

<b>Tab 1</b>	<b>CS/SB 354 by JU, Harrell;</b> (Identical to CS/H 00495) Restitution					
<b>Tab 2</b>	<b>SB 474 by Bracy;</b> Prosecuting Children as Adults					
<b>Tab 3</b>	<b>SB 620 by Bracy;</b> (Similar to H 00069) Parole Eligibility					
177598	D	S	RCS	CJ, Bracy	Delete everything after	03/02 07:03 PM
<b>Tab 4</b>	<b>SB 980 by Perry;</b> Assaults on Specified Persons					
264610	A	S	RCS	CJ, Perry	Delete L.30 - 88:	03/02 07:03 PM
<b>Tab 5</b>	<b>SB 1002 by Stewart;</b> (Similar to H 00673) DNA Evidence Collected in Sexual Offense Investigations					
<b>Tab 6</b>	<b>SB 1032 by Perry;</b> (Compare to H 00235) Gain-time					
925632	D	S	RCS	CJ, Perry	Delete everything after	03/02 07:03 PM
<b>Tab 7</b>	<b>SB 1046 by Bean (CO-INTRODUCERS) Baxley;</b> (Identical to H 00755) Arrest Booking Photographs					
<b>Tab 8</b>	<b>SB 1048 by Bean (CO-INTRODUCERS) Baxley;</b> (Identical to H 00643) Public Records/Conviction Integrity Unit Reinvestigation Information					

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CRIMINAL JUSTICE**  
**Senator Pizzo, Chair**  
**Senator Brandes, Vice Chair**

**MEETING DATE:** Tuesday, March 2, 2021  
**TIME:** 4:00—6:00 p.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Building

**MEMBERS:** Senator Pizzo, Chair; Senator Brandes, Vice Chair; Senators Baxley, Boyd, Gainer, Perry, Powell, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A1 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	<b>CS/SB 354</b> Judiciary / Harrell (Compare H 495)	Restitution; Providing for the purposes of restitution in a criminal proceeding; providing for the purposes of restitution in a delinquency proceeding; specifying the standards for valuation of a restitution order; authorizing a court to consider hearsay evidence regarding valuation of a restitution award, etc.  JU 02/15/2021 Fav/CS CJ 03/02/2021 Favorable RC	Favorable Yeas 8 Nays 0
2	<b>SB 474</b> Bracy	Prosecuting Children as Adults; Increasing the age of a child at which a state attorney may, or is required to, request a court to transfer the child to adult court for criminal prosecution; increasing the age of a child at which a state attorney may file an information against the child for criminal prosecution as an adult, etc.  JU 02/15/2021 Favorable CJ 03/02/2021 Favorable RC	Favorable Yeas 6 Nays 1
3	<b>SB 620</b> Bracy (Similar H 69)	Parole Eligibility; Revising legislative intent concerning the granting of parole; requiring the Commission on Offender Review to partner with the Department of Corrections to adopt a specified program with certain requirements; requiring rulemaking, etc.  CJ 02/16/2021 Temporarily Postponed CJ 03/02/2021 Fav/CS ACJ AP	Fav/CS Yeas 6 Nays 1

**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Tuesday, March 2, 2021, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 980</b> Perry	Assaults on Specified Persons; Requiring certain public transit providers to post a specified sign concerning the penalty for assaulting a transit worker by a specified date; requiring public transit providers to create and implement a risk reduction program by a specified date; authorizing programs to include the deployment of assault mitigation infrastructure and technology on public transit vehicles; including assault or battery on a public transit employee or agent within specified reclassified offenses, etc.  CJ 03/02/2021 Fav/CS ATD AP	Fav/CS Yeas 8 Nays 0
5	<b>SB 1002</b> Stewart (Similar H 673)	DNA Evidence Collected in Sexual Offense Investigations; Citing this act as "Gail's Law"; requiring the Department of Law Enforcement, by a specified date and subject to legislative appropriation, to create and maintain a statewide database for tracking sexual offense evidence kits; providing database requirements; requiring the department to ensure that alleged sexual offense victims and certain other persons receive specified notice and instructions and be informed that they are entitled to access information regarding such kits and evidence, etc.  CJ 03/02/2021 Favorable ACJ AP	Favorable Yeas 7 Nays 1
6	<b>SB 1032</b> Perry (Compare H 235, H 1215, S 472)	Gain-time; Revising the principles that the Criminal Punishment Code embodies as it relates to punishment and rehabilitation; authorizing the Department of Corrections to grant deductions from sentences in the form of outstanding deed gain-time, good behavior time, and rehabilitation credits, rather than solely for gain-time, for specified purposes; requiring the department to grant good behavior time, rather than basic gain-time, as a means of encouraging satisfactory behavior and developing character traits necessary for successful reentry to the community, subject to certain conditions, etc.  CJ 03/02/2021 Fav/CS ACJ AP	Fav/CS Yeas 7 Nays 1

**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Tuesday, March 2, 2021, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	<b>SB 1046</b> Bean (Identical H 755)	Arrest Booking Photographs; Expanding the applicability of provisions relating to the dissemination of arrest booking photographs to include a person or entity whose primary business model is the publishing or dissemination of such photographs for a commercial purpose or pecuniary gain, etc.  CJ      03/02/2021 Favorable CM RC	Favorable Yeas 8 Nays 0
8	<b>SB 1048</b> Bean (Identical H 643)	Public Records/Conviction Integrity Unit Reinvestigation Information; Providing a public records exemption for certain conviction integrity unit reinvestigation information; providing for the future review and repeal of the exemption; providing a statement of public necessity, etc.  CJ      03/02/2021 Favorable JU RC	Favorable Yeas 8 Nays 0
Other Related Meeting Documents			



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

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

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

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BILL: CS/SB 354

INTRODUCER: Judiciary Committee and Senator Harrell

SUBJECT: Restitution

DATE: March 1, 2021

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Bond	Cibula	JU	<b>Fav/CS</b>
2. Stokes	Jones	CJ	<b>Favorable</b>
3. _____	_____	RC	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 354 amends ss. 775.089 and 985.437, F.S., providing that while the primary purpose of restitution is to compensate the victim, it also serves the rehabilitative and deterrent goals of the criminal and juvenile justice systems.

Additionally, the bill provides that restitution must be determined on a fair market value basis unless the state, victim, or defendant or child, shows that using another basis, including, but not limited to, replacement cost, purchase price less depreciation, or actual cost of repair, is equitable and better furthers the purposes of restitution. The court may consider hearsay evidence for the purpose of determining restitution.

The bill is effective July 1, 2021.

