable fear for his or her safety or the safety of his or her immediate family commits the offense of aggravated stalking under certain circumstances; increasing the criminal penalties for certain offenses of aggravated stalking; requiring that the sentencing court consider issuing an injunction that restrains a defendant from any contact with the victim for up to 10 years; providing legislative intent regarding the length of any such restraining order; requiring that the court order the defendant to attend a batterers' intervention program if the court finds the defendant guilty of stalking or aggravated stalking; creating s. 784.0485, F.S.; creating a civil cause of action for an injunction for protection against stalking or cyberstalking; providing that the victim of stalking or cyberstalking, or one who has reasonable cause to believe that he or she is in imminent danger of becoming a victim of stalking or cyberstalking, has standing in the circuit court to file a sworn petition for an injunction for protection against stalking or cyberstalking; prohibiting a court from issuing mutual orders of protection, but authorizing the court to issue a separate injunction for protection against stalking or cyberstalking if each party has complied with the provisions of law; providing for venue of the cause of action; prohibiting the clerk of court from assessing a filing fee; providing an exception; providing that a petitioner is not required to post a



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bond; requiring the clerks of court to assist
petitioners in filing petitions with the court;
requiring the clerk of the court in each county to
make available informational brochures; providing a
sample petition for an injunction for protection
against stalking or cyberstalking; authorizing the
court to grant a temporary injunction ex parte,
pending a full hearing, under certain circumstances;
authorizing the court to grant such relief as the
court deems necessary and proper; providing procedures
for an ex parte injunction hearing; setting forth the
relief the court may grant if it finds that the
petitioner is in imminent danger of becoming a victim
of stalking or cyberstalking; setting forth the
criteria the court must consider at the hearing;
requiring the court to allow an advocate from a state
attorney's office, law enforcement agency, or
certified violence center to be present with the
petitioner or respondent during any court proceeding;
requiring the clerk of the court to furnish a copy of
the petition, notice of hearing, and temporary
injunction, if any, to the sheriff or a law
enforcement agency of the county where the respondent
resides or can be found, who shall serve it upon the
respondent as soon thereafter as possible on any day
of the week and at any time of the day or night;
authorizing the court to order a law enforcement
officer to accompany the petitioner; authorizing the
court to enforce a violation of an injunction for



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protection against stalking or cyberstalking through a
civil or criminal contempt proceeding; authorizing a
state attorney to use criminal procedures for a
violation of an injunction for protection; creating s.
784.0487, F.S.; providing procedures to follow when
the respondent has violated the injunction for
protection; providing legislative intent; providing
criminal penalties; providing that a court may award a
person who suffers an injury or loss as a result of a
violation of an injunction for protection against
stalking or cyberstalking economic damages for that
injury or loss, including costs and attorney fees for
enforcement of the injunction; amending s. 921.0022,
F.S., relating to the offense severity ranking chart
of the Criminal Punishment Code; revising provisions
to conform to changes made by the act; providing an
effective date.

By Senator Simmons

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1 A bill to be entitled
2 An act relating to stalking and aggravated stalking;
3 amending s. 784.048, F.S.; redefining the terms
4 "course of conduct" and "credible threat" and defining
5 the term "immediate family"; providing that a person
6 who makes a threat with the intent to place another
7 person in reasonable fear for his or her safety or the
8 safety of his or her immediate family commits the
9 offense of aggravated stalking under certain
10 circumstances; increasing the criminal penalties for
11 certain offenses of aggravated stalking; requiring
12 that the sentencing court consider issuing an
13 injunction that restrains a defendant from any contact
14 with the victim for up to 10 years; providing
15 legislative intent regarding the length of any such
16 restraining order; requiring that the court order the
17 defendant to attend a batterers' intervention program
18 if the court finds the defendant guilty of stalking or
19 aggravated stalking; creating a cause of action for an
20 injunction for protection from stalking and aggravated
21 stalking; providing that a person who is the victim of
22 stalking or aggravated stalking, or who is the parent
23 or legal guardian of a child younger than 16 years of
24 age and who seeks an injunction for protection, has
25 standing to file a petition for an injunction for
26 protection from stalking or aggravated stalking;
27 providing that an injunction for protection from
28 stalking or aggravated stalking may be sought
29 regardless of whether another cause of action is

