

CS/SB 332 by HR, Bullard; (Similar to H 0433) Infant Death

621986	A	S	RCS	CJ, Margolis	btw L.17 - 18:	01/19 12:55 PM
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SB 432 by Flores (CO-INTRODUCERS) Diaz de la Portilla, Garcia, Lynn; (Compare to CS/H 0189) Unauthorized Copying of Recordings

189746	A	S	RCS	CJ, Margolis	Delete L.60 - 85:	01/19 12:55 PM
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CS/SB 804 by EP, EP (CO-INTRODUCERS) Evers; (Compare to CS/H 7025) Fish and Wildlife Conservation

CS/SB 922 by MS, Bennett (CO-INTRODUCERS) Detert, Jones, Gaetz, Fasano; (Similar to H 0977) Current and Former Military Personnel

782092	D	S	RCS	CJ, Bennett	Delete everything after	01/19 12:55 PM
877326	D	S	WD	CJ, Bennett	Delete everything after	01/25 07:25 PM

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

363276	D	S	RCS	CJ, Hays	Delete everything after	01/19 12:55 PM
117654	AA	S	RCS	CJ, Hays	Delete L.127 - 129:	01/19 12:55 PM
653478	D	S	WD	CJ, Hays	Delete everything after	01/25 07:26 PM

SB 998 by Negrón (CO-INTRODUCERS) Norman, Evers; (Similar to CS/1ST ENG/H 0463) Concealed Weapons or Firearms

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Dean, Vice Chair

MEETING DATE: Thursday, January 19, 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	Presentation by the Criminal Justice Standards and Training Commission on officer misconduct disciplinary action.		Discussed
2	CS/SB 332 Health Regulation / Bullard (Similar H 433)	<p>Infant Death; Revising legislative findings and intent with respect to the sudden unexpected death of an infant under a specified age; defining the term "sudden unexpected infant death"; revising provisions relating to training requirements for first responders; revising requirements relating to autopsies performed by medical examiners; requiring the Medical Examiners Commission to provide for the development and implementation of a protocol for the medical and legal investigation of sudden unexpected infant deaths; deleting references to the SIDS hotline and local SIDS alliances, etc.</p> <p>HR 12/07/2011 Fav/CS CJ 01/19/2012 Fav/CS BC</p>	Fav/CS Yeas 6 Nays 0
3	SB 432 Flores (Compare CS/H 189)	<p>Unauthorized Copying of Recordings; Requiring restitution by persons who knowingly commit certain violations relating to recordings for commercial advantage or private financial gain; authorizing recovery by a trade association representing the owner or lawful producer of a recording; providing for calculation of a restitution amount; providing that a crime victim entitled to restitution may include a trade association representing the owner or lawful producer of a pirated recording in certain circumstances, etc.</p> <p>CM 01/09/2012 Favorable CJ 01/19/2012 Fav/CS BC</p>	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Thursday, January 19, 2012, 10:15 a.m.—12:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 804 Environmental Preservation and Conservation / Environmental Preservation and Conservation (Compare H 7025)	Fish and Wildlife Conservation; Changing a funding source of the Marine Resources Conservation Trust Fund from excise taxes to vessel registration fees; removing the provision requiring that undistributed funds be carried over to the next fiscal year; repealing provisions relating to the publication of the Florida Wildlife Magazine and the Florida Wildlife Magazine Advisory Council; deleting provisions that restrict the special authorization to hunt under supervision to 1 year and that prohibit issuing the special authorization to the same person more than once; reducing the fee for soft-shell blue crab endorsements; adding to the offense severity ranking chart, to be used with the Criminal Punishment Code for sentence score, willful molestation of a commercial harvester's spiny lobster trap, line, or buoy or the unauthorized possession or removal of trap contents or trap gear, etc. EP 12/06/2011 Fav/CS CJ 01/19/2012 Favorable BC	Favorable Yeas 6 Nays 0
5	CS/SB 922 Military Affairs, Space, and Domestic Security / Bennett (Similar H 977, Compare CS/H 45, H 117, H 131, H 221, H 469, H 755, H 1223, S 94, S 138, S 152, S 164, S 276, S 404, S 528, S 1122)	Current and Former Military Personnel; Providing a tax credit program for eligible business that hire certain national guard members; creating the Florida Veterans' Hall of Fame Council; renaming and revising the Florida Service-Disabled Veteran Business Enterprise Opportunity Act to expand the vendor preference in state contracting to include certain businesses owned and operated by wartime veterans or veterans of a period of war; creating the "T. Patt Maney Veterans' Treatment Intervention Act"; providing that a person who alleges that he or she committed a criminal offense as a result of posttraumatic stress disorder, traumatic brain injury, substance use disorder, or psychological problems stemming from service in a combat theater in the United States military may have a hearing on that issue before sentencing; requiring that any veteran who meets specified criteria be admitted to any Florida College System institution or state university of the veteran's choice, etc. MS 01/09/2012 Fav/CS CJ 01/19/2012 Fav/CS	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Thursday, January 19, 2012, 10:15 a.m.—12:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	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 CJ 01/19/2012 Fav/CS JU BC	Fav/CS Yeas 6 Nays 0
7	SB 998 Negron (Identical CS/H 463)	Concealed Weapons or Firearms; Providing for otherwise qualified members and veterans of the United States Armed Forces to be issued a concealed weapon or firearm license regardless of age or United States residency in certain circumstances; providing additional methods for the taking of fingerprints from such license applicants; providing for members and veterans of the United States Armed Forces to be granted reciprocity regardless of age, etc. MS 01/09/2012 Favorable CJ 01/19/2012 Favorable BC	Favorable Yeas 6 Nays 0
Other related meeting documents			

Tab 1

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/19/12

Meeting Date

Topic Criminal Justice Standards and Training Commission

Bill Number _____
(if applicable)

Name Mark Zadra

Amendment Barcode _____
(if applicable)

Job Title Assistant Commissioner

Address 2331 Phillips Road

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Street

Tallahassee

FL

32308

City

State

Zip

E-mail markzadra@fdle.state.fl.us

Speaking: ☐ For ☐ Against ☒ Information

Representing Florida Department of Law Enforcement

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 332

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

SUBJECT: Infant Death

DATE: January 19, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wilson	Stovall	HR	Fav/CS
2.	Dugger	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:

Committee Substitute for Senate Bill 332 amends the law relating to Sudden Infant Death Syndrome (SIDS) to focus the activities of the Department of Health and the medical examiners on sudden unexpected infant deaths for which a cause can be determined with proper investigation. The bill brings the law into conformity with current standards of practice by defining and using a category of infant deaths broader than SIDS called Sudden Unexpected Infant Death (SUID).

The bill also names the act the “Edward Jr., and Rachel Bullard Act.”

This bill substantially amends section 383.3362, Florida Statutes.

II. Present Situation:

Statutory Provisions Relating to Sudden Infant Death Syndrome

Subsection 383.3362(2), F.S., defines “Sudden Infant Death Syndrome,” or “SIDS,” as “the sudden unexpected death of an infant under 1 year of age which remains unexplained after a

complete autopsy, death-scene investigation, and review of the case history. The term includes only those deaths for which, currently, there is no known cause or cure.” The SIDS diagnosis reflects the clear admission by a medical examiner that an infant’s death remains completely unexplained.

Subsection 383.3362(3), F.S., requires basic training programs for first responders (emergency medical technicians, paramedics, firefighters, and certain law enforcement officers) to include instruction on SIDS. The Department of Health is responsible for developing and adopting, by rule, curriculum that, at a minimum, includes training in the nature of SIDS, standard procedures to be followed by law enforcement agencies in investigating cases involving sudden deaths of infants, and training in responding appropriately to the parents or caretakers who have requested assistance. The Department of Health has adopted guidelines for SIDS response basic training curricula.¹ The Criminal Justice Standards and Training Commission has approved curricula in place for basic and advanced training for first responders in infant death cases.²

Subsection 383.3362(4), F.S., requires the medical examiner to perform an autopsy upon any infant under the age of 1 year who is suspected to have died of SIDS. The law requires the medical examiner to perform the autopsy within 24 hours after the death, or as soon thereafter as is feasible. When the medical examiner’s findings are consistent with the definition of SIDS, the medical examiner must state on the death certificate that SIDS was the cause of death.

Subsection 383.3362(4), F.S., also requires the Medical Examiners Commission to develop and implement certain protocols for SIDS.³ All medical examiners, when conducting autopsies under s. 383.3362, F.S., must follow these protocols. A section of the protocols is devoted to investigation and autopsy for all infant deaths.

Under s. 383.3362(5), F.S., the Department of Health is responsible for the following functions relating to SIDS:

- Developing and presenting training programs for first responders;
- Maintaining a database of SIDS statistics and analyzing the data as funds allow;
- Serving as liaison with the Florida SIDS Alliance;
- Maintaining a library reference list and materials about SIDS for public dissemination;
- Providing professional support to field staff; and
- Coordinating the activities of the fetal and infant mortality review committees of the local healthy start coalitions, the local SIDS alliance, and other related support groups.

Data on SIDS and SUID is currently available through the Florida Community Health Resource Tool Set.⁴ Data is not collected on sudden unexplained death in childhood.

¹ See Department of Health Rule 64F-5.002, Florida Administrative Code. Found at: <https://www.flrules.org/gateway/ruleno.asp?id=64F-5.002> (Last visited on November 28, 2011).

² See Florida Department of Law Enforcement analysis of HB 433 (2011), on file with the Senate Health Regulation Committee.

³ See Department of Law Enforcement Rule 11G-2.0031, Florida Administrative Code. Found at: <https://www.flrules.org/gateway/ruleno.asp?id=11G-2.0031> (Last visited on November 28, 2011).

⁴ Florida CHARTS (Community Health Assessment Resource Tool Set). Found at: <http://www.floridacharts.com/charts/chart.aspx> (Last visited on November 28, 2011).

Section 402.305, F.S., establishes licensing standards for child care facilities. Among the minimum training requirements for child care personnel, is a requirement that the introductory course required for all child care personnel include prevention of SIDS.

Medical Examiners/Autopsies

Part I of chapter 406, F.S., governs medical examiners, who are practicing physicians in pathology appointed by the Governor in each medical examiner district of the state. Section 406.02, F.S., creates the Medical Examiners Commission within the Department of Law Enforcement. The Medical Examiners Commission is required to adopt rules to implement chapter 406, F.S., and must ensure minimum and uniform standards of excellence, performance of duties, and maintenance of records so as to provide useful and adequate information to the state in regard to causative factors of the deaths investigated.

Section 406.11, F.S., requires a medical examiner to determine the cause of death of a human being under certain circumstances. The medical examiner is required to determine the cause of death when any person dies in the state:

- Of criminal violence.
- By accident.
- By suicide.
- *Suddenly, when in apparent good health.*
- Unattended by a practicing physician or other recognized practitioner.
- In any prison or penal institution.
- In police custody.
- In any suspicious or unusual circumstance.
- By criminal abortion.
- By poison.
- By disease constituting a threat to public health.
- By disease, injury, or toxic agent resulting from employment.

In determining the cause of death, the medical examiner must perform examinations, investigations, and autopsies as he or she deems necessary or as requested by the state attorney.

Infant Death Statistics

In 2010 there were 929 resident neonatal (less than 28 days old) deaths in Florida. The rate of all resident neonatal deaths in 2010 was 4.3 per 1,000 live births. The resident neonatal death rate for whites in the same year was 3.2 per 1,000 live births, while the rate was 7.2 per 1,000 live births for blacks and other races.⁵

In 2010 there were 1,400 resident infant (less than 1 year old) deaths in Florida. Of that number, 929 were neonatal deaths and 471 were post neonatal deaths (age 28 days through 364 days).

⁵ Florida Vital Statistics Annual Report 2010, Fetal and Infant Deaths. Found at: <http://www.flpublichealth.com/VBOOK/pdf/2010/Fetal.pdf> (Last visited on November 28, 2011).

The rate of all resident infant deaths in 2010 was 6.5 per 1,000 live births. The resident infant death rate for whites in the same year was 4.9 per 1,000 live births, while the rate was 10.8 per 1,000 live births for blacks and other races.⁶

In 2010 there were 63 SIDS deaths in Florida.⁷ Of these deaths, 6 occurred during the neonatal period (less than 28 days old) and 57 occurred during the post neonatal period (age 28 days through 364 days).

Centers for Disease Control and Prevention's Sudden Unexpected Infant Death Initiative

According to the Centers for Disease Control and Prevention (CDC), since 1998, it appears that medical examiners and coroners are moving away from classifying deaths as SIDS and calling more deaths accidental suffocation or unknown cause, suggesting that diagnostic and reporting practices have changed.⁸ Inconsistent practices in investigation and cause-of-death determination hamper the ability to monitor national trends, ascertain risk factors, and design and evaluate programs to prevent these deaths.

As a response, the CDC began the Sudden Unexpected Infant Death (sometimes called Sudden Unexplained Infant Death) Initiative. The CDC and its partners began activities aimed at improving the investigation and reporting practices for SIDS and other SUIDs. The CDC's research on SUID and SIDS focuses on efforts to standardize and improve data collected at infant death scenes and to promote consistent classification and reporting of cause and manner of death for SUID cases.

According to the CDC, SUID is the sudden and unexpected death of an infant due to natural or unnatural causes. SIDS is one of several causes of SUID, however, SIDS, unlike SUID causes, is a diagnosis of exclusion. Although most conditions or diseases usually are diagnosed by the presence of specific symptoms, SIDS is a diagnosis that should be given only after all other possible causes of sudden, unexplained death have been ruled out through a careful case investigation, which includes a thorough examination of the death scene, a complete autopsy, and a review of the infant's medical history. The most common causes of SUID are: SIDS, suffocation, metabolic errors, injury or trauma, and unclassified causes (if the death scene investigation and/or autopsy were incomplete or not done and the death certifier has insufficient evidence to record a more specific cause of death).⁹

⁶ *Id.*

⁷ *Id.*

⁸ Centers for Disease Control and Prevention, *CDC's Sudden Unexpected Infant Death Initiative*. Found at: <<http://www.cdc.gov/sids/SUIDAbout.htm>> (Last visited on November 17, 2011).

⁹ Carrie Shapiro-Mendoza, Ph.D., M.P.H., CDC, *Sudden, Unexplained Infant Death Investigation, Chapter 1, Types of Sudden, Unexplained Infant Death*. Found at: <http://www.cdc.gov/sids/PDF/SUIDManual/Chapter1_tag508.pdf> (Last visited on November 28, 2011).

Existing Programs in Florida

Healthy Start Program

Florida's Healthy Start initiative was signed into law on June 4, 1991.¹⁰ The Healthy Start law provides for universal risk screening of all of Florida's pregnant women and newborn infants to identify those at risk of poor birth, health and developmental outcomes. The Department of Health administers the program and services are provided through local coalitions.

The Florida Healthy Start Program helps pregnant women and infants obtain the health care and social support they need, in order to reduce infant mortality, reduce the number of low birth weight babies, and improve health and developmental outcomes. The program identifies women and infants at an increased risk for poor outcomes, provides a professional assessment of their needs, and identifies resources to address those needs. The program provides timely and important linkages, referrals, or services.

Section 383.14, F.S., requires the Department of Health to promote the screening of all pregnant women and newborn infants for risk factors that increase the risk of preterm delivery, infant mortality and morbidity. The screening instrument includes a series of risk factors based on medical, environmental, nutritional, behavioral or developmental concerns. All pregnant women and infants who are identified to be at risk for adverse health outcomes or are referred by their health care provider are eligible to receive Healthy Start services.

The Department of Health works with the Florida Association of Healthy Start Coalitions to provide Healthy Start services statewide. There are 32 Healthy Start Coalitions that cover 66 of the 67 counties in Florida,¹¹ to ensure local leadership and planning for a system of care and promote optimum health outcomes for pregnant women and infants. Healthy Start services are available in all 67 counties, as Desoto County provides Healthy Start services through the county health department.

Fetal and Infant Mortality Review

The Florida Fetal and Infant Mortality Review is a process of community-based fetal and infant mortality reviews aimed at addressing factors and issues that affect infant mortality and morbidity. A Local Infant Mortality Committee of the Healthy Start Coalition provides an analysis of the basic statistical and epidemiological aspects of fetal and infant mortality, and then selects objectives, plans, and manages the review process. In 2010, the fetal and infant mortality review projects reviewed 308 cases.¹²

The review process includes the technical tasks of record audits and parental interviews, as well as presentation to and analysis by an expert review panel that makes specific recommendations to the local community for action. Interviews are conducted not only to obtain information, but also to ensure that families are receiving appropriate support and follow-up.

¹⁰ See ss. 383.011(1)(e) and 383.216, F.S.

¹¹ Florida Association of Healthy Start Coalitions, Inc., *List of Healthy Start Coalitions*. Found at: <<http://www.healthystartflorida.com/directoryList.asp>> (Last visited on November 28, 2011).

¹² See Florida Department of Health analysis of SB 332 (2011), on file with the Senate Health Regulation Committee.

For FY 2011-2012, the Department of Health has contracted with 11 Healthy Start coalitions for fetal and infant mortality review projects covering 29 counties (Escambia, Jackson, Washington, Holmes, Calhoun, Liberty, Bay, Franklin, Gulf, Gadsden, Leon, Jefferson, Madison, Taylor, Wakulla, Baker, Clay, Duval, Nassau, St. Johns, Flagler, Volusia, Pinellas, Hardee, Highlands, Polk, Sarasota, Broward and Miami-Dade Counties).¹³ In addition to the funded projects, there are 7 unfunded projects covering 7 counties that are conducted by either Healthy Start coalitions or county health departments.

Florida SIDS Alliance

The Florida SIDS Alliance was formed in 1985 through the efforts of SIDS parent groups and concerned professionals. The mission of the Florida SIDS Alliance is to:

- Establish a reliable, continuous source of assistance to parents who lose a child suddenly and unexpectedly, and particularly in all cases due to SIDS;
- Provide a local center for information and referral networking to those who may inquire about SIDS, and specifically, to assist parents with a recent SIDS/sudden infant death by giving them information to be shared with those affected by the loss;
- Sponsor educational campaigns to and for medical, professional, and general communities, to inform them about SIDS; and
- Promote and support research into the cause and possible prevention of SIDS through fund-raising and public education.¹⁴

III. Effect of Proposed Changes:

The bill expands the provisions of s. 383.3362, F.S., relating to SIDS, to cover SUID, not just SIDS. Legislative findings and intent are amended to reflect this expansion and to recognize the importance of multidisciplinary investigation and standardized investigative protocols in cases of SUID. The bill also names the act the “Edward Jr. and Rachel Bullard Act.”

The definition of SIDS is amended to specify that the death appears to be a result of natural causes and to delete the current limitation on deaths that qualify as SIDS deaths as those for which there currently is no known cause or cure. The bill defines “Sudden Unexpected Infant Death” or “SUID” as the “sudden unexpected death of an infant under 1 year of age in apparent good health and whose death may have been a result of natural or unnatural causes. Both SIDS and SUID apply to the sudden unexpected death of an infant under 1 year of age, but SIDS includes only those deaths that appear to be a result of natural causes and which remain unexplained after a complete autopsy, death-scene investigation, and review of the case history.

The bill amends the training requirement for first responders (emergency medical technicians, paramedics, firefighters, and certain law enforcement officers) to require instruction on SUID, not just SIDS. The Department of Health is required to develop and adopt, by rule, curriculum that includes training in SUID, not just SIDS.

¹³ Florida Department of Health, *Florida’s Fetal and Infant Mortality Review Program*. Found at: <http://www.doh.state.fl.us/family/mch/FIMR/fimr_facts.html> (Last visited on November 28, 2011).

¹⁴ Florida SIDS Alliance, *About Us*. Found at: <<http://flasids.com/blog/florida-sids-alliance/>> (Last visited on November 28, 2011).

The bill specifies that the sudden unexpected death of any infant under 1 year of age who was in apparent good health falls under the jurisdiction of the medical examiner pursuant to s. 406.11, F.S. The bill removes the requirement that a medical examiner perform an autopsy in suspected SIDS cases within 24 hours after the death, as well as the requirement that the medical examiner state on the death certificate that SIDS was the cause of death if his or her findings are consistent with the definition of SIDS. The bill clarifies that the protocol developed by the Medical Examiners Commission is for medical and legal investigation of SUID, not SIDS.

The bill expands the scope of the duties of the Department of Health relating to SIDS to include SUID, not just SIDS.

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 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:

Both the Florida Department of Law Enforcement and the Department of Health indicate that there is no fiscal impact on their departments.

Rules, curricula, and guidelines will need to be amended to reflect the shift from SIDS to SUID.

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:

- Names the act the “Edward Jr., and Rachel Bullard Act.”

CS by Health Regulation on December 7, 2011:

The CS for SB 332:

- Amends s. 383.3362, F.S., relating to SIDS, rather than creating a new section of law;
- Expands statutory provisions relating to SIDS to include only SUID, not stillbirth and sudden unexplained death in childhood;
- Does not assign new responsibilities to the State Surgeon General other than expanding the Department of Health’s existing SIDS responsibilities to cover SUID, which is a broader category of infant death than SIDS.
- Does not require the State Surgeon General to establish a task force; and
- Does not require a report by the State Surgeon General.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/19/2012	.	
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The Committee on Criminal Justice (Margolis) recommended the following:

Senate Amendment (with title amendment)

Between lines 17 and 18
insert:

Section. 1. This act may be cited as the "Edward Jr., and Rachel Bullard Act."

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

And the title is amended as follows:

Delete line 2

and insert:

An act relating to infant death; providing a short



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title; amending s. 383.3362,

By the Committee on Health Regulation; and Senator Bullard

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A bill to be entitled

An act relating to infant death; amending s. 383.3362, F.S.; revising legislative findings and intent with respect to the sudden unexpected death of an infant under a specified age; defining the term "Sudden Unexpected Infant Death"; revising provisions relating to training requirements for first responders; revising requirements relating to autopsies performed by medical examiners; requiring the Medical Examiners Commission to provide for the development and implementation of a protocol for the medical and legal investigation of sudden unexpected infant deaths; deleting references to the SIDS hotline and local SIDS alliances; providing an effective date.

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

Section 1. Section 383.3362, Florida Statutes, is amended to read:

383.3362 ~~Sudden Infant death Syndrome.~~

(1) FINDINGS AND INTENT.—The Legislature recognizes that the sudden unexpected death of an infant who is in apparent good health ~~Sudden Infant Death Syndrome, or SIDS,~~ is a leading cause of death among infants ~~children~~ under the age of 1 year, both nationally and in this state. The Legislature further recognizes that first responders to emergency calls relating to such a death need access to special training to better enable them to recognize that such deaths may result from natural or accidental causes or may be distinguish SIDS from death caused by criminal

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acts and to appropriately interact with the deceased infant's parents or caretakers. At the same time, the Legislature, recognizing that the primary focus of first responders is to carry out their assigned duties, intends to increase the awareness of possible causes of a sudden unexpected infant death ~~SIDS~~ by first responders, but in no way expand or take away from their duties. Further, the Legislature recognizes the importance of a multidisciplinary investigation and standardized investigative protocols in cases of sudden unexpected infant death ~~standard protocol for review of SIDS deaths by medical examiners and the importance of appropriate followup in cases of certified or suspected SIDS deaths.~~ Finally, the Legislature finds that it is desirable to analyze existing data, and to conduct further research on, the possible causes of infant death ~~SIDS~~ and how to reduce ~~lower~~ the number of sudden unexpected infant deaths.

(2) DEFINITION.—As used in this section, the term:

(a) "Sudden Infant Death Syndrome," or "SIDS," refers to ~~means~~ the sudden unexpected death of an infant under 1 year of age whose death appears to be a result of natural causes but which remains unexplained after a complete autopsy, death-scene investigation, and review of the case history. ~~The term includes only those deaths for which, currently, there is no known cause or cure.~~

(b) "Sudden Unexpected Infant Death" or "SUID" refers to ~~the sudden unexpected death of an infant under 1 year of age in~~ apparent good health and whose death may have been a result of natural or unnatural causes.

(3) TRAINING.—

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(a) The Legislature finds that an emergency medical technician, a paramedic, a firefighter, or a law enforcement officer is likely to be the first responder to a request for assistance which is made immediately after the sudden unexpected death of an infant. The Legislature further finds that these first responders should be trained in appropriate responses to sudden infant death.

(b) ~~After January 1, 1995,~~ The basic training programs required for certification as an emergency medical technician, a paramedic, a firefighter, or a law enforcement officer as defined in s. 943.10, other than a correctional officer or a correctional probation officer, must include curriculum that contains instruction on SUID ~~Sudden Infant Death Syndrome~~.

(c) The Department of Health, in consultation with the Emergency Medical Services Advisory Council, the Firefighters Employment, Standards, and Training Council, and the Criminal Justice Standards and Training Commission, shall develop and adopt, by rule, curriculum that, at a minimum, includes training in SUID ~~the nature of SIDS~~, standard procedures to be followed by law enforcement agencies in investigating cases involving sudden deaths of infants, and training in responding appropriately to the parents or caretakers who have requested assistance.

(4) AUTOPSIES.—

(a) The sudden unexpected death of any infant under 1 year of age who was in apparent good health falls under the jurisdiction of the medical examiner pursuant to s. 406.11 ~~must perform an autopsy upon any infant under the age of 1 year who is suspected to have died of Sudden Infant Death Syndrome. The~~

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~~autopsy must be performed within 24 hours after the death, or as soon thereafter as is feasible. When the medical examiner's findings are consistent with the definition of sudden infant death syndrome in subsection (2), the medical examiner must state on the death certificate that sudden infant death syndrome was the cause of death.~~

(b) The Medical Examiners Commission shall provide for the development and implementation of ~~develop and implement~~ a protocol for medical and legal investigation of sudden unexpected infant death ~~dealing with suspected sudden infant death syndrome. The protocol must be followed by all medical examiners when conducting the autopsies required under this subsection.~~ The protocol may include requirements and standards for scene investigations, requirements for specific data, ~~criteria for ascertaining cause of death based on the autopsy,~~ criteria for any specific tissue sampling, and any other requirements that the commission considers necessary.

(c) A medical examiner is not liable for damages in a civil action for any act or omission done in compliance with this subsection.

~~(d) An autopsy must be performed under the authority of a medical examiner under s. 406.11.~~

(5) DEPARTMENT DUTIES RELATING TO SUDDEN UNEXPECTED INFANT DEATH (SUID) ~~DEATH SYNDROME (SIDS).~~—The Department of Health shall:

(a) Collaborate with other agencies in the development and presentation of the Sudden Unexpected Infant Death (SUID) Death Syndrome (SIDS) ~~training programs for first responders,~~ including those for emergency medical technicians and

588-01577-12 2012332c1

paramedics, firefighters, and law enforcement officers.

(b) Maintain a database of statistics on reported sudden unexpected infant deaths ~~SIDS deaths~~, and analyze the data as funds allow.

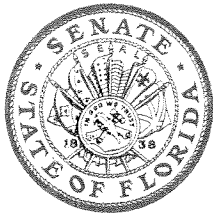
(c) Serve as liaison and closely coordinate activities with the Florida SIDS Alliance, ~~including the services related to the SIDS hotline~~.

(d) Maintain a library reference list and materials about SUID ~~SIDS~~ for public dissemination.

(e) Provide professional support to field staff.

(f) Coordinate the activities of and promote a link between the fetal and infant mortality review committees of the local healthy start coalitions, ~~the local SIDS alliance~~, and other related support groups.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Vice Chair*
Education Pre-K - 12, *Vice Chair*
Budget - Subcommittee on General Government
Appropriations
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Military Affairs, Space, and Domestic Security
Reapportionment
Rules
Transportation

SENATOR LARCENIA J. BULLARD

39th District

December 7, 2011

Honorable Senator Greg Evers
Committee on Criminal Justice
510 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Dear Senator Evers,

Senate Bill 332 Sudden Unexpected Infant Death has been referred to the Committee on Criminal Justice as the second committee of reference. Please calendar this bill so that it may get a Senate hearing.

Sincerely,

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

Larcenia J. Bullard
District 39

LJB/al

cc: ✓ Amanda Cannon, Staff Director
Sue Arnold, Committee Administrative Assistant

REPLY TO:

- 8603 South Dixie Highway, Suite 304, Miami, Florida 33143 (305) 668-7344
- 218 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5127

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)

1/19/11
Meeting Date

Topic Sudden Unexpected Infant Death

Bill Number SB 330
(if applicable)

Name Barbara C Wolf M.D.

Amendment Barcode _____
(if applicable)

Job Title District 5 Medical Examiner

Address 809 Pine Street

Phone 352-326-5961

Leesburg FL 34788
City State Zip

E-mail barbaracwolf@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

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 432

INTRODUCER: Criminal Justice Committee and Senator Flores and others

SUBJECT: Unauthorized Copying of Recordings

DATE: January 20, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Juliachs	Hrdlicka	CM	Favorable
2.	Clodfelter	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:

Senate Bill 432 amends Florida statutes relating to the unauthorized copying of sound recordings, s. 540.11, F.S., and restitution, s. 775.089, F.S.

Specifically, the bill amends s. 540.11, F.S., to require a sentencing court to order restitution to any owner or lawful producer of a master recording who is the victim of a violation of the truth in labeling law set forth in s. 540.11(3)(a)3., F.S. It also provides that restitution can be made to a trade association representing the owner or lawful producer, and provides a definition for "trade association."

Section 775.089, F.S., Florida's restitution statute, is amended to include a trade association within the definition of "victim" for a violation of s. 540.11(3)(a)3., F.S., if authorized by the owner or lawful producer.

This bill amends ss. 540.11 and 775.089, F.S.

II. Present Situation:

Unauthorized Copying of Sound Recordings

The Copyright Clause of the United States Constitution authorizes Congress “to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries.”¹ Until 1976, the power to regulate copyright was shared concurrently by both the federal and state government. Congress, however, enacted the Copyright Act of 1976, which expressly preempted the rights and remedies available under state copyright law with respect to sound recordings fixed² after February 15, 1972.³

In an effort to curtail music piracy, states continue to regulate the unauthorized copying of recordings in primarily two ways. First, states control copyright infringement through the use of “unauthorized duplication” statutes. Under the federal copyright law, states can only regulate the unauthorized duplication of any fixed sound recording created prior to February 15, 1972. Accordingly, the application of such state statutes is limited to sound recordings fixed prior to the federally mandated cut-off date.

Second, states have also enacted “truth in labeling” laws or “true name and address” statutes. “In states that have enacted these laws, it is illegal to manufacture, sell, distribute, or possess a variety of items and commodities, with intent to sell, re-sell, distribute, or rent, that do not bear the name and address of the manufacturer.”⁴ With these statutes, application is much broader because they regulate *all* sound recordings. Federal preemption is not at issue because the objective of these statutes is to protect the consumer and public at large as opposed to protecting the rights of artists and recording companies, who are protected exclusively under federal copyright law.

Section 540.11, F.S., regulates the unauthorized copying of sound recordings in this state, and s. 540.11(3)(a)3., F.S., is a “true name and address statute” that provides the following:

It is unlawful . . . [k]nowingly, for commercial advantage or private financial gain to sell or resell, offer for sale or resale, advertise, cause the sale or resale of, rent, transport or cause to be rented or transported, or possess for such purposes, any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, unless the outside cover, box, or jacket clearly and conspicuously discloses the actual name and address of the manufacturer thereof, and the name of the actual performer or group.⁵

¹ U.S. CONST. art. I, s. 8, cl.8.

² 17 U.S.C. s. 101 (2006) (“A work is “fixed” in a tangible medium of expression when its embodiment in a copy or phonorecord, by or under the authority of the author, is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. A work consisting of sounds, images, or both, that are being transmitted, is “fixed” for purposes of this title if a fixation of the work is being made simultaneously with its transmission.”).

³ 17 U.S.C. s. 301 (2006)

⁴ David Goldstone, PROSECUTING INTELLECTUAL PROPERTY CRIMES, 123 (2001).

⁵ Section 540.11(3)(a)3., F.S. (2011)

Whether violation of the statute is a first degree misdemeanor or a third degree felony, and the maximum fine that can be adjudged, depends on the number of unauthorized articles involved in the offense.

Restitution

Section 775.089, F.S., deals with restitution. Florida courts have repeatedly provided that “the purpose of restitution is twofold: (1) to compensate the victim and (2) to serve the rehabilitative, deterrent, and retributive goals of the criminal justice system.”⁶ The objective is to make the victim whole;⁷ thus, restitution must be ordered absent a finding by the court of “clear and compelling reasons not to order restitution.”⁸ As stated by the Florida Supreme Court, “restitution is an effective rehabilitative penalty because it forces the defendant to confront, in concrete terms, the harm his actions have caused.”⁹

Presently, under the restitution statute, a victim is defined as follows:

[A] person who suffers property damage or loss
. . . as a result of the defendant’s offense or
criminal episode, and also includes the victim’s
estate if the victim is deceased, and the victim’s
next of kin if the victim is deceased as a result of
the offense. . .¹⁰

In short, those entitled to restitution are the victim or, if deceased, the victim’s estate and next of kin.

III. Effect of Proposed Changes:

Section 1 requires those who violate s. 540.11(3)(a)3., F.S., to make restitution to any owner or lawful producer of a master recording¹¹ who has suffered injury resulting from the offense, or to the authorized trade association representing that owner or lawful producer. Restitution will be based on the aggregate wholesale value of lawfully manufactured and authorized articles corresponding to the number of nonconforming articles involved in the offense unless a greater value can be proven. The order of restitution must also include investigative costs.

The bill emphasizes that it applies only to physical articles and not to electronic articles or digital files that are distributed or made available online.

“Trade association” is defined as “an organization founded and funded by businesses that operate in a specific industry to protect their collective interests.”

⁶ *Kirby v. State*, 863 So. 2d 238, 243 (Fla. 2003); *State v. Castro*, 965 So. 2d 216, 218 (Fla. 3d DCA 2007); *L.H. v. State*, 803 So. 2d 862, 863-864 (Fla. 4th DCA 2002); *Koile v. State*, 902 So. 2d 822, 827 (Fla. 5th DCA 2005).

⁷ *Santana v. State*, 795 So. 2d 1112, 1113 (Fla. 5th DCA 2001).

⁸ Section 775.089(1)(a), F.S. (2011)

⁹ *Kirby*, 863 So. 2d at 243, quoting *People v. Bernal*, 101 Cal.App.4th 155, 123 Cal.Rptr.2d 622 (2002).

¹⁰ Section 775.089 (1)(c), F.S. (2011)

¹¹ Section 540.11(1), F.S., defines the term “master recording” as “the original fixation of sounds upon an article from which copies can be made.”

Section 2 amends the definition of the term “victim” in s. 775.089, F.S., to include a victim’s trade association if the offense is in violation of s. 540.11(3)(a)3., F.S., and the victim has granted the trade association written authorization to represent the victim’s interests in criminal legal proceedings and to collect restitution on the victim’s behalf.

Section 3 provides that this act shall take effect October 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:

There will be a fiscal impact on any persons or entities that violate s. 540.11(3)(a)3., F.S., and are ordered to pay restitution.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill uses the term “lawful producer” without providing a definition. Given that this bill relates to the music industry, “lawful producer” may have a particularly confusing interpretation because “producer” is a music industry-specific term.

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:

- Adds language to emphasize that the bill applies only to physical articles and not to electronic articles or digital files that are distributed or available online.
- Defines the term “trade association.”

- B. **Amendments:**

None.

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



189746

LEGISLATIVE ACTION

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

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

Senate Amendment (with title amendment)

Delete lines 60 - 85
and insert:

4. A person who violates subparagraph (a)3. shall be ordered to make restitution to any owner or lawful producer of a master recording that has suffered injury resulting from the crime, or to the trade association representing such owner or lawful producer. The order of restitution shall be based on the aggregate wholesale value of lawfully manufactured and authorized articles corresponding to the number of nonconforming articles involved in the offense unless a greater value can be



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13 proven. The order of restitution shall also include
14 investigative costs relating to the offense. As used in this
15 subparagraph, the term "trade association" means an organization
16 founded and funded by businesses that operate in a specific
17 industry to protect their collective interests. The restitution
18 obligation set forth in this subparagraph applies only to
19 physical articles and does not apply to electronic articles or
20 digital files that are distributed or made available online.

21 Section 2. Paragraph (c) of subsection (1) of section
22 775.089, Florida Statutes, is amended to read:

23 775.089 Restitution.—

24 (1)

25 (c) The term "victim" as used in this section and in any
26 provision of law relating to restitution means each person who
27 suffers property damage or loss, monetary expense, or physical
28 injury or death as a direct or indirect result of the
29 defendant's offense or criminal episode, and also includes the
30 victim's estate if the victim is deceased, ~~and~~ the victim's next
31 of kin if the victim is deceased as a result of the offense, and
32 the victim's trade association if the offense is a violation of
33 s. 540.11(3)(a)3. involving physical articles and the victim has
34 granted the trade association written authorization to represent
35 the victim's interests in criminal legal proceedings and to
36 collect restitution on the victim's behalf.

37
38 ===== T I T L E A M E N D M E N T =====

39 And the title is amended as follows:

40 Delete line 9

41 and insert:



189746

42 a restitution amount; providing a definition; amending
43 s. 775.089, F.S.;

By Senator Flores

38-00498-12

2012432

A bill to be entitled

An act relating to unauthorized copying of recordings; amending s. 540.11, F.S.; requiring restitution by persons who knowingly commit certain violations relating to recordings for commercial advantage or private financial gain; authorizing recovery by a trade association representing the owner or lawful producer of a recording; providing for calculation of a restitution amount; amending s. 775.089, F.S.; providing that a crime victim entitled to restitution may include a trade association representing the owner or lawful producer of a pirated recording in certain circumstances; providing an effective date.

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

Section 1. Subsection (3) of section 540.11, Florida Statutes, is amended to read:

540.11 Unauthorized copying of phonograph records, disk, wire, tape, film, or other article on which sounds are recorded.—

(3) (a) It is unlawful:

1. To sell or offer for sale or resale, advertise, cause the sale or resale of, rent, transport or cause to be rented or transported, or possess for any of these purposes any article with the knowledge, or with reasonable grounds to know, that the sounds thereon have been transferred without the consent of the owner.

2. To sell or offer for sale or resale, advertise, cause

Page 1 of 3

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

38-00498-12

2012432

the sale or resale of, rent, transport or cause to be rented or transported, or possess for any of these purposes any article embodying any performance, whether live before an audience or transmitted by wire or through the air by radio or television, recorded without the consent of the performer.