**II. Present Situation:**

**Restitution**

Restitution is “full or partial compensation paid by a criminal to a victim, not awarded in a civil trial for tort, but ordered as part of a criminal sentence or as a condition of probation.”<sup>1</sup> “Unlike civil damages, restitution is a criminal sanction. The purpose of restitution is not only to

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<sup>1</sup> BLACK’S L. DICTIONARY (11th ed. 2019).

compensate the victim, but also to serve the rehabilitative, deterrent, and retributive goals of the criminal justice system.”<sup>2</sup>

A crime victim has a state constitutional right to restitution. The State Constitution provides that a victim has the “right to full and timely restitution in every case and from each convicted offender for all losses suffered, both directly and indirectly, by the victim as a result of the criminal conduct.”<sup>3</sup> This language was adopted by the voters in 2018.<sup>4</sup>

A sentencing court must order the defendant to make restitution to the victim for damage or loss caused directly or indirectly by the defendant’s offense; and damage or loss related to the defendant’s criminal episode, unless the court finds clear and compelling reasons not to order restitution. If ordered, restitution is a mandatory condition of probation.<sup>5</sup>

### ***How Restitution is Proved and Calculated***

In general, the fair market value at the time of the offense is the appropriate value for purposes of restitution. However, the Florida Supreme Court in *Hawthorne*<sup>6</sup> ruled that “a court is not tied to fair market value as the sole standard for determining restitution amounts, but rather may exercise such discretion as required to further the purposes of restitution.”<sup>7</sup> The court found that fair market value can be established either through direct testimony of the victim or through evidence of the following four factors:

- Original market cost;
- Manner in which the item was used;
- The general condition and quality of the item; and
- The percentage of depreciation.<sup>8</sup>

A criminal trial and conviction must (unless waived) be heard before a jury and guilt must be proved beyond a reasonable doubt. Restitution, however, is a part of the sentencing process. A sentencing hearing is conducted before the judge alone, and the essential facts need only be proved by a preponderance of the evidence.<sup>9</sup> Contested restitution hearings are uncommon, in most cases where restitution is ordered the amount of restitution is agreed between the parties.

### **Evidence Code and Hearsay**

The Florida Evidence Code applies equally to all civil and criminal actions, at hearings and at trial.<sup>10</sup> The code prohibits admission of hearsay evidence, unless one of the exceptions apply.<sup>11</sup>

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<sup>2</sup> *Spivey v. State*, 531 So. 2d 965, 967 (Fla. 1988). See also, *Victim Restitution in the Criminal Process: A Procedural Analysis*, 97 HARV. L. REV. 931 (Feb. 1984).

<sup>3</sup> Art. I, s. 16(b)(9), FLA. CONST.

<sup>4</sup> The language was presented to the voters as Revision 6 on the 2018 General Election ballot, and it is commonly referred to as “Marsy’s Law.”

<sup>5</sup> Section 775.089(1)(a), F.S.

<sup>6</sup> *State v. Hawthorne*, 573 So. 2d 330 (Fla. 1991).

<sup>7</sup> *Id.* at 333.

<sup>8</sup> *Id.* at 332-33.

<sup>9</sup> Section 775.089(7), F.S.

<sup>10</sup> Section 90.103, F.S.

<sup>11</sup> Section 90.802, F.S.

“Hearsay” is a statement, other than one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted.<sup>12</sup> The common reasons cited for the hearsay rule include:

- Because the underlying hearsay statement is not made under oath, it is less reliable than in-court testimony given under oath.
- A jury cannot determine the reliability of the hearsay testimony.
- An opposing party cannot cross-examine the person who made the out-of-court statement.<sup>13</sup>

Not all hearsay is inadmissible. The Evidence Code contains 30 exceptions to the hearsay rule.<sup>14</sup> Hearsay evidence that is admitted into evidence may be attacked by an opposing party.<sup>15</sup> Hearsay testimony is admissible in a sentencing hearing, provided the defendant has a fair opportunity to rebut it.<sup>16</sup>

All evidence introduced at a hearing or trial, including hearsay, must be weighed for its reliability. The standard jury instructions in a criminal case explains, in relevant part:

It is up to you to decide what evidence is reliable. You should use your common sense in deciding which is the best evidence and which evidence should not be relied upon in considering your verdict. You may find some of the evidence not reliable, or less reliable than other evidence . . . . You may rely upon your own conclusion about the credibility of any witness. A juror may believe or disbelieve all or any part of the evidence or the testimony of any witness.<sup>17</sup>

The direction to weigh the reliability of the evidence applies equally to a hearing decided by a judge without a jury.

Where hearsay evidence is allowed, such evidence is still subject to other rules of evidence. For instance, the evidence must be relevant,<sup>18</sup> must not be unduly prejudicial or confusing,<sup>19</sup> and the witness must have personal knowledge of the matter.<sup>20</sup>

### **Courts have Suggested Change**

In 2012, Katrina R. Phillips stole jewelry and sold it. She was convicted for various crimes involving the victim’s stolen jewelry. In a 2013 restitution hearing, the victim testified as to her opinion of the value of the stolen family heirloom jewelry. In her testimony, the victim described how she had reviewed six websites looking for values of similar jewelry. The trial court found

<sup>12</sup> Section 90.801(1)(c), F.S.

<sup>13</sup> EHRHARDT’S FLORIDA EVIDENCE, 2018 Ed., s. 801.1.

<sup>14</sup> Sections 90.803 and 90.804, F.S.

<sup>15</sup> Section 90.806, F.S.

<sup>16</sup> *Hudson v. State*, 708 So. 2d 256, 261 (Fla. 1998)(capital cases); *McInerney v. State*, 213 So. 3d 933 (Fla. 4th DCA 2017)(non-capital cases, except hearsay not admissible related to a request for sentence enhancement).

<sup>17</sup> Fla. Std. Jury Instruction 3.9.

<sup>18</sup> Section 90.402, F.S.

<sup>19</sup> Section 90.403, F.S.

<sup>20</sup> Sections 90.604, F.S.

the victim's testimony credible and reliable, and awarded the victim restitution of \$20,511. The District Court of Appeal found in 2014 that the victim's testimony violated the hearsay rule because it was based on internet research.<sup>21</sup> The DCA reluctantly reversed the restitution award, saying:

In reaching our conclusion, we recognize that it was practically impossible for the victim to establish the restitution amount without relying on hearsay evidence.

...

The fact that it was practically impossible for the victim to establish the restitution amount without relying on hearsay evidence appears to have caused an unjust result for the victim, because she and the state appear to have no other means by which to prove the restitution amount.

...

[A]lthough we are obligated to remand for a new restitution hearing, we are doubtful that the new hearing will provide the victim with any relief.