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30 available or pending between the parties; requiring
31 that the petition for an injunction for protection
32 allege the incidents of stalking or aggravated
33 stalking and include the specific facts and
34 circumstances that form the basis upon which relief is
35 sought; prohibiting the court from requiring the
36 petitioner to file a bond upon the issuance of an
37 injunction for protection from stalking or aggravated
38 stalking; requiring that the clerk of the court
39 provide the petitioner with a certified copy of any
40 injunction for protection from stalking or aggravated
41 stalking which is entered by the court; amending s.
42 921.0022, F.S., relating to the offense severity
43 ranking chart of the Criminal Punishment Code;
44 revising provisions to conform to changes made by the
45 act; providing an effective date.

46
47 Be It Enacted by the Legislature of the State of Florida:

48
49 Section 1. Section 784.048, Florida Statutes, is amended to
50 read:

51 784.048 Stalking; definitions; penalties.—

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

53 (a) "Harass" means to engage in a course of conduct
54 directed at a specific person which ~~that~~ causes substantial
55 emotional distress to that ~~in such~~ person and serves no
56 legitimate purpose.

57 (b) "Course of conduct" means a pattern of conduct,
58 including two or more ~~composed of a series of~~ acts over a period

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of time, however short, which indicate ~~evidencing~~ a continuity of purpose. The term does not include constitutionally protected activity such as ~~is not included within the meaning of "course of conduct."~~ Such ~~constitutionally protected activity includes~~ picketing or other organized protests.

(c) "Credible threat" means a verbal or nonverbal threat, including a threat delivered by electronic communication, a threat implied by a pattern of conduct, or a combination of the two, made with the intent to place the person who is the target of the threat in reasonable fear for his or her safety or the safety of his or her immediate family, and made with the apparent ability to carry out the threat to cause such harm. It is not necessary to prove that the person making the threat had the intent to actually carry out the threat. The present incarceration of the person making the threat is not a bar to prosecution under this section ~~made with the intent to cause the person who is the target of the threat to reasonably fear for his or her safety. The threat must be against the life of, or a threat to cause bodily injury to, a person.~~

(d) "Cyberstalk" means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose.

(e) "Immediate family" means a person's spouse, parent, child, grandparent, or sibling.

(2) A ~~Any~~ person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person commits the

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88 offense of stalking, a misdemeanor of the first degree,
89 punishable as provided in s. 775.082 or s. 775.083.

90 (3) A ~~Any~~ person who willfully, maliciously, and repeatedly
91 follows, harasses, or cyberstalks another person~~7~~ and makes a
92 credible threat to that person ~~with the intent to place that~~
93 ~~person in reasonable fear of death or bodily injury of the~~
94 ~~person, or the person's child, sibling, spouse, parent, or~~
95 ~~dependent,~~ commits the offense of aggravated stalking, a felony
96 of the third degree, punishable as provided in s. 775.082, s.
97 775.083, or s. 775.084.

98 (4) A ~~Any~~ person who, after an injunction for protection
99 against repeat violence, sexual violence, or dating violence
100 pursuant to s. 784.046, or an injunction for protection against
101 domestic violence pursuant to s. 741.30, or after any other
102 court-imposed prohibition of conduct toward the subject person
103 or that person's property, knowingly, willfully, maliciously,
104 and repeatedly follows, harasses, or cyberstalks another person
105 commits the offense of aggravated stalking, a felony of the
106 second ~~third~~ degree, punishable as provided in s. 775.082, s.
107 775.083, or s. 775.084.

108 (5) A ~~Any~~ person who willfully, maliciously, and repeatedly
109 follows, harasses, or cyberstalks a child ~~minor~~ under 16 years
110 of age commits the offense of aggravated stalking, a felony of
111 the first ~~third~~ degree, punishable as provided in s. 775.082, s.
112 775.083, or s. 775.084.

113 (6) A ~~Any~~ law enforcement officer may arrest, without a
114 warrant, any person that he or she has probable cause to believe
115 has violated ~~the provisions of~~ this section.

116 (7) A ~~Any~~ person who, after having been sentenced for a

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117 violation of s. 794.011, s. 800.04, or s. 847.0135(5) and
118 prohibited from contacting the victim of the offense under s.
119 921.244, willfully, maliciously, and repeatedly follows,
120 harasses, or cyberstalks the victim commits the offense of
121 aggravated stalking, a felony of the first ~~third~~ degree,
122 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

123 (8) The punishment imposed under this section shall run
124 consecutive to any former sentence imposed for a conviction for
125 any offense under s. 794.011, s. 800.04, or s. 847.0135(5).