3. Knowingly, for commercial advantage or private financial gain to sell or resell, offer for sale or resale, advertise, cause the sale or resale of, rent, transport or cause to be rented or transported, or possess for such purposes, any phonograph record, disk, wire, tape, film, or other article on which sounds are recorded, unless the outside cover, box, or jacket clearly and conspicuously discloses the actual name and address of the manufacturer thereof, and the name of the actual performer or group.

(b)1. A person who violates paragraph (a) commits a felony of the third degree, punishable as provided in s. 775.082, by a fine of up to \$250,000, or both if the offense involves at least 1,000 unauthorized articles embodying sound or at least 65 unauthorized audiovisual articles during any 180-day period or is a second or subsequent conviction under either this subparagraph or subparagraph 2. of this subsection.

2. A person who violates paragraph (a) commits a felony of the third degree, punishable as provided in s. 775.082, by a fine of up to \$150,000, or both if the offense involves more than 100 but less than 1,000 unauthorized articles embodying sound or more than 7 but less than 65 unauthorized audiovisual articles during any 180-day period.

3. A person who otherwise violates this subsection commits a misdemeanor of the first degree, punishable as provided in s.

Page 2 of 3

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

38-00498-12

2012432__

775.082, by a fine of up to \$25,000, or both.

4. A person who violates subparagraph (a)3. shall be ordered to make restitution to any owner or lawful producer of a master recording that has suffered injury resulting from the crime, or to the trade association representing such owner or lawful producer. The order of restitution shall be based on the aggregate wholesale value of lawfully manufactured and authorized recordings corresponding to the number of nonconforming recordings involved in the offense unless a greater value can be proven. The order of restitution shall also include investigative costs relating to the offense.

Section 2. Paragraph (c) of subsection (1) of section 775.089, Florida Statutes, is amended to read:

775.089 Restitution.—

(1)

(c) The term "victim" as used in this section and in any provision of law relating to restitution means each person who suffers property damage or loss, monetary expense, or physical injury or death as a direct or indirect result of the defendant's offense or criminal episode, and also includes the victim's estate if the victim is deceased, ~~and~~ the victim's next of kin if the victim is deceased as a result of the offense, and the victim's trade association if the offense is a violation of s. 540.11(3)(a)3. and the victim has granted the trade association written authorization to represent the victim's interests in criminal legal proceedings and to collect restitution on the victim's behalf.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Chair*
Budget
Budget - Subcommittee on Education Pre-K - 12
Appropriations
Commerce and Tourism
Communications, Energy, and Public Utilities
Governmental Oversight and Accountability
Reapportionment
Rules

SENATOR ANITERE FLORES

Majority Whip
38th District

January 10, 2012

The Honorable Greg Evers
Chair of Committee on Criminal Justice
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Evers:

I respectfully request that you place SB 432, regarding unauthorized copying of recordings, on the next Committee on Criminal Justice. This proposed legislation requires restitution by persons who knowingly commit certain violations relating to recordings for commercial advantage or private financial gain.

I look forward to presenting this bill before your committee.

Please do not hesitate to contact me should you have any questions. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Anitere Flores".

Anitere Flores

CC: Ms. Amanda Cannon Committee on Criminal Justice, 510 Knott Building

REPLY TO:

- ☐ 10691 North Kendall Drive, Suite 309, Miami, Florida 33176 (305) 270-6550
- ☐ 316 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5130

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)

1/19/12
Meeting Date

Topic Restitution in Piracy Cases

Bill Number SB 432
(if applicable)

Name Luis Carlos Linares Jr.

Amendment Barcode 189746
(if applicable)

Job Title VP, Anti-Piracy Legal Affairs

Address 1025 F St. NW, 10th Floor
Street

Phone (202) 775-0101

Washington D.C. 20004
City State Zip

E-mail clinares@riaa.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Recording Industry Association of America

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)

1/19/12

Meeting Date

Topic Restitution in Piracy Cases

Bill Number SR 432
(if applicable)

Name Lois Carlos Linares Jr.

Amendment Barcode _____
(if applicable)

Job Title VP, Anti-Piracy Legal Affairs

Address 1025 F St. NW, 10th Floor
Street

Phone (202) 775-0101

Washington D.C. 20004
City State Zip

E-mail clinares@riga.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Recording Industry Association of America

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 804

INTRODUCER: Environmental Preservation and Conservation Committee; Environmental Preservation and Conservation Committee; and Senator Evers

SUBJECT: Fish and Wildlife Conservation

DATE: December 8, 2011

REVISED: 01/19/12

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Fav/CS
2.	Erickson	Cannon	CJ	Favorable
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 does the following:

- Removes outdated references to documentary stamp tax appropriations for marine mammal care and provides for permissive use for vessel registration fees. Marine mammal care is now funded by vessel registration fees and documentary stamp taxes no longer fund marine mammal care appropriations.
- Removes the provision requiring that undistributed funds be carried over to the next fiscal year.
- Repeals the law requiring a printed version of the *Florida Wildlife* magazine, as well as dissolves the Florida Wildlife Magazine Advisory Council (Council), a seven-member group whose role is to provide advice to the Fish and Wildlife Conservation Commission (FWC) on the publication *Florida Wildlife*.
- Modifies the mentor option of the hunter safety education course, deletes the one-year deferral, and allows individuals to hunt under supervision, indefinitely, without taking the course.

- Reduces the fee for a commercial blue crab soft shell endorsement by one-half, from \$250 to \$125 for each endorsement. This will make the endorsements the same for all trap fisheries: spiny lobster, stone crab, soft shell blue crab, and hard shell blue crab.
- Ranks two third degree felony offenses in Level 5 of the offense severity ranking chart of the Criminal Punishment Code: willful molestation of a commercial harvester's spiny lobster trap, line, or buoy; and willful molestation or unauthorized possession or removal of a commercial harvester's spiny lobster trap contents or trap gear (currently these offenses are not ranked in the chart and default to a Level 1 ranking pursuant to s. 921.0023, F.S., based on the ranking assigned under that statute to a third degree felony that is not ranked in the chart). This change would allow judges to impose a sentence within the full range of sentencing for a third degree felony (up to 5 years in state prison).

This bill amends sections 379.208, 379.3581, 379.366, and 921.0022, Florida Statutes, and repeals section 379.2342(2), Florida Statutes.

II. Present Situation:

Marine Resources Conservation Trust Fund

According to the FWC, during the 2000 Session, the Legislature passed SB 186, which provides a fixed amount of \$2 million from documentary stamp taxes to support marine mammal care. The revenue was appropriated on a recurring basis providing \$1.15 million for manatee rehabilitation, \$810,000 for University of Florida marine mammal veterinary training and \$40,000 for program administration. The sections of law that were modified in SB 186 (2000) were s. 201.15, F.S., pertaining to distributions of documentary stamp revenues, and s. 370.0603, F.S., pertaining to the Marine Resources Conservation Trust Fund.

In 2008, with the passage of SB 1882, the Legislature changed the fixed amount of documentary stamp revenues to a percentage of documentary stamp revenues with a \$2 million cap. The recurring appropriation remained the same (\$2 million) with the intent that when documentary stamp tax revenues dipped below \$2 million, the difference would be supported from vessel registration fees. The sections of law that were modified in SB 1882 (2008) were s. 201.15(1)(c)5, F.S., pertaining to distributions of documentary stamp revenues, and s. 370.0603, F.S., pertaining to the Marine Resources Conservation Trust Fund.

In 2009, the Legislature passed SB 1750, which eliminated the provision of documentary stamp taxes for marine mammal care. The recurring appropriation was left to be supported entirely from vessel registration fees. SB 1750 (2009) repealed s. 201.15(1)(c)5, F.S., pertaining to distributions of documentary stamp revenues; however, the residual language in s. 379.208, F.S., pertaining to the Marine Resources Trust Fund (the successor statute to s. 370.0603, F.S.), which references how those documentary stamp taxes were to be used in the Marine Resources Conservation Trust Fund, was not updated.¹

¹ Analysis of SB 804, Florida Fish and Wildlife Conservation Commission, dated December 2, 2011 (on file with the Committee on Environmental Preservation and Conservation). Further cited as "FWC Analysis."

Florida Wildlife Magazine Repeal

The Game and Fresh Water Fish Commission, the predecessor to the FWC, first published *Florida Wildlife* magazine in 1947. It began as a monthly magazine, switching to a bi-monthly schedule in the 1970s. As the official magazine of the FWC, the goal of *Florida Wildlife* is to promote the heritage of hunting, fishing and nature-based recreation in Florida and to encourage wise stewardship of the State's fish and wildlife resources.

During the 2003 Session, the Florida Legislature concurred with the FWC's potential reductions submission to eliminate the magazine's budget and positions. There were approximately 15,000 paid subscribers at the time, and the magazine ceased accepting new and renewal subscriptions. After *Florida Wildlife* published its final issue in November-December 2003, the FWC processed approximately \$84,000 in refunds for the approximately 6,000 remaining subscribers.

During the 2004 Session, the Legislature reinstated the funding of the magazine and included statutory provisions that allowed the sale of advertising and established a seven-member Florida Wildlife Magazine Advisory Council. The Council's role was to provide advice and guidance regarding the editorial and advertising content of the magazine, as well as strategies to increase circulation and reduce costs. The first issue of the re-established *Florida Wildlife* was published in April 2005. The Council has been inactive since 2006.

During the 2011 Session, the Legislature concurred with the FWC's potential reductions submissions to eliminate the printed publication of the *Florida Wildlife* magazine. Beginning July 1, 2011, the budget for the *Florida Wildlife* magazine was permanently cut by \$240,000. Section 41 of the Implementing bill (SB 2002) states: "notwithstanding the provisions of s. 379.2342(2), F.S., for the 2011-2012 fiscal year only, the FWC shall suspend the publication of a printed version of the *Florida Wildlife* magazine and the operations of the Florida Wildlife Magazine Advisory Council." The implementing bill is tied to the annual General Appropriations Act and is therefore limited to adjusting statutory requirements for one year only. The 2011-12 General Appropriations Act, however, reduced the funding permanently. A statutory change is needed for the FWC to carry out the legislative intent of the permanent cut to the funding of the printed version, and to repeal the authorization of the Council.

The number of paid subscriptions to *Florida Wildlife* was approximately 4,900, as of May 2011. Those 4,900 subscribers are eligible for refunds totaling approximately \$68,000.

Hunter Safety

Section 379.3581, F.S., covers the hunter safety course, requirements, and penalties. The statute covering hunter safety became law in 1991. This statute requires everyone born after June 1, 1975, to successfully complete a hunter safety course before purchasing a hunting license. Since a hunting license is required once you turn 16 years of age, it is necessary for students to take the course before turning 16-years-old.

According to the FWC, for those who fail to take the course before turning 16 years of age, it is important for them to take the course before hunting season begins in the fall when all the volunteer instructors are hunting and not teaching hunter safety courses. Over the years, there

became an ever increasing number of individuals who were over 16 years of age who wanted to hunt, but waited until after hunting season started to try to purchase a license. When they discovered the hunter safety requirement, the lack of course offerings during hunting season hindered their ability to participate.²

In 2006, the hunter safety statute was amended to allow the FWC to defer the hunter safety course requirement for one year and issue a hunting license to a person allowing for only supervised hunting under certain circumstances. Anyone 16 years or older and born after May 31, 1975, can hunt under the supervision of a licensed hunter, 21 or older, without having to complete the state's hunter safety certification. The newly established "Hunter Safety Mentoring Exemption" enables those persons to purchase a Florida hunting license and hunt during a one-year trial basis. The new mentoring exemption was passed by the Legislature to help persuade more people to experience hunting. It is designed to encourage experienced hunters to teach novice hunters about safety, ethics, wildlife, hunting skills and respect for Florida's outdoors. Those who use this exemption are only eligible for this deferral for one year. After that, individuals taking advantage of this would have to take and pass a hunter safety class to be eligible to purchase a hunting license and hunt the following year.³

Commercial Blue Crab Soft Shell Endorsement Fee

A Saltwater Products License (SPL) is the fishing license for commercial fishermen harvesting in Florida's state waters. The SPL authorizes the licensee to fish for commercial quantities of fish, rather than recreational bag limits. Anyone may purchase an SPL. The price of the SPL is \$50 for Florida residents, \$100 for nonresidents, and \$150 for aliens.⁴

An endorsement is required for some fisheries in addition to the SPL. As used by the FWC, an "endorsement" gives permission to the commercial fisherman to legally harvest and/or use specific methods of commercial harvest in a particular fishery, and may be based on qualifying criteria.

During the 1998 Legislative Session, concerns about the rapidly increasing number of traps in the blue crab fishery and the resulting stress on marine natural resources resulted in a moratorium on the issuance of new blue crab endorsements. The moratorium was established to allow for the completion and adoption of a blue crab effort management program. The moratorium was extended two times and lasted until July 1, 2007.

In 2003, the FWC assembled an ad hoc 15 member industry advisory board made up of blue crab harvesters and wholesale dealers to develop an effort management program. Included in the management program would be management of the blue crab fishery, trap retrieval, research, enforcement, public education activities, and issuance of licenses, endorsements, and trap tags. The ad hoc Blue Crab Advisory Board endorsed the adoption of an effort management program that would limit the total number of participants in the fishery, and allow for an equal number of

² FWC Analysis.

³ Florida Fish and Wildlife Conservation Commission, Hunting, Hunter Safety Mentoring Exemption, <http://myfwc.com/hunting/safety-education/mentoring/> (last visited Dec. 5, 2011).

⁴ An "alien" is defined as a person who does not have documentation from the Immigration and Naturalization Service showing permanent residency status in the United States.

trap tags available for each endorsement issued. They further recommended separating the hard shell blue crab fishery from the soft shell blue crab fishery and the creation of a distinct endorsement for each fishery.

In order to qualify for a hard shell crab endorsement, an applicant had to demonstrate reported hard shell blue crab landings of 500 pounds on their SPL during any one of the qualifying years (license years 2000-2001, 2001-2002, or 2002-2003). In order to qualify for additional hard shell crab endorsements, applicants had to demonstrate reported landings of at least 7,500 pounds on any of their SPLs during any one of the qualifying years. Each qualified hard shell crab endorsement is allotted 600 trap tags, which can be used anywhere, and an additional 400 trap tags to be used only in offshore waters of the Gulf of Mexico.

In order to qualify for a soft shell crab endorsement, applicants had to demonstrate reported soft shell (or peeler) blue crab landings of 750 crabs on their SPL during any one of the same qualifying years (license years 2000-2001, 2001-2002, or 2002-2003). In order to qualify for an additional soft shell crab endorsement on one additional SPL, an applicant had to demonstrate reported landings of 2,500 soft shell crabs. Each qualified soft shell crab endorsement is allotted 400 trap tags with an additional 250 trap tags for a subsequent qualified endorsement. After the initial allotment, endorsements could be traded or sold between participants.

In addition to the ad hoc Blue Crab Advisory Board recommendation, the FWC elected to allow qualified commercial fishermen affected by the Net Limitation Amendment to be issued a non-transferable blue crab endorsement that is allotted 100 trap tags.

The hard and soft shell endorsements must be requalified every three years. To requalify endorsements, the holder must document crab landings in one of the three previous years. The requalifying amounts are the same as the amounts that qualified the applicant to obtain an endorsement originally. If the endorsement holder does not requalify, the endorsement is not renewed the next year and is required to be forfeited.

The FWC also addressed commercial fisheries (such as shrimp and stone crab) in which blue crab harvest is permitted as a bycatch. In the years prior to the moratorium, blue crab endorsements were provided to these commercial fisheries at no additional cost and were renewed over the years as additional fishery options. The FWC has permitted a blue crab bycatch in shrimp trawls (200 pounds per day) since 1993, and nominal amounts of blue crabs have historically been landed as bycatch from stone crab traps. Therefore, the FWC established an incidental take endorsement to allow the incidental harvest, possession, and sale of 200 pounds of blue crabs from shrimp trawls and stone crab traps.

The endorsement fees were set by the Legislature, at the recommendation of the FWC and the ad hoc Blue Crab Advisory Board, at \$125 for the hard shell crab and net limitation endorsements, \$250 for the soft shell crab endorsement, and \$25 for the incidental take endorsement. The original fee for the soft shell crab endorsement was set higher because the market value of soft shell crabs is higher and therefore the value of the endorsement to the crabber was greater. To illustrate, in 2010, the price per pound of hardshell crabs averaged \$1.16 while the price per pound of soft shell crabs was \$8.34.

In 2007, at the beginning of the current limited endorsement program, there were 152 qualified crabbers that purchased and were issued a soft shell crab endorsement, as opposed to 1,016 hard shell crab endorsements. The effort management program stipulates that only endorsements that were issued in the 2007-2008 license year can be eligible for renewal, thereby capping the number of available endorsements. Additionally, if an endorsement is not renewed by September 30 each year, the endorsement is forfeited and is removed from the fishery. Because of the cap on the fishery and the forfeiture of non-renewed licenses, the number of soft shell crab endorsements has dropped from 152 the first year of the program to 83 available to be issued for the 2012 license year. If endorsement holders wish to leave the fishery, they are able to sell or transfer their endorsement(s) to another commercial harvester; however, many have not renewed or sold their endorsements, therefore permanently reducing the number of available soft shell crab endorsements.

Once the management plan was adopted by the FWC and the Legislature passed the endorsement fees and penalties for violations, a Blue Crab Advisory Board was formally established to make recommendations on the fishery. Due to the significantly reduced number of soft shell crab endorsements, the Blue Crab Advisory Board voted unanimously in 2009 to recommend that the FWC reduce the fee for the soft shell crab endorsement from \$250 to \$125 annually.

Industry representatives from the Organized Fisherman of Florida and the Southeastern Fisheries Association, Inc., are also in favor of reducing the price of the soft shell crab endorsement.

Currently, the fees for all other commercial fishing license endorsements that allow the use of traps, spiny lobster and stone crab are set at \$125.

Section 379.366(3)(d), F.S., directs moneys generated from the sale of all blue crab endorsements (soft shell, hard shell, net limitation, and incidental take), trap tags, replacement tags, and from the assessment of administrative penalties into the Marine Resources Conservation Trust Fund (Trust Fund). Revenues are to be used for management of the fishery, trap retrieval, research, law enforcement, and public education. In Fiscal Year 2010-11, \$244,179.50 was deposited into the Trust Fund from the purchase of blue crab endorsements and blue crab trap tags.

Modification of the Lobster Trap Theft Penalty

A lobster trap theft violation, including the theft of the contents or the trap itself, is a third degree felony.⁵ The penalty for a third degree felony is up to 5 years in prison and/or up to a \$5,000 fine.⁶ However, “[i]f a defendant is sentenced for an offense committed on or after July 1, 2009, which is a third degree felony but not a forcible felony as defined in s. 776.08, and excluding any third degree felony violation under chapter 810, and if the total sentence points pursuant to s. 921.0024 are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction.”⁷ A prison sentence can only be imposed if the court makes written findings that a nonstate prison sanction could present a danger to the public.⁸

⁵ See ss. 379.367 and 379.3671, F.S.

⁶ Sections 775.082 and 775.083, F.S.

⁷ Section 775.082(10), F.S.

⁸ *Id.*

A lobster trap violation would not be considered a forcible felony.

The Criminal Punishment Code is Florida's general framework or mechanism for establishing the lowest permissible sentence.⁹ Each noncapital felony offense is assigned an offense severity ranking level either by placement in a particular level (Levels 1-10) in the offense severity ranking chart¹⁰ or based on felony degree if not ranked in the chart.¹¹ A specific number of sentence points accrue for the primary offense and any additional offense or prior offense based on ranking level. Points may also accrue for other factors. These sentence points are relevant to establishing the lowest permissible sentence.

The lobster trap violations relevant to the bill are not specifically ranked in the chart. A third degree felony not ranked in the chart is a Level 1 offense,¹² so the relevant lobster trap violations are Level 1 offenses. A Level 1 offense only accrues 4 sentence points.¹³ Therefore, a prison sentence is not available absent the exception previously noted or a significant number of additional and/or prior offenses that would allow for the judge to impose a prison sentence.

Commercial fishermen have estimated that in the 2009-2010 season the loss revenues due to trap theft or molestations were approximately \$2.7 million dollars. The Florida Keys Commercial Fishermen's Association has estimated that trap theft annual losses to fisherman represents about 8-10 percent of the total annual harvest. According to the FWC, it is difficult to apprehend/charge trap robbing offenders and sophisticated trap robbing efforts are not deterred by the current penalties.¹⁴

III. Effect of Proposed Changes:

Section 1 amends s. 379.208, F.S., and removes outdated references to documentary stamp tax appropriations for marine mammal care and provides for permissive use for vessel registration fees. Vessel registration fees now fund marine mammal care and documentary stamp taxes no longer fund marine mammal care appropriations.

Section 2 repeals s. 379.2342(2), F.S., requiring a printed version of the *Florida Wildlife* magazine, and dissolves the Florida Wildlife Magazine Advisory Council. It is the FWC's intent to provide the majority of the magazine's content on their website at no cost.

Section 3 amends s. 379.3581, F.S., of the hunter safety course one-year deferral, and allows individuals to hunt under supervision, indefinitely, without taking the course.

Section 4 amends s. 379.366, F.S., to reduce the fee for a soft shell crab endorsement by one-half, from \$250 to \$125 for each endorsement, making the fee for endorsements for all trap

⁹ Section 921.0024, F.S.

¹⁰ Section 921.0022, F.S.

¹¹ Section 921.0023, F.S.

¹² *Id.*

¹³ Section 921.0024, F.S.

¹⁴ FWC Analysis.

fisheries the same. This change would take effect at the beginning of the 2012 blue crab license year, and mostly affect soft shell crab trap fishermen who operate as small businesses.

Section 5 amends s. 921.0022, F.S., to rank two third degree felony offenses in Level 5 of the offense severity ranking chart of the Criminal Punishment Code: willful molestation of a commercial harvester's spiny lobster trap, line, or buoy; and willful molestation or unauthorized possession or removal of a commercial harvester's spiny lobster trap contents or trap gear (currently these offenses are not ranked in the chart and default to a Level 1 ranking pursuant to s. 921.0023, F.S., based on the ranking assigned under that statute to a third degree felony that is not ranked in the chart). This change would allow judges to impose a sentence within the full range of sentencing for a third degree felony (up to 5 years in state prison).

Section 6 provides that, except as otherwise provided in the act, the act takes effect July 1, 2012. The amendments to s. 379.366(3)(a), F.S., by Section 4 of the bill are effective upon commencement of the 2012-2013 blue crab license year.

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:

The members of the public who currently have subscriptions to Florida Wildlife will not receive all printed volumes to which they subscribed and will receive refunds. This change will provide the public with free access to magazine content in an electronic format where previously they had to pay a subscription fee for the printed magazine.

The bill would have a positive fiscal impact for commercial soft shell blue crabbers in Florida. Each commercial soft shell blue crabber would see a reduction in licensing fees of \$125 per endorsement, of which they can hold two.

The ranking of two third degree felonies involving lobster trap theft penalty will allow judges to impose a prison sanction. This change may decrease trap theft, which could reduce lost revenue related to trap theft for commercial fisherman.

C. Government Sector Impact:

The bill would eliminate annual Florida Wildlife magazine subscription fees to the FWC of \$38,000. The changes the bill makes would result in a slight reduction of revenues to the Trust Fund. There are 83 current soft shell crab endorsements in the fishery. If all 83 of these endorsements are renewed for Fiscal Year 2011-2012, at a cost of \$125 rather than \$250, the reduction of revenue to the Trust Fund would be \$10,375 (4.25% of the monies generated from blue crab regulation). All of the blue crab revenues in the Trust Fund are appropriated to the FWC's Division of Marine Fisheries Management, Fish and Wildlife Research Institute, Division of Law Enforcement, and the Office of Licensing and Permitting. The small reduction of revenue to the Trust Fund resulting from the bill would be absorbed by these entities.

The cost of administering the soft shell crab endorsement is the same as the hard shell crab and net limitation endorsements. Therefore, reducing the fee of the soft shell crab endorsement to the same price as the other two endorsements should still adequately fund the soft shell portion of the blue crab management program.

The bill ranks two lobster trap theft offenses in Level 5 of the offense severity ranking chart of the Criminal Punishment Code. The sentence points accrued for a Level 5 primary offense would allow, but not require, a prison sentence. The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation has reviewed CS/SB 804 and estimates that the bill will have an insignificant prison bed impact.

According to staff of the State Attorney's Office in Munroe County, the county which likely have the highest volume of prosecutions of the lobster trap theft offenses, prior to the enactment of s. 775.082(10), F.S., which limited the courts' ability to impose a prison sentence on those who commit these offenses, there was one defendant sentenced to a 3-year prison term for a theft violation.¹⁵ State Attorney staff believe this was the only individual in the last 5 years who has served a prison term. (There were two other defendants the court sentenced to a prison term in that case but the court suspended that sentence and they will only be required to serve that term if they violate their conditions of probation.) State Attorney staff estimate that, on average, they have 5 to 10 trap molesting cases a year and that does not necessarily mean these offenders necessarily warrant a prison sentence.

VI. Technical Deficiencies:

None.

¹⁵ Information in this paragraph is from an e-mail, dated January 12, 2012, from staff of the Munroe County State Attorney's Office to staff of the House Agriculture & Natural Resources Appropriations Subcommittee (on file with the Committee on Criminal Justice).

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 Environmental Preservation and Conservation on December 6, 2011:

The CS provides a technical fix to the Marine Resources Conservation Trust Fund. It also modifies the hunter safety education course mentor option to allow individuals to hunt under supervision, indefinitely, without taking the course. Finally, it ranks two lobster trap theft offenses, which are third degree felonies, in Level 5 of the offense severity ranking chart of the Criminal Punishment Code, which would allow judges to impose a sentence within the full range of sentencing for a third degree felony (up to 5 years in state prison).

B. Amendments:

None.

By the Committees on Environmental Preservation and
Conservation; and Environmental Preservation and Conservation

592-01540-12

2012804c1

A bill to be entitled

An act relating to fish and wildlife conservation;
amending s. 379.208, F.S.; changing a funding source
of the Marine Resources Conservation Trust Fund from
excise taxes to vessel registration fees; removing the
provision requiring that undistributed funds be
carried over to the next fiscal year; repealing s.
379.2342(2), F.S., relating to the publication of the
Florida Wildlife Magazine and the Florida Wildlife
Magazine Advisory Council; amending s. 379.3581, F.S.;
deleting provisions that restrict the special
authorization to hunt under supervision to 1 year and
that prohibit issuing the special authorization to the
same person more than once; amending s. 379.366, F.S.;
reducing the fee for soft-shell blue crab
endorsements; amending s. 921.0022, F.S.; adding to
the offense severity ranking chart, to be used with
the Criminal Punishment Code for sentence score,
willful molestation of a commercial harvester's spiny
lobster trap, line, or buoy or the unauthorized
possession or removal of trap contents or trap gear;
providing effective dates.

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

Section 1. Subsection (3) of section 379.208, Florida
Statutes, is amended to read:

379.208 Marine Resources Conservation Trust Fund;
purposes.—

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(3) Funds provided to the Marine Resources Conservation
Trust Fund from vessel registration fees pursuant to s. 328.76
~~may taxes distributed under s. 201.15 shall~~ be used for the
following purposes:

(a) To reimburse the cost of activities authorized pursuant
to the Fish and Wildlife Service of the United States Department
of the Interior. The facilities must be involved in the actual
rescue and full-time acute care veterinarian-based
rehabilitation of manatees. The cost of activities includes, but
is not limited to, costs associated with expansion, capital
outlay, repair, maintenance, and operation related to the
rescue, treatment, stabilization, maintenance, release, and
monitoring of manatees. Moneys distributed through the
contractual agreement to each facility for manatee
rehabilitation must be proportionate to the number of manatees
under acute care rehabilitation; the number of maintenance days
medically necessary in the facility; and the number released
during the previous fiscal year. The commission may set a cap on
the total amount reimbursed per manatee per year.

(b) For training on the care, treatment, and rehabilitation
of marine mammals at the Whitney Laboratory and the College of
Veterinary Medicine at the University of Florida.

(c) For program administration costs of the agency.

~~(d) Funds not distributed in any 1 fiscal year must be
carried over for distribution in subsequent years.~~

Section 2. Subsection (2) of section 379.2342, Florida
Statutes, is repealed.

Section 3. Paragraph (b) of subsection (2) of section
379.3581, Florida Statutes, is amended to read:

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379.3581 Hunter safety course; requirements; penalty.—
(2)

(b) A person born on or after June 1, 1975, who has not successfully completed a hunter safety course may apply to the commission for a special authorization to hunt under supervision. The special authorization for supervised hunting shall be designated on any license or permit required under this chapter for a person to take game or fur-bearing animals ~~and shall be valid for not more than 1 year. A special authorization for supervised hunting may not be issued more than once to the person applying for such authorization.~~ A person issued a license with a special authorization to hunt under supervision must hunt under the supervision of, and in the presence of, a person 21 years of age or older who is licensed to hunt pursuant to s. 379.354 or who is exempt from licensing requirements or eligible for a free license pursuant to s. 379.353.

Section 4. Effective upon the commencement of the 2012-2013 blue crab license year, paragraph (a) of subsection (3) of section 379.366, Florida Statutes, is amended to read:

379.366 Blue crab; regulation.—

(3) (a) *Endorsement fees.*—

1. The fee for a hard-shell blue crab endorsement for the taking of hard-shell blue crabs, as authorized by rule of the commission, is \$125, \$25 of which must be used solely for the trap retrieval program authorized under s. 379.2424 and in commission rules.

2. The fee for a soft-shell blue crab endorsement for the taking of soft-shell blue crabs, as authorized by rule of the commission, is \$125 ~~\$250~~, \$25 of which must be used solely for

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the trap retrieval program authorized under s. 379.2424 and in commission rules.

3. The fee for a nontransferable hard-shell blue crab endorsement for the taking of hard-shell blue crabs, as authorized by rule of the commission, is \$125, \$25 of which must be used solely for the trap retrieval program authorized under s. 379.2424 and in commission rules.

4. The fee for an incidental take blue crab endorsement for the taking of blue crabs as bycatch in shrimp trawls and stone crab traps is \$25, as authorized in commission rules.

Section 5. Paragraph (e) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal

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injury; leaving scene.

108 379.367(4) 3rd Willful molestation of a commercial
harvester's spiny lobster trap, line, or
buoy.

109 379.3671(2)(c)3. 3rd Willful molestation or unauthorized
possession or removal of a commercial
harvester's spiny lobster trap contents
or trap gear.

110 381.0041(11)(b) 3rd Donate blood, plasma, or organs knowing
HIV positive.

111 440.10(1)(g) 2nd Failure to obtain workers' compensation
coverage.

112 440.105(5) 2nd Unlawful solicitation for the purpose of
making workers' compensation claims.

113 440.381(2) 2nd Submission of false, misleading, or
incomplete information with the purpose
of avoiding or reducing workers'
compensation premiums.

114 624.401(4)(b)2. 2nd Transacting insurance without a
certificate or authority; premium
collected \$20,000 or more but less than
\$100,000.

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115 626.902(1)(c) 2nd Representing an unauthorized insurer;
repeat offender.

116 790.01(2) 3rd Carrying a concealed firearm.

117 790.162 2nd Threat to throw or discharge destructive
device.

118 790.163(1) 2nd False report of deadly explosive or
weapon of mass destruction.

119 790.221(1) 2nd Possession of short-barreled shotgun or
machine gun.

120 790.23 2nd Felons in possession of firearms,
ammunition, or electronic weapons or
devices.

121 800.04(6)(c) 3rd Lewd or lascivious conduct; offender
less than 18 years.

122 800.04(7)(b) 2nd Lewd or lascivious exhibition; offender
18 years or older.

123 806.111(1) 3rd Possess, manufacture, or dispense fire
bomb with intent to damage any structure
or property.

124

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125 812.0145(2) (b) 2nd Theft from person 65 years of age or
older; \$10,000 or more but less than
\$50,000.

126 812.015(8) 3rd Retail theft; property stolen is valued
at \$300 or more and one or more
specified acts.

127 812.019(1) 2nd Stolen property; dealing in or
trafficking in.

128 812.131(2) (b) 3rd Robbery by sudden snatching.

129 812.16(2) 3rd Owning, operating, or conducting a chop
shop.

130 817.034(4) (a) 2. 2nd Communications fraud, value \$20,000 to
\$50,000.

131 817.234(11) (b) 2nd Insurance fraud; property value \$20,000
or more but less than \$100,000.

132 817.2341(1), 3rd Filing false financial statements,
(2) (a) & making false entries of material fact or
(3) (a) false statements regarding property
values relating to the solvency of an
insuring entity.

817.568(2) (b) 2nd Fraudulent use of personal

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133 identification information; value of
benefit, services received, payment
avoided, or amount of injury or fraud,
\$5,000 or more or use of personal
identification information of 10 or more
individuals.

134 817.625(2) (b) 2nd Second or subsequent fraudulent use of
scanning device or reencoder.

135 825.1025(4) 3rd Lewd or lascivious exhibition in the
presence of an elderly person or
disabled adult.

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

136 827.071(5) 3rd Possess, control, or intentionally view
any photographic material, motion
picture, etc., which includes sexual
conduct by a child.

137 839.13(2) (b) 2nd Falsifying records of an individual in
the care and custody of a state agency
involving great bodily harm or death.

138 843.01 3rd Resist officer with violence to person;

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resist arrest with violence.

139

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

140

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

141

847.0138 3rd Transmission of material harmful to
(2) & (3) minors to a minor by electronic device
or equipment.

142

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

143

893.13(1)(a)1. 2nd Sell, manufacture, or deliver cocaine
(or other s. 893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or (2)(c)4.
drugs).

144

893.13(1)(c)2. 2nd Sell, manufacture, or deliver cannabis
(or other s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
(2)(c)7., (2)(c)8., (2)(c)9., (3), or
(4) drugs) within 1,000 feet of a child
care facility, school, or state, county,
or municipal park or publicly owned
recreational facility or community

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center.

145

893.13(1)(d)1. 1st Sell, manufacture, or deliver cocaine
(or other s. 893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or (2)(c)4.
drugs) within 1,000 feet of university.

146

893.13(1)(e)2. 2nd Sell, manufacture, or deliver cannabis
or other drug prohibited under s.
893.03(1)(c), (2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9., (3), or (4) within
1,000 feet of property used for
religious services or a specified
business site.

147

893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine
(or other s. 893.03(1)(a), (1)(b),
(1)(d), or (2)(a), (2)(b), or (2)(c)4.
drugs) within 1,000 feet of public
housing facility.

148

893.13(4)(b) 2nd Deliver to minor cannabis (or other s.
893.03(1)(c), (2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9., (3), or (4) drugs).

149

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

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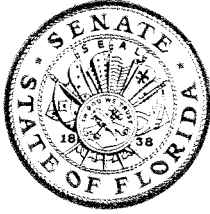
controlled substance.

150

151

152

Section 6. Except as otherwise expressly provided in this
act, this act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Environmental Preservation and Conservation,
Chair
Criminal Justice, *Vice Chair*
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Governmental Oversight and Accountability
Reapportionment
Regulated Industries

SENATOR CHARLES S. DEAN, SR.

3rd District

January 11, 2012

The Honorable Greg Evers
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Mr. Chairman:

I respectfully request you place the Committee Substitute for Senate Bill 804, relating to Fish and Wildlife Conservation, on your Criminal Justice Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in black ink that reads "Charles S. Dean". The signature is fluid and cursive.

Charles S. Dean
State Senator District 3

cc: Amanda Cannon, Staff Director

REPLY TO:

- ☐ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- ☐ Post Office Box 2558, Ocala, Florida 34478-2558 (352) 873-6513
- ☐ 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5017

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)

1/19/12
Meeting Date

Topic Lobster Trap Theft

Bill Number SB 804
(if applicable)

Name Colleen M Dunne

Amendment Barcode _____
(if applicable)

Job Title Assistant State Attorney

Address 530 Whitehead Street
Street

Phone 305 360 0656

Key West FL 33040
City State Zip

E-mail cdunne@keyssa.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Monroe County State's Attorney

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. 19, 2012

Meeting Date

Topic SB 804 - Fish & Wildlife

Bill Number SB 804
(if applicable)

Name Jackie Fauls

Amendment Barcode _____
(if applicable)

Job Title Legislative Affairs Director

Address 620 S. Meridian Street

Phone 487-3795

Tallahassee FL 32399
City State Zip

E-mail jackie.fauls@myfwc.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Fish & Wildlife Conservation Commission

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)

1-19-12

Meeting Date

Topic Fish + Wildlife

Bill Number SB 804
(if applicable)

Name Col. Jim Broan

Amendment Barcode _____
(if applicable)

Job Title LE Director

Address 620 S. Meridian St.

Phone 850-488-6251

Tallahassee FL 32399
City State Zip

E-mail Jim.Broan@myfla.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FWC

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 922

INTRODUCER: Criminal Justice Committee; Military Affairs, Space, and Domestic Security Committee;
and Senator Bennett and others

SUBJECT: Current and Former Military Personnel

DATE: January 19, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	Fav/CS
2.	Clodfelter	Cannon	CJ	Fav/CS
3.				
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 contains a number of provisions relating to current and former military personnel. In general, the bill:

- Creates the National Guard Employment Tax Credit Program. This program allows an eligible business which employs a current member of the Florida National Guard who has been unemployed for more than 6 months or is returning from duty abroad, to be eligible to receive a \$10,000 tax credit.
- Creates the Florida Veterans' Hall of Fame Council within the Florida Department of Veterans' Affairs to serve as an advisory body tasked with accepting nominations of persons to be considered for induction into the existing Florida Veterans' Hall of Fame.
- Expands the vendor preference in state contracting, which currently applies to qualified service-disabled veterans, to include certain businesses owned and operated by wartime veterans.
- Creates the Combat Infantry Badge, Distinguished Service Cross, Navy Cross, Air Force Cross, Korean Conflict Veteran, and Vietnam War Veteran special use license plates. Such

plates may be issued to recipients of these awards and to Korean Conflict and Vietnam War veterans upon applying with proof of eligibility and payment of the vehicle license tax.