We surmise that the victim here is not alone. This court and our sister courts recently have issued multiple opinions reversing restitution awards where the victim and the state have not presented competent, substantial evidence supporting the amount awarded. See, e.g., T.D.C., 117 So.3d at 811 (“[A]bsent circumstances tending to show that [fair market value] does not adequately compensate the victim or otherwise serve the purpose of restitution ... the amount of restitution should be established through evidence of [fair market value] at the time of the theft.”) (citation and quotation marks omitted). In each case, a wholly innocent person has been left with a more difficult, if not impossible, path to recover their stolen items' value. The circuit court in this case recognized this unjust result in honorably attempting to justify its determination of the restitution amount here.<sup>22</sup>

The appellate court suggested adding the following language to s. 775.089(7), F.S.:

The court is not bound by fair market value as the sole standard for determining restitution amounts, but rather may exercise such discretion as required to further the purposes of restitution, including consideration of hearsay.<sup>23</sup>

On remand, the restitution award was reduced to \$12,046.<sup>24</sup>

In 2015, Cricket Kathleen Toole stole various goods. She was convicted of dealing in stolen property and false verification of ownership to a pawnbroker. At the restitution hearing, the

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<sup>21</sup> *Phillips v. State*, 141 So. 3d 702 (Fla. 4th DCA 2014).

<sup>22</sup> *Id.* at 705-06.

<sup>23</sup> *Id.* at 706.

<sup>24</sup> Indian River County, OR Book 2653, Page 1090; and OR Book 2815, Page 2401.

victim testified to the items' value by providing their original price, and guesstimating their replacement value. The trial court ordered restitution of \$9,984.12.<sup>25</sup>

In 2019, the Fourth DCA reversed the finding that the state had failed to prove all four elements of valuation of restitution. The court then went further, lamenting the continued problems with restitution awards:

Despite the statute, the rules, the case law, and the constitutional amendment, proving restitution continues to be difficult for victims, and receiving compensation for their loss continues to be elusive . . . . We have previously suggested a legislative fix . . . yet, the statute remains the same as does the problem--proving restitution.<sup>26</sup>

The DCA took the further step of certifying the issue for review as a matter of great public importance by the Florida Supreme Court:

Is *Hawthorne*'s formula for determining restitution based on the fair market value of the victim's property still viable after the passage of Amendment 6 (Marsy's Law), or should a trial court no longer be bound by fair market value as the sole standard for determining restitution amounts, and instead exercise such discretion as required to further the purposes of restitution, including consideration of hearsay?<sup>27</sup>

The case was appealed to the Florida Supreme Court, but was dismissed without opinion after the defendant died.<sup>28</sup>

### III. Effect of Proposed Changes:

The bill amends ss. 775.089 and 985.437, F.S., providing that while the primary purpose of restitution is to compensate the victim, it also serves the rehabilitative and deterrent goals of the criminal and juvenile justice systems.

Additionally, the bill provides that restitution must be determined on a fair market value basis unless the state, victim, or defendant or child, shows that using another basis, including, but not limited to, replacement cost, purchase price less depreciation, or actual cost of repair, is equitable and better furthers the purposes of restitution. The court may consider hearsay evidence for the purpose of determining restitution.

The bill is effective July 1, 2021.

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<sup>25</sup> *Toole v. State*, 270 So. 3d 371, 373 (Fla. 4th DCA 2019), *review dismissed*, No. SC19-456, 2019 WL 2275025 (Fla. May 29, 2019).

<sup>26</sup> *Id.* at 374.

<sup>27</sup> *Id.* at 375.

<sup>28</sup> *Florida v. Toole*, No. SC19-456, 2019 WL 2275025 (Fla. May 29, 2019)(*See* docket entry on May 28, 2019).

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 775.089 and 985.437.

**IX. Additional Information:**

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

**CS by Judiciary on February 15, 2020:**

The committee substitute adds the purposes of restitution and adds that fair market value is the default valuation standard. The committee substitute applies to juvenile delinquency cases in addition to criminal cases.

- B. **Amendments:**

None.

By the Committee on Judiciary; and Senator Harrell

590-02143-21

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A bill to be entitled

An act relating to restitution; amending s. 775.089, F.S.; providing for the purposes of restitution in a criminal proceeding; specifying the standards for valuation of a restitution order; authorizing a court to consider hearsay evidence regarding valuation of a restitution award; amending s. 985.437, F.S.; providing for the purposes of restitution in a delinquency proceeding; specifying the standards for valuation of a restitution order; authorizing a court to consider hearsay evidence regarding valuation of a restitution award; providing an effective date.

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

Section 1. Subsection (7) of section 775.089, Florida Statutes, is amended to read:

775.089 Restitution.—

(7) (a) While the primary purpose of restitution is to compensate the victim, it also serves the rehabilitative and deterrent goals of the criminal justice system.

(b) Restitution must be determined on a fair market value basis unless the state, victim, or defendant shows that using another basis, including, but not limited to, replacement cost, purchase price less depreciation, or actual cost of repair, is equitable and better furthers the purposes of restitution.

(c) Any dispute as to the proper amount or type of restitution shall be resolved by the court by the preponderance of the evidence. The court may consider hearsay evidence for

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this purpose. The burden of demonstrating the amount of the loss sustained by a victim as a result of the offense is on the state attorney. The burden of demonstrating the present financial resources and the absence of potential future financial resources of the defendant and the financial needs of the defendant and his or her dependents is on the defendant. The burden of demonstrating such other matters as the court deems appropriate is upon the party designated by the court as justice requires.

Section 2. Subsection (2) of section 985.437, Florida Statutes, is amended to read:

985.437 Restitution.—

(2) (a) While the primary purpose of restitution is to compensate the victim, it also serves the rehabilitative and deterrent goals of the juvenile justice system.

(b) The court may order the child to make restitution in money, through a promissory note cosigned by the child's parent or guardian, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. Restitution must be determined on a fair market value basis unless the state, victim, or child shows that using another basis, including, but not limited to, replacement cost, purchase price less depreciation, or actual cost of repair, is equitable and better furthers the purposes of restitution. The court may consider hearsay evidence for this purpose.

(c) When restitution is ordered by the court, the amount of restitution may not exceed an amount the child and the parent or guardian could reasonably be expected to pay or make.