126 (9) (a) The sentencing court shall consider, as a part of
127 any sentence, issuing an injunction restraining the defendant
128 from any contact with the victim, which may be valid for up to
129 10 years, as determined by the court. It is the intent of the
130 Legislature that the length of any such restraining order be
131 based upon the seriousness of the facts before the court, the
132 probability of future violations by the perpetrator, and the
133 safety of the victim and his or her immediate family.

134 (b) The injunction may be issued by the court even if the
135 defendant is sentenced to a state prison or a county jail or
136 even if the imposition of the sentence is suspended and the
137 defendant is placed on probation.

138 (10) If the court finds the defendant guilty of stalking or
139 aggravated stalking under this section, the court shall order
140 the defendant to attend a batterers' intervention program
141 pursuant to s. 741.281.

142 (11) There is created a cause of action for an injunction
143 for protection from stalking and aggravated stalking.

144 (a) A person who is the victim of stalking or aggravated
145 stalking, or who is the parent or legal guardian of a child

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younger than 16 years of age living at home and who seeks an injunction for protection from stalking or aggravated stalking on behalf of the child, has standing in the circuit court to file a sworn petition for an injunction for protection from stalking or aggravated stalking.

(b) A cause of action for an injunction for protection from stalking or aggravated stalking may be sought regardless of whether another cause of action is available or pending between the parties.

(c) The sworn petition must allege the incidents of stalking or aggravated stalking and include the specific facts and circumstances that form the basis upon which relief is sought.

(d) The court may not require the petitioner to file a bond upon the issuance of an injunction for protection from stalking or aggravated stalking.

(e) The clerk of the court shall provide the petitioner with a certified copy of any injunction for protection from stalking or aggravated stalking entered by the court.

Section 2. Paragraphs (f) and (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(f) LEVEL 6

Florida	Felony	
Statute	Degree	Description

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316.193(2)(b)

3rd

Felony DUI, 4th or subsequent conviction.

499.0051(3)

2nd

Knowing forgery of pedigree papers.

499.0051(4)

2nd

Knowing purchase or receipt of prescription drug from unauthorized person.

499.0051(5)

2nd

Knowing sale or transfer of prescription drug to unauthorized person.

775.0875(1)

3rd

Taking firearm from law enforcement officer.

784.021(1)(a)

3rd

Aggravated assault; deadly weapon without intent to kill.

784.021(1)(b)

3rd

Aggravated assault; intent to commit felony.

784.041

3rd

Felony battery; domestic battery by strangulation.

784.048(3)

3rd

Aggravated stalking; credible threat.

784.048(5)

1st

Aggravated stalking of person under 16.

~~3rd~~

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

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

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

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

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

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

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

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

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

790.164(1) 2nd False report of deadly explosive, weapon of mass destruction, or act of arson or

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violence to state property.

192	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
193	794.011(8) (a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
194	794.05(1)	2nd	Unlawful sexual activity with specified minor.
195	800.04(5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.
196	800.04(6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
197	806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
198	810.02(3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
199	812.014(2) (b) 1.	2nd	Property stolen \$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
200	812.014(6)	2nd	Theft; property stolen \$3,000 or more;

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coordination of others.

812.015(9)(a) 2nd Retail theft; property stolen \$300 or more; second or subsequent conviction.

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

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

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

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

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

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

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

825.103(2)(c) 3rd Exploiting an elderly person or disabled adult and property is valued at less

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than \$20,000.

827.03(1) 3rd Abuse of a child.

827.03(3)(c) 3rd Neglect of a child.

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

836.05 2nd Threats; extortion.

836.10 2nd Written threats to kill or do bodily
injury.

843.12 3rd Aids or assists person to escape.

847.011 3rd Distributing, offering to distribute, or
possessing with intent to distribute
obscene materials depicting minors.847.012 3rd Knowingly using a minor in the
production of materials harmful to
minors.847.0135(2) 3rd Facilitates sexual conduct of or with a
minor or the visual depiction of such
conduct.