- Authorizes an American Legion specialty license plate.
- Designates August 7 of each year as “Purple Heart Day” and authorizes the Governor to annually issue a proclamation designating August 7 as “Purple Heart Day.”
- Authorizes the creation of military veterans and servicemembers court programs.
- Allows counties to establish programs to divert a veteran or servicemember who is charged with a criminal offense into an appropriate treatment program if they have a service-related mental illness, traumatic brain injury (TBI), substance use disorder, or psychological problem.
- Specifically permits a court to order a special condition of probation requiring a veteran or servicemember who has a service-related mental illness, traumatic brain injury (TBI), substance use disorder, or psychological problem to participate in a treatment program for the condition.
- Allows a school-aged dependent of military personnel the option to remain at the school he or she currently attends if a local school board adjusts school zones, which requires attendance at a different school for that student.
- Requires institutions within the Florida College System and State University System of Florida that offer priority course registration for a segment of the student population to provide priority course registration to veterans of the U.S. Armed Forces and dependents of veterans using GI Bill educational benefits.
- Allows veterans of the U.S. Armed Forces who physically attend a public college, university or institution of higher learning in Florida, to be automatically classified as a resident of the state for tuition purposes.

The bill amends the following sections of the Florida Statutes: 265.003, 295.187, 320.08058, 320.089, 948.08, 948.16, 1003.05, and 1009.21.

The bill creates the following sections of the Florida Statutes: 220.1893, 320.0892, 683.146, 948.21, 1004.075, 1005.09.

Section 10 of the bill creates an unnumbered section of the Florida Statutes.

The bill provides an effective date of July 1, 2012, with the exception of Section 4, which takes effect on October 1, 2012.

II. PRESENT SITUATION:

This is an omnibus bill, containing provisions on a number of proposals relating to current and former military personnel. The bill consists of 17 sections which correspond to several Senate bills introduced during the 2011 and 2012 Regular Session as well as additional provisions.

Given the broad nature of the bill and the multitude of proposals, information on the “Present Situation” pertaining to each proposal is set forth in conjunction with the discussion of the “Effect of Proposed Changes” for that proposal.

III. EFFECT OF PROPOSED CHANGES:

SECTION 1: NATIONAL GUARD EMPLOYMENT TAX CREDIT PROGRAM

Section 1 of the bill creates s. 220.1893, F.S.

Unemployment among Members of the Florida National Guard

The Florida National Guard is composed of the Florida Army National Guard and the Florida Air National Guard and includes roughly 12,000 soldiers and airmen combined. Recent surveys illustrate high unemployment rates among members of the Florida National Guard, particularly among members returning from deployments. Although there can be considerable fluctuation in the unemployment rate among members of the Florida National Guard, a survey conducted by the National Guard Bureau in June 2011 shows an average unemployment rate of 16.7 percent (1,713 guardsmen) among Florida National Guardsmen.¹ While National Guards across the nation vary in size, the survey also shows that the unemployment rate of the Florida National Guard ranks seventh compared to the unemployment rate of National Guards in other states.²

Additionally, unemployment rates among Florida National Guard units returning from deployments have been known to far exceed the average rate of 17 percent. The 53rd Infantry Brigade Combat Team redeployed in December 2010 and reported a 30 percent unemployment rate among its members.³ High unemployment rates for returning deployed National Guardsmen can be attributed to the same factors that impact civilian unemployment rates which include closing businesses, fewer jobs and an overall economic decline.⁴

The Florida National Guard Employment Initiatives

Current members of the Florida National Guard are often not eligible to participate in the many employment services and programs in place to address the high unemployment rate among military veterans.⁵ The Florida National Guard does, however, employ several initiatives aimed at helping unemployed servicemembers find jobs. Among the most publicized programs are the Florida Guard Family Career Connection Program and Operation KickStart.

- The Florida Guard Family Career Connection program is designed to assist both deployed and non-deployed Guard members with resources linking them to potential employers.⁶
- Operation KickStart uses an online database that takes the Military Occupational Specialty of an individual to reference open job opportunities that will complement skills accumulated during their military service.⁷

¹ The National Guard Bureau. *Information Paper: Combined Unemployment Data for the Army and Air National Guard – as of June 18, 2011*. Obtained from the Florida Department of Military Affairs staff. January 10, 2012. (On file with the Senate Military Affairs, Space, and Domestic Security Committee).

² States with the highest unemployment rates among National Guard members: Connecticut (22.68%); Alaska (20.31%); Nevada (18.19%); Michigan (17.04%); Vermont (16.85%); and New York (16.72%) as of June 2011.

³ Witness Testimony of Major General James D. Tyre, ARNG, Assistant Adjutant General, Florida Army National Guard. U.S. House of Representatives Committee on Veterans' Affairs. June 1, 2011. Available at:

<http://veterans.house.gov/prepared-statement/prepared-statement-major-general-james-e-tyre-usa-assistant-adjutant-general>

⁴ *Id.*

⁵ Testimony of Doug Darling, Executive Director of the Florida Department of Economic Opportunity. Senate Military Affairs, Space, and Domestic Security Committee meeting. January 9, 2012.

⁶ For more information, see: <http://www.floridaguard.army.mil/careers>.

Other Florida National Guard employment initiatives include: the Yellow Ribbon Program; Battalion Career Counselors; Transition Assistance Advisors; Family Assistance Centers; and Employer Support of the Guard and Reserve.⁸

Proposed Changes

Section 1 of the bill creates s. 220.1893, F.S., establishing a tax credit relating to the employment of unemployed members of the Florida National Guard.

Definitions

Key definitions in this section include:

- “Department” means the Department of Economic Opportunity.
- “Eligible business” is defined as a business that:
 - Is operating and authorized to do business in Florida.
- “Qualified employee” is defined as a person:
 - Who is a current Florida National Guard member in good standing;
 - Who has been unemployed for more than 6 months or is returning from duty abroad;
 - Who was hired by an eligible business on or after July 1, 2012, and had not been previously employed by the eligible business;
 - Who performed duties connected to the operations of the eligible business on a regular, full-time basis for an average of at least 36 hours per week and for at least 3 months before an eligible business is awarded a tax credit;
 - Whose employment by the eligible business has not formed the basis for any other claim to a tax credit.

Tax Credits

This section allows a certified business to receive a \$10,000 tax credit for each qualified employee. The credit may be taken against:

- Corporate income taxes under chapter 220, F.S.;
- Insurance premium tax under s. 624.509, F.S.;
- Taxes on sales, use, and other transactions under chapter 212, F.S.;
- Intangible personal property taxes under chapter 199, F.S.;
- Excise taxes on documents under chapter 201, F.S.;
- Ad valorem taxes paid, as defined in s. 220.03(1), F.S.;
- State communications services taxes administered under chapter 202, F.S.

The total amount of tax credits which may be approved by the department for all applicants is \$5 million per fiscal year. The act also allows for a tax credit that is granted which is not fully used in the first year for which it becomes available to be carried forward to the subsequent taxable year.

⁷ The Florida Guard Online. *Soldiers ‘kickstart’ their job search*. (January 9, 2012). Available at: <http://www.floridaguard.army.mil/5821>

⁸ The Florida Guard Online. Career Center website. Available at: www.floridaguard.army.mil/careers.

Application for Certification

For the purposes of applying to become a certified business and claim the tax incentive created in this act, an eligible business must file an application with the Department of Economic Opportunity requesting certification. The application must include the following information:

- The name, address, and NAICS indentifying code of the eligible business (“NAICS” means those classifications contained in the North American Industry Classification System);
- Relevant employment information;
- A sworn affidavit, signed by each employee for whom the eligible business is seeking credits, attesting to his or her previous unemployment; and
- Verification that the wages paid by the eligible business to each of its qualified employees exceeds the wage eligibility levels for Medicaid and other public assistance programs.

The department has 10 days from receipt of a completed application to review and approve or deny an application and must notify the applicant in writing as to the department’s decision. Additionally, the department must submit a copy of the letter of certification to the Department of Revenue within 10 days after the department notifies the applicant.

The act authorizes the department and the Department of Revenue to govern the manner and form of applications for the tax credit and to adopt rules to administer this section.

This section expires July 1, 2014.

Government Fiscal Impact

Section 1 of the bill establishes the National Guard Employment Tax Credit Program (program). This program allows an eligible business which employs a current member of the Florida National Guard who has been unemployed for more than 6 months or is returning from duty abroad, to be eligible to receive a \$10,000 tax credit. The program is capped at \$5 million per fiscal year and is set to expire after 2 years. The number of businesses that will take advantage of this tax credit and the number of guardsmen to whom this section applies is unknown. The Revenue Estimating Conference has not yet addressed the provisions contained in this section of the bill.

The fiscal impact on the Department of Economic Opportunity and the Department of Revenue is indeterminate. This section of the bill increases the workload of the Department of Economic Opportunity and the Department of Revenue, so it is possible these agencies may require additional FTEs and updated software.

SECTION 2: FLORIDA VETERANS’ HALL OF FAME

Section 2 of the bill amends s. 265.003, F.S.

Present Situation

The Florida Veterans Hall of Fame (Hall of Fame) was established during the 2011 Legislative Session⁹ in an effort to recognize and honor military veterans who have made a significant contribution to the state of Florida through their works and lives during or after military service.¹⁰

The Hall of Fame is administered by the Florida Department of Veterans' Affairs (FDVA) and is located on the Plaza Level of the Capitol Building along the northeast front wall. Current law requires the FDVA to annually accept nominations for persons to be considered for the Hall of Fame and transmit its recommendations to the Governor and the Cabinet, who will select the nominees to be inducted. Each veteran selected will have his or her name placed on a plaque in the Hall of Fame.

The FDVA must give preference to veterans who:

- Were born in Florida or adopted Florida as their home state or base of operation; and,
- Have made a significant contribution to Florida in civic, business, public service, or other pursuits.

The FDVA is further authorized to establish selection criteria, time periods for acceptance of nominations, the process for selecting nominees, and a formal induction ceremony to coincide with the annual commemoration of Veterans' Day. Initial inductions to the Hall of Fame are tentatively expected to take place on Veterans Day 2012.

Proposed Changes

Section 2 of the bill amends s. 265.003, F.S., to establish the Florida Veterans' Hall of Fame Council (council) within the FDVA to serve as the advisory body tasked with accepting nominations of persons to be considered for induction into the Hall of Fame.

The council consists of 7 members who are all honorably discharged veterans, at least 4 of whom are members of a congressionally chartered veterans service organization. The Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, the President of the Senate, the Speaker of the House of Representatives, and the executive director of the FDVA each appoint one member to the council.

Council members serve 4-year terms with the exception of the initial appointments, for which appointees serve either a 2-year and 4-year term to ensure staggered terms among the council. The members must annually elect a chair and will meet at the call of its chair, at the request of the executive director of the FDVA, or at such times as may be prescribed by the council.

The council takes the place of the FDVA in annually accepting nominations for persons to be considered for the Hall of Fame. After acceptance of nominations, the council must transmit a list of 20 nominees to the FDVA for submission to the Governor and Cabinet, who will select four persons from the list of nominees to be inducted. The council also assumes the FDVA's

⁹ Chapter 2011-168, Laws of Florida

¹⁰ Section 265.003, F.S.

current statutory authority to establish selection criteria, time periods for acceptance of nominations, the process for selecting nominees, and a formal induction ceremony to coincide with the annual commemoration of Veterans' Day.

Members of the council may not receive compensation for their services, but are entitled to reimbursement for travel expenses incurred in the performance of their duties.

Government Fiscal Impact

Section 2 of the bill provides for the establishment of the Florida Veterans Hall of Fame Council. Although members of the council may not receive compensation for their services, they are entitled to reimbursement for travel expenses incurred in the performance of their duties.

SECTION 3: BUSINESS OPPORTUNITIES FOR WARTIME VETERANS

Section 3 of the bill amends s. 295.187, F.S.

Present Situation

The Office of Supplier Diversity (OSD) within the Department of Management Services (DMS) has the mission of improving business and economic opportunities for Florida's minority, women, and service-disabled veteran business enterprises.¹¹ Current law requires the DMS, through the OSD, to implement a minority business enterprise (MBE) certification program and a small service-disabled veteran business enterprise (SDVBE) certification program.¹² Minority, women, and service-disabled veteran-owned businesses that are certified through the OSD are eligible for benefits such as: first tier referrals to state agencies for contract opportunities; business development guidance from established corporations; participation at regional workshops, seminars, and corporate roundtables; and inclusion in an exclusive listing of state-certified minority business enterprises in an online directory.¹³ During fiscal year 2009-10, the OSD certified 4,617 minority, woman, and service-disabled veteran-owned business enterprises statewide.¹⁴

The Florida Service-Disabled Veteran Business Enterprises Opportunity Act

The intent of the Florida Service-Disabled Veteran Business Enterprise Opportunity Act¹⁵ (act) is to:

[R]ectify the economic disadvantage of service-disabled veterans, who are statistically the least likely to be self-employed when compared to the veteran population as a whole and who have made extraordinary sacrifices on behalf of the nation, the state, and the public, by providing opportunities for service-disabled veteran business enterprises as set forth in this section.¹⁶

¹¹DMS Office of Supplier Diversity website. Available at:

http://www.dms.myflorida.com/other_programs/office_of_supplier_diversity_osd

¹² Sections 287.0943 and 295.187, F.S., require the DMS to implement the MBE and the SDVBE certification programs, respectively.

¹³ OSD Annual Report for Fiscal Year 2009-10. Available at:

http://www.dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/publications/annual_reports.

¹⁴ *Id.*

¹⁵ Section 295.187, F.S.

¹⁶ Section 295.187(2), F.S.

The act creates the certification process within DMS for SDVBEs. This section also creates a “tiebreaker” preference for SDVBEs by requiring a state agency to award a procurement or contract to a bidder who is a certified SDVBE if two or more bids, proposals, or replies for the procurement of commodities or contractual services are equal with respect to all relevant considerations including price, quality, and service. However, if a certified SDVBE and one or more SDVBE or businesses eligible for another statutory vendor preference, such as an MBE, submit bids or proposals that are equal with respect to all relevant considerations including price, quality, and service, the state agency must award the contract or proposal to the business having the smallest net worth. In order to become certified as a SDVBE, the owners and the business must satisfy statutory eligibility requirements. In order to be considered a “service-disabled veteran” eligible for certification, the veteran must be a permanent resident of Florida who has a service-connected disability of 10 percent or greater as determined by the U.S. Department of Veterans Affairs or who was terminated from military service by reason of disability by the U.S. Department of Defense.

In order to be certified as a SDVBE, a business enterprise must be an independently owned and operated business that:

- Employs 200 or fewer permanent full-time employees.
- Together with its affiliates has a net worth of \$5 million or less or, if a sole proprietorship, has a net worth of \$5 million or less including both personal and business investments.
- Is organized to engage in commercial transactions.
- Is domiciled in this state.
- Is at least 51 percent owned by one or more service-disabled veterans.
- Is managed and controlled by one or more service-disabled veterans or, for a service-disabled veteran with a permanent and total disability, by the spouse or permanent caregiver of the veteran.

Section 295.187, F.S., establishes a certification process administered by DMS, in coordination with the FDVA. The certification process requires applicants to submit documentation demonstrating that the business meets the above-listed requirements. Certification is renewed biennially and may be revoked for one year if the SDVBE fails to inform DMS within 30 days of a change in circumstances that renders the business ineligible for certification.

Section 295.187, F.S., provides rule-making authority to the FDVA, and requires the FDVA to:

- Assist DMS in establishing a certification procedure, which must be reviewed biennially and updated as necessary.
- Identify eligible service-disabled veteran business enterprises by any electronic means, including electronic mail, Internet website or by any other reasonable means.
- Encourage and assist eligible service-disabled veteran business enterprises to apply for certification under this section.
- Provide information regarding services that are available from the Office of Veterans’ Business Outreach of the Florida Small Business Development Center to service-disabled veteran business enterprises.

This section also provides rule-making authority to DMS, and requires DMS to:

- Establish a certification procedure, which must be reviewed biennially and updated as necessary.
- Grant, deny, or revoke the certification of a SDVBE.
- Maintain an electronic directory of certified service-disabled veteran business enterprises for use by the state, political subdivisions of the state, and the public.

In addition, this section encourages political subdivisions of the state to offer similar consideration to certified service-disabled veterans.

Proposed Changes

Section 3 of the bill amends s. 295.187, F.S., to expand the Florida Service-Disabled Veteran Business Enterprise Opportunity Act to include certain businesses owned and operated by wartime veterans.

To support the expanded eligibility of the act, this section:

- Renames the act as the “Florida Veteran Business Enterprise Opportunity Act.”
- Expands the intent of the act to include recognizing wartime veterans and veterans of a period of war for their sacrifices.
- Requires wartime veteran applicants to provide documentation of wartime service from the U.S. Department of Veterans Affairs or the U.S. Department of Defense.
- Requires the FDVA to assist the DMS in the expansion of the certification program.

In addition, section 3 of the bill provides that a veteran is considered a “wartime veteran” if he or she meets the definition of a “wartime veteran” as used in s. 1.01(14), F.S.,¹⁷ or the definition of a “veteran of a period of war,” as used in 38 U.S.C. s. 1521.¹⁸

¹⁷ Section 1.01(14), F.S., defines the term “wartime veteran” as a veteran who has served in a campaign or expedition for which a campaign badge has been authorized or a veteran who has served during one of the following periods of wartime service: Spanish-American War; Mexican Border period; World War I; World War II; Korean Conflict; Vietnam Era; Persian Gulf War; Operation Enduring Freedom; Operation Iraqi Freedom.

¹⁸ 38 U.S.C. s. 1521 defines “a veteran of a period of war” as a veteran who served in the active military, naval, or air service: for 90 days or more during a period of war; during a period of war and was discharged or released from such service for a service-connected disability; for a period of 90 consecutive days or more and such period began or ended during a period of war; or for an aggregate of 90 days or more in two or more separate periods of service during more than one period of war.

Government Fiscal Impact

DMS estimates nonrecurring costs of \$10,000 to implement the changes in MyFloridaMarketPlace and an estimated \$30,000 related to the additional workload for processing certifications for wartime veteran businesses; however, it is unknown how many “wartime veteran-owned” businesses are located in Florida and how many of those businesses would apply for certification. Since these numbers are unknown, the cost to implement section 3 of the bill is unknown at this time. Once the actual costs of implementation are known, the funding could be addressed during the budgeting process.

SECTIONS 4-7: LICENSE PLATES

Section 4-7 of the bill amends or create statutes relating to license plates.

Present Situation***Motor Vehicle License Plates; Issuance; Annual License Taxes***

The Department of Highway Safety and Motor Vehicles (DHSMV) administers the issuance of motor vehicle license plates as a part of the tag and registration requirements specified in chapter 320, F.S. License plates are issued for a 10-year period and are replaced upon renewal at the end of the 10-year period.¹⁹ The license plate fee for both an original issuance and replacement is \$28.00.²⁰ An advance replacement fee of \$2.80 is applied to the annual vehicle registration and is credited towards the next replacement. Section 320.08, F.S., requires the payment of an annual license tax that varies by motor vehicle type and weight. For a standard passenger vehicle weighing between 2,500 and 3,500 pounds, the annual tax is \$30.50.

Current law provides for several types of license plates. In addition to plates issued for governmental or business purposes, DHSMV offers four basic types of plates to the general public:

- **Standard Plates:** The standard license plate currently comes in three configurations, which include the county name designation, the state motto designation, and the state slogan designation.
- **Specialty License Plates:** Specialty license plates are used to generate revenue for colleges, universities and other civic organizations. Organizations seeking to participate in the specialty plate program are required to make application to DHSMV, pay an application fee, and obtain authority from the Florida Legislature.²¹ The recipient must pay applicable taxes pursuant to ss. 320.08, F.S., and 320.06(1)(b), F.S., and an additional charitable contribution ranging from \$15 to \$25 as provided in s. 320.08056(4)(a) – (zzz), F.S., in order to receive a specialty license plate. The creation of new specialty license plates by DHSMV is prohibited until July 1, 2014.²²
- **Personalized Prestige License Plates:** Personalized license plates are available to motorists who wish to personalize a license plate. Personalized license plates allow motorists to define the alpha numeric design (up to 7 characters) on a standard plate that must be approved by

¹⁹ Section 320.06, F.S.

²⁰ An initial issuance requires a fee of \$225, pursuant to s. 320.072, F.S.

²¹ See generally s. 320.08053, F.S.

²² The moratorium on new specialty license plates is created by s. 45, Chapter 2008-176, Laws of Florida, as amended by s. 21, Chapter 2010-223, Laws of Florida.

the DHSMV. The cost for a personalized prestige license plate (in addition to the applicable tax in s. 320.08, F.S.) is \$15 (\$10 use fee and \$5 processing fee), pursuant to s. 320.0805, F.S.

- **Special Use License Plates:** Certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility pursuant to various sections of chapter 320, F.S. This category of plates primarily includes special military license plates as well as plates for the handicapped. Examples include the Purple Heart, National Guard, U.S. Armed Forces, Ex-POW, Pearl Harbor, Operation Iraqi Freedom, and Operation Enduring Freedom plates,²³ Disabled Veteran plates,²⁴ and Paralyzed Veterans of America plates.²⁵

Annually, the first \$100,000 of revenues from the sales of Special Use plates authorized under s. 320.089, F.S., are deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act. Any additional revenues are deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.

American Legion

The American Legion is a service organization that focuses on service to veterans, servicemembers and communities. It was incorporated by Congress in 1919 as a patriotic veterans organization devoted to mutual helpfulness. It currently has about 2.4 million members in 14,000 posts worldwide.²⁶

Distinguished Service Cross, Navy Cross, and Air Force Cross

The Distinguished Service Cross (for Army personnel), Navy Cross (for Navy and Marine personnel), and Air Force Cross are the nation's second highest military awards. Each may be awarded to a person serving in any capacity in the respective branch of service who distinguishes himself or herself by extraordinary heroism not justifying the award of a Medal of Honor. The recognized act must have occurred while the recipient was either (1) engaged in an action against an enemy of the United States; (2) engaged in military operations involving conflict with an opposing or foreign force; or (3) serving with friendly foreign forces engaged in an armed conflict against an opposing Armed Force in which the United States is not a belligerent party. The act or acts of heroism must have been so notable and have involved risk of life so extraordinary as to set the individual apart from their comrades.

Silver Star

The Silver Star may be awarded to a person who, while serving in any capacity with the Army, is cited for gallantry in action against an enemy of the United States under the same conditions as the Distinguished Service Cross. The required gallantry is of a lesser degree of distinction than

²³ Section 320.089, F.S. Some of these plates require payment of the annual license tax in s. 320.08, F.S., while others are exempt from the tax.

²⁴ Section 320.084, F.S. The statute provides that an eligible person may receive one free Disabled Veteran license plate, although other taxes apply.

²⁵ Section 320.0845, F.S. This plate requires payment of the annual license tax in s. 320.08, F.S.

²⁶ Information from the American Legion website, <http://www.legion.org>, and the American Legion Department of Florida website, <http://www.floridalegion.org>, last viewed on January 19, 2011.

that required for the Distinguished Service Cross, but must have been performed with marked distinction.²⁷

Combat Infantryman Badge

The Combat Infantryman Badge is the U.S. Army combat service recognition decoration awarded to soldiers—enlisted men and officers (commissioned and warrant) holding colonel rank or below, who personally fought in active ground combat while an assigned member of either an infantry or a Special Forces unit, of brigade size or smaller, any time after December 6, 1941.²⁸ The Combat Infantryman Badge and its non-combat analogue, the infantry skill-recognition Expert Infantryman Badge were simultaneously established by Section I, War Department Circular 269, dated October 27, 1943.²⁹ The Combat Infantryman Badge was created during World War II with the primary goal of recognizing the combat service and sacrifices of the infantrymen who would likely be wounded or killed in numbers disproportionate to those of soldiers from the Army's other service branches.³⁰

Combat Infantryman Badge recipients must have met the following criteria to have been awarded this honor as provided by the Army's regulation regarding military awards:³¹

- Be an infantryman satisfactorily performing infantry duties.
- Assigned to an infantry unit during such time as the unit is engaged in active ground combat.
- Actively participate in such ground combat. Campaign or battle credit alone is not sufficient for the award of the Combat Infantry Badge.

Korean Conflict

World War II divided the Korean Peninsula at the 38th parallel. In 1950, communist North Korea invaded democratic South Korea. Military forces of the United States and other member states of the United Nations came to the aid of South Korea when the Soviet-supplied North Korean forces quickly overwhelmed the South Korean defenses. The Korean Conflict is characterized by General Douglas MacArthur's daring strategy of an amphibious landing at Inchon and pincer-movement to push back the North Koreans. This strategy was valiantly and successfully executed by American and allied forces in the face of almost certain defeat. After quickly recapturing Seoul, the South Korean capital, the conflict continued until an armistice was signed on July 27, 1953. The conflict was particularly notable for the conditions under which it was fought, including difficult terrain and brutal weather conditions.

Approximately 1.8 million U.S. servicemembers were deployed to the Korean theater of war, with 33,739 dying in battle and 103,284 suffering non-mortal wounds. There are almost 2.3 million living Korean Conflict veterans, with 169,254 living in Florida.³²

²⁷ Paragraph 3-10b, Army Regulation 600-8-22. http://www.apd.army.mil/pdffiles/r600_8_22.pdf.

²⁸ <http://www.army.mil/symbols/CombatBadges/infantry.html>

²⁹ <http://cibassoc.com/history/history-of-the-combat-infantrymans-badge/>

³⁰ *Id.*

³¹ Paragraph 8-6a(1)-(3), Army Regulation 600-8-22.

³² *Fast Facts*, Florida Department of Veterans' Affairs, <http://www.floridavets.org/>

Vietnam War

The Geneva Accords dividing Vietnam into a communist north and democratic south were signed in July of 1954. The rationale developed by the Eisenhower Administration to explain its economic and military support of South Vietnam became known as the “domino theory.” Likening the countries of southeast Asia to a row of dominos, the President argued that if one country fell, it would trigger the fall of others.³³ Thus, the United States began to endorse and support South Vietnam’s effort to defend against the communist North.

The U.S. initially supported South Vietnam in an advisory role but, by the mid-1960s, U.S. military forces were directly involved in combat operations against the North, in which over the course of the war, more than 3 million Americans were deployed to Southeast Asia.³⁴ American involvement in the war began to decline after the Paris Peace Accords were signed on January 27, 1973. The U.S. completed withdrawal of its ground troops from Vietnam on March 30, 1973, but thousands of U.S. support personnel remained in Vietnam. All remaining U.S. personnel were evacuated when Saigon fell on April 30, 1975.³⁵

Military involvement in Vietnam, and the neighboring countries of Laos and Cambodia, resulted in the deaths of 58,220 U.S. service members, 1,952 of whom were from Florida.³⁶ An additional 153,303 U.S. service members required hospital care as a result of wounds.³⁷ There are approximately 7.5 million surviving veterans of the Vietnam War era,³⁸ with approximately 454,000 residing in Florida.³⁹

Proposed Changes

Section 4 of the bill amends s. 320.08056, F.S., to provide for collection of a \$25 annual use fee for an American Legion specialty license plate.

Section 5 of the bill amends s. 320.08058, F.S., to require DHSMV to develop an American Legion license plate when the American Legion meets the requirements of s. 320.08053, F.S. Annual use fees received from the new license plate will be distributed to the American Legion, Department of Florida until startup costs have been reimbursed. After that time, the proceeds are to be distributed as follows:

- 60% to the American Legion, Department of Florida, to support Boys State in Florida, the Veteran Affairs and Rehabilitation program, and the Gilchrist Endowment Fund. Also, up to 10% of the 60% distributed to the American Legion can be used for administration and marketing of the license plate.

³³ The War in Vietnam, 1954-1964; <http://faculty.smu.edu/dsimon/Change-Viet.html>.

³⁴ *Statistics at a Glance*, Dep’t of Veterans Affairs (as of 1/17/2012) and *America’s Wars*, Dep’t of Veterans Affairs (May 2010) available at: http://www1.va.gov/opa/publications/factsheets/fs_americas_wars.pdf

³⁵ U.S. Congress, President, and Florida Legislature recognize May 7, 1975, as the end of the Vietnam War (for purpose of veteran affairs). Text at: <http://www.gpo.gov/fdsys/pkg/CFR-2005-title45-vol3/pdf/CFR-2005-title45-vol3-sec506-10.pdf>; 14 Fla. Prac., Elder Law § 14:5 (2010-11 ed.).

³⁶ <http://thewall-usa.com/summary.asp>

³⁷ Anne Leland; Mari-Jana "M-J" Oboroceanu, American War and Military Operations: Casualties: Lists and Statistics, Congressional Research Service, <http://www.fas.org/sgp/crs/natsec/RL32492.pdf> (February 26, 2010); <http://siadapp.dmdc.osd.mil/personnel/CASUALTY/castop.htm>

³⁸ *Supra* note 31.

³⁹ *Fast Facts*, Florida Dep’t of Veterans’ Affairs, <http://www.floridavets.org/>.

- 20% to the FDVA's direct-support organization created under s. 292.055, F.S.
- 20% to the Department of Military Affairs' direct-support organization created under s. 250.115, F.S.

Section 6 of the bill amends s. 320.089, F.S., to require the manufacture and issuance of special use license plates available exclusively to Combat Infantry Badge recipients, Korean Conflict veterans, and Vietnam War veterans. This section allows any recipient of the Combat Infantry Badge who applies for the special license plate, pays the applicable license taxes provided in s. 320.08, F.S., and provides proof of membership in the Combat Infantrymen's Association, Inc., or other acceptable proof of being a Combat Infantry Badge recipient, to be issued a license plate stamped with the words "Combat Infantry Badge."

Current or former members of the U.S. military who were deployed and served in Vietnam during U.S. military deployment in Indochina will be entitled to obtain a license plate stamped with the words "Vietnam War Veteran." An eligible veteran must submit an application for the special license plate, provide proof of active membership or former active duty status during the operations in Indochina, and pay the applicable license taxes provided in s. 320.08, F.S.

Former members of the U.S. military who were deployed and served in Korea during U.S. military deployment in Korea will be entitled to obtain a license plate stamped with the words "Korean Conflict Veteran." An eligible veteran must submit an application for the special license plate, provide proof of active membership or former active duty status during the operations in Korea, and pay the applicable license taxes provided in s. 320.08, F.S.

Although it is evident that the Korean Conflict Veteran and Vietnam War Veteran license plates are intended to be issued to those who served during periods of military conflict, neither of the eligibility requirements includes time frames for the service.

Section 7 of the bill creates s. 320.0892, F.S., to authorize issuance of special use license plates for recipients of the Distinguished Service Cross, Navy Cross, Air Force Cross, or Silver Star. This section of the bill has an effective date of October 1, 2012.

Government Fiscal Impact

According to DHSMV, costs to produce the "Combat Infantry Badge" Special Use plate are minimal and can be absorbed within existing resources. It is unknown how many Florida residents are Combat Infantry Badge recipients who will apply for this license plate. DHSMV has not assessed its costs to produce the Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star, Korean Conflict Veteran, and Vietnam War Veteran special use plates. It is likely that the costs of production for these plates would be similar to those of the Combat Infantry Badge special use plate. Tax Collectors will have to maintain an adequate inventory of the license plates and issue them to qualified recipients.

The fiscal impact of the establishment of the American Legion specialty license plate on the DHSMV is unknown at this time.

DHSMV's Information Systems Administration (ISA) will require approximately 120 hours to implement the provisions of this section. These hours can be incorporated into ISA's normal workload.⁴⁰

SECTION 8: PURPLE HEART DAY

Section 8 of the bill creates s. 683.146, F.S.

Present Situation

Legal Holidays and Special Observance Days

Chapter 683, F.S., establishes legal holidays and special observance days. Legal holidays and special observance days may apply throughout the state or may be limited to particular counties. For example, "Gasparilla Day"⁴¹ is a legal holiday observed only in Hillsborough County while "Bill of Rights Day,"⁴² if proclaimed by the Governor, is observed throughout the entire state. The legal holidays established in s. 683.01(1), F.S., are:

- (a) Sunday, the first day of each week.
- (b) New Year's Day, January 1.
- (c) Birthday of Martin Luther King, Jr., January 15.
- (d) Birthday of Robert E. Lee, January 19.
- (e) Lincoln's Birthday, February 12.
- (f) Susan B. Anthony's Birthday, February 15.
- (g) Washington's Birthday, the third Monday in February.
- (h) Good Friday.
- (i) Pascua Florida Day, April 2.
- (j) Confederate Memorial Day, April 26.
- (k) Memorial Day, the last Monday in May.
- (l) Birthday of Jefferson Davis, June 3.
- (m) Flag Day, June 14.
- (n) Independence Day, July 4.
- (o) Labor Day, the first Monday in September.
- (p) Columbus Day and Farmers' Day, the second Monday in October.
- (q) Veterans' Day, November 11.
- (r) General Election Day.
- (s) Thanksgiving Day, the fourth Thursday in November.
- (t) Christmas Day, December 25.
- (u) Shrove Tuesday, sometimes also known as "Mardi Gras," in counties where carnival associations are organized for the purpose of celebrating the same.

⁴⁰ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 528 Analysis* (October 25, 2011) (on file with the Senate Transportation Committee).

⁴¹ Section 683.08, F.S.

⁴² Section 683.25, F.S.

Designation of a day as a legal holiday does not necessarily make that day a paid holiday for public employees. Section 110.117, F.S., establishes the legal holidays that are paid holidays for public employees.⁴³

In addition to legal holidays, Chapter 683, F.S., recognizes the following special observances: Arbor Day; Pan-American Day; Pascua Florida Day; Gasparilla Day; DeSoto Day; Grandparents' and Family Caregivers' Day; Law Enforcement Appreciation Month; Law Enforcement Memorial Day; Parade Day; State Observance of National Day of Mourning; Patriots' Day; I Am An American Day; Teachers' Day; Retired Teachers' Day; Parents' and Children's Day; Save the Florida Panther Day; Rosh Hashanah, Yom Kippur, and Good Friday; Florida Jewish History Month; Juneteenth Day; Law Day and Law Week; Florida Missing Children's Day; Florida Alzheimer's Disease Day; Bill of Rights Day; Ronald Reagan Day; Homeless Persons' Memorial Day; Three Kings Day; Child Welfare Professionals Recognition Day; and Drowsy Drivers Prevention Week established by the Ronshay Dugan's Act.⁴⁴

The Purple Heart

The Purple Heart was originally awarded exclusively for meritorious service and is the nation's oldest military award.⁴⁵ It was first introduced as the "Badge of Military Merit" by General George Washington on August 7, 1782, during the Revolutionary War.⁴⁶ This award was ignored for nearly 150 years before it was re-established per General Order No. 3, on February 22, 1932, in commemoration of the 200th anniversary of George Washington's birth.

Current eligibility and conditions for the award of the Purple Heart are defined in Army Regulation 600-8-22, which provides that the Purple Heart is awarded in the name of the President of the United States to any member of the U.S. Armed Forces who, while serving under component authority in any capacity with one of the U.S. Armed Services after April 5, 1917, has been wounded or killed, or who has died or may hereafter die after being wounded:

- (1) In any action against an enemy of the US.
- (2) In any action with an opposing armed force of a foreign country in which the Armed Forces of the US are or have been engaged.
- (3) While serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the US is not a belligerent party.
- (4) As a result of an act of any such enemy of opposing armed forces.
- (5) As the result of an act of any hostile foreign force.
- (6) After March 28, 1973, as a result of an international terrorist attack against the US or a foreign nation friendly to the US, recognized as such an attack by the Secretary of the Army, or jointly by the

⁴³ "Legal holidays" are not necessarily the same as "paid holidays" for governmental employees. Section 110.117(1), F.S., provides the following holidays as paid holidays for all state branches and agencies: New Year's Day; Martin Luther King Birthday; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day and Friday after Thanksgiving; and Christmas Day.

⁴⁴ Sections 683.04 – 683.332, F.S.

⁴⁵ For more information on the Purple Heart, see: http://www.tioh.hqda.pentagon.mil/Awards/purple_heart.aspx.

⁴⁶ Paragraph 2-8(a), Army Regulation 600-8-22.

Secretaries of the separate armed services concerned if persons from more than one service are wounded in the attack.

- (7) After March 28, 1972, as a result of military operations while serving outside the territory of the US as part of the peacekeeping force.⁴⁷

The Purple Heart is ranked immediately behind the Bronze Star Medal⁴⁸ and ahead of the Defense Meritorious Service Medal⁴⁹ in order of precedence,⁵⁰ however it is generally acknowledged to be among the most aesthetically pleasing of American awards and decorations.⁵¹ The National Purple Heart Hall of Honor estimates that 1.7 million Purple Hearts have been awarded.⁵²

Proposed Changes

Section 8 of the bill creates s. 683.146, F.S., to designate August 7 of each year as “Purple Heart Day” and authorizes the Governor to annually issue a proclamation designating August 7 as “Purple Heart Day.” Public officials, schools, private organizations, and all residents of Florida are also encouraged to commemorate “Purple Heart Day” and honor those who have been wounded or killed while serving in any branch of the United States Armed Forces.

SECTIONS 9-13: VETERANS COURTS

Sections 9-13 of the bill constitute the T. Patt Maney Veterans’ Treatment Intervention Act. The Act creates an unnumbered statute that authorizes creation of military veterans and servicemembers court programs and amends ss. 948.08, 946.16, and 948.21, F.S.

Present Situation

The Department of Corrections does not have statistics of how many of the approximately 150,000 offenders on community supervision are military veterans. However, it reports that 6,726 state prison inmates (approximately 6.6% of the total prison population) were identified as military veterans as of September 23, 2011. This includes 4,986 inmates whose claim of veteran status is unverified and 1,740 whose claim has been verified by submission of a Certificate of Release or Discharge from Active Duty (Department of Defense Form 214). The types of offenses for which these veterans are incarcerated are reflected in the following table:

⁴⁷ Paragraph 2-8(b), Army Regulation 600-8-22.

⁴⁸ The Bronze Star Medal is awarded to a person in any branch of the military service who, while serving in any capacity with the Armed Forces of the United States on or after December 7, 1941, has distinguished himself or herself by heroic or meritorious achievement or service, not involving participation in aerial flight, in connection with military operations against an armed enemy. For more information, see: http://www.tioh.hqda.pentagon.mil/Awards/bronze_star.aspx and Paragraph 3-14, Army Regulation 600-8-22.

⁴⁹ The Defense Meritorious Service Medal is awarded in the name of the Secretary of Defense to members of the Armed Forces of the United States who, after 3 November 1977, distinguished themselves by noncombat meritorious achievement or service. For more information, see: http://www.tioh.hqda.pentagon.mil/Awards/defense_meritorious.aspx and Paragraph 2-5, and Army Regulation 600-8-22.