590-02143-21

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Section 3. This act shall take effect July 1, 2021.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

March 2, 2021

Meeting Date

354

Bill Number (if applicable)

Topic Restitution

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Chief Executive Officer

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

City

State

Zip

Email barney@barneybishop.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Smart Justice Allaince

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 (10/14/14)

## THE FLORIDA SENATE

## APPEARANCE RECORD

3/2/2021

Meeting Date

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

SB 354

Bill Number (if applicable)

Topic Restitution

Amendment Barcode (if applicable)

Name Trish NeelyJob Title DIRECTORAddress 2024 Shangri La Lane

Street

Phone 850 322 3317Tally

City

FL

State

32303

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☒ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)Representing League Women Voters FloridaAppearing at request of Chair: ☐ Yes ☒ NoLobbyist 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 (10/14/14)



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Transportation, *Chair*  
Military and Veterans Affairs, Space,  
and Domestic Security, *Vice Chair*  
Appropriations Subcommittee on Health and  
Human Services  
Children, Families, and Elder Affairs  
Finance and Tax

### SELECT COMMITTEE:

Select Committee on Pandemic  
Preparedness and Response

**SENATOR GAYLE HARRELL**  
25th District

February 16, 2021

Chair Jason Pizzo  
Committee on Criminal Justice  
404 South Monroe Street  
Tallahassee, FL 32399

Dear Chair Pizzo,

I respectfully request that **SB 354 – Restitution** be placed on the next available Committee Agenda for Criminal Justice. SB 354 passed Judiciary unanimously.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration of this request.

Respectfully,

A handwritten signature in cursive script that reads "Gayle".

Senator Gayle Harrell  
Senate District 25

Cc: Lauren Jones, Staff Director  
Sue Arnold, Administrative Assistant

### REPLY TO:

- ☐ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019 FAX: (888) 263-7895
- ☐ 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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

**WILTON SIMPSON**  
President of the Senate

**AARON BEAN**  
President Pro Tempore

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

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

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

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BILL: SB 474

INTRODUCER: Senator Bracy

SUBJECT: Prosecuting Children as Adults

DATE: March 1, 2021

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Bond	Cibula	JU	<b>Favorable</b>
2. Stokes	Jones	CJ	<b>Favorable</b>
3. _____	_____	RC	_____

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**I. Summary:**

SB 474 amends s. 985.556, F.S., to increase the minimum age, from 14 to 15 that a child may qualify for involuntary discretionary waiver and involuntary mandatory waiver. Section 985.556, F.S., provides the waiver processes by which the state attorney may request the court to transfer a child to adult court.

The bill amends s. 985.557, F.S., to increase the age a child may qualify for discretionary direct file. Section 985.557, F.S., provides that a state attorney, within their sole discretion, may direct file certain children, thereby transferring a child to adult court.

Currently, s. 985.557(1)(a), F.S., provides that a state attorney may direct file any child who is 14 or 15 years of age at the time of the offense and has been charged with certain enumerated offenses. This bill amends the ages of a child that a state attorney may direct file to 15 or 16.

Additionally, s. 985.557(1)(b), F.S., currently provides that a state attorney may direct file any child who is 16 or 17 years of age at the time of the offense, and the offense was a felony, or the child has at least two previous adjudications or adjudications withheld for delinquent acts, one of which must have been a felony. The bill amends the age of a child that a state attorney may direct file to 17.

This bill will likely have an indeterminate fiscal impact on the Department of Juvenile Justice (DJJ) and the Department of Corrections. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

## **II. Present Situation:**

### **Delinquency - In General**

The state constitution allows creation of a separate juvenile justice system:

When authorized by law, a child as therein defined may be charged with a violation of law as an act of delinquency instead of crime and tried without a jury or other requirements applicable to criminal cases. Any child so charged shall, upon demand made as provided by law before a trial in a juvenile proceeding, be tried in an appropriate court as an adult. A child found delinquent shall be disciplined as provided by law.<sup>1</sup>

A child for purposes of juvenile court is defined as any individual whose offense occurred before the offender's 18th birthday.<sup>2</sup> Juvenile justice policy and procedure is governed by ch. 985, F.S. Legislative findings governing that chapter say, in relevant part, that:

The purposes of this chapter are . . . to assure that the sentencing and placement of a child tried as an adult be appropriate and in keeping with the seriousness of the offense and the child's need for rehabilitative services, and that the proceedings and procedures applicable to such sentencing and placement be applied within the full framework of constitutional standards of fundamental fairness and due process.<sup>3</sup>

The Legislature also finds that certain juveniles have committed a sufficient number of criminal acts, including acts involving violence to persons, to represent sufficient danger to the community to warrant sentencing and placement within the adult system. It is the intent of the Legislature to establish clear criteria in order to identify these juveniles and remove them from the juvenile justice system.<sup>4</sup>

### ***Detention of Children in Florida***

A child is entitled to a hearing within 24 hours of being taken into custody or placed in detention care. At the hearing, the court may order continued detention care under certain circumstances.<sup>5</sup> "Detention care" means "the temporary care of a child in secure, or supervised release detention, pending a court adjudication or disposition or execution of a court order."<sup>6</sup> There are two types of detention care, including:

- "Secure detention" which is the temporary custody of a child while he or she is under the physical restriction of a secure detention center or facility pending adjudication, disposition, or placement.
- "Supervised release detention" which is the temporary, nonsecure custody of a child while the child is released to the custody of a parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of department staff pending adjudication or

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<sup>1</sup> FLA. CONST. art. I, s. 15(b).

<sup>2</sup> Section 985.03(7), F.S.

<sup>3</sup> Section 985.01(1)(f)2., F.S.

<sup>4</sup> Section 985.02(4)(b), F.S.

<sup>5</sup> Section 985.255(1), F.S.

<sup>6</sup> Section 985.03(18), F.S.

disposition, through programs that include, but are not limited to, electronic monitoring, day reporting centers, and nonsecure shelters, in addition to other court-imposed requirements.<sup>7</sup>

Generally, a child may not be held in detention care for more than 21 days, unless an adjudicatory hearing for the case has been commenced in good faith by the court. The court may extend the length of detention for an additional 9 days if the child is charged with certain offenses, and there is good cause shown that the nature of the charge requires additional time for the prosecution or defense of the case.<sup>8</sup> Additionally, a prolific juvenile<sup>9</sup> offender must be placed on supervised release detention care with electronic monitoring or in secure detention care under a special detention order.<sup>10</sup>

### ***Cost Sharing of Detention Care***

Cost sharing is governed by s. 985.6865, F.S., which provides, notwithstanding s. 985.686, F.S., each fiscal year, every county that is not fiscally constrained<sup>11</sup> and that has dismissed any action or claim described in s. 985.6865(2), F.S.,<sup>12</sup> must pay 50 percent of the total shared detention cost.<sup>13</sup>

The DJJ calculates a county's annual percentage share by dividing the total number of detention days for children residing in the non-fiscally constrained county for the most recently completed 12-month period by the total number of detention days for children in all non-fiscally constrained counties. The county must pay 50 percent of the annual percentage share in 12 equal payments, due on the first day of each month.<sup>14</sup>

Counties that are required to pay their share of detention costs must incorporate sufficient funds to pay its share of detention costs into its annual budget.<sup>15</sup> Funds paid by the counties to the DJJ under this section must be deposited into the Shared County/State Juvenile Detention Trust Fund.<sup>16</sup> The DJJ will determine quarterly whether counties are complying with this section.<sup>17</sup>

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<sup>7</sup> *Id.*

<sup>8</sup> Section 985.26, F.S.