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914.23 2nd Retaliation against a witness, victim,
or informant, with bodily injury.

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.

944.40 2nd Escapes.

944.46 3rd Harboring, concealing, aiding escaped
prisoners.

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

951.22(1) 3rd Intoxicating drug, firearm, or weapon
introduced into county facility.

(g) LEVEL 7

Florida	Felony	
Statute	Degree	Description

316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
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316.193(3)(c)2. 3rd DUI resulting in serious bodily injury.

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

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

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

409.920 3rd Medicaid provider fraud; \$10,000 or less.
(2)(b)1.a.

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

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

456.065(2) 2nd Practicing a health care profession without a license which results in

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serious bodily injury.

237	458.327(1)	3rd	Practicing medicine without a license.
238	459.013(1)	3rd	Practicing osteopathic medicine without a license.
239	460.411(1)	3rd	Practicing chiropractic medicine without a license.
240	461.012(1)	3rd	Practicing podiatric medicine without a license.
241	462.17	3rd	Practicing naturopathy without a license.
242	463.015(1)	3rd	Practicing optometry without a license.
243	464.016(1)	3rd	Practicing nursing without a license.
244	465.015(2)	3rd	Practicing pharmacy without a license.
245	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
246	467.201	3rd	Practicing midwifery without a license.
247	468.366	3rd	Delivering respiratory care services without a license.

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248

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

249

483.901 (9) 3rd Practicing medical physics without a
license.

250

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

251

484.053 3rd Dispensing hearing aids without a
license.

252

494.0018 (2) 1st Conviction of any violation of ss.
494.001-494.0077 in which the total
money and property unlawfully obtained
exceeded \$50,000 and there were five or
more victims.

253

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.

254

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

255

655.50 (10) (b) 1. 3rd Failure to report financial

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

256

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

257

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

258

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

259

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

260

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

261

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

262

782.072 2nd Killing of a human being by the

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operation of a vessel in a reckless manner (vessel homicide).

263

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

264

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

265

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

266

784.048 (4) 2nd Aggravated stalking; violation of
~~3rd~~ injunction or court order.

267

784.048 (7) 1st Aggravated stalking; violation of court
~~3rd~~ order.

268

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

269

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

270

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

271

784.081 (1) 1st Aggravated battery on specified

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official or employee.

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

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

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

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

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

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

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

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

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280

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

281

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.

282

796.03 2nd Procuring any person under 16 years for
prostitution.

283

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

284

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

285

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

286

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

287

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

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288

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

289

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

290

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.

291

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

292

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

293

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

294

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

295

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

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traffics in stolen property.

296

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

297

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

298

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

299

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

300

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

301

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

302

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

303

825.103(2)(b) 2nd Exploiting an elderly person or
disabled adult and property is valued

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

827.03(3)(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.

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

838.015 2nd Bribery.

838.016 2nd Unlawful compensation or reward for
official behavior.

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

838.22 2nd Bid tampering.

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

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

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872.06 2nd Abuse of a dead human body.

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

893.13(1)(c)1. 1st Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

893.13(1)(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)4., within 1,000 feet of property used for religious services or a specified business site.

893.13(4)(a) 1st Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

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

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319

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

320

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

321

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

322

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

323

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

324

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

325

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

326

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

327

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

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328

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

329

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

330

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

331

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

332

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

333

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

334

943.0435(13) 3rd Failure to report or providing false
information about a sexual offender;
harbor or conceal a sexual offender.

335

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

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

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

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

944.607(13) 3rd Sexual offender; failure to report and
reregister; failure to respond to
address verification.

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

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

985.4815(13) 3rd Sexual offender; failure to report and
reregister; failure to respond to
address verification.

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344

Section 3. This act shall take effect July 1, 2012.