⁵⁰ Paragraph 29-6, Army Regulation 670-1. See also http://www.tioh.hqda.pentagon.mil/Awards/order_of_precedence.aspx

⁵¹ U.S. Army Center of Military History website. *The Badge of Military Merit / The Purple Heart*. Available at: <http://www.history.army.mil/html/reference/purhrt.html>.

⁵² The National Purple Heart Hall of Honor website. *Frequently Asked Questions*. Available at: <http://www.thepurpleheart.com/faqs/>.

Primary Offense	Claimed Veteran Status	Verified Veteran Status	Total	%
Murder/Manslaughter	683	408	1091	16.2%
Sexual/Lewd Behavior	1177	609	1786	26.6%
Robbery	464	142	606	9.0%
Aggravated Battery/Assault, Kidnapping, Other Violent Crimes	588	136	724	10.8%
Burglary	521	144	665	9.9%
Property Theft/Fraud/Damage	467	78	545	8.1%
Drugs	671	128	799	11.9%
Weapons	120	32	152	2.3%
Other	295	63	358	5.3%
Total	4986	1740	6726	100%

The table indicates that a majority of veteran inmates in Florida are incarcerated for violent crimes and a lesser number for property and drug offenses. This is in contrast to the findings of the American Bar Association's Commission on Homelessness and Poverty (ABA), which cited national statistics that 70 percent of incarcerated veterans are in jail for non-violent offenses.⁵³ However, the ABA statistic apparently relates to veterans in local jails. There is no comprehensive data on the number of veterans among the approximate 57,000 adults either serving sentences or awaiting trial or hearing in county jails throughout Florida.

Judge T. Patt Maney, for whom sections 4-7 of the bill is named, regularly deals with veterans in his Okaloosa County courtroom. Judge Maney has observed that the offenses that are most frequently committed by veterans are trespass, possession of an open container, obstructing traffic, possession of marijuana, loitering, worthless checks, disorderly conduct, domestic violence, resisting an officer, and petit theft.⁵⁴ A detailed report of veterans' involvement in the criminal judicial system in Travis County, Texas, reflects that the majority of misdemeanor charges against veterans were for non-violent offenses, while the majority of felony charges were for violent offenses.⁵⁵

In 2008, the Florida Department of Veterans' Affairs and the Florida Office of Drug Control issued a paper examining the issue of mental health and substance abuse needs of returning

⁵³ ABA Commission on Homelessness and Poverty, Resolution 105A, February 10, 2010 at <http://www.abanow.org/wordpress/wp-content/themes/ABANow/wp-content/uploads/resolution-pdfs/MY2010/summaries/105A-adopted-as-revised.pdf> and accompanying report at <http://www.abanow.org/wordpress/wp-content/themes/ABANow/wp-content/uploads/resolution-pdfs/MY2010/105A.pdf>, last viewed on September 28, 2011. The report indicates that the statistics come from a 2002 report by the Department of Justice Bureau of Justice Statistics, but staff could not locate the underlying report.

⁵⁴ Email from Okaloosa County Judge Pat Maney to legislative staff dated February 11, 2011.

⁵⁵ *Report of Veterans Arrested and Booked Into the Travis County Jail, July 2009*, http://www.co.travis.tx.us/constables/4/pdfs/vip_jail_survey_report.pdf, last viewed on September 28, 2011.

veterans and their families.⁵⁶ The study noted that combat medical advances are enabling veterans of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) to survive wounds that would have been fatal in previous conflicts, and thus some are returning with “more complex physical and emotional disorders, such as Traumatic Brain Injuries and Post-Traumatic Stress Disorder, substance abuse and depression.”⁵⁷ The study also estimated that approximately 29,000 returning veterans residing in Florida may suffer from PTSD or some form of major depression.⁵⁸

A Rand Center report in 2008 indicated that preliminary studies showed that 5 to 15 percent of OIF and OEF service members are returning with PTSD, 2 to 10 percent with depression, and an unknown number with TBI.⁵⁹ A person with any of these disorders also has a greater likelihood of experiencing other psychiatric diagnoses than do other persons.⁶⁰

A report by the Center for Mental Health Services National GAINS Center of the federal Substance Abuse and Mental Health Services Administration (SAMHSA) noted that many veterans coming into contact with the criminal justice system may have unmet treatment needs.⁶¹ Veterans courts have been established across the country as some judges have begun to recognize a correlation between the commission of offenses by veterans and substance abuse issues, mental health issues, and cognitive functioning problems. These judges concluded that in many cases, the veterans’ inability to deal with these conditions on their own contributed to their encounters with the legal system.

Veterans’ courts have the goal of identifying veterans who would benefit from a treatment program instead of incarceration or other sanctions. They are typically patterned after successful specialty courts such as drug courts and mental health courts. Since 2008, legislation authorizing the establishment of veterans’ courts has been adopted or at least considered in California, Colorado, Illinois, Oregon, Texas and Virginia, and has been considered in Connecticut, Minnesota, Nevada, New Mexico, New York and Oklahoma.⁶² The National Association of Drug Court Professionals website indicates that there are veterans’ courts in 73 cities or counties nationwide.⁶³

⁵⁶ Florida Department of Veterans’ Affairs and Florida Office of Drug Control Green Paper, *Returning Veterans and Their Families with Substance Abuse and Mental Health Needs: Florida’s Action Plan*, January 2009, page 5, http://www.helppromotehope.com/documents/Veterans_Green_Paper.pdf, last viewed on September 28, 2011.

⁵⁷ Ibid, p. 5.

⁵⁸ Ibid, p. 5.

⁵⁹ Rand Center for Military Health Policy Research, Benjamin R. Karney, Rajeev Ramchand, Karen Chan Osilla, Leah B. Caldarone, and Rachel M. Burns, *Invisible Wounds, Predicting the Immediate and Long-Term Consequences of Mental Health Problems in Veterans of Operation Enduring Freedom and Operation Iraqi Freedom*, April 2008, page xviii, http://www.rand.org/pubs/working_papers/2008/RAND_WR546.pdf, last viewed on September 28, 2011.

⁶⁰ Ibid, p. 127.

⁶¹ GAINS Center, *Responding to the Needs of Justice-Involved Combat Veterans with Service-Related Trauma and Mental Health Conditions*, August 2008, page 6, at http://gainscenter.samhsa.gov/pdfs/veterans/CVTJS_Report.pdf last viewed on September 28, 2011. The observation was based upon information provided by the VA.

⁶² Interim Report 2011-131, Veterans’ Courts, Florida Senate Committee on Military Affairs and Domestic Security, October 2010, p. 1 (with updated information). Much of the information in this portion of the analysis is derived from the Interim Report.

⁶³ National Association of Drug Court Professionals website at <http://www.nadcp.org/learn/veterans-treatment-courts/veterans-treatment-court-studies-and-statistics>, last viewed on September 28, 2011.

One advantage that veterans' courts have over drug and mental health courts is that the majority of veterans who have committed criminal offenses are eligible for treatment services provided and funded by the United States Department of Veterans Affairs (VA). The previously-cited ABA study indicates that 82 percent of veterans in jail nationwide are eligible for services from the VA based on the character of their discharge.⁶⁴

Florida has experience with both drug courts and mental health courts. In fact, it is believed that the Miami-Dade County Drug Court, founded in 1989, was the first drug court in the United States.⁶⁵ Section 397.334, F.S., authorizes the establishment of drug courts that divert eligible persons to county-funded treatment programs in lieu of adjudication. Twenty-nine counties have an adult pretrial drug court and twenty-seven counties have an adult post-adjudication drug court. When juvenile, family dependency, DUI, and misdemeanor drug courts are included, forty-five counties have some type of drug court program.⁶⁶

Funding for drug courts can come from a variety of sources including court fees, local funding, private or governmental grants, private payment by participants, or charitable donations.⁶⁷

The Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program in s. 394.658, F.S., calls for award of a 1-year planning grant and a 3-year implementation or expansion grant to identify and treat individuals who have mental illness, substance abuse disorder, or co-occurring mental health and substance abuse disorders who are in or at risk of entering the criminal or juvenile justice systems. Twenty counties have received implementation grants, and five of those counties received subsequent expansion grants for their programs.⁶⁸

Veterans Courts in Florida

There are several veterans' court and veterans' jail diversion initiatives around the state. The National Association of Drug Court Professionals (NADCP) maintains information about veterans treatment courts that lists courts in Miami-Dade, Palm Beach, and Pinellas counties.⁶⁹ There are also veterans dockets or programs in other Florida courts that are not included on the NADCP list.

The program in Miami-Dade County is available to veterans who are facing minor drug offenses and do not have a violent or extensive criminal history. In its initial stages, the program has

⁶⁴ *Supra* note 46, ABA Commission on Homelessness and Poverty, Report on Resolution 105A, p. 2.

⁶⁵ The history of the founding of the Miami-Dade Drug Court, and of Florida drug courts in general, can be found in the Supreme Court Task Force on Treatment-Based Drug Courts Supreme Court Task Force's "Report on Florida Drug Courts (July 2004), http://www.flcourts.org/gen_public/family/drug_court/bin/taskforcereport.pdf, last viewed on September 28, 2011.

⁶⁶ "Drug Courts in Florida," http://www.flcourts.org/gen_public/family/drug_court/map.shtml, last viewed on September 28, 2011.

⁶⁷ "Drug Court Funding Opportunities," http://www.flcourts.org/gen_public/family/drug_court/bin/Funding.pdf, last viewed on September 28, 2011.

⁶⁸ Annual Report on the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant Program Act, 2010 Report, at <http://www.floridatac.org/files/document/CJMHS%20TA%20Center%20Annual%20Report%202010.pdf%20Final.pdf>, last viewed on September 28, 2011.

⁶⁹ See <http://www.justiceforvets.org>, last viewed on September 29, 2011.

drawn participants from defendants who are already involved with traditional drug court. They receive similar treatment, but also are assisted by a VA psychologist and outreach coordinator.⁷⁰

The Palm Beach County veterans' docket began operating in November 2010.⁷¹ A feature of the program is assignment of a VA social worker supervisor to act as the court's VA liaison. This VA employee has oversight of screening and case management services for eligible veterans. In addition to receiving any needed mental health and substance abuse treatment, participating veterans also have access to VA programs that address homelessness and unemployment. This is compatible with the VA's national Veteran's Justice Outreach Initiative that will assign staff and trained volunteer resources to facilitate veterans' court programs.⁷²

In April 2011, the Okaloosa County Commission approved creation of a veterans' court for the county that is expected to begin operation later this year. Although there is currently no formal veterans' court, many cases of veterans in the county are already being referred to a court docket with special knowledge of veterans and veterans' issues. To determine eligibility, offenders are asked at initial booking if they have ever served in the military and what type of discharge they received. Veterans are further asked if they will sign a release in order to share information with the VA. Further screening is conducted through the Pre-Trial Services Office, and the program uses drug court case managers to monitor participants. Access to VA treatment facilities is being sought for eligible veterans in the program. As noted previously, the bulk of Okaloosa County veterans' cases involve substance abuse, related domestic violence, and some theft related cases including worthless check charges that may be related to lost cognitive ability to do math. Successful completion of the program is defined as completion of a treatment program and avoiding additional legal problems.

The 12th Judicial Circuit (DeSoto, Sarasota and Manatee Counties) has established a program called "Courts Assisting Veterans." While not a true veteran's court, it seeks to achieve similar goals through the use of existing programs, including referral of veteran's to existing drug and mental health courts.⁷³

In October 2009, the Department of Children and Families Mental Health Program Office was awarded over \$1.8 million from SAMHSA over the next five years to provide services and support for Florida's returning veterans who served in Iraq and Afghanistan and who suffer with Post-Traumatic Stress Disorder and other behavioral health disorders. The department describes the grant and the project as follows:

The project will redesign the state's response to the needs of veterans and their family members by helping returning veterans learn to cope with the trauma of

⁷⁰ "Miami-Dade starts specialized drug court for military veterans," Miami Herald, May 2, 2011, <http://www.miamiherald.com/2011/04/30/2197989/miami-dade-starts-specialized.html>, last viewed on September 29, 2011.

⁷¹ The Veteran's Docket was established by Administrative Order No. 4.905-11/10 of the Fifteenth Judicial Circuit for Palm Beach County, which can be downloaded from <http://15thcircuit.co.palm-beach.fl.us/web/guest/adminorders/series4>, last viewed on September 28, 2011.

⁷² The Veteran's Justice Outreach Initiative website is <http://www.va.gov/HOMELESS/VJO.asp>, and specific information about the Palm Beach County Veterans' Docket can be found at <http://www.westpalmbeach.va.gov/WESTPALMBEACH/features/VeteransJusticeOutreach.asp>. Both sites were last viewed on September 28, 2011.

⁷³ Courts Assisting Veterans, 12th Judicial Circuit, <http://www.cavs12.org/home.aspx>, last viewed on September 29, 2011.

war and the adjustments of coming home and avoiding unnecessary involvement with the criminal justice system. Florida's project is based on a foundation of evidence-based screening, assessment, treatment and recovery practices. The grant will enable the Department to implement two veteran's jail diversion pilot projects for 240 veterans over the next five years. This grant will expand the Department's existing jail diversion programs by identifying veterans who have an initial contact with the criminal justice system, helping them enroll in Veteran's Administration benefits for those who are eligible, providing trauma-related treatment services, linking them with support services in their community, and providing specialized peer support services. Additionally, this grant enables the Department to include family members as recipients of services. One unique aspect of this grant is Florida's creation and implementation of a new state-level Veteran Peer Support Specialist credential, possible through the Department's ongoing partnership with the Florida Certification Board. Certification of trained veterans will professionalize what we know works - trained veterans who've been there helping other returning veterans adjust to their home and community. In the first year, the grant from the federal Substance Abuse and Mental Health Services Administration (SAMHSA) will provide DCF with \$268,849. Hillsborough County is one of two sites that will launch Florida's Jail Diversion and Trauma Recovery Program. The location of the other pilot project has not yet been determined.⁷⁴

Proposed Changes

Military Veterans and Servicemembers Court Program

Section 10 of the bill authorizes the chief judge of each judicial circuit to establish a military veterans and servicemembers court program. The program would apply to veterans⁷⁵ and servicemembers⁷⁶ who suffer from a service-related mental illness, TBI, substance use disorder,⁷⁷ or psychological problem and who are charged with or convicted of a criminal offense.

The bill provides that upon conviction the veteran or servicemember can be sentenced in a way that addresses the severity of the condition through services targeted to the individual's needs. Admission into a court program would be based on the judge's assessment of the defendant's criminal history, military service, need for substance use treatment, need for mental health treatment, amenability to services offered by the program, the advisory recommendation of the

⁷⁴ Florida Department of Children and Families' description of the Veterans Jail Diversion Grant at <http://www.dcf.state.fl.us/programs/samh/mentalhealth/consumerfamilyaffairs/currinitatives.shtml>, last viewed on September 28, 2011.

⁷⁵ The bill specifies that the term "veteran" is used as defined in s. 1.01(14), F.S., which is "a person who served in the active military, naval, or air service and who was discharged or released there from under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the U.S. Department of Veterans Affairs on individuals discharged or released with other than honorable discharges."

⁷⁶ The bill specifies that the term "servicemember" is used as defined in s. 250.01(19), F.S., which is "any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces."

⁷⁷ Substance use disorders include substance abuse and substance dependence. See VA/DOD Clinical Practice Guideline: Management of Substance Use Disorders, August 2009, available at http://www.healthquality.va.gov/sud/sud_full_601f.pdf, (last viewed on January 19, 2011).

state attorney and of any victim, and the veteran's or servicemember's agreement to enter the program.

Pretrial Veterans' Treatment Intervention Programs

Sections 11 and 12 of the bill create felony and misdemeanor pre-trial diversion programs for veterans and servicemembers who are suffering from a military service-related mental illness, TBI, substance use disorder, or psychological problems. The provisions in this section would make these persons eligible for placement in an appropriate treatment program that is approved by the chief judge of the circuit instead of being processed through the criminal justice system.

Section 11 of the bill amends s. 948.08, F.S., to create the felony pretrial veterans treatment intervention program. It would apply to any veteran with one of the conditions who is charged with a felony that is not a disqualifying offense. This section of the bill references s. 948.06 (8)(c), F.S., to incorporate the offenses used to determine whether an offender is to be treated as a "violent felony offender of special concern" as disqualifying offenses. The disqualifying offenses are:

- Kidnapping or attempted kidnapping under s. 787.01, F.S., false imprisonment of a child under the age of 13 under s. 787.02(3), F.S., or luring or enticing a child under s. 787.025(2)(b) or (c), F.S.
- Murder or attempted murder under s. 782.04, F.S., attempted felony murder under s. 782.051, F.S., or manslaughter under s. 782.07, F.S.
- Aggravated battery or attempted aggravated battery under s. 784.045, F.S.
- Sexual battery or attempted sexual battery under s. 794.011(2), (3), (4), or (8)(b) or (c), F.S.
- Lewd or lascivious battery or attempted lewd or lascivious battery under s. 800.04(4), F.S., lewd or lascivious molestation under s. 800.04(5)(b) or (c)2., F.S., lewd or lascivious conduct under s. 800.04(6)(b), F.S., lewd or lascivious exhibition under s. 800.04(7)(b), F.S., or lewd or lascivious exhibition on computer under s. 847.0135(5)(b), F.S.
- Robbery or attempted robbery under s. 812.13, F.S., carjacking or attempted carjacking under s. 812.133, F.S., or home invasion robbery or attempted home invasion robbery under s. 812.135, F.S.
- Lewd or lascivious offense upon or in the presence of an elderly or disabled person or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person under s. 825.1025, F.S.
- Sexual performance by a child or attempted sexual performance by a child under s. 827.071, F.S.
- Computer pornography under s. 847.0135(2) or (3), F.S., transmission of child pornography under s. 847.0137, F.S., or selling or buying of minors under s. 847.0145, F.S.
- Poisoning food or water under s. 859.01, F.S.
- Abuse of a dead human body under s. 872.06, F.S.
- Any burglary or attempted burglary offense that is a first-degree or second-degree felony under s. 810.02(2) or (3), F.S.
- Arson or attempted arson under s. 806.01(1), F.S.
- Aggravated assault under s. 784.021, F.S.
- Aggravated stalking under s. 784.048(3), (4), (5), or (7), F.S.
- Aircraft piracy under s. 860.16, F.S.

- Unlawful throwing, placing, or discharging of a destructive device or bomb under s. 790.161(2), (3), or (4), F.S.
- Treason under s. 876.32, F.S.

If a veteran with one of the conditions is not charged with a disqualifying offense, he or she would be eligible to be admitted voluntarily into a felony pretrial veterans treatment intervention program if one has been approved by the chief judge of the circuit. Admission may be upon the court's own motion or the motion of either party. However, there are two circumstances under which a veteran could be denied admission into a program:

- The court may deny admission if the veteran rejected an offer of admission to a pretrial veterans treatment intervention program on the record at any time prior to trial.
- The court may deny admission if the veteran previously entered a court-ordered veterans treatment program.

Section 12 of the bill amends s. 948.16, F.S., to create the misdemeanor pretrial veterans treatment intervention program. Any veteran with one of the conditions who is charged with a misdemeanor would be eligible to be admitted voluntarily into a misdemeanor pretrial veterans treatment intervention program if one has been approved by the chief judge of the circuit. However, the court can deny admission if the defendant had previously entered a court-ordered veterans treatment program.

Additionally, both sections 11 and 12 require that a veterans treatment intervention team develop an individualized coordinated strategy for any veteran who is to be admitted to either a felony or misdemeanor pretrial veterans treatment intervention program. This coordinated strategy must be provided to the veteran in writing before he or she agrees to enter the program. The strategy is to be modeled after the ten therapeutic jurisprudence principles and key components for treatment-based drug court programs that are found in s. 397.334(4), F.S. These principles and components are:

- Drug court programs integrate alcohol and other drug treatment services with justice system case processing.
- Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
- Eligible participants are identified early and promptly placed in the drug court program.
- Drug court programs provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
- Abstinence is monitored by frequent testing for alcohol and other drugs.
- A coordinated strategy governs drug court program responses to participants' compliance.
- Ongoing judicial interaction with each drug court program participant is essential.
- Monitoring and evaluation measure the achievement of program goals and gauge program effectiveness.
- Continuing interdisciplinary education promotes effective drug court program planning, implementation, and operations.
- Forging partnerships among drug court programs, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

The coordinated strategy can include a system of sanctions for non-compliance. The sanctions can include placement in a residential or jail-based treatment program or incarceration for up to the length of time that is allowed for contempt of court.

At the end of the intervention program of the felony diversion program, the court must consider recommendations for disposition made by the treatment program and the state attorney. After considering these recommendations, the court must dismiss the charges if it finds that the veteran successfully completed the intervention program. If the court finds that the veteran did not successfully complete the program, it can either order the veteran to continue in education and treatment or order that the charges revert to normal channels for prosecution.

The felony and misdemeanor treatment-based drug court program statutes on which the pretrial veterans treatment intervention program are modeled include requirements for the county or appropriate government entity to enter into a contract with any public or private entity that provides felony or pretrial diversion services. However, section 11 of the bill does not include this requirement for felony pretrial veterans treatment intervention programs, and section 12 provides an exception for contracting with VA and FDVA programs in the statute that creates misdemeanor pretrial veterans treatment intervention programs. It is anticipated that much of the needed treatment will be provided by the VA as a benefit that is available to the veteran or servicemember as a result of his or her military service.

The bill expressly provides that a veteran or servicemember who successfully completes a pretrial diversion program can have his or her arrest record for the dismissed charges expunged under s. 943.0585, F.S., if otherwise eligible to do so.

Special Condition of Probation or Community Control

Section 13 of the bill relates to veterans or servicemembers who suffer from a military service-related mental illness, TBI, substance use disorder, or psychological problem and who are placed on probation or community control for a crime committed on or after July 1, 2012. The bill specifies that the sentencing court may impose a special condition of probation requiring such a defendant to participate in a treatment program that is capable of treating his or her condition. In doing so, the court must give preference to treatment programs for which the defendant is eligible through the DVA and the FDVA.

Government Fiscal Impact

Section 10 of the bill authorizes establishment of a military veterans and servicemembers court program in each judicial circuit. It is not known how many circuits would implement the authority, but it is anticipated that it would be done within existing funding.

Sections 11-12 of the bill create pretrial veterans treatment intervention programs. Pretrial drug court diversion programs are funded by the state and local government. In drug court programs, the county pays for the costs of testing and treatment. If the veteran's treatment diversion programs operate in a similar fashion, the cost of such programs will be borne by both the state and local government. The cost of sections 11-12 is indeterminate as the number of veterans to be served as well as the type and frequency of services is unknown. If sections 11-12 divert some

defendants from incarceration to community-based treatment programs, it is anticipated that much of the programming could be provided by the VA as part of the veteran's benefits.

Section 13 of the bill explicitly states authority that is already inherently possessed by sentencing courts. Therefore, it would not appear to have any additional fiscal impact.

The Criminal Justice Impact Conference has not assessed the impact of the revised bill on the state prison population.

SECTION 14: SCHOOL ZONES FOR CHILDREN OF MILITARY FAMILIES

Section 14 of the bill amends s. 1003.05, F.S.

Present Situation

Military Presence in Florida

The United States currently has 1.4 million people serving in the armed forces, over 23 million veterans living in the U.S., and over 200 military installations in 46 states, the District of Columbia, and Puerto Rico. In addition, there are more than 400,000 National Guard members throughout the 50 states, the District of Columbia, and commonwealths and territories. The military operations of the United States touch every state in some manner.⁷⁸ In Florida, there are 22 military bases, over 58,000 active duty military personnel, and over 37,000 Reserve and National Guard personnel.

Military families often face frequent moves and these moves can add unique challenges for children transitioning from school to school. According to the Council of State Governments, the average military student⁷⁹ faces transition challenges more than twice during high school, and most military children will have six to nine different school systems in their lives from kindergarten to 12th grade.⁸⁰ With more than half of all military personnel supporting families, the challenges of reassignment and long deployments are key considerations when making long-term life choices for military children and include the following.⁸¹

- Transfer of records;
- Course sequencing;
- Graduation requirements;
- Exclusion from extracurricular activities;
- Redundant or missed entrance/exit tests;
- Kindergarten and first grade entrance age variations; and
- Power of custodial parents while parents are deployed.

⁷⁸ National Conference of State Legislatures, *Military Personnel, Veterans and Their Families*, available at: <http://www.ncsl.org/default.aspx?TabID=123&tabs=858,137,1160#858>, last viewed on January 4, 2012.

⁷⁹ Section 1003.05, F.S., provides that the term "military student" refers to school-aged dependents of military personnel.

⁸⁰ Council of State Governments, *See* http://www.csg.org/programs/policyprograms/NCIC/interstatecompact_militarychildren_edop.aspx, last viewed on January 4, 2012.

⁸¹ *Id.*

As of January 5, 2012, there were 31,115 children of military families⁸² in the Florida public school system. The counties with the highest concentration of military children include:

- Duval (5,656)
- Okaloosa (5,223)
- Hillsborough (4,352)
- Brevard (3,319)⁸³

Florida's Efforts to Assist Transitioning Military Students

While the majority of programs and benefits for soldiers and veterans are administered by the federal government, states are playing an increasing role in military issues. With many active duty military members and National Guard and Reservists and their families facing multiple deployments, state policymakers are creating benefits and programs designed to assist military personnel and their families.⁸⁴

Interstate Compact on Educational Opportunity for Military Children

The State of Florida, along with 34 other states, has enacted the Interstate Compact on Educational Opportunity for Military Children (compact).⁸⁵ The purpose of the compact is to enable member states to uniformly address educational transition issues faced by military families, including eligibility, enrollment, placement, and graduation.⁸⁶

Section 1003.05, F.S. – Assistance to transitioning students from military families

Section 1003.05(1), F.S., states that the Legislature recognizes the challenges faced by military students and requires the Florida Department of Education (department) to assist in the transition of high school students from military families by:

- Improving the timely transfer of records;
- Developing systems to ease student transition during the first 2 weeks of enrollment;
- Promoting practices which foster access to extracurricular programs;
- Establish procedures to lessen the adverse impact of moves;
- Encourage or continue partnerships between military bases and school systems;
- Providing services for transitioning students when applying to and finding funding for postsecondary study; and
- Providing other assistance as identified by the department, school, and military personnel.

The department is further required to facilitate the development and implementation of memoranda of agreement between school districts and military installations which address

⁸² “Children of military families” means school-aged children, enrolled in kindergarten through 12th grade, in the household of an active-duty member pursuant to s. 1000.36, F.S., (the Interstate Compact on Educational Opportunity for Military Children).

⁸³ Data received from an information request from the Florida Department of Education by professional staff of the Senate Military Affairs, Space, and Domestic Security Committee, January 5, 2012.

⁸⁴ *Supra* note. 68.

⁸⁵ Section 1000.36, F.S.

⁸⁶ Council of State Governments. Military Moves. Available at: <http://www.csg.org/knowledgecenter/docs/sn0802MilitaryMoves.pdf>, last viewed January 4, 2012.

strategies for assisting students who are children of active duty military personnel in the transition to Florida schools.

Finally, s. 1003.05(3), F.S., provides children of active duty military personnel who otherwise meet the eligibility criteria for special academic programs offered through public schools first preference for admission to such programs even if the program is being offered through a public school other than the school to which the student would generally be assigned.

School District Attendance Zoning

Section 1001.41(6), F.S., provides each district school board the authority to assign students to schools within a district.⁸⁷ Therefore, school district attendance zoning is performed at the local level and each school district implements its own policies relating to school attendance zoning.

Proposed Changes

Section 10 of the bill amends s. 1003.05, F.S., to allow a military student the option of remaining at the school he or she currently attends if a local school board adjusts school zones, which requires attendance at a different school for that military student.

SECTIONS 15-16: PRIORITY COURSE REGISTRATION FOR VETERANS

Sections 15-16 of the bill create ss. 1004.075 and 1005.09, F.S.

Present Situation

Priority Course Registration

Priority course registration allows designated groups of students at colleges and universities to register for courses for an upcoming semester before the entire student population is able to register. Some examples of groups of students who may typically be eligible for priority course registration at institutions that implement such a policy include: upper division students; student athletes; students with disabilities; honor college students; and student veterans.

Postsecondary institutions are currently not required to offer veterans of the U.S. Armed Forces priority when registering for courses based on their status as a veteran.⁸⁸ Rather, it is at the discretion of both public⁸⁹ and private⁹⁰ institutions of higher education whether or not to offer priority course registration and to determine which groups of students would be eligible.⁹¹ If an

⁸⁷ Section 1001.30, F.S., provides that each county shall constitute a school district.

⁸⁸ Section 1.01(14), F.S., defines the term “veteran” as a person who served in the active military, naval, or air service and who was discharged or released there from under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the U.S. Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.

⁸⁹ There are 11 public universities within the State University System of Florida and 28 institutions in the Florida College System.

⁹⁰ The private postsecondary institutions eligible to provide training for veterans include 375 institutions licensed by the Commission for Independent Education (CIE) pursuant to s. 1005.21, F.S., and 31 independent, non-profit colleges and universities which are exempt from licensure by CIE.

⁹¹ For public universities, the Florida Board of Governor’s Regulation 1.001(4)(a)3. authorizes the board of trustees of each state university to adopt university regulations or policies relating to the admission and enrollment of students, which could include priority course registration policies. Section 1007.263, F.S., governs admission of students to Florida College System institutions.

institution does not offer priority registration for veterans, students who are veterans register for courses at the same time as the general student population.⁹² It is common for a veteran to have put higher education on hold when he or she makes the decision to serve in the U.S. Armed Forces.

Veterans in Florida

Florida's population of 1.6 million veterans is the third largest in the nation, after California and Texas.⁹³ More specifically, Florida is home to approximately 127,000 veterans whose ages range from 18-34, which demonstrates a significant concentration of "college age" veterans who may be interested in pursuing higher education, either at the undergraduate or the graduate level. As the fourth largest state in the nation, Florida offers a broad range of opportunities for those pursuing higher education, in the public and private postsecondary sectors. Veterans interested in utilizing their GI Bill benefits⁹⁴ can choose from a selection of 445 postsecondary institutions in deciding on an institution to attend.

Both nationwide and in Florida, there has recently been an influx of veterans on college campuses. Nationwide the number of veterans enrolling in college has increased to approximately 800,000 veterans using the GI Bill in 2010, which is up 40 percent from 2009.⁹⁵ Likewise, there is a large student veteran presence in universities and colleges in Florida. For the 2010 academic year, 7,047 veterans were enrolled within the State University System (SUS) of Florida,⁹⁶ 17,453 within the Florida College System (FCS),⁹⁷ 4,490 at private non-profit institutions,⁹⁸ and 16,500 at private for-profit institutions.⁹⁹

Federal Education Benefits for Veterans¹⁰⁰

The U.S. Department of Veterans Affairs (VA) administers a variety of education benefit programs, commonly known as the GI Bill, for veterans pursuing higher education.¹⁰¹ The most commonly utilized GI Bill benefits include the Montgomery GI Bill¹⁰² and the Post-9/11 GI

⁹² The following public colleges and universities currently offer priority course registration for veterans: Florida International University; Florida State University; the University of South Florida; Tallahassee Community College; St. Petersburg College; Northwest Florida State College; and Miami-Dade College (Senate Military Affairs, Space, and Domestic Security Committee staff E-mail correspondence with SUS and FCS staff September 27, 2011).

⁹³ Florida Department of Veterans' Affairs. 2009-10 Annual Report. Available at: http://www.floridavets.org/pdf/ann_rprt_10.pdf.

⁹⁴ GI Bill benefits refer to the financial support for tuition and housing provided to veterans by the U.S. Department of Veterans Affairs.

⁹⁵ *Vets go from Combat to Campus* by Trevor Hughes, USA Today, April 12, 2011 from http://www.usatoday.com/news/education/2011-04-11-college-vets_N.htm.

⁹⁶ State University System of Florida, *Senate Bill 94 Analysis* (September 20, 2011) (On file with the Senate Military Affairs, Space, and Domestic Security Committee).

⁹⁷ E-mail correspondence with Florida College System staff September 23, 2011.

⁹⁸ Email correspondence with ICUF staff September 23, 2011, and 2010-11 ICUF Accountability Report.

⁹⁹ E-mail correspondence with CIE staff, November 2, 2011.

¹⁰⁰ For more information on federal education benefits for veterans, see: <http://www.gibill.va.gov/benefits/index.html>.

¹⁰¹ For more information, see <http://www.gibill.va.gov/benefits/index.html>.

¹⁰² Chapter 30 of Title 38, U.S. Code.

Bill.¹⁰³ The Post-9/11 GI Bill is the most recent adaptation of the GI Bill and offers substantially enhanced financial assistance compared to the Montgomery GI Bill.¹⁰⁴

The Post-9/11 GI Bill offers an unprecedented level of benefits in providing financial support for education and housing to individuals with at least 90 days of aggregate service on or after September 11, 2001, or individuals discharged with a service-connected disability after 30 days. A service member must have received an honorable discharge to be eligible for the Post-9/11 GI Bill. The Post-9/11 GI Bill covers the cost of tuition and fees, not to exceed the most expensive in-state undergraduate tuition at a public institution of higher education.¹⁰⁵ The Post-9/11 GI Bill provides veterans with 36 months of education benefits which expire 15 years from a veteran's last period of active duty of at least 90 consecutive days.¹⁰⁶

For Post-9/11 GI Bill users attending a private school or a public school as a non-resident out-of-state student, the VA offers the Yellow Ribbon Program to help reimburse the difference. Under the Yellow Ribbon Program, institutions of higher learning voluntarily enter into an agreement with the VA to fund tuition and fee expenses that exceed the highest public in-state undergraduate tuition and fee rate in their state.¹⁰⁷

The Post-9/11 GI Bill also includes the Transfer of Post-9/11 GI-Bill Benefits to the Dependents program which allows an individual to transfer Post-9/11 GI Bill benefits to the individual's spouse, one or more of the individual's children, or any combination of spouse and child. An eligible service member may transfer up to the total months of unused Post-9/11 GI Bill benefits, or the entire 36 months if the member has used none.

Proposed Changes

Section 11 of the bill requires institutions within the FCS and the SUS that offer priority course registration for a segment of the student population (or upon the establishment of such policy) to provide priority course registration to veterans of the U.S. Armed Forces. In addition, such institutions are also required to provide priority course registration to the spouse or dependent child of a veteran to whom GI Bill educational benefits have been transferred.

Section 11 further provides that an eligible veteran is entitled to priority course registration for the duration of his or her attendance at an FCS institution and state university if priority registration is offered. Additionally, a spouse or dependent child is eligible for priority registration until the expiration of the GI Bill educational benefits.

Section 12 of the bill encourages independent postsecondary institutions that are under the jurisdiction of the Commission for Independent Education (Commission) or exempt from the jurisdiction of the Commission to provide the same benefit of priority course registration to

¹⁰³ Chapter 33 of Title 38, U.S. Code.

¹⁰⁴ Congress passed the Post-9/11 Veterans Educational Assistance Act in June 2008, which came to be known as the Post-9/11 GI Bill.

¹⁰⁵ In addition to graduate and undergraduate degrees, individuals may use the Post-9/11 GI Bill benefits towards vocational/technical training, on-the-job training, flight training, correspondence training, licensing and national testing programs, and tutorial assistance.

¹⁰⁶ Post-9/11 GI Bill Pamphlet. Available at: http://www.gibill.va.gov/documents/pamphlets/ch33_pamphlet.pdf.

¹⁰⁷ http://www.gibill.va.gov/benefits/post_911_gibill/index.html.

veterans or their spouses or dependents as public colleges and universities are required to provide under s. 1004.075, F.S., (section 11 of the bill as discussed above).

Government Fiscal Impact

The SUS and the FCS expect a minimal fiscal impact as a result of sections 11-12 of the bill. Both systems acknowledge that minimal expenses may occur due to additional administrative staff time that would be spent to notify and process eligible veteran students.

SECTION 17: RESIDENT STATUS FOR TUITION PURPOSES FOR VETERANS

Section 17 of the bill amends s. 1009.21, F.S.

Present Situation

Florida Law on Resident for Tuition Purposes Status

Florida law classifies postsecondary students as residents or nonresidents to determine the applicable tuition rate at higher education institutions within the FCS and the SUS. A “resident for tuition purposes” is a student who qualifies for in-state tuition.¹⁰⁸

A student who is not a dependent qualifies for in-state tuition if the following requirements are met:

- The student must have established and maintained in-state legal residence for a minimum of 12 consecutive months immediately prior to the student’s initial enrollment; and
- The student must make a statement that residency was established to maintain a bona fide domicile rather than to set up a temporary residence just to qualify for in-state tuition.

To establish in-state status, non-dependent applicants must produce at least two documents evidencing residency, including at least one of the following:

- A voter’s registration card;
- A driver’s license;
- An identification card;
- A vehicle registration;
- Proof of a permanent home occupied as a primary residence by the student;
- Proof of homestead exemption;
- High school transcripts if the diploma or GED is from the last 12 months; or
- Proof of permanent full-time employment for a duration of 12 months.¹⁰⁹

To show in-state residency, the applicant may produce:

- A declaration of domicile;
- A state professional or occupational license;
- State incorporation;

¹⁰⁸ Section 1009.21(1)(g), F.S.

¹⁰⁹ Section 1009.21(2)(c)1., F.S.

- A document evidencing family ties in the state;
- Evidence of membership in a state-based charity or professional organization;
- Other documentation that evidences residency, such as energy bills or a lease agreement with demonstrated 12-month payments; or
- An official state, federal, or court document showing legal ties to the state.¹¹⁰

Section 1009.21(10) F.S., provides eleven categories in which individuals who meet certain criteria are automatically considered residents of the state for tuition purposes and are exempt from the 12-month residency requirement. As it relates to service in the U.S. Armed Services, persons who qualify as the following are considered residents for tuition purposes in Florida:

- active duty members of the U.S. Armed Services residing or stationed in Florida and their spouses and dependent children, and active drilling members of the Florida National Guard; and
- active duty members of the U.S. Armed Services and their spouses and dependents attending a public college or state university within 50 miles of the military establishment where they are stationed, if such military establishment is within a county contiguous to Florida.