<sup>9</sup> Section 985.255, F.S., provides that a "prolific juvenile offender" means a child that is charged with a delinquent act that would be a felony if committed by an adult, has a prior adjudication or adjudication withheld for a delinquent act that would be a felony if committed by an adult, and has 5 or more arrests, adjudications, or adjudications withheld, 3 of which must have been felony offenses.

<sup>10</sup> Section 985.26, F.S.

<sup>11</sup> Section 985.6865(3)(b), F.S., defines "fiscally constrained county" as a county within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656, F.S., or each county for which the value of a mill will raise no more than \$5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S., from the previous July 1.

<sup>12</sup> Various counties and the DJJ have engaged in a multitude of legal proceedings, including administrative or judicial claims, regarding detention cost sharing for juveniles. Such litigation has largely focused on how the DJJ calculates the detention costs that the counties are responsible for paying, leading to the overbilling of counties for a period of years. Section 985.6865(1) and (2), F.S.

<sup>13</sup> Section 985.6865(4), F.S.

<sup>14</sup> *Id.*

<sup>15</sup> Section 985.6865(6), F.S.

<sup>16</sup> Section 985.6865(7), F.S.

<sup>17</sup> Section 985.6865(8), F.S.

The State must pay all costs of detention care for children:

- Residing in a fiscally constrained county.
- Residing out of State.
- Housed in state detention centers from counties that provide their own detention care for children.<sup>18</sup>

### **Transfer of a Child to Adult Court**

There are three methods of transferring a child to adult court for prosecution: judicial waiver, indictment,<sup>19</sup> or direct filing an information.<sup>20</sup>

Judicial waiver and indictment are both uncommon. During FY 2019-20, there were 4 voluntary waivers, 5 involuntary waivers, 4 indictments, and 788 direct files.<sup>21</sup>

The term “mandatory direct file” refers to laws that require the state attorney to file an information<sup>22</sup> in adult criminal court, thereby bypassing juvenile court. In 2019, Florida repealed laws on mandatory direct file.<sup>23</sup>

### ***Judicial Waiver***

The term “judicial waiver” refers to the process by which a child or a state attorney requests the juvenile court to transfer a child to adult court. Judicial waiver applies to certain offenders who were between 14 and 17 years of age at the time of the offense. There are three types of judicial waiver: voluntary,<sup>24</sup> involuntary *discretionary* waiver, and involuntary *mandatory* waiver.<sup>25</sup>

### **Involuntary Discretionary Waiver**

Section 985.556(2), F.S., provides that the state attorney may file a motion requesting the court to transfer the child to adult court if the child was 14 years of age or older at the time of the offense.<sup>26</sup> Involuntary discretionary waiver may be filed for any offense.

### **Involuntary Mandatory Waiver**

Section 985.556(3), F.S., provides that the state attorney must request the court transfer a child to adult court, or provide written reasons to the court for not making such request, or proceed under discretionary direct file, if the child was 14 years of age or older:

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<sup>18</sup> Section 985.6865(5), F.S.

<sup>19</sup> A grand jury can indict a child of any age who is charged with an offense punishable by death or life imprisonment. Upon indictment, the child’s case must be transferred to adult court for prosecution. *See* s. 985.56, F.S.

<sup>20</sup> Section 985.557, F.S.

<sup>21</sup> Department of Juvenile Justice, *2021 Legislative Bill Analysis for SB 474*, (February 11, 2021) (on file with the Senate Committee on Criminal Justice).

<sup>22</sup> In criminal law, the term “information” refers to the initial charging document that opens a criminal court file. It is analogous to the civil complaint that opens a civil action.

<sup>23</sup> Chapter 2019-167, s. 76, Laws of Fla.

<sup>24</sup> Voluntary waiver requires the court to transfer a child’s criminal case to adult court if the child, with a parent or a guardian, demands to be tried as an adult. Section 985.556(1), F.S.

<sup>25</sup> Section 985.556, F.S.

<sup>26</sup> Section 985.556(2), F.S.



- And has been previously adjudicated delinquent for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong armed robbery, carjacking, home invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery, and the child is currently charged with a second or subsequent violent crime against a person;<sup>27</sup> or
- At the time of commission of a fourth or subsequent alleged felony offense, and the child was previously adjudicated delinquent or had adjudication withheld for the commission of, attempted commission of, or conspiracy to commit three felony offenses, and at least one of such offenses involved the use or possession of a firearm or violence against a person.<sup>28</sup>

The court must either transfer a child to adult court upon the state attorney's request, or provide written reasons for not transferring the child.<sup>29</sup>

### Waiver Hearing

The state attorney may file a motion requesting the court to transfer the child to adult court within 7 days (excluding Saturdays, Sundays, and legal holidays) after the date of filing the petition. The state attorney may file such motion at a later time with court approval, but this must occur before an adjudicatory hearing and after considering the recommendation of the juvenile probation officer.<sup>30</sup>

The court must conduct a hearing on all transfer request motions to determine whether a child should be transferred. The court should consider the following in making its determination:

- The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions.
- Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.
- Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.
- The probable cause as found in the report, affidavit, or complaint.
- The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults.
- The sophistication and maturity of the child.
- The record and previous history of the child.<sup>31</sup>

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<sup>27</sup> Section 985.556(3)(a), F.S.

<sup>28</sup> Section 985.556(3)(b), F.S.

<sup>29</sup> Section 985.556(3), F.S.

<sup>30</sup> Section 985.556(4)(a), F.S.

<sup>31</sup> Section 985.556(4)(a)-(d), F.S., provides that the record and previous history of the child includes: previous contacts with the DJJ, the Department of Corrections, the former Department of Health and Rehabilitative Services, the Department of Children and Families, other law enforcement agencies, and courts; prior periods of probation; prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child has previously been found by a court to have committed a delinquent act or violation of law involving an offense classified as a felony or has twice previously been found to have committed a delinquent act or violation of law involving an offense classified as a misdemeanor; and prior commitments to institutions.