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/12
Meeting Date

Topic Stalking

Bill Number 950
(if applicable)

Name Leisa Wiseman

Amendment Barcode _____
(if applicable)

Job Title Director External Affairs

Address 425 Office Plaza Dr

Phone 850/425-2741

Tallahassee FL 32301
City State Zip

E-mail wiseman-leisa@
fladv.org

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA Coalition Against Domestic Violence

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

1/12/12

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

Meeting Date

Topic Stalking Bill Number 950
Name Terr i Poore (if applicable)
Job Title Director of Public Affairs Amendment Barcode _____ (if applicable)
Address 1820 E Park Ave Ste 100 Phone 297-2000
City Tam, FL State FL Zip 32301 E-mail tpoore@fca.v.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Council Against Sexual Violence

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-12-12

Meeting Date

Topic Stalking

Bill Number 950
(if applicable)

Name Ann Perko

Amendment Barcode _____
(if applicable)

Job Title Senior Family Law Attorney

Address 2425 Torreya Dr
Street

Phone 850-385-7900

Tallahassee FL 32303
City State Zip

E-mail ~~ann.perko@annandflorida.com~~
ann@floridalegal.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Legal Services, Inc

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

526

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

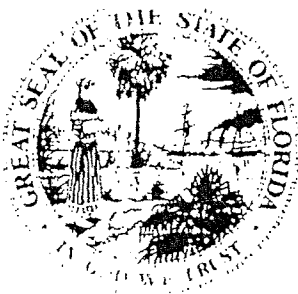
I, Kurt S. Browning, Secretary of State,
do hereby certify that

Jeffrey E. Lewis

is duly appointed a member of the

**Office of Criminal Conflict and Civil
Regional Counsel,
First District Court of Appeal**

for a term beginning on the
Second day of August, A.D., 2011,
until the First day of July, A.D., 2015
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.



*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twenty-Eighth day of September, A.D., 2011.*

A handwritten signature in black ink, appearing to read 'Kurt Browning', is written over a horizontal line.

Secretary of State



RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE

2011 AUG 12 PM 4:16

DIVISION OF ELECTIONS
TALLAHASSEE, FL

August 8, 2011

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised I have made the following reappointment under the provisions of Section 27.511, Florida Statutes:

Mr. Jeffrey E. Lewis

as Criminal Conflict and Civil Regional Counsel for the First District Court of Appeal, subject to confirmation by the Senate. This appointment is effective August 2, 2011, for a term ending July 1, 2015.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/lm

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

2011 AUG 26 AM 9:18

County of Escambia

FLORIDA STATE
DIVISION OF ELECTIONS

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Office of Criminal Conflict and Civil Regional Counsel, 1st DCA Region

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Jeffrey E. Lewis
Signature

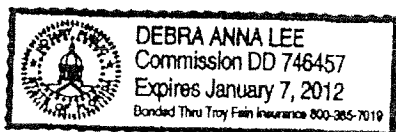
Sworn to and subscribed before me this 23 day of August, 2011.

Debra Anna Lee
Signature of Officer Administering Oath or of Notary Public

Debra Anna Lee
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____



ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☐ Home ☒ Office

Post Office Box 12273

Street or Post Office Box

Pensacola FL 32591

City, State, Zip Code

Jeffrey E. Lewis

Print name as you desire commission issued

Jeffrey E. Lewis
Signature

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

September 20, 2011

Date Completed

1. Name: Mr. Lewis Jeffrey Edward
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 226 Palafox Place 3rd Floor Pensacola
Street Office # City
P O Box 12273 Florida 32502 850-595-4070 ext. 109
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: _____
Street City County

N/A
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business ☐ Residence ☒ Fax # _____
(optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To

5. Date of Birth: June 20, 1955 Place of Birth: Pensacola

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: FL

8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain

N/A

RECEIVED
SEP 28 AM 10:09
DIVISION OF ELECTIONS
SECRETARY OF STATE

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1981

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Escambia

B. Current Party Affiliation: Republican

12. Education

A. High School: Pens Sch of Liberal Arts

Year Graduated: 1973

(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
Univ. of Ala.	1973 to 1978	B.S.I.E.
Univ. of Ala. School of Law	1981 to 1983	Juris Doctor

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service: N/A

B. Branch or Component: N/A

C. Date & type of discharge: N/A

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☐ No ☒ If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
N/A			

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
Reg Confl Counsel; POB 1019 Tall.32302	State Agency	Agency Director	08/2007 to Present
Pub Defender, 1 st Cir; POB 12666; Pens 32591 State Agency		Asst Public Defender	09/1998 to 08/2007

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☒ No ☐
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
Regional Conflict Counsel, 1 st DCA	OCCRC1	08/2007 to Present
Asst. Public Defender	Office of Public Def. 1 st Jud'l Circuit	09/1998 to 08/2007
Asst. State Attorney	Office of the State Atty. 1 st Jud'l Circuit	12/1986 to 09/1992