Currently, veterans of the U.S. Armed Services are not eligible to obtain resident status for tuition purposes based on their status as a veteran. Veterans qualify as residents for tuition purposes through the standard document review process outlined in s. 1009.21, F.S.

Veterans in Florida

Section 1.01(14), F.S., defines the term veteran as:

[A] person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.

Florida has the third largest population of veterans in the nation with more than 1.6 million. Only California and Texas have larger populations of veterans.¹¹¹ The FDVA estimates that there are roughly 200,000 Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn service members and veterans who claim Florida as their home of record. The proportion of veterans and active duty service members that constitute the 200,000 estimate cannot be determined.

Nationwide the number of veterans enrolling in college is increasing with approximately 800,000 veterans using the GI Bill in 2010, which is up 40 percent from 2009.¹¹² Likewise, there is a

¹¹⁰ Section 1009.21(2)(c)2., F.S.

¹¹¹ Florida Department of Veterans' Affairs. 2009-10 Annual Report. Available at: http://www.floridavets.org/pdf/ann_rprt_10.pdf

¹¹² USA Today article: *Vets Go From Combat to Campus* by Trevor Hughes. April 12, 2011. Available at: www.usatoday.com/news/education/2011-04-11-college-vets_N.htm

large student veteran presence in public universities and colleges in Florida. For the 2010 academic year, there were 7,047 veterans who attended a SUS institution. As of December 2010, there were 17,517 students within the FCS who utilized GI Bill benefits.¹¹³

Post-9/11 GI Bill

The United States Department of Veteran Affairs provides financial assistance programs to eligible veterans pursuing a post-secondary degree. The most recent version of the GI Bill, the Post-9/11 GI Bill,¹¹⁴ provides qualified veterans¹¹⁵ with the cost of tuition and fees, not to exceed the most expensive in-state undergraduate tuition at a public institution in the state in which the veteran is attending school.¹¹⁶ Currently in Florida, a veteran who is not classified as a resident for tuition purposes and who wishes to apply the Post-9/11 GI Bill benefits towards a degree program at a public higher education institution in Florida will be billed as a non-resident student. Since the Post-9/11 GI Bill only covers the highest in-state undergraduate tuition, the veteran would be responsible for the costs that exceed the in-state tuition amount.¹¹⁷

Proposed Changes

Section 17 of the bill amends s. 1009.21, F.S., to allow veterans of the U.S. Armed Services who physically attend a public college, university or institution of higher learning in Florida, to be automatically classified as a resident of the state for tuition purposes.

A veteran who does not meet the standard Florida residency requirements for tuition purposes will be immediately classified as a resident for tuition purposes and therefore, will be entitled to the in-state tuition rate at all public universities and colleges in Florida.

Government Fiscal Impact

The SUS estimates the provisions in section 15 of the bill will result in a total tuition revenue loss of \$6,859,396.¹¹⁸ Additionally, the SUS anticipates an increase in the number of veterans coming to Florida to attend college postsecondary institutions. The lost tuition revenue will likely increase, as will the need to provide adequate student services to the additional veterans.¹¹⁹ The FCS acknowledges that Florida colleges would experience a potential funding loss due to the reclassification of non-resident student veterans to resident status, but lacked the data needed to provide an estimate of the fiscal impact.¹²⁰

¹¹³ E-mail correspondence with Florida College System staff. July 5, 2011.

¹¹⁴ For more information about the Post-9/11 GI Bill visit: http://www.gibill.va.gov/benefits/post_911_gibill/index.html.

¹¹⁵ To qualify for the Post-9/11 GI Bill benefit, an individual must have served an aggregate 90 days of aggregate active duty service after September 10, 2001, or must have been honorably discharged with a service-connected disability after 30 days of continuous service. The period of eligibility ends 15 years from the date of the last discharge or release from active duty service.

¹¹⁶ The Post-9/11 GI Bill also provides a monthly housing allowance and a yearly stipend for books and supplies.

¹¹⁷ The Post-9/11 GI Bill can also be applied to vocational/technical training, on-the-job training, flight training, correspondence training, licensing and national testing programs, and tutorial assistance.

¹¹⁸ State University System of Florida, *Senate Bill 922 Analysis* (October 25, 2011) (on file with the Senate Military Affairs, Space, and Domestic Security Committee).

¹¹⁹ *Id.*

¹²⁰ Senate Military Affairs, Space, and Domestic Security Committee staff E-mail correspondence with Florida College System staff. September 13, 2011.

SECTION 18: EFFECTIVE DATE

Section 15 of the bill provides that the act shall take effect on July 1, 2012, with the exception of Section 4 (which provides for the Combat Infantry Badge and Vietnam War Veterans license plates), which takes effect on October 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:

Section 1: National Guard Employment Tax Credit Program provides financial incentives in the form of tax credits to incentivize employers to hire unemployed members of the Florida National Guard. This section would provide unemployed guardsmen more employment opportunities and would also allow qualified businesses to obtain tax credits.

Section 3: Business Enterprise Opportunities for Wartime Veterans would assist wartime veterans in competing for state contracts and procurements by expanding the small service-disabled veteran business enterprise certification program to include wartime veterans.

Section 5: Specialty License Plates would require persons who purchase an American Legion license plate to pay an annual use fee as required in s. 320.08056, F.S.

Sections 6-7: Special Use License Plates would require persons who purchase a Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star, Combat Infantry Badge, Korean Conflict Veteran, or Vietnam War Veteran special use license plate to pay applicable taxes as provided in s. 320.08, F.S.

Sections 10 – 13: Veterans Courts would have an impact on the private sector to the extent that participants are diverted from incarceration into private treatment programs.

Section 17: Resident Status for Tuition Purposes for Veterans would allow veterans who do not meet the standard Florida residency requirements for tuition purposes to pay less in tuition with the immediate entitlement to in-state tuition rates. In addition, veterans who utilize the Post-9/11 GI Bill and are not considered residents of Florida for tuition purposes would not be liable for the excess out-of-state tuition costs and fees that would otherwise not be covered by the federal benefit.

C. Government Sector Impact:

Section 1: National Guard Employment Tax Credit Program

Section 1 of the bill establishes the National Guard Employment Tax Credit Program. This program allows an eligible business which employs a current member of the Florida National Guard who has been unemployed for more than 6 months or is returning from duty abroad, to be eligible to receive a \$10,000 tax credit. The program is capped at \$5 million per fiscal year and is set to expire after 2 years. The number of businesses that will take advantage of this tax credit and the number guardsmen to whom this section applies is unknown. The Revenue Estimating Conference has not yet addressed the provisions contained in this section of the bill.

The fiscal impact on the Department of Economic Opportunity and the Department of Revenue is indeterminate. This section of the bill increases the workload of the Department of Economic Opportunity and the Department of Revenue, so it is possible these agencies may require additional FTEs and updated software.

Section 2: Florida Veterans' Hall of Fame

Section 2 of the bill provides for the establishment of the Florida Veterans Hall of Fame Council. Although members of the council may not receive compensation for their services, they are entitled to reimbursement for travel expenses incurred in the performance of their duties.

Section 3: Business Enterprise Opportunities for Wartime Veterans

The DMS estimates that the provisions of section 1 will result in nonrecurring costs of \$10,000 to implement the changes in MyFloridaMarketPlace and an estimated \$30,000 related to the additional workload for processing certifications for wartime veteran businesses; however, it is unknown how many "wartime veteran-owned" businesses are located in Florida and how many of those businesses would apply for certification. Since these numbers are unknown, the cost to implement section 1 of the bill is unknown at this time.

Section 4-7: License Plates

According to DHSMV, costs to produce the Combat Infantry Badge special use plate are minimal and can be absorbed within existing resources. It is unknown how many Florida residents are Combat Infantry Badge recipients who will apply for this license plate. DHSMV has not assessed its costs to produce the Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star, Korean Conflict Veteran, and Vietnam War Veteran special use plates. It is likely that the costs of production for these plates would be similar to those of the Combat Infantry Badge special use plate. Tax Collectors will have to maintain an adequate inventory of the license plates and issue them to qualified recipients. Also, the DHSMV's Information Systems Administration (ISA) will require approximately 120 hours to implement the provisions of this section. These hours can be incorporated into ISA's normal workload.¹²¹

The fiscal impact of the establishment of the American Legion license plate on the DHSMV is unknown at this time. The amount of proceeds that will be distributed to the FDVA and the Department of Military Affairs direct support organizations is also unknown.

Sections 10-13: Veterans Courts

Section 10 of the bill authorizes establishment of a military veterans and servicemembers court program in each judicial circuit. It is not known how many circuits would implement the authority, but is anticipated that it would be done within existing funding.

Sections 11-12 of the bill create pretrial veterans treatment intervention programs. Pretrial drug court diversion programs are funded by the state and local government. In drug court programs, the county pays for the costs of testing and treatment. If the veteran's treatment diversion programs operate in a similar fashion, the cost of such programs will be borne by both the state and local government. The cost of sections 11-12 is indeterminate as the number of veterans to be served as well as the type and frequency of services is unknown. If sections 11-12 divert some defendants from incarceration to community-based treatment programs, it is anticipated that much of the programming could be provided by the VA as part of the veteran's benefits.

Section 13 of the bill explicitly states authority that is already inherently possessed by sentencing courts. Therefore, it would not appear to have any additional fiscal impact.

The Criminal Justice Impact Conference has not assessed the impact of the revised bill on the state prison population.

Sections 15-16: Priority Course Registration for Veterans.

The State University System of Florida and the Florida College System expect a minimal fiscal impact as a result of the provisions in sections 9-10. Both systems acknowledge that minimal expenses may occur due to additional administrative staff time that would be spent to notify and process eligible veteran students.

¹²¹ Florida Department of Highway Safety and Motor Vehicles, *Senate Bill 528 Analysis* (October 25, 2011) (on file with the Senate Transportation Committee).

Section 17: Resident Status for Tuition Purposes for Veterans

The State University System of Florida estimates the provisions in section 11 will result in a total tuition revenue loss of \$6,859,396.¹²² Additionally, the SUS anticipates an increase in the number of veterans coming to Florida to attend college postsecondary institutions. The lost tuition revenue will likely increase, as will the need to provide adequate student services to the additional veterans.¹²³ The Florida College System acknowledges that Florida colleges would experience a potential funding loss due to the reclassification of non-resident student veterans to resident status, but lacked the data needed to provide an estimate of the fiscal impact.¹²⁴

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:

- Authorizes special use license plates for recipients of the Distinguished Service Cross, the Navy Cross, the Air Force Cross, the Silver Star, and veterans of the Korean Conflict or the Vietnam War; and a specialty license plate for the American Legion.
- Removes the requirement for sentencing courts to conduct a veterans status hearing
- Expands eligibility for veterans' court and veterans' pretrial intervention programs to include all veterans and servicemembers.
- Removes a provision allowing any veteran of the U.S. Armed Forces who was a resident of Florida four years before entering military service and who holds an associate degree or has earned at least 60 college credit hours from a Florida College System institution to be admitted to any Florida College System institution or state university of the veteran's choice.

CS by Military Affairs, Space, and Domestic Security on January 9, 2012:

- Establishes the National Guard Employment Tax Credit Program.
- Creates the Florida Veterans' Hall of Fame Council to facilitate the induction of nominees to the existing Florida Veterans' Hall of Fame.
- Establishes the Vietnam War Veteran special use license plate.

¹²² State University System of Florida, *Senate Bill 922 Analysis* (October 25, 2011) (on file with the Senate Military Affairs, Space, and Domestic Security Committee).

¹²³ *Id.*

¹²⁴ Senate Military Affairs, Space, and Domestic Security Committee staff E-mail correspondence with Florida College System staff. September 13, 2011.

- Revises the bill to allow all veterans to be eligible for priority course registration as opposed to only veterans using GI Bill educational benefits.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

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

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 220.1893, Florida Statutes, is created
to read:

220.1893 National Guard Employment Tax Credit Program.—

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

(a) "Department" means the Department of Economic
Opportunity.

(b) "Eligible business" means any business that is
operating and authorized to do business in this state.



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(c) "Qualified employee" means a person:

1. Who is a current Florida National Guard member in good standing, as verified by the Adjutant General of the Florida National Guard, and has been unemployed for more than 6 months or is returning from duty abroad;

2. Who was hired by an eligible business on or after July 1, 2012, and had not previously been employed by the eligible business or its parent or an affiliated corporation;

3. Who performed duties connected to the operations of the eligible business on a regular, full-time basis for an average of at least 36 hours per week and for at least 3 months before an eligible business is awarded a tax credit; and

4. Whose employment by the eligible business has not formed the basis for any other claim to a credit pursuant to this chapter.

(2) A certified business shall receive a \$10,000 tax credit for each qualified employee, subject to the limitation in subsection (5). The credit may be taken against:

(a) Corporate income taxes under chapter 220.

(b) Insurance premium tax under s. 624.509.

(c) Taxes on sales, use, and other transactions under chapter 212.

(d) Intangible personal property taxes under chapter 199.

(e) Excise taxes on documents under chapter 201.

(f) Ad valorem taxes paid, as defined in s. 220.03(1).

(g) State communications services taxes administered under chapter 202. This paragraph does not apply to the gross receipts tax imposed under chapter 203 and administered under chapter 202 or the local communications services tax authorized under s.



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202.19.

(3) (a) To become a certified business, an officer of an eligible business must file under oath with the Department of Economic Opportunity an application that includes:

1. The name, address, and NAICS identifying code of the eligible business. As used in this subsection, "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

2. Relevant employment information.

3. A sworn affidavit, signed by each employee for whom the eligible business is seeking credits under this section, attesting to his or her previous unemployment.

4. Verification that the wages paid by the eligible business to each of its qualified employees exceeds the wage eligibility levels for Medicaid and other public assistance programs.

5. Any other information necessary to process the application.

(b) The Department of Economic Opportunity shall process applications to certify a business in the order in which the applications are received, without regard as to whether the applicant is a new or an existing business. The department shall review and approve or deny an application within 10 days after receiving a completed application. The department shall notify the applicant in writing as to the department's decision.

(c) 1. The department shall submit a copy of the letter of certification to the Department of Revenue within 10 days after the department issues the letter of certification to the



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71 applicant.

72 2. If the application of an eligible business is not
73 sufficient to certify the applicant business, the department
74 must deny the application and issue a notice of denial to the
75 applicant.

76 3. If the application of an eligible business does not
77 contain sufficient documentation of the number of qualified
78 employees, the department shall approve the application with
79 respect to the employees for whom the department determines are
80 qualified employees. The department must deny the application
81 with respect to persons for whom the department determines are
82 not qualified employees or for whom insufficient documentation
83 has been provided. A business may not submit a revised
84 application for certification or for the determination of a
85 person as a qualified employee more than 3 months after the
86 issuance of a notice of denial with respect to the business or a
87 particular person as a qualified employee.

88 (4) The applicant for a tax credit under this section has
89 the responsibility to affirmatively demonstrate to the
90 satisfaction of the department and the Department of Revenue
91 that the applicant and the persons claimed as qualified
92 employees meet the requirements of this section.

93 (5) The total amount of tax credits under this section
94 which may be approved by the department for all applicants is \$5
95 million per fiscal year.

96 (6) A tax credit amount that is granted under this section
97 which is not fully used in the first year for which it becomes
98 available may be carried forward to the subsequent taxable year.
99 The carryover credit may be used in the subsequent year if the



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tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

(7) A person who fraudulently claims a credit under this section is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit. Such person also commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The department may adopt rules governing the manner and form of applications for the tax credit. The department may establish guidelines for making an affirmative showing of qualification for the tax credit under this section.

(9) The Department of Revenue may adopt rules to administer this section, including rules relating to the creation of forms to claim a tax credit and examination and audit procedures required to administer this section.

(10) This section expires July 1, 2014. However, a taxpayer that is awarded a tax credit in the second year of the program may carry forward any unused credit amount to the subsequent tax reporting period. Rules adopted by the Department of Revenue to administer this section shall remain valid as long as a taxpayer may use a credit against its corporate income tax liability.

Section 2. Section 265.003, Florida Statutes, is amended to read:

265.003 Florida Veterans' Hall of Fame.—

(1) It is the intent of the Legislature to recognize and honor those military veterans who, through their works and lives during or after military service, have made a significant



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contribution to the State of Florida.

(2) There is established the Florida Veterans' Hall of Fame.

(a) The Florida Veterans' Hall of Fame is administered by the Florida Department of Veterans' Affairs without appropriation of state funds.

(b) The Department of Management Services shall set aside an area on the Plaza Level of the Capitol Building along the northeast front wall and shall consult with the Department of Veterans' Affairs regarding the design and theme of the area.

(c) Each person who is inducted into the Florida Veterans' Hall of Fame shall have his or her name placed on a plaque displayed in the designated area of the Capitol Building.

(3) (a) The Florida Veterans' Hall of Fame Council is created within the Department of Veterans' Affairs as an advisory council, as defined in s. 20.03(7), consisting of seven members who shall all be honorably discharged veterans, and at least four of whom must be members of a congressionally chartered veterans service organization. The Governor, the President of the Senate, the Speaker of the House of Representatives, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, and the executive director of the Department of Veterans' Affairs shall each appoint one member. For the purposes of ensuring staggered terms, the council members appointed by the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture shall be appointed to 4-year terms beginning on January 1 of the year of appointment, and the council members appointed by the President of the Senate, the



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Speaker of the House of Representatives, and the executive director of the Department of Veterans' Affairs shall be appointed to 2-year terms beginning on January 1 of the year of appointment. After the initial appointments, all appointees shall be appointed to 4-year terms. A member whose term expires shall continue to serve on the council until such time as a replacement is appointed.

(b) The members shall annually elect a chair from among their number. The council shall meet at the call of its chair, at the request of the executive director of the Department of Veterans' Affairs, or at such times as may be prescribed by the council. A majority of the members of the council currently appointed constitutes a quorum, and a meeting may not be held unless a quorum is present. The affirmative vote of a majority of the members of the council present is necessary for any official action by the council.

(c) Members of the council may not receive compensation or honorarium for their services, but members are entitled to reimbursement for travel expenses incurred in the performance of their duties as provided in s. 112.061.

(d) The original appointing authority may remove his or her appointee from the council for misconduct or malfeasance in office, neglect of duty, incompetence, or permanent inability to perform official duties or if the member is adjudicated guilty of a felony.

(4)-(3)(a) The Florida Veterans' Hall of Fame Council
~~Department of Veterans' Affairs~~ shall annually accept nominations of persons to be considered for induction into the Florida Veterans' Hall of Fame and shall ~~then~~ transmit a list of



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up to 20 nominees ~~its recommendations~~ to the Department of Veterans' Affairs for submission to the Governor and the Cabinet who will select four persons from the list of the nominees to be inducted.

(b) In selecting its nominees for submission ~~making its recommendations~~ to the Governor and the Cabinet, the Florida Veterans' Hall of Fame Council ~~Department of Veterans' Affairs~~ shall give preference to veterans who were born in Florida or adopted Florida as their home state or base of operation and who have made a significant contribution to the state in civic, business, public service, or other pursuits.

(5)(4) The Florida Veterans' Hall of Fame Council ~~Department of Veterans' Affairs~~ may establish criteria and set specific time periods for acceptance of nominations and for the process of selection of nominees for membership and establish a formal induction ceremony to coincide with the annual commemoration of Veterans' Day.

Section 3. Section 295.187, Florida Statutes, is amended to read:

295.187 Florida ~~Service-Disabled~~ Veteran Business Enterprise Opportunity Act.—

(1) SHORT TITLE.—This section may be cited as the "Florida ~~Service-Disabled~~ Veteran Business Enterprise Opportunity Act."

(2) INTENT.—It is the intent of the Legislature to rectify the economic disadvantage of service-disabled veterans, who are statistically the least likely to be self-employed when compared to the veteran population as a whole and who have made extraordinary sacrifices on behalf of the nation, the state, and the public, by providing opportunities for service-disabled



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veteran business enterprises as set forth in this section. The Legislature also intends to recognize wartime veterans and veterans of a period of war for their sacrifices as set forth in this section.

(3) DEFINITIONS.—For the purpose of this section, the term:

(a) "Certified ~~service-disabled~~ veteran business enterprise" means a business that has been certified by the Department of Management Services to be a ~~service-disabled~~ veteran business enterprise as defined in paragraph (c).

(b) "Service-disabled veteran" means a veteran who is a permanent Florida resident with a service-connected disability as determined by the United States Department of Veterans Affairs or who has been terminated from military service by reason of disability by the United States Department of Defense.

(c) "~~Service-disabled~~ Veteran business enterprise" means an independently owned and operated business that:

1. Employs 200 or fewer permanent full-time employees;
2. Together with its affiliates has a net worth of \$5 million or less or, if a sole proprietorship, has a net worth of \$5 million or less including both personal and business investments;

3. Is organized to engage in commercial transactions;

4. Is domiciled in this state;

5. Is at least 51 percent owned by one or more wartime veterans or service-disabled veterans; and

6. The management and daily business operations of which are controlled by one or more wartime veterans or service-disabled veterans or, for a service-disabled veteran having with a permanent and total disability, by the spouse or permanent



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caregiver of the veteran.

(d) "Wartime veteran" means:

1. A veteran as defined in s. 1.01(14); or

2. A veteran of a period of war, as used in 38 U.S.C. s. 1521, who served in the active military, naval, or air service:

a. For 90 days or more during a period of war;

b. During a period of war and was discharged or released from such service for a service-connected disability;

c. For a period of 90 consecutive days or more and such period began or ended during a period of war; or

d. For an aggregate of 90 days or more in two or more separate periods of service during more than one period of war.

(4) VENDOR PREFERENCE.—

(a) A state agency, when considering two or more bids, proposals, or replies for the procurement of commodities or contractual services, at least one of which is from a certified ~~service-disabled~~ veteran business enterprise, which ~~that~~ are equal with respect to all relevant considerations, including price, quality, and service, shall award such procurement or contract to the certified ~~service-disabled~~ veteran business enterprise.

(b) Notwithstanding s. 287.057(11), if a ~~service-disabled~~ veteran business enterprise entitled to the vendor preference under this section and one or more businesses entitled to this preference or another vendor preference provided by law submit bids, proposals, or replies for procurement of commodities or contractual services which ~~that~~ are equal with respect to all relevant considerations, including price, quality, and service, ~~then~~ the state agency shall award the procurement or contract to



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the business having the smallest net worth.

(c) Political subdivisions of the state are encouraged to offer a similar consideration to businesses certified under this section.

(5) CERTIFICATION PROCEDURE.—

(a) The application for certification as a ~~service-disabled~~ veteran business enterprise must, at a minimum, include:

1. The name of the business enterprise applying for certification and the name of the ~~service-disabled~~ veteran submitting the application on behalf of the business enterprise.

2. The names of all owners of the business enterprise, including owners who are wartime veterans, service-disabled veterans, and owners who are not a wartime veteran or a service-disabled veteran ~~veterans~~, and the percentage of ownership interest held by each owner.

3. The names of all persons involved in both the management and daily operations of the business, including the spouse or permanent caregiver of a veteran who has ~~with~~ a permanent and total disability.

4. The service-connected disability rating of all persons listed under subparagraphs 1., 2., and 3., as applicable, with supporting documentation from the United States Department of Veterans Affairs or the United States Department of Defense.

5. Documentation of the wartime service of all persons listed under subparagraphs 1., 2., and 3., as applicable, from the United States Department of Veterans Affairs or the United States Department of Defense.

~~6.5.~~ The number of permanent full-time employees.

~~7.6.~~ The location of the business headquarters.



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303 ~~8.7.~~ The total net worth of the business enterprise and its
304 affiliates. In the case of a sole proprietorship, the net worth
305 includes personal and business investments.

306 (b) To maintain certification, a ~~service-disabled~~ veteran
307 business enterprise shall renew its certification biennially.

308 (c) ~~The provisions of Chapter 120,~~ relating to application,
309 denial, and revocation procedures, applies ~~shall apply~~ to
310 certifications under this section.

311 (d) A certified ~~service-disabled~~ veteran business
312 enterprise must notify the Department of Management Services
313 within 30 business days after any event that may significantly
314 affect the certification of the business, including, but not
315 limited to, a change in ownership or change in management and
316 daily business operations.

317 (e) The certification of a ~~service-disabled~~ veteran
318 business enterprise shall be revoked for 12 months if the
319 Department of Management Services determines that the business
320 enterprise violated paragraph (d). An owner of a certified
321 ~~service-disabled~~ veteran business enterprise whose certification
322 is revoked may ~~is not permitted to~~ reapply for certification
323 under this section as an owner of any business enterprise during
324 the 12-month revocation period.

325 1. During the 12-month revocation period, a ~~service-~~
326 ~~disabled~~ veteran business enterprise whose certification has
327 been revoked may bid on state contracts but is not eligible for
328 any preference available under this section.

329 2. A ~~service-disabled~~ veteran business enterprise whose
330 certification has been revoked may apply for certification at
331 the conclusion of the 12-month revocation period by complying



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with requirements applicable to initial certifications.

(6) DUTIES OF THE DEPARTMENT OF VETERANS' AFFAIRS.—The department shall:

(a) Assist the Department of Management Services in establishing a certification procedure, which shall be reviewed biennially and updated as necessary.

(b) Identify eligible ~~service-disabled~~ veteran business enterprises by any electronic means, including electronic mail or Internet website, or by any other reasonable means.

(c) Encourage and assist eligible ~~service-disabled~~ veteran business enterprises to apply for certification under this section.

(d) Provide information regarding services that are available from the Office of Veterans' Business Outreach of the Florida Small Business Development Center to ~~service-disabled~~ veteran business enterprises.

(7) DUTIES OF THE DEPARTMENT OF MANAGEMENT SERVICES.—The department shall:

(a) With assistance from the Department of Veterans' Affairs, establish a certification procedure, which shall be reviewed biennially and updated as necessary.

(b) Grant, deny, or revoke the certification of a ~~service-disabled~~ veteran business enterprise under this section.

(c) Maintain an electronic directory of certified ~~service-disabled~~ veteran business enterprises for use by the state, political subdivisions of the state, and the public.

(8) REPORT.—The Small Business Development Center shall include in its report required by s. 288.705 the percentage of certified ~~service-disabled~~ veteran business enterprises using



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the statewide contracts register.

(9) RULES.—The Department of Veterans' Affairs and the Department of Management Services, as appropriate, may adopt rules as necessary to administer this section.

Section 4. Paragraph (aaaa) is added to subsection (4) of section 320.08056, Florida Statutes, to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(aaaa) American Legion license plate, \$25.

Section 5. Subsection (79) is added to section 320.08058, Florida Statutes, to read:

320.08058 Specialty license plates.—

(79) AMERICAN LEGION LICENSE PLATES.—

(a) Upon American Legion, Department of Florida, meeting the requirements of s. 320.08053, the department shall develop a American Legion license plate as provided in this section. The plate must bear the colors and design approved by the department and must incorporate the American Legion emblem as adopted by the American Legion on June 9, 1919, and patented on December 9 of that same year. The word "Florida" must appear at the top of the plate, and the words "American Legion" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to the American Legion, Department of Florida which shall retain the initial revenues from the sale of the plates until all startup costs incurred in the development and approval of the plates have been reimbursed. Thereafter, the proceeds shall be distributed as follows:



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390 1. Sixty percent of the proceeds shall be distributed to
391 the American Legion, Department of Florida:

392 a. To support Boys State in Florida, the Veteran Affairs
393 and Rehabilitation program, and the Gilchrist Endowment Fund;
394 and

395 b. For administration and marketing of the license plate,
396 not to exceed 10 percent of the amount of the proceeds
397 distributed to the American Legion, Department of Florida.

398 2. Twenty percent of the proceeds shall be distributed to
399 the direct-support organization created under s. 292.055 under
400 the Department of Veterans' Affairs.

401 3. Twenty percent of the proceeds shall be distributed to
402 the direct-support organization created under s. 250.115 under
403 the Department of Military Affairs.

404 Section 6. Effective October 1, 2012, section 320.089,
405 Florida Statutes, is amended to read:

406 320.089 Members of National Guard and active United States
407 Armed Forces reservists; former prisoners of war; survivors of
408 Pearl Harbor; Purple Heart medal recipients; Operation Iraqi
409 Freedom and Operation Enduring Freedom Veterans; Combat Infantry
410 Badge recipients; Vietnam War Veterans; Korean Conflict
411 Veterans; special license plates; fee.-

412 (1)(a) Each owner or lessee of an automobile or truck for
413 private use or recreational vehicle as specified in s.
414 320.08(9)(c) or (d), which is not used for hire or commercial
415 use, who is a resident of the state and an active or retired
416 member of the Florida National Guard, a survivor of the attack
417 on Pearl Harbor, a recipient of the Purple Heart medal, ~~or~~ an
418 active or retired member of any branch of the United States



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419 Armed Forces Reserve, or a recipient of the Combat Infantry
420 Badge shall, upon application to the department, accompanied by
421 proof of active membership or retired status in the Florida
422 National Guard, proof of membership in the Pearl Harbor
423 Survivors Association or proof of active military duty in Pearl
424 Harbor on December 7, 1941, proof of being a Purple Heart medal
425 recipient, ~~or~~ proof of active or retired membership in any
426 branch of the Armed Forces Reserve, or proof of membership in
427 the Combat Infantrymen's Association, Inc., or other proof of
428 being a recipient of the Combat Infantry Badge, and upon payment
429 of the license tax for the vehicle as provided in s. 320.08, be
430 issued a license plate as provided by s. 320.06, upon which, in
431 lieu of the serial numbers prescribed by s. 320.06, shall be
432 stamped the words "National Guard," "Pearl Harbor Survivor,"
433 "Combat-wounded veteran," ~~or~~ "U.S. Reserve," or "Combat Infantry
434 Badge," as appropriate, followed by the serial number of the
435 license plate. Additionally, the Purple Heart plate may have the
436 words "Purple Heart" stamped on the plate and the likeness of
437 the Purple Heart medal appearing on the plate.

438 (b) Notwithstanding any other provision of law to the
439 contrary, beginning with fiscal year 2002-2003 and annually
440 thereafter, the first \$100,000 in general revenue generated from
441 the sale of license plates issued under this section shall be
442 deposited into the Grants and Donations Trust Fund, as described
443 in s. 296.38(2), to be used for the purposes established by law
444 for that trust fund. Any additional general revenue generated
445 from the sale of such plates shall be deposited into the State
446 Homes for Veterans Trust Fund and used solely to construct,
447 operate, and maintain domiciliary and nursing homes for



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veterans, subject to the requirements of chapter 216.

(c) Notwithstanding any provisions of law to the contrary, an applicant for a Pearl Harbor Survivor license plate or a Purple Heart license plate who also qualifies for a disabled veteran's license plate under s. 320.084 shall be issued the appropriate special license plate without payment of the license tax imposed by s. 320.08.

(2) Each owner or lessee of an automobile or truck for private use, truck weighing not more than 7,999 pounds, or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and who is a former prisoner of war, or their unremarried surviving spouse, shall, upon application therefor to the department, be issued a license plate as provided in s. 320.06, on which license plate are stamped the words "Ex-POW" followed by the serial number. Each application shall be accompanied by proof that the applicant meets the qualifications specified in paragraph (a) or paragraph (b).

(a) A citizen of the United States who served as a member of the Armed Forces of the United States or the armed forces of a nation allied with the United States who was held as a prisoner of war at such time as the Armed Forces of the United States were engaged in combat, or their unremarried surviving spouse, may be issued the special license plate provided for in this subsection without payment of the license tax imposed by s. 320.08.

(b) A person who was serving as a civilian with the consent of the United States Government, or a person who was a member of the Armed Forces of the United States who was not a United



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States citizen and was held as a prisoner of war when the Armed Forces of the United States were engaged in combat, or their unremarried surviving spouse, may be issued the special license plate provided for in this subsection upon payment of the license tax imposed by s. 320.08.

(3) Each owner or lessee of an automobile or truck for private use, truck weighing not more than 7,999 pounds, or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of this state and who is the unremarried surviving spouse of a recipient of the Purple Heart medal shall, upon application therefor to the department, with the payment of the required fees, be issued a license plate as provided in s. 320.06, on which license plate are stamped the words "Purple Heart" and the likeness of the Purple Heart medal followed by the serial number. Each application shall be accompanied by proof that the applicant is the unremarried surviving spouse of a recipient of the Purple Heart medal.

(4) The owner or lessee of an automobile or truck for private use, a truck weighing not more than 7,999 pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d) which automobile, truck, or recreational vehicle is not used for hire or commercial use who is a resident of the state and a current or former member of the United States military who was deployed and served in Iraq during Operation Iraqi Freedom or in Afghanistan during Operation Enduring Freedom shall, upon application to the department, accompanied by proof of active membership or former active duty status during one of these operations, and upon payment of the license tax for the vehicle



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as provided in s. 320.08, be issued a license plate as provided by s. 320.06 upon which, in lieu of the registration license number prescribed by s. 320.06, shall be stamped the words "Operation Iraqi Freedom" or "Operation Enduring Freedom," as appropriate, followed by the registration license number of the plate.

(5) The owner or lessee of an automobile or truck for private use, a truck weighing not more than 7,999 pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d) which automobile, truck, or recreational vehicle is not used for hire or commercial use, who is a resident of the state and a current or former member of the United States military, and who was deployed and served in Vietnam during United States military deployment in Indochina shall, upon application to the department, accompanied by proof of active membership or former active duty status during these operations, and upon payment of the license tax for the vehicle as provided in s. 320.08, be issued a license plate as provided by s. 320.06 upon which, in lieu of the registration license number prescribed by s. 320.06, shall be stamped the words "Vietnam War Veteran," followed by the registration license number of the plate.

(6) The owner or lessee of an automobile or truck for private use, a truck weighing not more than 7,999 pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d) which automobile, truck, or recreational vehicle is not used for hire or commercial use, who is a resident of the state and a current or former member of the United States military, and who was deployed and served in Korea during United States military deployment in Korea shall, upon application to the department,



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accompanied by proof of active membership or former active duty status during these operations, and upon payment of the license tax for the vehicle as provided in s. 320.08, be issued a license plate as provided by s. 320.06 upon which, in lieu of the registration license number prescribed by s. 320.06, shall be stamped the words "Korean Conflict Veteran," followed by the registration license number of the plate.

Section 7. Section 320.0892, Florida Statutes is created to read:

320.0892 Motor vehicle license plates for recipients of the Silver Star, Distinguished Service Cross, Navy Cross, or Air Force Cross.—Upon receipt of an application and proof that the applicant meets the qualifications listed in this section for the applicable license plate, the department shall issue the license plate without payment of the license tax imposed under s. 320.08:

(1) SILVER STAR.—Any United States citizen who is a resident of this state and who was awarded the Silver Star while serving as a member of the United States Armed Forces shall be issued a license plate on which is stamped the words "Silver Star" followed by the serial number.

(2) DISTINGUISHED SERVICE CROSS.—Any United States citizen who is a resident of this state and who was awarded the Distinguished Service Cross while serving as a member of the United States Armed Forces shall be issued a license plate on which is stamped the words "Distinguished Service Cross" followed by the serial number.

(3) NAVY CROSS.—Any United States citizen who is a resident of this state and who was awarded the Navy Cross while serving



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as a member of the United States Armed Forces shall be issued a license plate on which is stamped the words "Navy Cross" followed by the serial number.

(4) AIR FORCE CROSS.—Any United States citizen who is a resident of this state and who was awarded the Air Force Cross while serving as a member of the United States Armed Forces shall be issued a license plate on which is stamped the words "Air Force Cross" followed by the serial number.

Section 8. Section 683.146, Florida Statutes, is created to read:

683.146 Purple Heart Day.—

(1) August 7 of each year is designated as "Purple Heart Day."

(2) The Governor may annually issue a proclamation designating August 7 as "Purple Heart Day." Public officials, schools, private organizations, and all residents of the state are encouraged to commemorate Purple Heart Day and honor those wounded or killed while serving in any branch of the United States Armed Services.

Section 9. Sections 10 through 13 of this act may be cited as the "T. Patt Maney Veterans' Treatment Intervention Act."

Section 10. Military veterans and servicemembers court program.—The chief judge of each judicial circuit may establish a military veterans and servicemembers court program under which veterans, as defined in s. 1.01, Florida Statutes, and servicemembers, as defined in s. 250.01, Florida Statutes, who are convicted of or charged with a criminal offense and who suffer from a mental illness, traumatic brain injury, substance use disorder, or psychological problem as a result of their



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military service are eligible to participate. Upon a conviction, an eligible military veteran or servicemember may be sentenced in such a manner as to appropriately address the severity of the mental illness, traumatic brain injury, substance use disorder, or psychological problem through services tailored to the individual needs of the participant. Entry into any military veterans and servicemembers court program must be based upon the sentencing court's assessment of the defendant's criminal history, military service, need for substance use treatment, need for mental health treatment, amenability to the services of the program, the advisory recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.

Section 11. Present subsection (7) of section 948.08, Florida Statutes, is renumbered as subsection (8), and a new subsection (7) is added to that section, to read:

948.08 Pretrial intervention program.—

(7) (a) Notwithstanding any provision of this section, a person who is charged with a felony, other than a felony listed in s. 948.06(8)(c), and identified as a servicemember, as defined in s. 250.01, or veteran, as defined in s. 1.01, who suffers from a military service-related mental illness, traumatic brain injury, substance use disorder, or psychological problem, is eligible for voluntary admission into a pretrial veterans' treatment intervention program approved by the chief judge of the circuit, upon motion of either party or the court's own motion, except:

1. If a defendant was previously offered admission to a pretrial veterans' treatment intervention program at any time



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622 before trial and the defendant rejected that offer on the
623 record, the court may deny the defendant's admission to such a
624 program.

625 2. If a defendant previously entered a court-ordered
626 veterans' treatment program, the court may deny the defendant's
627 admission into the pretrial veterans' treatment program.

628 (b) While enrolled in a pretrial intervention program
629 authorized by this subsection, the participant shall be subject
630 to a coordinated strategy developed by a veterans' treatment
631 intervention team. The coordinated strategy should be modeled
632 after the therapeutic jurisprudence principles and key
633 components in s. 397.334(4), with treatment specific to the
634 needs of servicemembers and veterans. The coordinated strategy
635 may include a protocol of sanctions that may be imposed upon the
636 participant for noncompliance with program rules. The protocol
637 of sanctions may include, but need not be limited to, placement
638 in a treatment program offered by a licensed service provider or
639 in a jail-based treatment program or serving a period of
640 incarceration within the time limits established for contempt of
641 court. The coordinated strategy must be provided in writing to
642 the participant before the participant agrees to enter into a
643 pretrial veterans' treatment intervention program or other
644 pretrial intervention program. Any person whose charges are
645 dismissed after successful completion of the pretrial veterans'
646 treatment intervention program, if otherwise eligible, may have
647 his or her arrest record to the dismissed charges expunged under
648 s. 943.0585.