- The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if the child is found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.<sup>32</sup>

A study and written report from the DJJ must be completed prior to the hearing. The child, the child's parents or legal guardians, defense counsel and the state attorney have the right to examine the report and question the parties responsible for them at the hearing.<sup>33</sup> The court must render a written order including specific findings of fact and the reason for a decision to transfer to adult court. Once a child is transferred to adult court pursuant to an involuntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child must thereafter be handled in every respect as an adult for any subsequent violation of law, unless the court imposes juvenile sanctions.<sup>34</sup>

### ***Direct File***

Direct file describes the process whereby a state attorney files an information charging a child in adult court. Pursuant to s. 985.557, F.S., the decision to direct file is left to the discretion of the state attorney and does not require the court's approval. Direct file is the predominant transfer method to adult court, accounting for 98.4 percent (788 children) of the transfers in FY 2019-20.<sup>35</sup> In that fiscal year, there were 45,336 arrests,<sup>36</sup> thus, direct file occurred in approximately 1.7 percent of all juvenile arrests.<sup>37</sup>

### **Discretionary Direct File**

Section 985.557(1), F.S., provides the state attorney has discretion to file a case in adult court for specified crimes when he or she believes that the public interest requires adult sanctions be considered or imposed. Specifically, the state attorney may direct file a child when he or she is:

- 14 or 15 years of age at the time of the alleged offense and is charged with the commission of, attempt to commit, or conspiracy to commit, one of the following felony offenses:
  - Arson;
  - Sexual battery;
  - Robbery;
  - Kidnapping;
  - Aggravated child abuse;
  - Aggravated assault;
  - Aggravated stalking;
  - Murder;
  - Manslaughter;
  - Unlawful throwing, placing, or discharging of a destructive device or bomb;

<sup>32</sup> Section 985.556(4)(c), F.S.

<sup>33</sup> Section 985.556(4)(d), F.S.

<sup>34</sup> Section 985.556(5)(b), F.S.

<sup>35</sup> Department of Juvenile Justice, *2021 Legislative Bill Analysis for SB 474*, (February 11, 2021), p. 2., (on file with the Senate Committee on Criminal Justice).

<sup>36</sup> Department of Juvenile Justice, *Delinquency Profile 2020*, available at <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/delinquency-profile/delinquency-profile-dashboard> (last visited February 17, 2021).

<sup>37</sup> "Approximately" because there is a natural delay between arrest and the decision to direct file. Some of the FY 2019-20 direct file cases were arrested in the previous year, and some arrested in that FY were later subject to direct file. Comparisons were not made to prior years because mandatory direct file was in law.

- Armed burglary in violation of s. 810.02(2)(b), F.S.;
- Burglary of a dwelling or structure in violation of s. 810.02(2)(c), F.S.;
- Burglary with an assault or battery in violation of s. 810.02(2)(a), F.S.;
- Aggravated battery;
- Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;
- Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony;
- Grand theft in violation of s. 812.014(2)(a), F.S.;
- Possessing or discharging any weapon or firearm on school property in violation of s. 790.115, F.S.;
- Home invasion robbery;
- Carjacking;
- Grand theft of a motor vehicle in violation of s. 812.014(2)(c)6., F.S.; or
- Grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b), F.S., if the child has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or (2)(b), F.S.<sup>38</sup>
- 16 or 17 years of age and is charged with any felony offense;<sup>39</sup> or
- 16 or 17 years of age and is charged with a misdemeanor, provided the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which was a felony.<sup>40</sup>

A child who has been transferred to adult court pursuant to an information and is found to have committed a violation of state law or a lesser included offense must be treated as an adult in every respect for any subsequent offense, unless the court imposed juvenile sanctions under s. 985.565, F.S.<sup>41</sup>

### **Juvenile Sanctions and Procedures vs. Adult Criminal Court**

There are significant differences between juvenile court and the adult criminal court:

- An adjudication of delinquency is not a conviction. A delinquent is not a criminal. Adjudication by the juvenile court does impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction, or disqualify or prejudice the child in any civil service application or appointment, with limited exceptions.<sup>42</sup>
- Where most criminal court records are mostly open to public inspection and copying, most juvenile court records are exempt from public disclosure.<sup>43</sup> However, certain criminal history

<sup>38</sup> Section 985.557(1)(a), F.S.

<sup>39</sup> Section 985.557(1)(b), F.S.

<sup>40</sup> *Id.*

<sup>41</sup> Section 985.557(2)(a), F.S.

<sup>42</sup> Section 985.35(6), F.S. Limited exceptions include: A finding of delinquency qualifies as a “conviction” for purposes of issuance, suspension or revocation of a driver license. A finding of delinquency is a conviction for purposes of examining that child’s past record in future delinquency cases. A delinquent found to have committed a felony is disqualified from lawfully possessing a firearm until age 24 unless the record is expunged. Section 985.35(7), F.S.

<sup>43</sup> Section 985.045(2), F.S.

information relating to children who have been charged with a felony offense is not confidential and exempt.<sup>44</sup>

- There is no bail in the juvenile system. Accused offenders are released unless detention is warranted.<sup>45</sup>
- Juvenile cases are tried before a circuit judge. There is no right to a jury trial.
- Adult criminal court may sentence an offender to jail or prison for a term up to that allowed by statute. Juvenile court, where allowed, may commit the child to a residential program.<sup>46</sup> The residential program risk levels include, minimum-risk residential, nonsecure residential, high-risk residential, and maximum-risk residential programs.<sup>47</sup>
- Adult criminal sentences may extend for decades, or even for life. Juvenile sanctions and treatment programs end no later than the offender reaching age 21.<sup>48</sup>

### Trends in Florida

Juvenile crime, and the number of juveniles tried in the criminal court, have been trending down in the recent past.

Florida Delinquency Statistics from State Courts		
	FY 2008-09 <sup>49</sup>	FY 2018-19 <sup>50</sup>
Delinquency Complaints	111,425	45,263
Complaints Disposed of Prior to Petition	53,873	16,494
Petitions Filed	64,585	30,076
Judicial Waiver Requests Filed	102	146
Direct File	2,857	1,095 <sup>51</sup>
Florida Population	18,687,425 <sup>52</sup>	21,100,003 <sup>53</sup>

Note that these numbers were from times when mandatory direct file was in effect. Mandatory direct file was repealed in 2019.

<sup>44</sup> Section 985.04(2), F.S.

<sup>45</sup> Sections 985.115, 985.255, and 985.26, F.S.

<sup>46</sup> Section 985.441, F.S.

<sup>47</sup> Section 985.03(44), F.S.

<sup>48</sup> Sections 985.0301(5)(b) and (5)(c), F.S. Restitution is not a sanction, and the delinquency court retains jurisdiction until paid. Section 985.0301(5)(d), F.S.

<sup>49</sup> Florida's Trial Court Statistical Reference Guide for FY 2008-2009 (entire column other than population), available at <https://www.flcourts.org/content/download/218441/file/ReferenceGuide08-09-Circuit-Family-Court-Statistics.pdf> (last visited February 24, 2021).