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I was first appointed to start this agency at its inception in August of 2007. I built the office from the ground up and hired over 100 attorneys and support staff. In addition to locating a case management system which saves more than \$100,000 annually, the Office of Criminal Conflict and Civil Regional Counsel, 1st DCA Region has saved approximately \$2.5M on an annual basis over private court appointed counsel. During the re-appointment process, I received the written support of all six (6) elected Public Defenders in the First District Court of Appeals Region along with the support of numerous judges and elected officials familiar with the work my team has produced. I have the unique knowledge of the office and region it serves as the first and only director.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

Member Florida Bar (May 1984)

Member, Trial Bar U.S. District Court, Northern District of Florida

Member 11th Circuit Court of Appeals

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

N/A

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☒ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
<u>Regional Confl Counsel</u>	<u>August 21, 2007</u>	<u>4 years</u>	<u>Agency Director</u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>
<u> </u>	<u> </u>	<u> </u>	<u> </u>

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: N/A

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

Meetings Attended

Meetings Missed

Reason for Absence

N/A

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

Date

Nature of Violation

Disposition

N/A

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: N/A

C. Reason for suspension: _____

B. Date of suspension: _____

D. Result. Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☒ No ☐ If "Yes", list:

A. Title of Office: Regional Conflict Counsel, 1st DCA Region (office for which I am currently nominated for re-appointment)

B. Term of Appointment: July 1, 2007 to July 1, 2011

C. Confirmation results: Confirmed

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

N/A

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☒ No ☐ If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

License/Certificate

Original

Title & Number

Issue Date

Issuing Authority

Disciplinary Action/Date

Florida Bar No. 394262 May 24, 1984

Florida Bar

None

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

Name of Business

Your Relationship to Business

Business' Relationship to Agency

N/A

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>
N/A			

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☒ No ☐

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☒

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Legislature	Regional Conflict Counsel Office

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Hon. Terry Terrell, Cir Judge			
Robert G. Holmes, CPA			
Alan Bookman, Esq			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Rotary Club of Pensacola	POB 528; Pensacola FL 32591	N/A	May 2007 to Present
Escambia Santa Rosa Bar Association	216 S Tarragona; Pens	32502	N/A
American Inns of Court Pensacola Chapter		N/A	Sep 2005 to May 2009
Florida Association of Criminal Defense Lawyers			Since 1995

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐

CERTIFICATION

STATE OF FLORIDA, COUNTY OF LEON

Before me, the undersigned Notary Public of Florida, personally appeared

JERREY EDWARD LEWIS

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

[Signature]

Signature of Applicant-Affiant

Sworn to and subscribed before me this 20TH day of SEPT, 2011.

[Signature]

Signature of Notary Public-State of Florida



Karen M. Screws

(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 12/7/13

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____

(seal)

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DEPARTMENT OF STATE
2011 SEP 22 AM 9:49
DIVISION OF ELECTIONS
TALLAHASSEE, FL

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

- ☒ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) § 119.071(4)(d) FS

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

500

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Kurt S. Browning, Secretary of State,
do hereby certify that

Kenneth S. Tucker

is duly appointed

**Secretary,
Department of Corrections**

for a term beginning on the
Twenty-Fourth day of August, A.D., 2011,
to serve at the pleasure of the Governor
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.



*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twelfth day of October, A.D., 2011.*

Secretary of State

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Leon

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DEPARTMENT OF STATE
2011 SEP 26 PM 2:06
DIVISION OF ELECTIONS
TALLAHASSEE, FL

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Secretary of the Florida Department of Corrections

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Kenneth S. Tucker
Signature

Sworn to and subscribed before me this 30 day of September, 2011

Amy V. Stah
Signature of Officer Administering Oath of Notary Public

MY COMMISSION # EE 128300

EXPIRES: September 7, 2015

Bonded Thru Budget Notary Services

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☒ Home ☐ Office

Street or Post Office Box

City, State, Zip Code

Kenneth S. Tucker

Print name as you desire commission issued

Kenneth S. Tucker
Signature



RICK SCOTT
GOVERNOR

RECEIVED
2011 SEP 12 PM 4:10
DIVISION OF ELECTIONS

September 8, 2011

Mr. Kurt S. Browning, Secretary
Department of State
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Browning:

Please be advised I have made the following appointment under the provisions of Section 20.315, Florida Statutes :

Mr. Ken Tucker

as a member of the Secretary, Department of Corrections, succeeding Edwin G. Buss, subject to confirmation by the Senate. This appointment is effective August 24, 2011, for a term ending at the Pleasure of the Governor.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/jt

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate.