649 (c) At the end of the pretrial intervention period, the
650 court shall consider the recommendation of the treatment program



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and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include treatment programs offered by licensed service providers or jail-based treatment programs, or order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

Section 12. Section 948.16, Florida Statutes, is amended to read:

948.16 Misdemeanor pretrial substance abuse education and treatment intervention program; misdemeanor pretrial veterans' treatment intervention program.—

(1)(a) A person who is charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under chapter 893, and who has not previously been convicted of a felony nor been admitted to a pretrial program, is eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. 397.334, approved by the chief judge of the circuit, for a period based on the program requirements and the treatment plan for the offender, upon motion of either party or the court's own motion, except, if the state attorney believes the facts and circumstances of the case suggest the defendant is involved in



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dealing and selling controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in dealing or selling controlled substances, the court shall deny the defendant's admission into the pretrial intervention program.

(b) While enrolled in a pretrial intervention program authorized by this section, the participant is subject to a coordinated strategy developed by a drug court team under s. 397.334(4). The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. 397.311 or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial treatment-based drug court program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the treatment-based drug court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. 943.0585.

(2) (a) A servicemember, as defined in s. 250.01, or veteran, as defined in s. 1.01, who suffers from a military service-related mental illness, traumatic brain injury, substance use disorder, or psychological problem, and who is charged with a misdemeanor is eligible for voluntary admission



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into a misdemeanor pretrial veterans' treatment intervention program approved by the chief judge of the circuit, for a period based on the program's requirements and the treatment plan for the offender, upon motion of either party or the court's own motion. However, the court may deny the defendant admission into a misdemeanor pretrial veterans' treatment intervention program if the defendant has previously entered a court-ordered veterans' treatment program.

(b) While enrolled in a pretrial intervention program authorized by this section, the participant shall be subject to a coordinated strategy developed by a veterans' treatment intervention team. The coordinated strategy should be modeled after the therapeutic jurisprudence principles and key components in s. 397.334(4), with treatment specific to the needs of servicemembers and veterans. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but need not be limited to, placement in a treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a misdemeanor pretrial veterans' treatment intervention program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the misdemeanor pretrial veterans' treatment intervention program, if otherwise eligible, may have his or her arrest record to the dismissed charges expunged under s. 943.0585.



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738 ~~(3)-(2)~~ At the end of the pretrial intervention period, the
739 court shall consider the recommendation of the treatment program
740 and the recommendation of the state attorney as to disposition
741 of the pending charges. The court shall determine, by written
742 finding, whether the defendant successfully completed the
743 pretrial intervention program. Notwithstanding the coordinated
744 strategy developed by a drug court team pursuant to s.

745 397.334(4) or by the veterans' treatment intervention team, if
746 the court finds that the defendant has not successfully
747 completed the pretrial intervention program, the court may order
748 the person to continue in education and treatment or return the
749 charges to the criminal docket for prosecution. The court shall
750 dismiss the charges upon finding that the defendant has
751 successfully completed the pretrial intervention program.

752 ~~(4)-(3)~~ Any public or private entity providing a pretrial
753 substance abuse education and treatment program under this
754 section shall contract with the county or appropriate
755 governmental entity. The terms of the contract shall include,
756 but not be limited to, the requirements established for private
757 entities under s. 948.15(3). This requirement does not apply to
758 services provided by the Department of Veterans' Affairs or the
759 United States Department of Veterans Affairs.

760 Section 13. Section 948.21, Florida Statutes, is created to
761 read:

762 948.21 Condition of probation or community control;
763 military servicemembers and veterans.—Effective for a
764 probationer or community controllee whose crime was committed on
765 or after July 1, 2012, and who is a servicemember, as defined in
766 s. 250.01, or veteran, as defined in s. 1.01, who suffers from a



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military service-related mental illness, traumatic brain injury, substance use disorder, or psychological problem, the court may, in addition to any other conditions imposed, impose a condition requiring the probationer or community controllee to participate in a treatment program capable of treating the probationer or community controllee's mental illness, traumatic brain injury, substance use disorder, or psychological problem. The court shall give preference to treatment programs for which the probationer or community controllee is eligible through the Department of Veterans' Affairs or the United States Department of Veterans' Affairs.

Section 14. Subsection (1) of section 1003.05, Florida Statutes, is amended to read:

1003.05 Assistance to transitioning students from military families.—

(1) The Legislature finds that school-aged dependents of military personnel, otherwise known as military students, are faced with numerous transitions during their formative years and that moves during the high school years provide special challenges to learning and future achievement.

(a) Recognizing the challenges faced by military students and the importance of military families to our community and economy, the Department of Education shall assist the transition of these students by improving the timely transfer of records, developing systems to ease student transition during the first 2 weeks of enrollment, promoting practices which foster access to extracurricular programs, establishing procedures to lessen the adverse impact of moves from the end of the junior year as well as before and during the senior year, encouraging or continuing



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partnerships between the military base and the school system, providing services for transitioning students when applying to and finding funding for postsecondary study, and providing other assistance as identified by department, school, and military personnel.

(b) If a local school board adjusts school zones within its boundaries, military students shall be given the option of remaining at the school they are currently attending or may attend the school assigned as a result of the rezoning.

Section 15. Section 1004.075, Florida Statutes, is created to read:

1004.075 Priority course registration for veterans.—Each Florida College System institution and state university that offers priority course registration for a segment of the student population, or upon implementation of priority course registration for a segment of the student population, shall provide priority course registration for each veteran of the United States Armed Forces. Priority registration shall be given to the spouse or a dependent child of the veteran to whom GI Bill educational benefits have been transferred. Each eligible veteran shall be granted priority for course registration for the duration of his or her attendance at a Florida College System institution and state university if priority registration is offered. A spouse or dependent child shall also be granted priority for registration until the expiration of the GI Bill educational benefits.

Section 16. Section 1005.09, Florida Statutes, is created to read:

1005.09 Priority course registration for veterans.—Each



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independent postsecondary educational institution that is under the jurisdiction of the commission or is exempt from the jurisdiction of the commission and that offers priority course registration for a segment of the student population, or upon implementation of priority course registration for a segment of the student population, is encouraged to provide priority course registration for each veteran of the United States Armed Forces, or his or her spouse or dependent children, who is receiving GI Bill educational benefits, in accordance with s. 1004.075.

Section 17. Present paragraphs (c) through (k) of subsection (10) of section 1009.21, Florida Statutes, are redesignated as paragraphs (d) through (l), respectively, and a new paragraph (c) is added to that subsection, to read:

1009.21 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition in postsecondary educational programs offered by charter technical career centers or career centers operated by school districts, in Florida College System institutions, and in state universities.

(10) The following persons shall be classified as residents for tuition purposes:

(c) Veterans of the Armed Services of the United States, including reserve components thereof, who attend the physical location of a public college, university, or institution of higher learning within the state.

Section 18. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2012.



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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to current and former military
personnel; creating s. 220.1893, F.S.; providing a tax
credit program for eligible businesses that hire
certain national guard members; providing definitions;
providing credits against specified taxes for
certified businesses; providing guidelines for
becoming a certified business; requiring the
Department of Economic Opportunity to certify
qualified businesses; providing criteria for the
certification; limiting the total amount of tax
credits; providing for certain tax credits to be
carried forward; providing penalties for fraudulent
claims; authorizing the Department of Economic
Opportunity and the Department of Revenue to adopt
rules; providing for future expiration of the tax
credit program; amending s. 265.003, F.S.; creating
the Florida Veterans' Hall of Fame Council; providing
for membership and terms of appointment; providing for
the appointment of a chair; providing for meetings, a
quorum, and voting; providing for reimbursement of
travel expenses; providing for the removal of an
appointee; providing for the Florida Veterans' Hall of
Fame Council rather than the Department of Veterans'
Affairs to select nominees for induction into the



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Florida Veterans' Hall of Fame and to establish the criteria for selection; requiring that the Governor and Cabinet annually select a specified number of nominees for induction; amending s. 295.187, F.S.; revising legislative intent; renaming and revising the Florida Service-Disabled Veteran Business Enterprise Opportunity Act to expand the vendor preference in state contracting to include certain businesses owned and operated by wartime veterans or veterans of a period of war; amending s. 320.08056, F.S.; providing the license plate annual use fee for an American Legion license plate; amending s. 320.08058, F.S.; creating the American Legion license plate; providing for the distribution of use fees received from the sale of the license plates; amending s. 320.089, F.S.; providing for the issuance of a Combat Infantry Badge license plate; providing qualifications and requirements for the plate; providing for the use of proceeds from the sale of the plate; providing for issuance of a Vietnam War Veterans' license plate and the Korean Conflict Veterans' license plate; providing qualifications and requirements for the plates; creating s. 320.0892, F.S.; providing for the Department of Highway Safety and Motor Vehicles to issue Silver Star, Distinguished Service Cross, Navy Cross, and Air Force Cross license plates, without payment of the license tax, to persons meeting specified criteria; providing qualifications for entrance into the court program; creating s. 683.146,



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F.S.; designating August 7 of each year as "Purple Heart Day"; providing a short title; creating a court program for certain servicemembers and military veterans who suffer from mental illness, traumatic brain injury, substance use disorder, or psychological problems as a result of their military service; amending s. 948.08, F.S.; creating a pretrial veterans' and servicemembers' treatment intervention program; providing requirements for a defendant to be voluntarily admitted to the pretrial program; providing certain exceptions to such admission; providing for the disposition of pending charges following a defendant's completion of the pretrial intervention program; providing for the charges to be expunged under certain circumstances; amending s. 948.16, F.S.; creating a misdemeanor pretrial veterans' treatment intervention program; providing requirements for voluntary admission to the misdemeanor pretrial program; providing for the misdemeanor charges to be expunged under certain circumstances; exempting treatment services provided by the Department of Veterans' Affairs or the United States Department of Veterans Affairs from certain contract requirements; creating s. 948.21, F.S.; authorizing the court to impose a condition of probation or community control for certain defendant veterans or servicemembers which requires participation in a treatment program capable of treating a mental illness, a traumatic brain injury, a



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substance use disorder, or a psychological problem;
amending s. 1003.05, F.S.; requiring that a school
board provide an option to school-aged dependents of
military personnel to choose certain schools if the
student is reassigned as a result of school rezoning;
creating s. 1004.075, F.S.; requiring certain Florida
College System institutions and state universities to
provide priority course registration for veterans;
providing eligibility requirements; creating s.
1005.09, F.S.; encouraging certain independent
postsecondary educational institutions to provide
priority course registration for veterans; amending s.
1009.21, F.S.; providing that veterans of the Armed
Services of the United States, including reserve
components thereof, who attend the physical location
of a public college, university, or institution of
higher learning within the state are residents for
tuition purposes; providing effective dates.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/25/2012	.	
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The Committee on Criminal Justice (Bennett) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 220.1893, Florida Statutes, is created
to read:

220.1893 National Guard Employment Tax Credit Program.—

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

(a) "Department" means the Department of Economic
Opportunity.

(b) "Eligible business" means any business that is
operating and authorized to do business in this state.



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(c) "Qualified employee" means a person:

1. Who is a current Florida National Guard member in good standing, as verified by the Adjutant General of the Florida National Guard, and has been unemployed for more than 6 months or is returning from duty abroad;

2. Who was hired by an eligible business on or after July 1, 2012, and had not previously been employed by the eligible business or its parent or an affiliated corporation;

3. Who performed duties connected to the operations of the eligible business on a regular, full-time basis for an average of at least 36 hours per week and for at least 3 months before an eligible business is awarded a tax credit; and

4. Whose employment by the eligible business has not formed the basis for any other claim to a credit pursuant to this chapter.

(2) A certified business shall receive a \$10,000 tax credit for each qualified employee, subject to the limitation in subsection (5). The credit may be taken against:

(a) Corporate income taxes under chapter 220.

(b) Insurance premium tax under s. 624.509.

(c) Taxes on sales, use, and other transactions under chapter 212.

(d) Intangible personal property taxes under chapter 199.

(e) Excise taxes on documents under chapter 201.

(f) Ad valorem taxes paid, as defined in s. 220.03(1).

(g) State communications services taxes administered under chapter 202. This paragraph does not apply to the gross receipts tax imposed under chapter 203 and administered under chapter 202 or the local communications services tax authorized under s.



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202.19.

(3) (a) To become a certified business, an officer of an eligible business must file under oath with the Department of Economic Opportunity an application that includes:

1. The name, address, and NAICS identifying code of the eligible business. As used in this subsection, "NAICS" means those classifications contained in the North American Industry Classification System, as published in 2007 by the Office of Management and Budget, Executive Office of the President.

2. Relevant employment information.

3. A sworn affidavit, signed by each employee for whom the eligible business is seeking credits under this section, attesting to his or her previous unemployment.

4. Verification that the wages paid by the eligible business to each of its qualified employees exceeds the wage eligibility levels for Medicaid and other public assistance programs.

5. Any other information necessary to process the application.

(b) The Department of Economic Opportunity shall process applications to certify a business in the order in which the applications are received, without regard as to whether the applicant is a new or an existing business. The department shall review and approve or deny an application within 10 days after receiving a completed application. The department shall notify the applicant in writing as to the department's decision.

(c) 1. The department shall submit a copy of the letter of certification to the Department of Revenue within 10 days after the department issues the letter of certification to the



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71 applicant.

72 2. If the application of an eligible business is not
73 sufficient to certify the applicant business, the department
74 must deny the application and issue a notice of denial to the
75 applicant.

76 3. If the application of an eligible business does not
77 contain sufficient documentation of the number of qualified
78 employees, the department shall approve the application with
79 respect to the employees for whom the department determines are
80 qualified employees. The department must deny the application
81 with respect to persons for whom the department determines are
82 not qualified employees or for whom insufficient documentation
83 has been provided. A business may not submit a revised
84 application for certification or for the determination of a
85 person as a qualified employee more than 3 months after the
86 issuance of a notice of denial with respect to the business or a
87 particular person as a qualified employee.

88 (4) The applicant for a tax credit under this section has
89 the responsibility to affirmatively demonstrate to the
90 satisfaction of the department and the Department of Revenue
91 that the applicant and the persons claimed as qualified
92 employees meet the requirements of this section.

93 (5) The total amount of tax credits under this section
94 which may be approved by the department for all applicants is \$5
95 million per fiscal year.

96 (6) A tax credit amount that is granted under this section
97 which is not fully used in the first year for which it becomes
98 available may be carried forward to the subsequent taxable year.
99 The carryover credit may be used in the subsequent year if the



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tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the order provided in s. 220.02(8).

(7) A person who fraudulently claims a credit under this section is liable for repayment of the credit plus a mandatory penalty of 100 percent of the credit. Such person also commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) The department may adopt rules governing the manner and form of applications for the tax credit. The department may establish guidelines for making an affirmative showing of qualification for the tax credit under this section.

(9) The Department of Revenue may adopt rules to administer this section, including rules relating to the creation of forms to claim a tax credit and examination and audit procedures required to administer this section.

(10) This section expires July 1, 2014. However, a taxpayer that is awarded a tax credit in the second year of the program may carry forward any unused credit amount to the subsequent tax reporting period. Rules adopted by the Department of Revenue to administer this section shall remain valid as long as a taxpayer may use a credit against its corporate income tax liability.

Section 2. Section 265.003, Florida Statutes, is amended to read:

265.003 Florida Veterans' Hall of Fame.—

(1) It is the intent of the Legislature to recognize and honor those military veterans who, through their works and lives during or after military service, have made a significant



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contribution to the State of Florida.

(2) There is established the Florida Veterans' Hall of Fame.

(a) The Florida Veterans' Hall of Fame is administered by the Florida Department of Veterans' Affairs without appropriation of state funds.

(b) The Department of Management Services shall set aside an area on the Plaza Level of the Capitol Building along the northeast front wall and shall consult with the Department of Veterans' Affairs regarding the design and theme of the area.

(c) Each person who is inducted into the Florida Veterans' Hall of Fame shall have his or her name placed on a plaque displayed in the designated area of the Capitol Building.

(3) (a) The Florida Veterans' Hall of Fame Council is created within the Department of Veterans' Affairs as an advisory council, as defined in s. 20.03(7), consisting of seven members who shall all be honorably discharged veterans, and at least four of whom must be members of a congressionally chartered veterans service organization. The Governor, the President of the Senate, the Speaker of the House of Representatives, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, and the executive director of the Department of Veterans' Affairs shall each appoint one member. For the purposes of ensuring staggered terms, the council members appointed by the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture shall be appointed to 4-year terms beginning on January 1 of the year of appointment, and the council members appointed by the President of the Senate, the



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Speaker of the House of Representatives, and the executive director of the Department of Veterans' Affairs shall be appointed to 2-year terms beginning on January 1 of the year of appointment. After the initial appointments, all appointees shall be appointed to 4-year terms. A member whose term expires shall continue to serve on the council until such time as a replacement is appointed.

(b) The members shall annually elect a chair from among their number. The council shall meet at the call of its chair, at the request of the executive director of the Department of Veterans' Affairs, or at such times as may be prescribed by the council. A majority of the members of the council currently appointed constitutes a quorum, and a meeting may not be held unless a quorum is present. The affirmative vote of a majority of the members of the council present is necessary for any official action by the council.

(c) Members of the council may not receive compensation or honorarium for their services, but members are entitled to reimbursement for travel expenses incurred in the performance of their duties as provided in s. 112.061.

(d) The original appointing authority may remove his or her appointee from the council for misconduct or malfeasance in office, neglect of duty, incompetence, or permanent inability to perform official duties or if the member is adjudicated guilty of a felony.

(4)-(3) (a) The Florida Veterans' Hall of Fame Council
Department of Veterans' Affairs shall annually accept
nominations of persons to be considered for induction into the
Florida Veterans' Hall of Fame and shall then transmit a list of



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up to 20 nominees ~~its recommendations~~ to the Department of Veterans' Affairs for submission to the Governor and the Cabinet who will select four persons from the list of the nominees to be inducted.

(b) In selecting its nominees for submission ~~making its recommendations~~ to the Governor and the Cabinet, the Florida Veterans' Hall of Fame Council ~~Department of Veterans' Affairs~~ shall give preference to veterans who were born in Florida or adopted Florida as their home state or base of operation and who have made a significant contribution to the state in civic, business, public service, or other pursuits.

(5)(4) The Florida Veterans' Hall of Fame Council ~~Department of Veterans' Affairs~~ may establish criteria and set specific time periods for acceptance of nominations and for the process of selection of nominees for membership and establish a formal induction ceremony to coincide with the annual commemoration of Veterans' Day.

Section 3. Section 295.187, Florida Statutes, is amended to read:

295.187 Florida ~~Service-Disabled~~ Veteran Business Enterprise Opportunity Act.—

(1) SHORT TITLE.—This section may be cited as the "Florida ~~Service-Disabled~~ Veteran Business Enterprise Opportunity Act."

(2) INTENT.—It is the intent of the Legislature to rectify the economic disadvantage of service-disabled veterans, who are statistically the least likely to be self-employed when compared to the veteran population as a whole and who have made extraordinary sacrifices on behalf of the nation, the state, and the public, by providing opportunities for service-disabled



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veteran business enterprises as set forth in this section. The Legislature also intends to recognize wartime veterans and veterans of a period of war for their sacrifices as set forth in this section.

(3) DEFINITIONS.—For the purpose of this section, the term:

(a) "Certified ~~service-disabled~~ veteran business enterprise" means a business that has been certified by the Department of Management Services to be a ~~service-disabled~~ veteran business enterprise as defined in paragraph (c).

(b) "Service-disabled veteran" means a veteran who is a permanent Florida resident with a service-connected disability as determined by the United States Department of Veterans Affairs or who has been terminated from military service by reason of disability by the United States Department of Defense.

(c) "~~Service-disabled~~ Veteran business enterprise" means an independently owned and operated business that:

1. Employs 200 or fewer permanent full-time employees;
2. Together with its affiliates has a net worth of \$5 million or less or, if a sole proprietorship, has a net worth of \$5 million or less including both personal and business investments;

3. Is organized to engage in commercial transactions;

4. Is domiciled in this state;

5. Is at least 51 percent owned by one or more wartime veterans or service-disabled veterans; and

6. The management and daily business operations of which are controlled by one or more wartime veterans or service-disabled veterans or, for a service-disabled veteran having with a permanent and total disability, by the spouse or permanent



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caregiver of the veteran.

(d) "Wartime veteran" means:

1. A veteran as defined in s. 1.01(14); or

2. A veteran of a period of war, as used in 38 U.S.C. s. 1521, who served in the active military, naval, or air service:

a. For 90 days or more during a period of war;

b. During a period of war and was discharged or released from such service for a service-connected disability;

c. For a period of 90 consecutive days or more and such period began or ended during a period of war; or

d. For an aggregate of 90 days or more in two or more separate periods of service during more than one period of war.

(4) VENDOR PREFERENCE.—

(a) A state agency, when considering two or more bids, proposals, or replies for the procurement of commodities or contractual services, at least one of which is from a certified ~~service-disabled~~ veteran business enterprise, which ~~that~~ are equal with respect to all relevant considerations, including price, quality, and service, shall award such procurement or contract to the certified ~~service-disabled~~ veteran business enterprise.

(b) Notwithstanding s. 287.057(11), if a ~~service-disabled~~ veteran business enterprise entitled to the vendor preference under this section and one or more businesses entitled to this preference or another vendor preference provided by law submit bids, proposals, or replies for procurement of commodities or contractual services which ~~that~~ are equal with respect to all relevant considerations, including price, quality, and service, ~~then~~ the state agency shall award the procurement or contract to



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the business having the smallest net worth.

(c) Political subdivisions of the state are encouraged to offer a similar consideration to businesses certified under this section.

(5) CERTIFICATION PROCEDURE.—

(a) The application for certification as a ~~service-disabled~~ veteran business enterprise must, at a minimum, include:

1. The name of the business enterprise applying for certification and the name of the ~~service-disabled~~ veteran submitting the application on behalf of the business enterprise.

2. The names of all owners of the business enterprise, including owners who are wartime veterans, service-disabled veterans, and owners who are not a wartime veteran or a service-disabled veteran ~~veterans~~, and the percentage of ownership interest held by each owner.

3. The names of all persons involved in both the management and daily operations of the business, including the spouse or permanent caregiver of a veteran who has ~~with~~ a permanent and total disability.

4. The service-connected disability rating of all persons listed under subparagraphs 1., 2., and 3., as applicable, with supporting documentation from the United States Department of Veterans Affairs or the United States Department of Defense.

5. Documentation of the wartime service of all persons listed under subparagraphs 1., 2., and 3., as applicable, from the United States Department of Veterans Affairs or the United States Department of Defense.

~~6.5.~~ The number of permanent full-time employees.

~~7.6.~~ The location of the business headquarters.



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303 ~~8.7.~~ The total net worth of the business enterprise and its
304 affiliates. In the case of a sole proprietorship, the net worth
305 includes personal and business investments.

306 (b) To maintain certification, a ~~service-disabled~~ veteran
307 business enterprise shall renew its certification biennially.

308 (c) ~~The provisions of Chapter 120,~~ relating to application,
309 denial, and revocation procedures, applies ~~shall apply~~ to
310 certifications under this section.

311 (d) A certified ~~service-disabled~~ veteran business
312 enterprise must notify the Department of Management Services
313 within 30 business days after any event that may significantly
314 affect the certification of the business, including, but not
315 limited to, a change in ownership or change in management and
316 daily business operations.

317 (e) The certification of a ~~service-disabled~~ veteran
318 business enterprise shall be revoked for 12 months if the
319 Department of Management Services determines that the business
320 enterprise violated paragraph (d). An owner of a certified
321 ~~service-disabled~~ veteran business enterprise whose certification
322 is revoked may ~~is not permitted to~~ reapply for certification
323 under this section as an owner of any business enterprise during
324 the 12-month revocation period.

325 1. During the 12-month revocation period, a ~~service-~~
326 ~~disabled~~ veteran business enterprise whose certification has
327 been revoked may bid on state contracts but is not eligible for
328 any preference available under this section.

329 2. A ~~service-disabled~~ veteran business enterprise whose
330 certification has been revoked may apply for certification at
331 the conclusion of the 12-month revocation period by complying



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with requirements applicable to initial certifications.

(6) DUTIES OF THE DEPARTMENT OF VETERANS' AFFAIRS.—The department shall:

(a) Assist the Department of Management Services in establishing a certification procedure, which shall be reviewed biennially and updated as necessary.

(b) Identify eligible ~~service-disabled~~ veteran business enterprises by any electronic means, including electronic mail or Internet website, or by any other reasonable means.

(c) Encourage and assist eligible ~~service-disabled~~ veteran business enterprises to apply for certification under this section.

(d) Provide information regarding services that are available from the Office of Veterans' Business Outreach of the Florida Small Business Development Center to ~~service-disabled~~ veteran business enterprises.

(7) DUTIES OF THE DEPARTMENT OF MANAGEMENT SERVICES.—The department shall:

(a) With assistance from the Department of Veterans' Affairs, establish a certification procedure, which shall be reviewed biennially and updated as necessary.

(b) Grant, deny, or revoke the certification of a ~~service-disabled~~ veteran business enterprise under this section.

(c) Maintain an electronic directory of certified ~~service-disabled~~ veteran business enterprises for use by the state, political subdivisions of the state, and the public.

(8) REPORT.—The Small Business Development Center shall include in its report required by s. 288.705 the percentage of certified ~~service-disabled~~ veteran business enterprises using



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the statewide contracts register.

(9) RULES.—The Department of Veterans' Affairs and the Department of Management Services, as appropriate, may adopt rules as necessary to administer this section.

Section 4. Paragraph (aaaa) is added to subsection (4) of section 320.08056, Florida Statutes, to read:

320.08056 Specialty license plates.—

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

(aaaa) American Legion license plate, \$25.

Section 5. Subsection (79) is added to section 320.08058, Florida Statutes, to read:

320.08058 Specialty license plates.—

(79) AMERICAN LEGION LICENSE PLATES.—

(a) Upon American Legion, Department of Florida, meeting the requirements of s. 320.08053, the department shall develop a American Legion license plate as provided in this section. The plate must bear the colors and design approved by the department and must incorporate the American Legion emblem as adopted by the American Legion on June 9, 1919, and patented on December 9 of that same year. The word "Florida" must appear at the top of the plate, and the words "American Legion" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to the American Legion, Department of Florida which shall retain the initial revenues from the sale of the plates until all startup costs incurred in the development and approval of the plates have been reimbursed. Thereafter, the proceeds shall be distributed as follows:



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390 1. Sixty percent of the proceeds shall be distributed to
391 the American Legion, Department of Florida:

392 a. To support Boys State in Florida, the Veteran Affairs
393 and Rehabilitation program, and the Gilchrist Endowment Fund;
394 and

395 b. For administration and marketing of the license plate,
396 not to exceed 10 percent of the amount of the proceeds
397 distributed to the American Legion, Department of Florida.

398 2. Twenty percent of the proceeds shall be distributed to
399 the direct-support organization created under s. 292.055 under
400 the Department of Veterans' Affairs.

401 3. Twenty percent of the proceeds shall be distributed to
402 the direct-support organization created under s. 250.115 under
403 the Department of Military Affairs.

404 Section 6. Effective October 1, 2012, section 320.089,
405 Florida Statutes, is amended to read:

406 320.089 Members of National Guard and active United States
407 Armed Forces reservists; former prisoners of war; survivors of
408 Pearl Harbor; Purple Heart medal recipients; Operation Iraqi
409 Freedom and Operation Enduring Freedom Veterans; Combat Infantry
410 Badge recipients; Vietnam War Veterans; Korean Conflict
411 Veterans; special license plates; fee.-

412 (1)(a) Each owner or lessee of an automobile or truck for
413 private use or recreational vehicle as specified in s.
414 320.08(9)(c) or (d), which is not used for hire or commercial
415 use, who is a resident of the state and an active or retired
416 member of the Florida National Guard, a survivor of the attack
417 on Pearl Harbor, a recipient of the Purple Heart medal, ~~or~~ an
418 active or retired member of any branch of the United States



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419 Armed Forces Reserve, or a recipient of the Combat Infantry
420 Badge shall, upon application to the department, accompanied by
421 proof of active membership or retired status in the Florida
422 National Guard, proof of membership in the Pearl Harbor
423 Survivors Association or proof of active military duty in Pearl
424 Harbor on December 7, 1941, proof of being a Purple Heart medal
425 recipient, ~~or~~ proof of active or retired membership in any
426 branch of the Armed Forces Reserve, or proof of membership in
427 the Combat Infantrymen's Association, Inc., or other proof of
428 being a recipient of the Combat Infantry Badge, and upon payment
429 of the license tax for the vehicle as provided in s. 320.08, be
430 issued a license plate as provided by s. 320.06, upon which, in
431 lieu of the serial numbers prescribed by s. 320.06, shall be
432 stamped the words "National Guard," "Pearl Harbor Survivor,"
433 "Combat-wounded veteran," ~~or~~ "U.S. Reserve," or "Combat Infantry
434 Badge," as appropriate, followed by the serial number of the
435 license plate. Additionally, the Purple Heart plate may have the
436 words "Purple Heart" stamped on the plate and the likeness of
437 the Purple Heart medal appearing on the plate.

438 (b) Notwithstanding any other provision of law to the
439 contrary, beginning with fiscal year 2002-2003 and annually
440 thereafter, the first \$100,000 in general revenue generated from
441 the sale of license plates issued under this section shall be
442 deposited into the Grants and Donations Trust Fund, as described
443 in s. 296.38(2), to be used for the purposes established by law
444 for that trust fund. Any additional general revenue generated
445 from the sale of such plates shall be deposited into the State
446 Homes for Veterans Trust Fund and used solely to construct,
447 operate, and maintain domiciliary and nursing homes for



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veterans, subject to the requirements of chapter 216.

(c) Notwithstanding any provisions of law to the contrary, an applicant for a Pearl Harbor Survivor license plate or a Purple Heart license plate who also qualifies for a disabled veteran's license plate under s. 320.084 shall be issued the appropriate special license plate without payment of the license tax imposed by s. 320.08.

(2) Each owner or lessee of an automobile or truck for private use, truck weighing not more than 7,999 pounds, or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and who is a former prisoner of war, or their unremarried surviving spouse, shall, upon application therefor to the department, be issued a license plate as provided in s. 320.06, on which license plate are stamped the words "Ex-POW" followed by the serial number. Each application shall be accompanied by proof that the applicant meets the qualifications specified in paragraph (a) or paragraph (b).

(a) A citizen of the United States who served as a member of the Armed Forces of the United States or the armed forces of a nation allied with the United States who was held as a prisoner of war at such time as the Armed Forces of the United States were engaged in combat, or their unremarried surviving spouse, may be issued the special license plate provided for in this subsection without payment of the license tax imposed by s. 320.08.

(b) A person who was serving as a civilian with the consent of the United States Government, or a person who was a member of the Armed Forces of the United States who was not a United



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States citizen and was held as a prisoner of war when the Armed Forces of the United States were engaged in combat, or their unremarried surviving spouse, may be issued the special license plate provided for in this subsection upon payment of the license tax imposed by s. 320.08.

(3) Each owner or lessee of an automobile or truck for private use, truck weighing not more than 7,999 pounds, or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of this state and who is the unremarried surviving spouse of a recipient of the Purple Heart medal shall, upon application therefor to the department, with the payment of the required fees, be issued a license plate as provided in s. 320.06, on which license plate are stamped the words "Purple Heart" and the likeness of the Purple Heart medal followed by the serial number. Each application shall be accompanied by proof that the applicant is the unremarried surviving spouse of a recipient of the Purple Heart medal.

(4) The owner or lessee of an automobile or truck for private use, a truck weighing not more than 7,999 pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d) which automobile, truck, or recreational vehicle is not used for hire or commercial use who is a resident of the state and a current or former member of the United States military who was deployed and served in Iraq during Operation Iraqi Freedom or in Afghanistan during Operation Enduring Freedom shall, upon application to the department, accompanied by proof of active membership or former active duty status during one of these operations, and upon payment of the license tax for the vehicle



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as provided in s. 320.08, be issued a license plate as provided by s. 320.06 upon which, in lieu of the registration license number prescribed by s. 320.06, shall be stamped the words "Operation Iraqi Freedom" or "Operation Enduring Freedom," as appropriate, followed by the registration license number of the plate.

(5) The owner or lessee of an automobile or truck for private use, a truck weighing not more than 7,999 pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d) which automobile, truck, or recreational vehicle is not used for hire or commercial use, who is a resident of the state and a current or former member of the United States military, and who was deployed and served in Vietnam during United States military deployment in Indochina shall, upon application to the department, accompanied by proof of active membership or former active duty status during these operations, and upon payment of the license tax for the vehicle as provided in s. 320.08, be issued a license plate as provided by s. 320.06 upon which, in lieu of the registration license number prescribed by s. 320.06, shall be stamped the words "Vietnam War Veteran," followed by the registration license number of the plate.

(6) The owner or lessee of an automobile or truck for private use, a truck weighing not more than 7,999 pounds, or a recreational vehicle as specified in s. 320.08(9)(c) or (d) which automobile, truck, or recreational vehicle is not used for hire or commercial use, who is a resident of the state and a current or former member of the United States military, and who was deployed and served in Korea during United States military deployment in Korea shall, upon application to the department,



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accompanied by proof of active membership or former active duty status during these operations, and upon payment of the license tax for the vehicle as provided in s. 320.08, be issued a license plate as provided by s. 320.06 upon which, in lieu of the registration license number prescribed by s. 320.06, shall be stamped the words "Korean Conflict Veteran," followed by the registration license number of the plate.

Section 7. Section 320.0892, Florida Statutes is created to read:

320.0892 Motor vehicle license plates for recipients of the Silver Star, Distinguished Service Cross, Navy Cross, or Air Force Cross.—Upon receipt of an application and proof that the applicant meets the qualifications listed in this section for the applicable license plate, the department shall issue the license plate without payment of the license tax imposed under s. 320.08:

(1) SILVER STAR.—Any United States citizen who is a resident of this state and who was awarded the Silver Star while serving as a member of the United States Armed Forces shall be issued a license plate on which is stamped the words "Silver Star" followed by the serial number.

(2) DISTINGUISHED SERVICE CROSS.—Any United States citizen who is a resident of this state and who was awarded the Distinguished Service Cross while serving as a member of the United States Armed Forces shall be issued a license plate on which is stamped the words "Distinguished Service Cross" followed by the serial number.

(3) NAVY CROSS.—Any United States citizen who is a resident of this state and who was awarded the Navy Cross while serving



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as a member of the United States Armed Forces shall be issued a license plate on which is stamped the words "Navy Cross" followed by the serial number.

(4) AIR FORCE CROSS.—Any United States citizen who is a resident of this state and who was awarded the Air Force Cross while serving as a member of the United States Armed Forces shall be issued a license plate on which is stamped the words "Air Force Cross" followed by the serial number.

Section 8. Military veterans and servicemembers court program.—The chief judge of each judicial circuit may establish a military veterans and servicemembers court program under which veterans, as defined in s. 1.01, Florida Statutes, and servicemembers, as defined in s. 250.01, Florida Statutes, who are convicted of or charged with a criminal offense and who suffer from a mental illness, traumatic brain injury, substance use disorder, or psychological problem as a result of their military service are eligible to participate. Upon a conviction, an eligible military veteran or servicemember may be sentenced in such a manner as to appropriately address the severity of the mental illness, traumatic brain injury, substance use disorder, or psychological problem through services tailored to the individual needs of the participant. Entry into any military veterans and servicemembers court program must be based upon the sentencing court's assessment of the defendant's criminal history, military service, need for substance use treatment, need for mental health treatment, amenability to the services of the program, the advisory recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.



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Section 9. Section 683.146, Florida Statutes, is created to read:

683.146 Purple Heart Day.—

(1) August 7 of each year is designated as "Purple Heart Day."

(2) The Governor may annually issue a proclamation designating August 7 as "Purple Heart Day." Public officials, schools, private organizations, and all residents of the state are encouraged to commemorate Purple Heart Day and honor those wounded or killed while serving in any branch of the United States Armed Services.

Section 10. Sections 11 through 13 of this act may be cited as the "T. Patt Maney Veterans' Treatment Intervention Act."

Section 11. Section 921.00242, Florida Statutes, is created to read:

921.00242 Convicted military veterans; posttraumatic stress disorder, traumatic brain injury, substance use disorder, or psychological problems from service; treatment services.—

(1) The court shall hold a veterans' status hearing before sentencing for a criminal offense if the defendant has alleged that he or she committed the offense as a result of posttraumatic stress disorder, traumatic brain injury, substance use disorder, or psychological problems stemming from service in a combat theater in the United States military.

(2) At a veterans' status hearing conducted as required by subsection (1), the court shall determine whether the defendant was a member of the military forces of the United States who served in a combat theater and assess whether the defendant suffers from posttraumatic stress disorder, traumatic brain



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injury, substance use disorder, or psychological problems as a result of that service. The defendant shall bear the burden of proof at the hearing.

(3) If the court concludes that the defendant is a person described in subsection (2) who is eligible for probation or community control and the court places the defendant on county or state probation or into community control, the court may order the defendant into a local, state, federal, or private nonprofit treatment program as a condition of probation or community control if the defendant agrees to participate in the program and the court determines that an appropriate treatment program exists.

(4) A defendant who is placed on county or state probation or into community control and committed to a residential treatment program under this section shall earn sentence credits for the actual time he or she serves in the residential treatment program if the court makes a written finding that it would otherwise have sentenced the defendant to incarceration except for the fact that the defendant is a person described in subsection (2).

(5) In making an order under this section to commit a defendant to a treatment program, whenever possible, the court shall place the defendant in a treatment program that has a history of successfully treating combat veterans who suffer from posttraumatic stress disorder, traumatic brain injury, substance use disorder, or psychological problems as a result of combat service. The court shall give preference to treatment programs for which the veteran is eligible through the United States Department of Veterans Affairs or the Department of Veterans'



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Affairs.