<sup>50</sup> Florida's Trial Court Statistical Reference Guide for FY 2018-2019 (entire column other than population), available at [https://www.flcourts.org/content/download/630231/file/20200304\\_18\\_19\\_Circuit\\_Family.pdf](https://www.flcourts.org/content/download/630231/file/20200304_18_19_Circuit_Family.pdf) (last visited February 24, 2021).

<sup>51</sup> Note that for the same time frame the DJJ reports 1,127 direct files. It is unclear why there is a disparity.

<sup>52</sup> Office of Economic and Demographic Research, Florida Legislature, available at <http://edr.state.fl.us/content/population-demographics/data/Intercensal.pdf> (last visited February 24, 2021).

<sup>53</sup> Office of the State Courts Administrator, *FY 2018-2019 Statistical Reference Guide*, p. 1-4, (on file with the Senate Committee on Criminal Justice).

<b>Florida Delinquency Statistics from Department of Juvenile Justice<sup>54</sup></b>		
	<b>FY 2015-16</b>	<b>FY 2019-20</b>
Delinquency Arrests	69,864	45,366
Transfer to Criminal Court (all methods)	1,663	1,011
Florida Population of Minors	1,840,134	1,947,292

<b>Transfers to Criminal Court by Age, from Department of Juvenile Justice<sup>55</sup></b>		
<b>Age</b>	<b>FY 2015-16</b>	<b>FY 2019-20</b>
17+	825	524
15-16	423	254
13-14	21	23

### **Florida Compared to Other States**

Florida is one of 46 states that files adult charges beginning at age 18. Vermont, beginning in 2022, will generally not charge individuals as adults until they reach the age of 19. Georgia, Texas, and Wisconsin will begin charging children as adults at age 17.<sup>56</sup>

It is claimed that Florida has the highest rate of transfers of juveniles to adult criminal court,<sup>57</sup> but a leading researcher has cautioned that “[c]ross-state comparisons should be made with caution as state-reported trends represent different data sources and units of count.”<sup>58</sup> The three states that treat all 17 year olds as adults for criminal purposes are likely to have significantly more minors treated as adults in the criminal justice system than Florida.

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

The bill amends s. 985.556, F.S., to increase the minimum age, from 14 to 15 that a child may qualify for involuntary discretionary waiver and involuntary mandatory waiver. Section 985.556, F.S. provides the waiver processes by which the state attorney may request the court to transfer a child to adult court.

The bill amends s. 985.557, F.S., to increase the age a child may qualify for discretionary direct file. Section 985.557, F.S., provides that a state attorney, within their sole discretion, may direct file certain children, thereby transferring a child to adult court.

Currently, s. 985.557(1)(a), F.S. provides that a state attorney may direct file any child who is 14 or 15 years of age at the time of the offense and has been charged with certain enumerated offenses. This bill amends the ages of a child that a state attorney may direct file to 15 or 16.

<sup>54</sup> Department of Juvenile Justice, *Delinquency Profile 2020*, available at <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/delinquency-profile/delinquency-profile-dashboard> (last visited February 17, 2021).

<sup>55</sup> Department of Juvenile Justice, *Delinquency Profile 2020*, <http://www.djj.state.fl.us/research/reports/reports-and-data/interactive-data-reports/delinquency-profile/delinquency-profile-dashboard> (last visited February 17, 2021).

<sup>56</sup> Nat’l Center for Juvenile Justice, *Jurisdictional Boundaries*, [www.jjgps.org/jurisdictional-boundaries#delinquency-age-boundaries](http://www.jjgps.org/jurisdictional-boundaries#delinquency-age-boundaries) (last visited February 17, 2021).

<sup>57</sup> *Issue Commentary - Children Tried as Adults in Florida*, the James Madison Institute (February 2015).

<sup>58</sup> *Jurisdictional Boundaries*, *supra*.

Additionally, s. 985.557(1)(b), F.S., currently provides that a state attorney may direct file any child who is 16 or 17 years of age at the time of the offense, and the offense was a felony, or the child has at least two previous adjudications or adjudications withheld for delinquent acts, one of which must have been a felony. The bill amends the age of a child that a state attorney may direct file to 17.

The bill is effective July 1, 2021.

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

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

The bill relates to the transferring of children for criminal prosecution as an adult to adult court. These provisions relate to the defense, prosecution, or punishment of criminal offenses, and criminal laws are exempt from the requirements of Art. VII, s. 18(d) of the Florida Constitution, relating to unfunded mandates.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None identified.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

##### **C. Government Sector Impact:**

The DJJ indicates this bill will have an indeterminate fiscal impact. Using the numbers from FY 2019-20, there were 105 children who would not have been eligible for adult transfer via direct file under the bill's language. Children who are not transferred will

impose a financial cost to the DJJ. The DJJ indicates these costs include, but are not limited to, detention cost, evaluations, and treatment cost.<sup>59</sup>

The DJJ estimates a variable detention cost of \$95,335 annually for pre-adjudicatory detention cost. While post-adjudicatory detention cost is indeterminate, the DJJ estimates that the cost per child who waits 30 days before being transferred to his or her treatment program could cost on average \$1,816.60

It is likely that all of the estimated 105 children annually affected by this bill would be referred by the juvenile court to some form of treatment program. The department has insufficient data to be able to estimate what levels of treatment those 105 would be assigned. The current estimated cost per child of treatment programs is:

Maximum Risk Residential	\$159,315
High Risk Residential	\$ 85,709
Nonsecure Residential	\$ 51,067
Day Treatment Probation	\$ 17,751 <sup>61</sup>

Additionally, each juvenile referred to residential treatment requires an evaluation at a cost of \$541.

These estimates do not include costs of post-commitment probation or transition services.

Counties are liable to the state for the cost of pre-adjudication detention of juveniles, unless the county is fiscally-constrained. The bill increases the number of juveniles who will be in juvenile detention and thus will increase annual costs to non-fiscally constrained counties by an indeterminate amount estimated at \$47,668 annually statewide.<sup>62</sup> This cost will likely be offset by reduced county jail expenditures.

The Criminal Justice Estimating Conference has not reviewed this bill. However, the Department of Corrections will likely see a negative indeterminate prison bed impact as there will likely be fewer prison admissions because fewer children will be transferred to adult court.

## **VI. Technical Deficiencies:**

None.

## **VII. Related Issues:**

None.

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<sup>59</sup> Department of Juvenile Justice, *2021 Legislative Bill Analysis for SB 474*, (February 11, 2021), p. 4., (on file with the Senate Committee on Criminal Justice).