Please type or print in blue or black ink.

7/20/2011

Date Completed

1. Name: Mr. Tucker Kenneth Scott
MR./MRS./MS. LAST FIRST MIDDLE/MAIDEN

2. Business Address: 501 S. Calhoun St. Tallahassee
STREET OFFICE # CITY
FL 32399 850-717-3030
POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

3. Residence Address: _____
STREET CITY STATE
POST OFFICE BOX STATE ZIP CODE AREA CODE/PHONE NUMBER

Specify the preferred mailing address: Business ☐ Residence ☒ Fax # _____
(optional)

4. A. List all your places of residence for the last five (5) years.

ADDRESS	CITY & STATE	FROM	TO

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

ADDRESS	CITY & STATE	FROM	TO

5. Date of Birth: 11/10/1954 Place of Birth: _____

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: FL

8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain

RECEIVED
DIVISION OF ELECTIONS
TALLAHASSEE, FL
2011 SEP 26 PM 2:06

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization:

10. Since what year have you been a continuous resident of Florida? Birth 11/10/1954

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Leon

B. Current Party Affiliation: R

12. Education

A. High School: Bunnel H.S. Bunnell, FL Year Graduated: 1972

(NAME AND LOCATION)

B. List all postsecondary educational institutions attended:

NAME & LOCATION

DATES ATTENDED

CERTIFICATES/DEGREES RECEIVED

Daytona Beach Community College 76-78 AA Crim. Justice
University of Central FL, Orlando 79-83 BA Crim. Justice

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☒ No ☐ If "Yes" list:

A. Dates of Service: 10/20/1972 - 10/25/1975

B. Branch or Component: U.S. Army

C. Date & type of discharge: 10/25/1975 Honorable

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☐ No ☒ If "Yes" give details:

DATE

PLACE

NATURE

DISPOSITION

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

EMPLOYER'S NAME & ADDRESS

TYPE OF BUSINESS

OCCUPATION/JOB TITLE

PERIOD OF EMPLOYMENT

F.D.L.E. State Agency Asst. Commissioner Nov. 83 - Aug. 2011

* Also served as Deputy Commissioner, Special Agent in Charge, Asst. Special Agent in Charge & Special Agent Supervisor

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☒ No ☐
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

POSITION

EMPLOYING AGENCY

PERIOD OF EMPLOYMENT

* Same as above F.D.L.E. Nov. 83 - Aug. 2011

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I have over 34 years of law enforcement experience, with 28 years of that being with the FL Dept. of Law Enforcement. Extensive investigative experience combined with over 20 years in progressive managerial and executive positions qualifies me for a Chief Executive position with the Dept. of Corrections.

- B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

- C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

- D. Identify all association memberships and association offices held by you that relate to this appointment:

*Florida Police Chiefs Association
Florida Sheriffs Association
International Association of Chiefs of Police (IACP)
National Alliance of State Criminal Investigative Agencies*

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☐ No ☒ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

OFFICE TITLE

DATE OF ELECTION OR APPOINTMENT

TERM OF OFFICE

LEVEL OF GOVERNMENT

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: n/a

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

MEETINGS ATTENDED

MEETINGS MISSED

REASON FOR ABSENCE

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

DATE

NATURE OF VIOLATION

DISPOSITION

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☐ No ☒ If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☒ No ☐ If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

LICENSE/CERTIFICATE

ORIGINAL

TITLE & NUMBER

ISSUE DATE

ISSUING AUTHORITY

DISCIPLINARY ACTION/DATE

Law Enforcement Certification 1977 FDLE-QUT n/a - none

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

NAME OF BUSINESS

YOUR RELATIONSHIP TO BUSINESS

BUSINESS' RELATIONSHIP TO AGENCY

- B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

NAME OF BUSINESS	FAMILY MEMBER'S RELATIONSHIP TO YOU	FAMILY MEMBER'S RELATIONSHIP TO BUSINESS	BUSINESS RELATIONSHIP TO AGENCY

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☒ No ☐

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☒

B. Name of agency or entity you lobbied and the principal(s) you represented:

AGENCY LOBBIED	PRINCIPAL REPRESENTED
Registered as lobbyist, with legislature, for the Florida Dept. of Law Enforcement.	