Section 12. Present subsection (7) of section 948.08, Florida Statutes, is renumbered as subsection (8), and a new subsection (7) is added to that section, to read:

948.08 Pretrial intervention program.—

(7) (a) Notwithstanding any provision of this section, a person who is charged with a felony, other than a felony listed in s. 948.06(8)(c), and identified as a servicemember, as defined in s. 250.01, or veteran, as defined in s. 1.01, who suffers from a military service-related mental illness, traumatic brain injury, substance use disorder, or psychological problem, is eligible for voluntary admission into a pretrial veterans' treatment intervention program approved by the chief judge of the circuit, upon motion of either party or the court's own motion, except:

1. If a defendant was previously offered admission to a pretrial veterans' treatment intervention program at any time before trial and the defendant rejected that offer on the record, the court may deny the defendant's admission to such a program.

2. If a defendant previously entered a court-ordered veterans' treatment program, the court may deny the defendant's admission into the pretrial veterans' treatment program.

(b) While enrolled in a pretrial intervention program authorized by this subsection, the participant shall be subject to a coordinated strategy developed by a veterans' treatment intervention team. The coordinated strategy should be modeled after the therapeutic jurisprudence principles and key components in s. 397.334(4), with treatment specific to the



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needs of servicemembers and veterans. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but need not be limited to, placement in a treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial veterans' treatment intervention program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the pretrial veterans' treatment intervention program, if otherwise eligible, may have his or her arrest record to the dismissed charges expunged under s. 943.0585.

(c) At the end of the pretrial intervention period, the court shall consider the recommendation of the treatment program and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include treatment programs offered by licensed service providers or jail-based treatment programs, or order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.



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Section 13. Section 948.16, Florida Statutes, is amended to read:

948.16 Misdemeanor pretrial substance abuse education and treatment intervention program; misdemeanor pretrial veterans' treatment intervention program.—

(1)(a) A person who is charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under chapter 893, and who has not previously been convicted of a felony nor been admitted to a pretrial program, is eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. 397.334, approved by the chief judge of the circuit, for a period based on the program requirements and the treatment plan for the offender, upon motion of either party or the court's own motion, except, if the state attorney believes the facts and circumstances of the case suggest the defendant is involved in dealing and selling controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in dealing or selling controlled substances, the court shall deny the defendant's admission into the pretrial intervention program.

(b) While enrolled in a pretrial intervention program authorized by this section, the participant is subject to a coordinated strategy developed by a drug court team under s. 397.334(4). The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may



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include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. 397.311 or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial treatment-based drug court program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the treatment-based drug court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. 943.0585.

(2) (a) A servicemember, as defined in s. 250.01, or veteran, as defined in s. 1.01, who suffers from a military service-related mental illness, traumatic brain injury, substance use disorder, or psychological problem, and who is charged with a misdemeanor is eligible for voluntary admission into a misdemeanor pretrial veterans' treatment intervention program approved by the chief judge of the circuit, for a period based on the program's requirements and the treatment plan for the offender, upon motion of either party or the court's own motion. However, the court may deny the defendant admission into a misdemeanor pretrial veterans' treatment intervention program if the defendant has previously entered a court-ordered veterans' treatment program.

(b) While enrolled in a pretrial intervention program authorized by this section, the participant shall be subject to a coordinated strategy developed by a veterans' treatment intervention team. The coordinated strategy should be modeled



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after the therapeutic jurisprudence principles and key components in s. 397.334(4), with treatment specific to the needs of servicemembers and veterans. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but need not be limited to, placement in a treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a misdemeanor pretrial veterans' treatment intervention program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the misdemeanor pretrial veterans' treatment intervention program, if otherwise eligible, may have his or her arrest record to the dismissed charges expunged under s. 943.0585.

~~(3)(2)~~ At the end of the pretrial intervention period, the court shall consider the recommendation of the treatment program and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant successfully completed the pretrial intervention program. Notwithstanding the coordinated strategy developed by a drug court team pursuant to s. 397.334(4) or by the veterans' treatment intervention team, if the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment or return the charges to the criminal docket for prosecution. The court shall



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dismiss the charges upon finding that the defendant has successfully completed the pretrial intervention program.

(4)~~(3)~~ Any public or private entity providing a pretrial substance abuse education and treatment program under this section shall contract with the county or appropriate governmental entity. The terms of the contract shall include, but not be limited to, the requirements established for private entities under s. 948.15(3). This requirement does not apply to services provided by the Department of Veterans' Affairs or the United States Department of Veterans Affairs.

Section 14. Section 948.21, Florida Statutes, is created to read:

948.21 Condition of probation or community control; military servicemembers and veterans.—Effective for a probationer or community controllee whose crime was committed on or after July 1, 2012, and who is a servicemember, as defined in s. 250.01, or veteran, as defined in s. 1.01, who suffers from a military service-related mental illness, traumatic brain injury, substance use disorder, or psychological problem, the court may, in addition to any other conditions imposed, impose a condition requiring the probationer or community controllee to participate in a treatment program capable of treating the probationer or community controllee's mental illness, traumatic brain injury, substance use disorder, or psychological problem. The court shall give preference to treatment programs for which the probationer or community controllee is eligible through the Department of Veterans' Affairs or the United States Department of Veterans' Affairs.

Section 15. Subsection (1) of section 1003.05, Florida



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Statutes, is amended to read:

1003.05 Assistance to transitioning students from military families.—

(1) The Legislature finds that school-aged dependents of military personnel, otherwise known as military students, are faced with numerous transitions during their formative years and that moves during the high school years provide special challenges to learning and future achievement.

(a) Recognizing the challenges faced by military students and the importance of military families to our community and economy, the Department of Education shall assist the transition of these students by improving the timely transfer of records, developing systems to ease student transition during the first 2 weeks of enrollment, promoting practices which foster access to extracurricular programs, establishing procedures to lessen the adverse impact of moves from the end of the junior year as well as before and during the senior year, encouraging or continuing partnerships between the military base and the school system, providing services for transitioning students when applying to and finding funding for postsecondary study, and providing other assistance as identified by department, school, and military personnel.

(b) If a local school board adjusts school zones within its boundaries, military students shall be given the option of remaining at the school they are currently attending or may attend the school assigned as a result of the rezoning.

Section 16. Section 1004.075, Florida Statutes, is created to read:

1004.075 Priority course registration for veterans.—Each



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Florida College System institution and state university that offers priority course registration for a segment of the student population, or upon implementation of priority course registration for a segment of the student population, shall provide priority course registration for each veteran of the United States Armed Forces. Priority registration shall be given to the spouse or a dependent child of the veteran to whom GI Bill educational benefits have been transferred. Each eligible veteran shall be granted priority for course registration for the duration of his or her attendance at a Florida College System institution and state university if priority registration is offered. A spouse or dependent child shall also be granted priority for registration until the expiration of the GI Bill educational benefits.

Section 17. Section 1005.09, Florida Statutes, is created to read:

1005.09 Priority course registration for veterans.—Each independent postsecondary educational institution that is under the jurisdiction of the commission or is exempt from the jurisdiction of the commission and that offers priority course registration for a segment of the student population, or upon implementation of priority course registration for a segment of the student population, is encouraged to provide priority course registration for each veteran of the United States Armed Forces, or his or her spouse or dependent children, who is receiving GI Bill educational benefits, in accordance with s. 1004.075.

Section 18. Present paragraphs (c) through (k) of subsection (10) of section 1009.21, Florida Statutes, are redesignated as paragraphs (d) through (l), respectively, and a



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new paragraph (c) is added to that subsection, to read:

1009.21 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition in postsecondary educational programs offered by charter technical career centers or career centers operated by school districts, in Florida College System institutions, and in state universities.

(10) The following persons shall be classified as residents for tuition purposes:

(c) Veterans of the Armed Services of the United States, including reserve components thereof, who attend the physical location of a public college, university, or institution of higher learning within the state.

Section 19. Except as otherwise expressly provided in this act, this act shall take effect July 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 current and former military personnel; creating s. 220.1893, F.S.; providing a tax credit program for eligible businesses that hire certain national guard members; providing definitions; providing credits against specified taxes for certified businesses; providing guidelines for becoming a certified business; requiring the



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Department of Economic Opportunity to certify qualified businesses; providing criteria for the certification; limiting the total amount of tax credits; providing for certain tax credits to be carried forward; providing penalties for fraudulent claims; authorizing the Department of Economic Opportunity and the Department of Revenue to adopt rules; providing for future expiration of the tax credit program; amending s. 265.003, F.S.; creating the Florida Veterans' Hall of Fame Council; providing for membership and terms of appointment; providing for the appointment of a chair; providing for meetings, a quorum, and voting; providing for reimbursement of travel expenses; providing for the removal of an appointee; providing for the Florida Veterans' Hall of Fame Council rather than the Department of Veterans' Affairs to select nominees for induction into the Florida Veterans' Hall of Fame and to establish the criteria for selection; requiring that the Governor and Cabinet annually select a specified number of nominees for induction; amending s. 295.187, F.S.; revising legislative intent; renaming and revising the Florida Service-Disabled Veteran Business Enterprise Opportunity Act to expand the vendor preference in state contracting to include certain businesses owned and operated by wartime veterans or veterans of a period of war; amending s. 320.08056, F.S.; providing the license plate annual use fee for an American Legion license plate; amending s. 320.08058, F.S.;



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creating the American Legion license plate; providing for the distribution of use fees received from the sale of the license plates; amending s. 320.089, F.S.; providing for the issuance of a Combat Infantry Badge license plate; providing qualifications and requirements for the plate; providing for the use of proceeds from the sale of the plate; providing for issuance of a Vietnam War Veterans' license plate and the Korean Conflict Veterans' license plate; providing qualifications and requirements for the plates; creating s. 320.0892, F.S.; providing for the Department of Highway Safety and Motor Vehicles to issue Silver Star, Distinguished Service Cross, Navy Cross, and Air Force Cross license plates, without payment of the license tax, to persons meeting specified criteria; creating a court program for certain servicemembers and military veterans who suffer from mental illness, traumatic brain injury, substance use disorder, or psychological problems as a result of their military service; providing qualifications for entrance into the court program; creating s. 683.146, F.S.; designating August 7 of each year as "Purple Heart Day"; providing a short title; creating s. 921.00242, F.S.; providing that a person who alleges that he or she committed a criminal offense as a result of posttraumatic stress disorder, traumatic brain injury, substance use disorder, or psychological problems stemming from service in a combat theater in the United States military may have



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a hearing on that issue before sentencing; providing that a defendant who is eligible for probation or community control may be placed in a treatment program in certain circumstances; providing for sentence credit for a defendant placed in treatment who would have otherwise been incarcerated; providing a preference for treatment programs that have histories of successfully treating such combat veterans; amending s. 948.08, F.S.; creating a pretrial veterans' and servicemembers' treatment intervention program; providing requirements for a defendant to be voluntarily admitted to the pretrial program; providing certain exceptions to such admission; providing for the disposition of pending charges following a defendant's completion of the pretrial intervention program; providing for the charges to be expunged under certain circumstances; amending s. 948.16, F.S.; creating a misdemeanor pretrial veterans' treatment intervention program; providing requirements for voluntary admission to the misdemeanor pretrial program; providing for the misdemeanor charges to be expunged under certain circumstances; exempting treatment services provided by the Department of Veterans' Affairs or the United States Department of Veterans Affairs from certain contract requirements; creating s. 948.21, F.S.; authorizing the court to impose a condition of probation or community control for certain defendant veterans or servicemembers which requires



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participation in a treatment program capable of
treating a mental illness, a traumatic brain injury, a
substance use disorder, or a psychological problem;
amending s. 1003.05, F.S.; requiring that a school
board provide an option to school-aged dependents of
military personnel to choose certain schools if the
student is reassigned as a result of school rezoning;
creating s. 1004.075, F.S.; requiring certain Florida
College System institutions and state universities to
provide priority course registration for veterans;
providing eligibility requirements; creating s.
1005.09, F.S.; encouraging certain independent
postsecondary educational institutions to provide
priority course registration for veterans; amending s.
1009.21, F.S.; providing that veterans of the Armed
Services of the United States, including reserve
components thereof, who attend the physical location
of a public college, university, or institution of
higher learning within the state are residents for
tuition purposes; providing effective dates.

By the Committee on Military Affairs, Space, and Domestic
Security; and Senators Bennett, Detert, Jones, Gaetz, and Fasano

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1 A bill to be entitled
2 An act relating to current and former military
3 personnel; creating s. 220.1893, F.S.; providing a tax
4 credit program for eligible business that hire certain
5 national guard members; providing definitions;
6 providing credits against specified taxes for
7 certified businesses; providing guidelines for
8 becoming a certified business; requiring the
9 Department of Economic Opportunity to certify
10 qualified businesses; providing criteria for the
11 certification; limiting the total amount of tax
12 credits; providing for certain tax credits to be
13 carried forward; providing penalties for fraudulent
14 claims; authorizing the Department of Economic
15 Opportunity and the Department of Revenue to adopt
16 rules; providing for future expiration of the tax
17 credit program; amending s. 265.003, F.S.; creating
18 the Florida Veterans' Hall of Fame Council; providing
19 for membership and terms of appointment; providing for
20 the appointment of a chair; providing for meetings, a
21 quorum, and voting; providing for reimbursement of
22 travel expenses; providing for the removal of an
23 appointee; providing for the Florida Veterans' Hall of
24 Fame Council rather than the Department of Veterans'
25 Affairs to select nominees for induction into the
26 Florida Veterans' Hall of Fame and to establish the
27 criteria for selection; requiring that the Governor
28 and Cabinet annually select a specified number of
29 nominees for induction; amending s. 295.187, F.S.;

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

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30 revising legislative intent; renaming and revising the
31 Florida Service-Disabled Veteran Business Enterprise
32 Opportunity Act to expand the vendor preference in
33 state contracting to include certain businesses owned
34 and operated by wartime veterans or veterans of a
35 period of war; amending s. 320.089, F.S.; providing
36 for the issuance of a Combat Infantry Badge license
37 plate; providing qualifications and requirements for
38 the plate; providing for the use of proceeds from the
39 sale of the plate; providing for issuance of a Vietnam
40 War Veterans' license plate; providing qualifications
41 and requirements for the plate; creating s. 683.146,
42 F.S.; designating August 7 of each year as "Purple
43 Heart Day"; providing a short title; creating s.
44 921.00242, F.S.; providing that a person who alleges
45 that he or she committed a criminal offense as a
46 result of posttraumatic stress disorder, traumatic
47 brain injury, substance use disorder, or psychological
48 problems stemming from service in a combat theater in
49 the United States military may have a hearing on that
50 issue before sentencing; providing that a defendant
51 who is eligible for probation or community control may
52 be placed in a treatment program in certain
53 circumstances; providing for sentence credit for a
54 defendant placed in treatment who would have otherwise
55 been incarcerated; providing a preference for
56 treatment programs that have histories of successfully
57 treating such combat veterans; amending s. 948.08,
58 F.S.; creating a pretrial veterans' treatment

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

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59 intervention program; providing requirements for a
 60 defendant to be voluntarily admitted to the pretrial
 61 program; providing certain exceptions to such
 62 admission; providing for the disposition of pending
 63 charges following a defendant's completion of the
 64 pretrial intervention program; providing for the
 65 charges to be expunged under certain circumstances;
 66 amending s. 948.16, F.S.; creating a misdemeanor
 67 pretrial veterans' treatment intervention program;
 68 providing requirements for voluntary admission to the
 69 misdemeanor pretrial program; providing for the
 70 misdemeanor charges to be expunged under certain
 71 circumstances; exempting treatment services provided
 72 by the Department of Veterans' Affairs or the United
 73 States Department of Veterans Affairs from certain
 74 contract requirements; amending s. 1003.05, F.S.;
 75 requiring that a school board provide an option to
 76 school-aged dependents of military personnel to choose
 77 certain schools if the student is reassigned as a
 78 result of school rezoning; creating s. 1004.075, F.S.;
 79 requiring certain Florida College System institutions
 80 and state universities to provide priority course
 81 registration for veterans; providing eligibility
 82 requirements; creating s. 1005.09, F.S.; encouraging
 83 certain independent postsecondary educational
 84 institutions to provide priority course registration
 85 for veterans; amending s. 1009.21, F.S.; providing
 86 that veterans of the Armed Services of the United
 87 States, including reserve components thereof, who

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88 attend the physical location of a public college,
 89 university, or institution of higher learning within
 90 the state are residents for tuition purposes;
 91 requiring that any veteran who meets specified
 92 criteria be admitted to any Florida College System
 93 institution or state university of the veteran's
 94 choice; providing effective dates.

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

97
 98 Section 1. Section 220.1893, Florida Statutes, is created
 99 to read:

100 220.1893 National Guard Employment Tax Credit Program.—

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

102 (a) "Department" means the Department of Economic
 103 Opportunity.

104 (b) "Eligible business" means any business that is
 105 operating and authorized to do business in this state.

106 (c) "Qualified employee" means a person:

107 1. Who is a current Florida National Guard member in good
 108 standing, as verified by the Adjutant General of the Florida
 109 National Guard, and has been unemployed for more than 6 months
 110 or is returning from duty abroad;

111 2. Who was hired by an eligible business on or after July
 112 1, 2012, and had not previously been employed by the eligible
 113 business or its parent or an affiliated corporation;

114 3. Who performed duties connected to the operations of the
 115 eligible business on a regular, full-time basis for an average
 116 of at least 36 hours per week and for at least 3 months before

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117 an eligible business is awarded a tax credit; and

118 4. Whose employment by the eligible business has not formed
 119 the basis for any other claim to a credit pursuant to this
 120 chapter.

121 (2) A certified business shall receive a \$10,000 tax credit
 122 for each qualified employee, subject to limitation in subsection

123 (5). The credit may be taken against:

124 (a) Corporate income taxes under chapter 220.

125 (b) Insurance premium tax under s. 624.509.

126 (c) Taxes on sales, use, and other transactions under
 127 chapter 212.

128 (d) Intangible personal property taxes under chapter 199.

129 (e) Excise taxes on documents under chapter 201.

130 (f) Ad valorem taxes paid, as defined in s. 220.03(1).

131 (g) State communications services taxes administered under
 132 chapter 202. This paragraph does not apply to the gross receipts
 133 tax imposed under chapter 203 and administered under chapter 202
 134 or the local communications services tax authorized under s.
 135 202.19.

136 (3) (a) To become a certified business, an officer of an
 137 eligible business must file under oath with the Department of
 138 Economic Opportunity an application that includes:

139 1. The name, address, and NAICS identifying code of the
 140 eligible business. As used in this subsection, "NAICS" means
 141 those classifications contained in the North American Industry
 142 Classification System, as published in 2007 by the Office of
 143 Management and Budget, Executive Office of the President.

144 2. Relevant employment information.

145 3. A sworn affidavit, signed by each employee for whom the

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146 eligible business is seeking credits under this section,
 147 attesting to his or her previous unemployment.

148 4. Verification that the wages paid by the eligible
 149 business to each of its qualified employees exceeds the wage
 150 eligibility levels for Medicaid and other public assistance
 151 programs.

152 5. Any other information necessary to process the
 153 application.

154 (b) The Department of Economic Opportunity shall process
 155 applications to certify a business in the order in which the
 156 applications are received, without regard as to whether the
 157 applicant is a new or an existing business. The department shall
 158 review and approve or deny an application within 10 days after
 159 receiving a completed application. The department shall notify
 160 the applicant in writing as to the department's decision.

161 (c) 1. The department shall submit a copy of the letter of
 162 certification to the Department of Revenue within 10 days after
 163 the department issues the letter of certification to the
 164 applicant.

165 2. If the application of an eligible business is not
 166 sufficient to certify the applicant business, the department
 167 must deny the application and issue a notice of denial to the
 168 applicant.

169 3. If the application of an eligible business does not
 170 contain sufficient documentation of the number of qualified
 171 employees, the department shall approve the application with
 172 respect to the employees for whom the department determines are
 173 qualified employees. The department must deny the application
 174 with respect to persons for whom the department determines are

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175 not qualified employees or for whom insufficient documentation
 176 has been provided. A business may not submit a revised
 177 application for certification or for the determination of a
 178 person as a qualified employee more than 3 months after the
 179 issuance of a notice of denial with respect to the business or a
 180 particular person as a qualified employee.

181 (4) The applicant for a tax credit under this section has
 182 the responsibility to affirmatively demonstrate to the
 183 satisfaction of the department and the Department of Revenue
 184 that the applicant and the persons claimed as qualified
 185 employees meet the requirements of this section.

186 (5) The total amount of tax credits under this section
 187 which may be approved by the department for all applicants is \$5
 188 million per fiscal year.

189 (6) A tax credit amount that is granted under this section
 190 which is not fully used in the first year for which it becomes
 191 available may be carried forward to the subsequent taxable year.
 192 The carryover credit may be used in the subsequent year if the
 193 tax imposed by this chapter for such year exceeds the credit for
 194 such year under this section after applying the other credits
 195 and unused credit carryovers in the order provided in s.
 196 220.02(8).

197 (7) A person who fraudulently claims a credit under this
 198 section is liable for repayment of the credit plus a mandatory
 199 penalty of 100 percent of the credit. Such person also commits a
 200 misdemeanor of the second degree, punishable as provided in s.
 201 775.082 or s. 775.083.

202 (8) The department may adopt rules governing the manner and
 203 form of applications for the tax credit. The department may

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204 establish guidelines for making an affirmative showing of
 205 qualification for the tax credit under this section.

206 (9) The Department of Revenue may adopt rules to administer
 207 this section, including rules relating to the creation of forms
 208 to claim a tax credit and examination and audit procedures
 209 required to administer this section.

210 (10) This section expires July 1, 2014. However, a taxpayer
 211 that is awarded a tax credit in the second year of the program
 212 may carry forward any unused credit amount to the subsequent tax
 213 reporting period. Rules adopted by the Department of Revenue to
 214 administer this section shall remain valid as long as a taxpayer
 215 may use a credit against its corporate income tax liability.

216 Section 2. Section 265.003, Florida Statutes, is amended to
 217 read:

218 265.003 Florida Veterans' Hall of Fame.—

219 (1) It is the intent of the Legislature to recognize and
 220 honor those military veterans who, through their works and lives
 221 during or after military service, have made a significant
 222 contribution to the State of Florida.

223 (2) There is established the Florida Veterans' Hall of
 224 Fame.

225 (a) The Florida Veterans' Hall of Fame is administered by
 226 the Florida Department of Veterans' Affairs without
 227 appropriation of state funds.

228 (b) The Department of Management Services shall set aside
 229 an area on the Plaza Level of the Capitol Building along the
 230 northeast front wall and shall consult with the Department of
 231 Veterans' Affairs regarding the design and theme of the area.

232 (c) Each person who is inducted into the Florida Veterans'

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Hall of Fame shall have his or her name placed on a plaque displayed in the designated area of the Capitol Building.

(3) (a) The Florida Veterans' Hall of Fame Council is created within the Department of Veterans' Affairs as an advisory body, as defined in s. 20.03(7), consisting of seven members who shall all be honorably discharged veterans, and at least four of whom must be members of a congressionally chartered veterans service organization. The Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, the President of the Senate, the Speaker of the House of Representatives, and the executive director of the Department of Veterans' Affairs shall each appoint one member. For the purposes of ensuring staggered terms, the council members appointed by the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture shall be appointed to 4-year terms beginning on January 1 of the year of appointment, and the council members appointed by the President of the Senate, the Speaker of the House of Representatives, and the executive director of the Department of Veterans' Affairs shall be appointed to 2-year terms beginning on January 1 of the year of appointment. After the initial appointments, all appointees shall be appointed to 4-year terms. A member whose term expires shall continue to serve on the council until such time as a replacement is appointed.

(b) The members shall annually elect a chair from among their number. The council shall meet at the call of its chair, at the request of the executive director of the Department of Veterans' Affairs, or at such times as may be prescribed by the council. A majority of the members of the council currently

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appointed constitutes a quorum, and a meeting may not be held unless a quorum is present. The affirmative vote of a majority of the members of the council present is necessary for any official action by the council.

(c) Members of the council may not receive compensation or honorarium for their services, but members are entitled to reimbursement for travel expenses incurred in the performance of their duties as provided in s. 112.061.

(d) The original appointing authority may remove his or her appointee from the council for misconduct or malfeasance in office, neglect of duty, incompetence, or permanent inability to perform official duties or if the member is adjudicated guilty of a felony.

(4)(3)(a) The Florida Veterans' Hall of Fame Council ~~Department of Veterans' Affairs~~ shall annually accept nominations of persons to be considered for induction into the Florida Veterans' Hall of Fame and shall ~~then~~ transmit a list of up to 20 nominees ~~its recommendations~~ to the Department of Veterans' Affairs for submission to the Governor and the Cabinet who will select four persons from the list of the nominees to be inducted.

(b) In selecting its nominees for submission ~~making its recommendations~~ to the Governor and the Cabinet, the Florida Veterans' Hall of Fame Council ~~Department of Veterans' Affairs~~ shall give preference to veterans who were born in Florida or adopted Florida as their home state or base of operation and who have made a significant contribution to the state in civic, business, public service, or other pursuits.

(5)(4) The Florida Veterans' Hall of Fame Council

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291 ~~Department of Veterans' Affairs~~ may establish criteria and set
 292 specific time periods for acceptance of nominations and for the
 293 process of selection of nominees for membership and establish a
 294 formal induction ceremony to coincide with the annual
 295 commemoration of Veterans' Day.

296 Section 3. Section 295.187, Florida Statutes, is amended to
 297 read:

298 295.187 Florida ~~Service-Disabled~~ Veteran Business
 299 Enterprise Opportunity Act.—

300 (1) SHORT TITLE.—This section may be cited as the "Florida
 301 ~~Service-Disabled~~ Veteran Business Enterprise Opportunity Act."

302 (2) INTENT.—It is the intent of the Legislature to rectify
 303 the economic disadvantage of service-disabled veterans, who are
 304 statistically the least likely to be self-employed when compared
 305 to the veteran population as a whole and who have made
 306 extraordinary sacrifices on behalf of the nation, the state, and
 307 the public, by providing opportunities for service-disabled
 308 veteran business enterprises as set forth in this section. The
 309 Legislature also intends to recognize wartime veterans and
 310 veterans of a period of war for their sacrifices as set forth in
 311 this section.

312 (3) DEFINITIONS.—For the purpose of this section, the term:

313 (a) "Certified ~~service-disabled~~ veteran business
 314 enterprise" means a business that has been certified by the
 315 Department of Management Services to be a ~~service-disabled~~
 316 veteran business enterprise as defined in paragraph (c).

317 (b) "Service-disabled veteran" means a veteran who is a
 318 permanent Florida resident with a service-connected disability
 319 as determined by the United States Department of Veterans

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320 Affairs or who has been terminated from military service by
 321 reason of disability by the United States Department of Defense.

322 (c) "~~Service-disabled~~ Veteran business enterprise" means an
 323 independently owned and operated business that:

324 1. Employs 200 or fewer permanent full-time employees;
 325 2. Together with its affiliates has a net worth of \$5
 326 million or less or, if a sole proprietorship, has a net worth of
 327 \$5 million or less including both personal and business
 328 investments;

329 3. Is organized to engage in commercial transactions;

330 4. Is domiciled in this state;

331 5. Is at least 51 percent owned by one or more wartime
 332 veterans or service-disabled veterans; and

333 6. The management and daily business operations of which
 334 are controlled by one or more wartime veterans or service-
 335 disabled veterans or, for a service-disabled veteran having with
 336 a permanent and total disability, by the spouse or permanent
 337 caregiver of the veteran.

338 (d) "Wartime veteran" means:

339 1. A wartime veteran as defined in s. 1.01(14); or

340 2. A veteran of a period of war, as used in 38 U.S.C. s.
 341 1521, who served in the active military, naval, or air service:

342 a. For 90 days or more during a period of war;

343 b. During a period of war and was discharged or released
 344 from such service for a service-connected disability;

345 c. For a period of 90 consecutive days or more and such
 346 period began or ended during a period of war; or

347 d. For an aggregate of 90 days or more in two or more
 348 separate periods of service during more than one period of war.

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(4) VENDOR PREFERENCE.—

(a) A state agency, when considering two or more bids, proposals, or replies for the procurement of commodities or contractual services, at least one of which is from a certified ~~service-disabled~~ veteran business enterprise, which that are equal with respect to all relevant considerations, including price, quality, and service, shall award such procurement or contract to the certified ~~service-disabled~~ veteran business enterprise.

(b) Notwithstanding s. 287.057(11), if a ~~service-disabled~~ veteran business enterprise entitled to the vendor preference under this section and one or more businesses entitled to this preference or another vendor preference provided by law submit bids, proposals, or replies for procurement of commodities or contractual services which that are equal with respect to all relevant considerations, including price, quality, and service, ~~then~~ the state agency shall award the procurement or contract to the business having the smallest net worth.

(c) Political subdivisions of the state are encouraged to offer a similar consideration to businesses certified under this section.

(5) CERTIFICATION PROCEDURE.—

(a) The application for certification as a ~~service-disabled~~ veteran business enterprise must, at a minimum, include:

1. The name of the business enterprise applying for certification and the name of the ~~service-disabled~~ veteran submitting the application on behalf of the business enterprise.

2. The names of all owners of the business enterprise, including owners who are wartime veterans, service-disabled

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veterans, and owners who are not a wartime veteran or a service-disabled veteran ~~veterans~~, and the percentage of ownership interest held by each owner.

3. The names of all persons involved in both the management and daily operations of the business, including the spouse or permanent caregiver of a veteran who has ~~with~~ a permanent and total disability.

4. The service-connected disability rating of all persons listed under subparagraphs 1., 2., and 3., as applicable, with supporting documentation from the United States Department of Veterans Affairs or the United States Department of Defense.

5. Documentation of the wartime service of all persons listed under subparagraphs 1., 2., and 3., as applicable, from the United States Department of Veterans Affairs or the United States Department of Defense.

6.5- The number of permanent full-time employees.

7.6- The location of the business headquarters.

8.7- The total net worth of the business enterprise and its affiliates. In the case of a sole proprietorship, the net worth includes personal and business investments.

(b) To maintain certification, a ~~service-disabled~~ veteran business enterprise shall renew its certification biennially.

(c) ~~The provisions of Chapter 120,~~ relating to application, denial, and revocation procedures, applies ~~shall apply~~ to certifications under this section.

(d) A certified ~~service-disabled~~ veteran business enterprise must notify the Department of Management Services within 30 business days after any event that may significantly affect the certification of the business, including, but not

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limited to, a change in ownership or change in management and daily business operations.

(e) The certification of a ~~service-disabled~~ veteran business enterprise shall be revoked for 12 months if the Department of Management Services determines that the business enterprise violated paragraph (d). An owner of a certified ~~service-disabled~~ veteran business enterprise whose certification is revoked may ~~is not permitted to~~ reapply for certification under this section as an owner of any business enterprise during the 12-month revocation period.

1. During the 12-month revocation period, a ~~service-disabled~~ veteran business enterprise whose certification has been revoked may bid on state contracts but is not eligible for any preference available under this section.

2. A ~~service-disabled~~ veteran business enterprise whose certification has been revoked may apply for certification at the conclusion of the 12-month revocation period by complying with requirements applicable to initial certifications.

(6) DUTIES OF THE DEPARTMENT OF VETERANS' AFFAIRS.—The department shall:

(a) Assist the Department of Management Services in establishing a certification procedure, which shall be reviewed biennially and updated as necessary.

(b) Identify eligible ~~service-disabled~~ veteran business enterprises by any electronic means, including electronic mail or Internet website, or by any other reasonable means.

(c) Encourage and assist eligible ~~service-disabled~~ veteran business enterprises to apply for certification under this section.

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(d) Provide information regarding services that are available from the Office of Veterans' Business Outreach of the Florida Small Business Development Center to ~~service-disabled~~ veteran business enterprises.

(7) DUTIES OF THE DEPARTMENT OF MANAGEMENT SERVICES.—The department shall:

(a) With assistance from the Department of Veterans' Affairs, establish a certification procedure, which shall be reviewed biennially and updated as necessary.

(b) Grant, deny, or revoke the certification of a ~~service-disabled~~ veteran business enterprise under this section.

(c) Maintain an electronic directory of certified ~~service-disabled~~ veteran business enterprises for use by the state, political subdivisions of the state, and the public.

(8) REPORT.—The Small Business Development Center shall include in its report required by s. 288.705 the percentage of certified ~~service-disabled~~ veteran business enterprises using the statewide contracts register.

(9) RULES.—The Department of Veterans' Affairs and the Department of Management Services, as appropriate, may adopt rules as necessary to administer this section.

Section 4. Effective October 1, 2012, section 320.089, Florida Statutes, is amended to read:

320.089 Members of National Guard and active United States Armed Forces reservists; former prisoners of war; survivors of Pearl Harbor; Purple Heart medal recipients; Operation Iraqi Freedom and Operation Enduring Freedom Veterans; Combat Infantry Badge recipients; Vietnam War Veterans; special license plates; fee.—

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465 (1) (a) Each owner or lessee of an automobile or truck for
 466 private use or recreational vehicle as specified in s.
 467 320.08(9)(c) or (d), which is not used for hire or commercial
 468 use, who is a resident of the state and an active or retired
 469 member of the Florida National Guard, a survivor of the attack
 470 on Pearl Harbor, a recipient of the Purple Heart medal, ~~or~~ an
 471 active or retired member of any branch of the United States
 472 Armed Forces Reserve, or a recipient of the Combat Infantry
 473 Badge shall, upon application to the department, accompanied by
 474 proof of active membership or retired status in the Florida
 475 National Guard, proof of membership in the Pearl Harbor
 476 Survivors Association or proof of active military duty in Pearl
 477 Harbor on December 7, 1941, proof of being a Purple Heart medal
 478 recipient, ~~or~~ proof of active or retired membership in any
 479 branch of the Armed Forces Reserve, or proof of membership in
 480 the Combat Infantrymen's Association, Inc., or other proof of
 481 being a recipient of the Combat Infantry Badge, and upon payment
 482 of the license tax for the vehicle as provided in s. 320.08, be
 483 issued a license plate as provided by s. 320.06, upon which, in
 484 lieu of the serial numbers prescribed by s. 320.06, shall be
 485 stamped the words "National Guard," "Pearl Harbor Survivor,"
 486 "Combat-wounded veteran," ~~or~~ "U.S. Reserve," or "Combat Infantry
 487 Badge," as appropriate, followed by the serial number of the
 488 license plate. Additionally, the Purple Heart plate may have the
 489 words "Purple Heart" stamped on the plate and the likeness of
 490 the Purple Heart medal appearing on the plate.

491 (b) Notwithstanding any other provision of law to the
 492 contrary, beginning with fiscal year 2002-2003 and annually
 493 thereafter, the first \$100,000 in general revenue generated from

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494 the sale of license plates issued under this section shall be
 495 deposited into the Grants and Donations Trust Fund, as described
 496 in s. 296.38(2), to be used for the purposes established by law
 497 for that trust fund. Any additional general revenue generated
 498 from the sale of such plates shall be deposited into the State
 499 Homes for Veterans Trust Fund and used solely to construct,
 500 operate, and maintain domiciliary and nursing homes for
 501 veterans, subject to the requirements of chapter 216.

502 (c) Notwithstanding any provisions of law to the contrary,
 503 an applicant for a Pearl Harbor Survivor license plate or a
 504 Purple Heart license plate who also qualifies for a disabled
 505 veteran's license plate under s. 320.084 shall be issued the
 506 appropriate special license plate without payment of the license
 507 tax imposed by s. 320.08.

508 (2) Each owner or lessee of an automobile or truck for
 509 private use, truck weighing not more than 7,999 pounds, or
 510 recreational vehicle as specified in s. 320.08(9)(c) or (d),
 511 which is not used for hire or commercial use, who is a resident
 512 of the state and who is a former prisoner of war, or their
 513 unremarried surviving spouse, shall, upon application therefor
 514 to the department, be issued a license plate as provided in s.
 515 320.06, on which license plate are stamped the words "Ex-POW"
 516 followed by the serial number. Each application shall be
 517 accompanied by proof that the applicant meets the qualifications
 518 specified in paragraph (a) or paragraph (b).

519 (a) A citizen of the United States who served as a member
 520 of the Armed Forces of the United States or the armed forces of
 521 a nation allied with the United States who was held as a
 522 prisoner of war at such time as the Armed Forces of the United

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523 States were engaged in combat, or their unremarried surviving
 524 spouse, may be issued the special license plate provided for in
 525 this subsection without payment of the license tax imposed by s.
 526 320.08.

527 (b) A person who was serving as a civilian with the consent
 528 of the United States Government, or a person who was a member of
 529 the Armed Forces of the United States who was not a United
 530 States citizen and was held as a prisoner of war when the Armed
 531 Forces of the United States were engaged in combat, or their
 532 unremarried surviving spouse, may be issued the special license
 533 plate provided for in this subsection upon payment of the
 534 license tax imposed by s. 320.08.

535 (3) Each owner or lessee of an automobile or truck for
 536 private use, truck weighing not more than 7,999 pounds, or
 537 recreational vehicle as specified in s. 320.08(9)(c) or (d),
 538 which is not used for hire or commercial use, who is a resident
 539 of this state and who is the unremarried surviving spouse of a
 540 recipient of the Purple Heart medal shall, upon application
 541 therefor to the department, with the payment of the required
 542 fees, be issued a license plate as provided in s. 320.06, on
 543 which license plate are stamped the words "Purple Heart" and the
 544 likeness of the Purple Heart medal followed by the serial
 545 number. Each application shall be accompanied by proof that the
 546 applicant is the unremarried surviving spouse of a recipient of
 547 the Purple Heart medal.

548 (4) The owner or lessee of an automobile or truck for
 549 private use, a truck weighing not more than 7,999 pounds, or a
 550 recreational vehicle as specified in s. 320.08(9)(c) or (d)
 551 which automobile, truck, or recreational vehicle is not used for

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552 hire or commercial use who is a resident of the state and a
 553 current or former member of the United States military who was
 554 deployed and served in Iraq during Operation Iraqi Freedom or in
 555 Afghanistan during Operation Enduring Freedom shall, upon
 556 application to the department, accompanied by proof of active
 557 membership or former active duty status during one of these
 558 operations, and upon payment of the license tax for the vehicle
 559 as provided in s. 320.08, be issued a license plate as provided
 560 by s. 320.06 upon which, in lieu of the registration license
 561 number prescribed by s. 320.06, shall be stamped the words
 562 "Operation Iraqi Freedom" or "Operation Enduring Freedom," as
 563 appropriate, followed by the registration license number of the
 564 plate.