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

NAME	MAILING ADDRESS	ZIP CODE	AREA CODE/PHONE NUMBER
Mr. Forrest Van Cumb			
Mr. Tim Moore			
Sheriff Ed Dean			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

NAME	MAILING ADDRESS	OFFICE(S) HELD & TERM	DATE(S) OF MEMBERSHIP
International Association of Chiefs of Police	515 N. Washington	Alexandria, VA	
FL Police Chiefs Association	P.O. Box 14038	Tallahassee, FL	
FL Sheriffs Association	2617 Mahan Dr.	Tallahassee, FL	
Assoc. of State Crim. Inv. Agencies			Notice - 561-237-1345
Nat'l Alliance of State Drug Enf. Agencies			no office -

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐

MEMORANDUM

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2011 OCT 11 AM 9:27
DIVISION OF ELECTIONS
TALLAHASSEE, FL

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.



Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) part law enforcement
119.071:401

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA, COUNTY OF

Before me, the undersigned Notary Public of Florida, personally appeared Kenneth S. Tucker, who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Kenneth S. Tucker

Signature of Applicant-Affiant

Sworn to and subscribed before me

this 20 day of September, 2011.

Amy Ulshafer

Signature of Notary Public-State of Florida



AMY ULSHAFFER
MY COMMISSION # EE 128300
EXPIRES: September 7, 2015
Bonded Thru Budget Notary Services

(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 9/7/2015

Personally Known ☒ OR

Produced Identification ☐

Type of Identification Produced _____

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2011 SEP 26 PM 2:07
(seal)
DIVISION OF ELECTIONS
TALLAHASSEE, FL

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Kenneth S. Tucker
Secretary of Corrections


NOTICE OF HEARING

TO: Secretary Kenneth S. Tucker

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Thursday, January 12, 2012, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 10:15 a.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 9th day of January, 2012

Committee on Criminal Justice



Senator Greg Evers
As Chair and by authority of the committee

cc: Members, Committee on Criminal Justice
Donald Severance, Sergeant at Arms

TAB 10

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/11
Meeting Date

Topic Confirmation

Bill Number _____
(if applicable)

Name Ken Tucker

Amendment Barcode _____
(if applicable)

Job Title Secretary

Address 301 Calhoun St.

Phone 717-3045

Street

Tallahassee FL 32399

City

State

Zip

E-mail _____

Speaking: ☐ For ☐ Against ☐ Information

Representing DOC

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

CourtSmart Tag Report

Room: LL 37
Caption: Criminal Justice Committee

Case:
Judge:

Type:

Started: 1/12/2012 10:16:29 AM
Ends: 1/12/2012 11:16:12 AM **Length:** 00:59:44

10:16:37 AM Meeting to order
10:17:13 AM Tab 10 - Confirmation of Kenneth S. Tucker (Sec'y DOC)
10:21:50 AM Roll call
10:22:44 AM Tab 9 - Confirmation of Jeffrey Lewis (CCRC 1st Dist)
10:25:06 AM Roll call
10:25:52 AM Tab 5 - SB 278 Senator Sachs
10:32:37 AM Frank Messersmith, Florida Sherriff's Assoc.
10:35:19 AM Roll call
10:36:10 AM Tab 2 - SB 80 (Sen. Smith presenting for Sen. Joyner)
10:38:27 AM Roll call
10:38:50 AM Tab 3 - SB 208 (Sen. Smith presenting for Sen. Joyner)
10:40:25 AM Alisa Snow, Florida Nurses Association
10:41:26 AM Cherlyann Juchniewicz
10:47:32 AM Roll call
10:48:12 AM Tab 1 - SB 858 Senator Negron
11:03:45 AM Roll call
11:04:12 AM Tab 4 - SB 210 Senator Wise
11:07:02 AM Roll call
11:07:40 AM Tab 6 - SB 638 Senator Hays
11:09:20 AM Roll call
11:09:46 AM Sen Bennett - comments about officer misconduct
11:15:57 AM Meeting adjourned