565 (5) The owner or lessee of an automobile or truck for
 566 private use, a truck weighing not more than 7,999 pounds, or a
 567 recreational vehicle as specified in s. 320.08(9)(c) or (d)
 568 which automobile, truck, or recreational vehicle is not used for
 569 hire or commercial use, who is a resident of the state and a
 570 current or former member of the United States military, and who
 571 was deployed and served in Vietnam during United States military
 572 deployment in Indochina shall, upon application to the
 573 department, accompanied by proof of active membership or former
 574 active duty status during these operations, and upon payment of
 575 the license tax for the vehicle as provided in s. 320.08, be
 576 issued a license plate as provided by s. 320.06 upon which, in
 577 lieu of the registration license number prescribed by s. 320.06,
 578 shall be stamped the words "Vietnam War Veteran," followed by
 579 the registration license number of the plate.

580 Section 5. Section 683.146, Florida Statutes, is created to

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581 read:

582 683.146 Purple Heart Day.-583 (1) August 7 of each year is designated as "Purple Heart
584 Day."585 (2) The Governor may annually issue a proclamation
586 designating August 7 as "Purple Heart Day." Public officials,
587 schools, private organizations, and all residents of the state
588 are encouraged to commemorate Purple Heart Day and honor those
589 wounded or killed while serving in any branch of the United
590 States Armed Services.591 Section 6. Sections 7 through 9 of this act may be cited as
592 the "T. Patt Maney Veterans' Treatment Intervention Act."593 Section 7. Section 921.00242, Florida Statutes, is created
594 to read:595 921.00242 Convicted military veterans; posttraumatic stress
596 disorder, traumatic brain injury, substance use disorder, or
597 psychological problems from service; treatment services.-598 (1) The court must hold a veterans' status hearing prior to
599 sentencing for a criminal offense if the defendant has alleged
600 that he or she committed the offense as a result of
601 posttraumatic stress disorder, traumatic brain injury, substance
602 use disorder, or psychological problems stemming from service in
603 a combat theater in the United States military.604 (2) At a veterans' status hearing conducted as required by
605 subsection (1), the court shall determine whether the defendant
606 was a member of the military forces of the United States who
607 served in a combat theater and assess whether the defendant
608 suffers from posttraumatic stress disorder, traumatic brain
609 injury, substance use disorder, or psychological problems as a

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610 result of that service. The defendant shall bear the burden of
611 proof at the hearing.612 (3) If the court concludes that the defendant is a person
613 described in subsection (2) who is eligible for probation or
614 community control and the court places the defendant on county
615 or state probation or into community control, the court may
616 order the defendant into a local, state, federal, or private
617 nonprofit treatment program as a condition of probation or
618 community control if the defendant agrees to participate in the
619 program and the court determines that an appropriate treatment
620 program exists.621 (4) A defendant who is placed on county or state probation
622 or into community control and committed to a residential
623 treatment program under this section shall earn sentence credits
624 for the actual time he or she serves in the residential
625 treatment program if the court makes a written finding that it
626 would otherwise have sentenced the defendant to incarceration
627 except for the fact that the defendant is a person described in
628 subsection (2).629 (5) In making an order under this section to commit a
630 defendant to a treatment program, whenever possible the court
631 shall place the defendant in a treatment program that has a
632 history of successfully treating combat veterans who suffer from
633 posttraumatic stress disorder, traumatic brain injury, substance
634 use disorder, or psychological problems as a result of that
635 service. The court shall give preference to treatment programs
636 for which the veteran is eligible through the United States
637 Department of Veterans Affairs or the Department of Veterans'
638 Affairs.

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639 Section 8. Present subsection (7) of section 948.08,
 640 Florida Statutes, is renumbered as subsection (8), and a new
 641 subsection (7) is added to that section, to read:

642 948.08 Pretrial intervention program.—

643 (7)(a) A person who is charged with a felony, other than a
 644 felony listed in s. 948.06(8)(c), and identified as a member or
 645 former member of the military forces of the United States who
 646 served in a combat theater and who suffers from posttraumatic
 647 stress disorder, traumatic brain injury, substance use disorder,
 648 or psychological problems as a result of that service is
 649 eligible for voluntary admission into a pretrial veterans'
 650 treatment intervention program approved by the chief judge of
 651 the circuit, upon motion of either party or the court's own
 652 motion, except:

653 1. If a defendant was previously offered admission to a
 654 pretrial veterans' treatment intervention program at any time
 655 prior to trial and the defendant rejected that offer on the
 656 record, the court may deny the defendant's admission to such a
 657 program.

658 2. If a defendant previously entered a court-ordered
 659 veterans' treatment program, the court may deny the defendant's
 660 admission into the pretrial veterans' treatment program.

661 3. If the state attorney believes that the facts and
 662 circumstances of the case suggest the defendant's involvement in
 663 the selling of controlled substances, the court shall hold a
 664 preadmission hearing. If the state attorney establishes, by a
 665 preponderance of the evidence at such hearing, that the
 666 defendant was involved in the selling of controlled substances,
 667 the court shall deny the defendant's admission into a pretrial

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668 intervention program.

669 (b) While enrolled in a pretrial intervention program
 670 authorized by this subsection, the participant shall be subject
 671 to a coordinated strategy developed by a veterans' treatment
 672 intervention team. The coordinated strategy should be modeled
 673 after the therapeutic jurisprudence principles and key
 674 components in s. 397.334(4), with treatment specific to the
 675 needs of veterans. The coordinated strategy may include a
 676 protocol of sanctions that may be imposed upon the participant
 677 for noncompliance with program rules. The protocol of sanctions
 678 may include, but need not be limited to, placement in a
 679 treatment program offered by a licensed service provider or in a
 680 jail-based treatment program or serving a period of
 681 incarceration within the time limits established for contempt of
 682 court. The coordinated strategy must be provided in writing to
 683 the participant before the participant agrees to enter into a
 684 pretrial veterans' treatment intervention program or other
 685 pretrial intervention program. Any person whose charges are
 686 dismissed after successful completion of the pretrial veterans'
 687 treatment intervention program, if otherwise eligible, may have
 688 his or her arrest record and plea of nolo contendere to the
 689 dismissed charges expunged under s. 943.0585.

690 (c) At the end of the pretrial intervention period, the
 691 court shall consider the recommendation of the administrator
 692 pursuant to subsection (5) and the recommendation of the state
 693 attorney as to disposition of the pending charges. The court
 694 shall determine, by written finding, whether the defendant has
 695 successfully completed the pretrial intervention program. If the
 696 court finds that the defendant has not successfully completed

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the pretrial intervention program, the court may order the person to continue in education and treatment, which may include treatment programs offered by licensed service providers or jail-based treatment programs, or order that the charges revert to normal channels for prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

Section 9. Section 948.16, Florida Statutes, is amended to read:

948.16 Misdemeanor pretrial substance abuse education and treatment intervention program; misdemeanor pretrial veterans' treatment intervention program.—

(1) (a) A person who is charged with a misdemeanor for possession of a controlled substance or drug paraphernalia under chapter 893, and who has not previously been convicted of a felony nor been admitted to a pretrial program, is eligible for voluntary admission into a misdemeanor pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program established pursuant to s. 397.334, approved by the chief judge of the circuit, for a period based on the program requirements and the treatment plan for the offender, upon motion of either party or the court's own motion, except, if the state attorney believes the facts and circumstances of the case suggest the defendant is involved in dealing and selling controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in dealing or selling controlled substances, the court shall deny the defendant's admission into

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the pretrial intervention program.

(b) While enrolled in a pretrial intervention program authorized by this section, the participant is subject to a coordinated strategy developed by a drug court team under s. 397.334(4). The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. 397.311 or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a pretrial treatment-based drug court program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the treatment-based drug court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. 943.0585.

(2) (a) A member or former member of the military forces of the United States who served in a combat theater and who suffers from posttraumatic stress disorder, traumatic brain injury, substance use disorder, or psychological problems as a result of that service who is charged with a misdemeanor is eligible for voluntary admission into a misdemeanor pretrial veterans' treatment intervention program approved by the chief judge of the circuit, for a period based on the program requirements and the treatment plan for the offender, upon motion of either party or the court's own motion. However, the court may deny the

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defendant admission into a misdemeanor pretrial veterans' treatment intervention program if the defendant has previously entered a court-ordered veterans' treatment program.

(b) While enrolled in a pretrial intervention program authorized by this section, the participant shall be subject to a coordinated strategy developed by a veterans' treatment intervention team. The coordinated strategy should be modeled after the therapeutic jurisprudence principles and key components in s. 397.334(4), with treatment specific to the needs of veterans. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but need not be limited to, placement in a treatment program offered by a licensed service provider or in a jail-based treatment program or serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a misdemeanor pretrial veterans' treatment intervention program or other pretrial intervention program. Any person whose charges are dismissed after successful completion of the misdemeanor pretrial veterans' treatment intervention program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. 943.0585.

(3)(2) At the end of the pretrial intervention period, the court shall consider the recommendation of the treatment program and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant successfully completed the

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pretrial intervention program. Notwithstanding the coordinated strategy developed by a drug court team pursuant to s. 397.334(4) or by the veterans' treatment intervention team, if the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment or return the charges to the criminal docket for prosecution. The court shall dismiss the charges upon finding that the defendant has successfully completed the pretrial intervention program.

(4)(3) Any public or private entity providing a pretrial substance abuse education and treatment program under this section shall contract with the county or appropriate governmental entity. The terms of the contract shall include, but not be limited to, the requirements established for private entities under s. 948.15(3). This requirement does not apply to services provided by the Department of Veterans' Affairs or the United States Department of Veterans Affairs.

Section 10. Subsection (1) of section 1003.05, Florida Statutes, is amended to read:

1003.05 Assistance to transitioning students from military families.—

(1) The Legislature finds that school-aged dependents of military personnel, otherwise known as military students, are faced with numerous transitions during their formative years and that moves during the high school years provide special challenges to learning and future achievement.

(a) Recognizing the challenges faced by military students and the importance of military families to our community and economy, the Department of Education shall assist the transition

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of these students by improving the timely transfer of records, developing systems to ease student transition during the first 2 weeks of enrollment, promoting practices which foster access to extracurricular programs, establishing procedures to lessen the adverse impact of moves from the end of the junior year as well as before and during the senior year, encouraging or continuing partnerships between the military base and the school system, providing services for transitioning students when applying to and finding funding for postsecondary study, and providing other assistance as identified by department, school, and military personnel.

(b) If a local school board adjusts school zones within its boundaries, military students shall be given the option of remaining at the school they are currently attending or may attend the school assigned as a result of the rezoning.

Section 11. Section 1004.075, Florida Statutes, is created to read:

1004.075 Priority course registration for veterans.—Each Florida College System institution and state university that offers priority course registration for a segment of the student population, or upon implementation of priority course registration for a segment of the student population, shall provide priority course registration for each veteran of the United States Armed Forces. Priority registration shall be given to the spouse or a dependent child of the veteran to whom GI Bill educational benefits have been transferred. Each eligible veteran shall be granted priority for course registration for the duration of his or her attendance at a Florida College System institution and state university if priority registration

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is offered. A spouse or dependent child shall also be granted priority for registration until the expiration of the GI Bill educational benefits.

Section 12. Section 1005.09, Florida Statutes, is created to read:

1005.09 Priority course registration for veterans.—Each independent postsecondary educational institution that is under the jurisdiction of the commission or is exempt from the jurisdiction of the commission and that offers priority course registration for a segment of the student population, or upon implementation of priority course registration for a segment of the student population, is encouraged to provide priority course registration for each veteran of the United States Armed Forces, or his or her spouse or dependent children, who is receiving GI Bill educational benefits, in accordance with s. 1004.075.

Section 13. Present paragraphs (c) through (k) of subsection (10) of section 1009.21, Florida Statutes, are redesignated as paragraphs (d) through (l), respectively, and a new paragraph (c) is added to that subsection, to read:

1009.21 Determination of resident status for tuition purposes.—Students shall be classified as residents or nonresidents for the purpose of assessing tuition in postsecondary educational programs offered by charter technical career centers or career centers operated by school districts, in Florida College System institutions, and in state universities.

(10) The following persons shall be classified as residents for tuition purposes:

(c) Veterans of the Armed Services of the United States,

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871 including reserve components thereof, who attend the physical
872 location of a public college, university, or institution of
873 higher learning within the state.

874 Section 14. Any veteran of the United States Armed Forces
875 who was a resident of this state 4 years before entering
876 military service and who holds an associate degree or has earned
877 at least 60 college credit hours from a Florida College System
878 institution shall be admitted to any Florida College System
879 institution or state university of the veteran's choice.

880 Section 15. Except as otherwise expressly provided in this
881 act, this act shall take effect July 1, 2012.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Chair*
Banking and Insurance
Budget - Subcommittee on Criminal and Civil Justice
Appropriations
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Health Regulation
Military Affairs, Space, and Domestic Security

SENATOR MICHAEL S. "MIKE" BENNETT

President Pro Tempore
21st District

January 12, 2012

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

Dear Chairman Evers:

I am requesting that you place S922, Veterans omnibus bill, on your committee as soon as possible. We hope to have this ready to go the Floor for Military Day, January 24, 2012.

If you have any questions, please let me know. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Bennett".

Michael S. "Mike" Bennett
/cre

Cc: Amanda Cannon, Staff Director
Sue Arnold, Administrative Assistant
Mike Bascom

REPLY TO:

- ☐ Wildewood Professional Park, Suite 90, 3653 Cortez Road West, Bradenton, Florida 34210 (941) 727-6349
- ☐ 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5078

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)

1-19-12

Meeting Date

Topic Veterans

Bill Number 922
(if applicable)

Name MARK A. ALVAREZ

Amendment Barcode _____
(if applicable)

Job Title Commander

Address 1149 Conby Ct. E.

Phone 850 402 4133

Street

TAL

City

FL

State

32317

Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Veterans of Foreign Wars

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)

1/14/12
Meeting Date

Topic Veterans

Bill Number 922
(if applicable)

Name Bill Helmich

Amendment Barcode _____
(if applicable)

Job Title _____

Address 303 Johns DL
Street

Phone _____

Tallahassee FL 32301
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing American Legion

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 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.



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LEGISLATIVE ACTION

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

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/25/2012	.	
	.	
	.	
	.	

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
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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564 3. Committing any other violation of the injunction through
565 an intentional unlawful threat, word, or act to do violence to
566 the petitioner;

567 4. Telephoning, contacting, or otherwise communicating with
568 the petitioner, directly or indirectly, unless the injunction
569 specifically allows indirect contact through a third party;

570 5. Knowingly and intentionally coming within 100 feet of
571 the petitioner's motor vehicle, whether or not that vehicle is
572 occupied;

573 6. Defacing or destroying the petitioner's personal
574 property, including the petitioner's motor vehicle; or

575 7. Refusing to surrender firearms or ammunition if ordered
576 to do so by the court,

577
578 commits a misdemeanor of the first degree, punishable as
579 provided in s. 775.082 or s. 775.083.

580 (b)1. A respondent violates s. 790.233, and commits a
581 misdemeanor of the first degree, punishable as provided in s.
582 775.082 or s. 775.083, if he or she violates a temporary or
583 final injunction for protection against stalking or
584 cyberstalking by having in his or her care, custody, possession,
585 or control a firearm or ammunition.

586 2. It is the intent of the Legislature that the prohibition
587 regarding possession of a firearm or ammunition is consistent
588 with federal law. Accordingly, this paragraph does not apply to
589 a state or local officer, as defined in s. 943.10(14), who holds
590 an active certification and who receives or possesses a firearm
591 or ammunition for use in performing official duties on behalf of
592 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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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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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 Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.



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



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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.
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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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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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849 protection against stalking or cyberstalking through a
850 civil or criminal contempt proceeding; authorizing a
851 state attorney to use criminal procedures for a
852 violation of an injunction for protection; creating s.
853 784.0487, F.S.; providing procedures to follow when
854 the respondent has violated the injunction for
855 protection; providing legislative intent; providing
856 criminal penalties; providing that a court may award a
857 person who suffers an injury or loss as a result of a
858 violation of an injunction for protection against
859 stalking or cyberstalking economic damages for that
860 injury or loss, including costs and attorney fees for
861 enforcement of the injunction; amending s. 921.0022,
862 F.S., relating to the offense severity ranking chart
863 of the Criminal Punishment Code; revising provisions
864 to conform to changes made by the act; providing an
865 effective date.

By Senator Simmons

22-00452A-12

2012950__

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.

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

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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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 ~~second~~ 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 ~~first~~ 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 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

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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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 146 younger than 16 years of age living at home and who seeks an
 147 injunction for protection from stalking or aggravated stalking
 148 on behalf of the child, has standing in the circuit court to
 149 file a sworn petition for an injunction for protection from
 150 stalking or aggravated stalking.

151 (b) A cause of action for an injunction for protection from
 152 stalking or aggravated stalking may be sought regardless of
 153 whether another cause of action is available or pending between
 154 the parties.

155 (c) The sworn petition must allege the incidents of
 156 stalking or aggravated stalking and include the specific facts
 157 and circumstances that form the basis upon which relief is
 158 sought.

159 (d) The court may not require the petitioner to file a bond
 160 upon the issuance of an injunction for protection from stalking
 161 or aggravated stalking.

162 (e) The clerk of the court shall provide the petitioner
 163 with a certified copy of any injunction for protection from
 164 stalking or aggravated stalking entered by the court.

165 Section 2. Paragraphs (f) and (g) of subsection (3) of
 166 section 921.0022, Florida Statutes, are amended to read:

167 921.0022 Criminal Punishment Code; offense severity ranking
 168 chart.—

169 (3) OFFENSE SEVERITY RANKING CHART

170 (f) LEVEL 6

171 Florida Felony
 172 Statute Degree Description

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

173 499.0051(3) 2nd Knowing forgery of pedigree papers.

174 499.0051(4) 2nd Knowing purchase or receipt of prescription drug from unauthorized person.

175 499.0051(5) 2nd Knowing sale or transfer of prescription drug to unauthorized person.

176 775.0875(1) 3rd Taking firearm from law enforcement officer.

177 784.021(1) (a) 3rd Aggravated assault; deadly weapon without intent to kill.

178 784.021(1) (b) 3rd Aggravated assault; intent to commit felony.

179 784.041 3rd Felony battery; domestic battery by strangulation.

180 784.048(3) 3rd Aggravated stalking; credible threat.

181 784.048(5) 1st Aggravated stalking of person under 16.

182 ~~3rd~~

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

183 784.074(1) (b) 2nd Aggravated assault on sexually violent predators facility staff.

184 784.08(2) (b) 2nd Aggravated assault on a person 65 years of age or older.

185 784.081(2) 2nd Aggravated assault on specified official or employee.

186 784.082(2) 2nd Aggravated assault by detained person on visitor or other detainee.

187 784.083(2) 2nd Aggravated assault on code inspector.

188 787.02(2) 3rd False imprisonment; restraining with purpose other than those in s. 787.01.

189 790.115(2) (d) 2nd Discharging firearm or weapon on school property.

190 790.161(2) 2nd Make, possess, or throw destructive device with intent to do bodily harm or damage property.

191 790.164(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.

201

812.015(9)(a) 2nd Retail theft; property stolen \$300 or
more; second or subsequent conviction.

202

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

203

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

204

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

205

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

206

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

207

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

208

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

209

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) &
(3)

2nd

Use or induce a child in a sexual
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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230	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.	
231	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.	
232	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfigurement, permanent disability, or death.	
233	409.920	3rd	Medicaid provider fraud; \$10,000 or less.	
234	(2)(b)1.a.			
	409.920	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.	
235	(2)(b)1.b.			
	456.065(2)	3rd	Practicing a health care profession without a license.	
236	456.065(2)	2nd	Practicing a health care profession without a license which results in	

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237			serious bodily injury.	
	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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256 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.

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.

272 784.082(1) 1st Aggravated battery by detained person on visitor or other detainee.

273 784.083(1) 1st Aggravated battery on code inspector.

274 790.07(4) 1st Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).

275 790.16(1) 1st Discharge of a machine gun under specified circumstances.

276 790.165(2) 2nd Manufacture, sell, possess, or deliver hoax bomb.

277 790.165(3) 2nd Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.

278 790.166(3) 2nd Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.

279 790.166(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 (2)(b) & (3)(b)	1st		Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
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.
304	827.03(3)(b)	2nd		Neglect of a child causing great bodily harm, disability, or disfigurement.
305	827.04(3)	3rd		Impregnation of a child under 16 years of age by person 21 years of age or older.
306	837.05(2)	3rd		Giving false information about alleged capital felony to a law enforcement officer.
307	838.015	2nd		Bribery.
308	838.016	2nd		Unlawful compensation or reward for official behavior.
309	838.021(3)(a)	2nd		Unlawful harm to a public servant.
310	838.22	2nd		Bid tampering.
311	847.0135(3)	3rd		Solicitation of a child, via a computer service, to commit an unlawful sex act.
312	847.0135(4)	2nd		Traveling to meet a minor to commit an unlawful sex act.
313				

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314 872.06 2nd Abuse of a dead human body.

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

315 893.13(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.

316 893.13(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.

317 893.13(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).

318 893.135(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 grams, less than 200 grams.

320 (1)(b)1.a.

893.135 1st Trafficking in illegal drugs, more than 4 grams, less than 14 grams.

321 (1)(c)1.a.

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 or more, less than 14 grams.

325 (1)(g)1.a.

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

326 893.135 1st Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.

327 (1)(j)1.a.

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

(1)(k)2.a.

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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.

336 944.607(9) 3rd Sexual offender; failure to comply with
reporting requirements.

337 944.607(10)(a) 3rd Sexual offender; failure to submit to
the taking of a digitized photograph.

338 944.607(12) 3rd Failure to report or providing false
information about a sexual offender;
harbor or conceal a sexual offender.

339 944.607(13) 3rd Sexual offender; failure to report and
reregister; failure to respond to
address verification.

340 985.4815(10) 3rd Sexual offender; failure to submit to
the taking of a digitized photograph.

341 985.4815(12) 3rd Failure to report or providing false
information about a sexual offender;
harbor or conceal a sexual offender.

342 985.4815(13) 3rd Sexual offender; failure to report and
reregister; failure to respond to
address verification.

343

22-00452A-12

2012950__

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Budget - Subcommittee on Education Pre-K - 12
Appropriations, *Chair*
Agriculture
Budget
Budget - Subcommittee on Higher Education
Appropriations
Judiciary
Rules - Subcommittee on Ethics and Elections
Reapportionment

SENATOR DAVID SIMMONS

Majority Whip
22nd District

December 8, 2011

The Honorable Greg Evers
308 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Evers:

I would like to respectfully request that you place Senate Bill 950, Stalking and Aggravated Stalking, on the next agenda for the Criminal Justice Committee.

Please feel free to contact me if you have any questions regarding this bill.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David Simmons", with a stylized flourish at the end.

David Simmons

cc: Amanda Cannon, staff director for Criminal Justice Committee

REPLY TO:

- ☐ 251 Maitland Avenue, Suite 304, Altamonte Springs, FL 32701 (407) 262-7578
- ☐ 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5050

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)

1/19/12
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 anna@florida.legal.org

Speaking: ☐ For ☐ Against ☒ Information

Representing Florida Legal Services

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)

p 1/10

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 950

INTRODUCER: Senator Simmons

SUBJECT: Stalking & Aggravated Stalking

DATE: January 4, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger <i>0.19</i>	Cannon <i>aa</i>	CJ	Pre-meeting
2.	_____	_____	JU	_____
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

Senate Bill 950 amends the stalking statute, s. 784.048, F.S., by revising stalking definitions, primarily the definition of "credible threat." It also increases the criminal penalties for three of the four aggravated stalking offenses, establishes a cause of action for an injunction for protection against stalking and aggravated stalking, requires the court to consider issuing an injunction restraining a defendant from victim contact for up to ten years, and requires attendance by a stalking or aggravated stalking defendant in a batterers' intervention program pursuant to s. 741.281, F.S. Finally, it amends the severity ranking chart of the Criminal Punishment Code to conform with the penalty revisions made by the bill.

This bill substantially amends section 784.048 of the Florida Statutes. It also amends section 921.0022, Florida Statutes, to conform to revisions made by the bill.

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

¹ Section 784.048(2), F.S.

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

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

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.

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

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.

Currently, a statutory cause of action does not exist specifically for an injunction for protection against stalking or aggravated stalking. 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 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.²²

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)(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.

²¹ See *supra* note 9.

²² See *supra* note 16.

Batterer's Intervention Program

The Legislature established a batterer's intervention program to protect the victims of domestic violence and their children and to hold the perpetrators of domestic violence responsible for their acts. The Department of Children and Families is responsible for certifying and monitoring the batterer's intervention programs in Florida.²³ The goals of the programs are to increase victim safety, eliminate violence in intimate relationships, and stop other forms of abusive behavior. Persons found guilty of an act of domestic violence or persons for whom an injunction for protection against domestic violence has been entered can be ordered to attend and participate in the batterers' intervention program.²⁴

III. Effect of Proposed Changes:

Senate Bill 950 amends the stalking statute, s. 784.048, F.S., by revising some of the stalking definitions, primarily the definition of "credible threat." It increases the criminal penalties for three of the four aggravated stalking offenses, establishes a cause of action for an injunction for protection against stalking and aggravated stalking, requires the court to consider issuing an injunction restraining a defendant from victim contact for up to ten years, and requires attendance by a stalking or aggravated stalking defendant in a batterers' intervention program pursuant to s. 741.281, F.S. It also amends the severity ranking chart of the Criminal Punishment Code to conform to the penalty revisions made by the bill.

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), made with the intent to place the targeted person in reasonable fear of his safety or that of his immediate family, 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 threat be against the life of, or a threat to cause bodily injury to, a person.

The bill also provides a definition of "immediate family" to include a person's spouse, parent, child, grandparent, or sibling.

The penalty enhancements for aggravated stalking vary by one or two degrees. One of the aggravated stalking offenses increases by a degree as follows. 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, it becomes a second degree felony (currently a third degree felony), punishable by imprisonment not exceeding 15 years and a potential fine not exceeding \$10,000.

The other two penalty enhancements increase by two degrees as follows. When a person willfully, maliciously, and repeatedly follows, harasses, or cyberstalks a minor under 16 years of

²³ Section 741.32, F.S.

²⁴ Section 741.281, F.S.

age, it becomes a first degree felony, punishable by imprisonment not exceeding 30 years and a potential fine not exceeding \$10,000. Similarly, 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, it becomes a first degree felony. (Both offenses are currently third degree felonies.)

Injunctions for Protection Against Stalking and Aggravated Stalking

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 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 aggravated stalking, similar to the current causes of action for injunctions against domestic violence, repeat violence, sexual violence, and dating violence. The bill allows a stalking victim or the parent of a child under 16 on behalf of the child to file a sworn petition for an injunction for protection against stalking or aggravated stalking in circuit court.

The petition for protection must allege the incidents of stalking or aggravated stalking 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. Finally, the clerk of the court must provide the petitioner with a certified copy of any protective injunction against stalking entered by the court.

Batterer's Intervention Program

The bill also imposes a new requirement for the court to order a defendant found guilty of stalking or aggravated stalking to attend a batterers' intervention program pursuant to s. 741.281, F.S.

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 convicted of aggravated stalking will potentially be subject to increased fines not exceeding \$10,000. Defendants convicted of stalking or aggravated stalking will also be subject to paying the \$30 fee for each 29-week batterers' intervention program he or she is ordered to attend under the bill.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) has not finalized a prison bed impact on the bill but preliminary analysis by the Office of Economic and Demographic Research suggests that increasing the felony degree of these offenses will have a bed impact on 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.

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 998

INTRODUCER: Senator Negron and others

SUBJECT: Concealed Weapons or Firearms

DATE: January 11, 2012

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	Favorable
2.	Cellon	Cannon	CJ	Favorable
3.			BC	
4.				
5.				
6.				

I. Summary:

Current law requires that a Florida resident must be at least 21 years of age in order to be eligible to obtain a concealed weapons license. The bill amends the concealed weapons license law to allow Florida resident military servicemembers and honorably discharged veterans who are under the age of 21, and are otherwise qualified, to be issued a concealed weapons license.

The bill also allows nonresident military servicemembers and honorably discharged veterans under the age of 21, who hold a concealed weapons license from another state which honors Florida's concealed weapons license, to exercise the same concealed weapons license rights available to Florida resident concealed weapons licensees.

The bill creates section 790.062 of the Florida Statutes, and amends section 790.015 of the Florida Statutes.

The bill provides that the act will take effect upon becoming law.

II. Present Situation:

Issuance of Concealed Weapon Licenses

The Department of Agriculture and Consumer Services (department) is statutorily authorized to issue licenses to carry concealed weapons and firearms.¹ Concealed weapons or concealed firearms are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie but

¹ s. 790.06(1), F.S.

not a machine gun for purposes of the licensure law.² An applicant must provide identifying information, including fingerprints, to the department for processing prior to the issuance of a concealed-carry license.

The department examines a number of criteria in determining whether an applicant meets the statutory conditions for issuance of a concealed carry license. The age of the applicant is among the criteria the department examines. An applicant must be 21 years of age or older in order to obtain a concealed-carry license in Florida.³

Additional statutory conditions for issuance of a concealed carry license require that an applicant:

- Be a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Not suffer from a physical infirmity that prevents the safe handling of a weapon or firearm;
- Not be ineligible to possess a firearm pursuant to s. 790.23, F.S., by virtue of having been convicted of a felony;
- Not have been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a three-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or has been convicted under s. 790.151, F.S., or has been deemed a habitual offender under s. 856.011(3), F.S., or has had two or more convictions under s. 316.193, F.S., or similar laws of any other state, within the three-year period immediately preceding the date on which the application is submitted;
- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless five years have elapsed since the applicant's restoration to capacity by court order;
- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least five years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless three years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;

² *Id.*

³ s. 790.06(1)(b), F.S.

- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.⁴

Concealed Carry Reciprocity

The state of Florida practices reciprocity with 35 other states which allows concealed weapon licensees from those participating states to carry their concealed weapons in Florida.

Accordingly, those states must also recognize and honor concealed weapon licenses issued by the state of Florida.⁵

Section 790.015(1), F.S., provides that a U.S. resident who is a Florida nonresident may carry a concealed weapon or firearm in Florida if the nonresident:

- Is at least 21 years of age; and
- Has in his or her immediate possession a valid license to carry a concealed weapon or concealed firearm issued to the nonresident in his or her state of residence.⁶

The concealed carry reciprocity provisions only apply to nonresident concealed weapon or concealed firearm licensees from states that honor Florida concealed weapon or concealed firearm licenses.⁷ Additionally, such nonresident licensees are subject to the same laws and restrictions with respect to carrying a concealed weapon or concealed firearm as a resident of Florida who is so licensed.⁸

Active Duty Military and Veterans Under 21 Years of Age

According to data provided by the Florida Department of Military Affairs, as of November 30, 2011 there were a total of 5,608 active duty service members under the age of twenty-one assigned to units in Florida. The data for November 30, 2011 also shows that there were a total of 2,579 National Guard and Reserve members assigned to Florida units.⁹

Data provided by the Florida Department of Veterans' Affairs indicates that on September 30, 2010 there were an estimated 407 military veterans in Florida who were under the age of twenty and 18,036 between 20 and 24 years of age. It is not possible to determine from the data provided how many of the 20-24 year age group are 20 or 21 years old, the persons to whom the bill may apply. The veteran population numbers do not indicate how many of those veterans were honorably discharged.¹⁰

⁴ s. 790.06(2), F.S.

⁵ See, http://licgweb.doacs.state.fl.us/news/concealed_carry.html for more information on states that recognize Florida's concealed weapons license.

⁶ s. 790.015(1), F.S.

⁷ s. 790.015(3), F.S.

⁸ s. 790.015(2), F.S.

⁹ Data on file with the Senate Military Affairs, Space, and Domestic Security Committee.

¹⁰ *Id.*

III. Effect of Proposed Changes:

Section 1 creates s. 790.062, F.S., to allow Florida resident military servicemembers and honorably discharged veterans who are under the age of 21, and are otherwise qualified, to be issued a concealed weapon or firearm license. The bill also requires the department to accept background check fingerprints for military concealed weapon license applicants which have been prepared by military law enforcement officials.

Section 2 amends s. 790.015, F.S., to allow Florida nonresident military servicemembers and honorably discharged veterans under the age of 21, who hold a concealed weapon license from another state which honors Florida's concealed weapon license, to exercise the same concealed weapon license rights available to Florida resident concealed weapon licensees.

Section 3 provides that the act shall take effect upon becoming law.

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:

The provisions of this bill may result in potential increased economic activity from increased sales of firearms to previously ineligible concealed weapon or firearm licensees. This would particularly be applicable for merchants in areas with a significant military presence.

C. Government Sector Impact:

The department anticipates some increase in the volume of concealed weapon license application revenue from 18 to 20 year old military servicemembers and honorably

discharged veteran applicants based on the provisions in the bill. The amount of the increased revenue is indeterminate.¹¹

The department also anticipates some increase in the volume of concealed weapon license applications, which would result in increases in hard copy applications, forms, background checks, and other variable costs. However, all such costs would be entirely satisfied by the applicable license fees. These increased costs are indeterminate at this time.¹²

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.

¹¹ Florida Department of Agriculture and Consumer Services, *Senate Bill 998 Analysis* (December 6, 2011) (on file with the Senate Military Affairs, Space, and Domestic Security Committee).

¹² *Id.*

By Senator Negron

28-00934A-12

2012998

A bill to be entitled

An act relating to concealed weapons or firearms; creating s. 790.062, F.S.; providing for otherwise qualified members and veterans of the United States Armed Forces to be issued a concealed weapon or firearm license regardless of age or United States residency in certain circumstances; providing additional methods for the taking of fingerprints from such license applicants; amending s. 790.015, F.S.; providing for members and veterans of the United States Armed Forces to be granted reciprocity regardless of age; providing an effective date.

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

Section 1. Section 790.062, Florida Statutes, is created to read:

790.062 Members and veterans of United States Armed Forces; exceptions from licensure provisions.-

(1) Notwithstanding s. 790.06(2)(b), the Department of Agriculture and Consumer Services shall issue a license to carry a concealed weapon or firearm under s. 790.06 if the applicant is otherwise qualified and:

(a) Is a servicemember, as defined in s. 250.01; or

(b) Is a veteran of the United States Armed Forces who was discharged under honorable conditions.

(2) The Department of Agriculture and Consumer Services shall accept fingerprints of an applicant under this section administered by any law enforcement agency, military provost, or

28-00934A-12

2012998

other military unit charged with law enforcement duties or as otherwise provided for in 790.06(5)(c).

Section 2. Section 790.015, Florida Statutes, is amended to read:

790.015 Nonresidents who are United States citizens and hold a concealed weapons license in another state; reciprocity.-

(1) Notwithstanding s. 790.01, ~~a resident of the United States who is~~ a nonresident of Florida may carry a concealed weapon or concealed firearm while in this state if the nonresident:

(a) Is 21 years of age or older, ~~and~~

(b) Has in his or her immediate possession a valid license to carry a concealed weapon or concealed firearm issued to the nonresident in his or her state of residence.

(c) Is a resident of the United States.

(2) A nonresident is subject to the same laws and restrictions with respect to carrying a concealed weapon or concealed firearm as a resident of Florida who is so licensed.

(3) If the resident of another state who is the holder of a valid license to carry a concealed weapon or concealed firearm issued in another state establishes legal residence in this state by:

(a) Registering to vote; ~~or~~

(b) Making a statement of domicile pursuant to s. 222.17; ~~or~~

or

(c) Filing for homestead tax exemption on property in this state,

the license shall remain in effect for 90 days following the

28-00934A-12 2012998

59 date on which the holder of the license establishes legal state
60 residence.

61 (4) This section applies only to nonresident concealed
62 weapon or concealed firearm licenseholders from states that
63 honor Florida concealed weapon or concealed firearm licenses.

64 (5) The requirement of paragraph (1)(a) does not apply to a
65 person who:

66 (a) Is a servicemember, as defined in s. 250.01; or

67 (b) Is a veteran of the United States Armed Forces who was
68 discharged under honorable conditions.

69 Section 3. This act shall take effect upon becoming a law.



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

January 9, 2012

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

Re: Senate Bill 998

Dear Chairman Evers:

I would like to request Senate Bill 998 relating to concealed weapons 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)

1/19/12

Meeting Date

Topic Veterans

Bill Number 998
(if applicable)

Name Bill Helmick

Amendment Barcode _____
(if applicable)

Job Title _____

Address 303 Johns Dr

Phone _____

Street
City Tallahassee State FL Zip 32301

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing VFW / American Legion

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 Concealed Firearms

Bill Number SB 998
(if applicable)

Name Skip Jarvis

Amendment Barcode _____
(if applicable)

Job Title State Attorney

Address _____

Phone 386 362-2320

Street

Live Oak _____
City *State* *Zip*

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

CourtSmart Tag Report

Room: LL 37

Caption: Criminal Justice Committee

Case:

Judge:

Type:

Started: 1/19/2012 10:23:22 AM

Ends: 1/19/2012 11:16:39 AM

Length: 00:53:18

10:23:37 AM Meeting to order
10:23:59 AM Tab 6 - SB 950 - Senator Simmons
10:29:55 AM Ann Perko, Senior Family Law Atty - Florida Legal Services
10:32:07 AM Roll call
10:32:31 AM Tab 2 - SB332 Senator Bullard
10:36:58 AM Barbara Wolf, M.D. District 5 Medical Examiner
10:39:23 AM Roll call
10:40:05 AM Tab 7 - SB 998 Senator Negron
10:42:48 AM Roll call
10:43:18 AM Tab 5 - SB 922 Senator Bennett
10:47:56 AM Mark Alvarez, Veterans of Foreign Wars
10:48:30 AM Bill Hemich, American Legion
10:49:13 AM Roll call
10:49:45 AM Tab 3 - SB 432 Senator Flores
11:00:08 AM Roll call
11:00:31 AM Tab 4 - SB 804 Senator Dean
11:02:32 AM Colleen M Dunne, Monroe County State's Attorney
11:06:03 AM Colonel Jim Brown, Fish and Wildlife Commission
11:09:53 AM Roll call
11:10:37 AM Tab 1 Presentation by Mark Zadra, Asst Commissioner, FDLE
11:15:35 AM Presentation by Mark Zadra was postponed (Sen. Bennett was called away from meeting).
11:16:23 AM Meeting adjourned