<sup>60</sup> *Id.*

<sup>61</sup> *Id.* at 5.

<sup>62</sup> *Id.* at 4.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 985.556 and 985.557.

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

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

None.

**B. Amendments:**

None.

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

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By Senator Bracy

11-00274-21

2021474\_\_

A bill to be entitled

An act relating to prosecuting children as adults; amending s. 985.556, F.S.; increasing the age of a child at which a state attorney may, or is required to, request a court to transfer the child to adult court for criminal prosecution; amending s. 985.557, F.S.; increasing the age of a child at which a state attorney may file an information against the child for criminal prosecution as an adult; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 985.556, Florida Statutes, are amended to read:

985.556 Waiver of juvenile court jurisdiction; hearing.—

(2) INVOLUNTARY DISCRETIONARY WAIVER.—Except as provided in subsection (3), the state attorney may file a motion requesting the court to transfer the child for criminal prosecution if the child was 15 ~~14~~ years of age or older at the time the alleged delinquent act or violation of law was committed.

(3) INVOLUNTARY MANDATORY WAIVER.—

(a) If the child was 15 ~~14~~ years of age or older, and if the child has been previously adjudicated delinquent for an act classified as a felony, which adjudication was for the commission of, attempt to commit, or conspiracy to commit murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, aggravated assault, or burglary with an assault or battery, and

Page 1 of 4

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11-00274-21

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the child is currently charged with a second or subsequent violent crime against a person; or

(b) If the child was 15 ~~14~~ years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person;

the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request, or proceed under s. 985.557(1). Upon the state attorney's request, the court shall either enter an order transferring the case and certifying the case for trial as if the child were an adult or provide written reasons for not issuing such an order.

Section 2. Subsection (1) of section 985.557, Florida Statutes, is amended to read:

985.557 Direct filing of an information; discretionary criteria.—

(1) DISCRETIONARY DIRECT FILE.—

(a) With respect to any child who was ~~14~~ ~~or~~ 15 or 16 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed and when the offense charged is for the commission of, attempt to commit, or conspiracy to

Page 2 of 4

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11-00274-21

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commit:

1. Arson;
2. Sexual battery;
3. Robbery;
4. Kidnapping;
5. Aggravated child abuse;
6. Aggravated assault;
7. Aggravated stalking;
8. Murder;
9. Manslaughter;
10. Unlawful throwing, placing, or discharging of a destructive device or bomb;
11. Armed burglary in violation of s. 810.02(2)(b) or specified burglary of a dwelling or structure in violation of s. 810.02(2)(c), or burglary with an assault or battery in violation of s. 810.02(2)(a);
12. Aggravated battery;
13. Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age;
14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony;
15. Grand theft in violation of s. 812.014(2)(a);
16. Possessing or discharging any weapon or firearm on school property in violation of s. 790.115;
17. Home invasion robbery;
18. Carjacking; or
19. Grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or grand theft of a motor vehicle valued at \$20,000 or more in violation of s. 812.014(2)(b) if the child

Page 3 of 4

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has a previous adjudication for grand theft of a motor vehicle in violation of s. 812.014(2)(c)6. or s. 812.014(2)(b).

(b) With respect to any child who was ~~16~~ or 17 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed. However, the state attorney may not file an information on a child charged with a misdemeanor, unless the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which involved an offense classified as a felony under state law.

Section 3. This act shall take effect July 1, 2021.

Page 4 of 4

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



## 2021 AGENCY LEGISLATIVE BILL ANALYSIS

**AGENCY: Department of Juvenile Justice**

### BILL INFORMATION

<b>BILL NUMBER:</b>	SB 474
<b>BILL TITLE:</b>	Prosecuting Children As Adults
<b>BILL SPONSOR:</b>	Bracy
<b>EFFECTIVE DATE:</b>	7/1/2021

### COMMITTEES OF REFERENCE

1) Judiciary
2) Criminal Justice
3) Rules
4) Click or tap here to enter text.
5) Click or tap here to enter text.

### CURRENT COMMITTEE

Judiciary
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### SIMILAR BILLS

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

### PREVIOUS LEGISLATION

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.
<b>YEAR:</b>	Click or tap here to enter text.
<b>LAST ACTION:</b>	Click or tap here to enter text.

### IDENTICAL BILLS

<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

### Is this bill part of an agency package?

Click or tap here to enter text.

### BILL ANALYSIS INFORMATION

<b>DATE OF ANALYSIS:</b>	2/11/2021
<b>LEAD AGENCY ANALYST:</b>	Sam Kerce, Deputy Legislative Affairs Director, 850-717-2717
<b>ADDITIONAL ANALYST(S):</b>	Click or tap here to enter text.
<b>LEGAL ANALYST:</b>	John Mila, Asst. General Counsel
<b>FISCAL ANALYST:</b>	Monti Brown, Interim Budget Chief

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

The bill makes changes to the adult transfer process by increasing the age at which youth are able to be transferred to adult court through the waiver process and the direct file process.

Effective date of July 1, 2021.

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. PRESENT SITUATION:

##### Methods of Adult Transfer (FY 2019-20):

1. **Voluntary: 0.5% of youth (4 youth)**
2. **Involuntary waiver: 0.6% (5 youth)**
3. **Direct file: 98.4% (788 youth)**
4. **Indictment: 0.5% (4 youth)**

“Direct file” is by far the most common means of transfer, accounting for more 98% of transfers over the past 5 years. The various methods of transfer are distinct, and recognizing their differences is critical.

**VOLUNTARY:** A child of any age charged with any offense can voluntarily transfer his or her case to adult court; it is rare.

**INVOLUNTARY DISCRETIONARY WAIVER:** Any child 14 years of age or older at the time of any offense may be subject to involuntary waiver where the state attorney files information with the court requesting transfer and the judge must review and either approve or deny the transfer.

**DISCRETIONARY DIRECT FILE:** Discretionary direct file is extremely broad, and comes in two forms, depending upon the youth’s age at the time of the offense. For 14- or 15-year-olds, a wide range of violent or serious felony offenses are subject to direct file, including arson, sexual battery, robbery, aggravated assault / battery, most forms of first-degree burglary, lewd or lascivious offenses, first-degree grand theft, home invasion, carjacking, carrying a weapon or firearm during the commission of a felony, and a second grand theft of a motor vehicle. A 16- or 17-year-old may be direct filed for any felony offense, or a misdemeanor if the youth has at least two previous adjudications or withholds, at least one of which involved a felony. Under Discretionary Direct File a state attorney only needs to file information to transfer the youth to adult court. A judge or court is not involved in this decision.

**INDICTMENT:** The narrowest form of transfer, it applies to children of any age who are accused of committing an offense for which an adult could receive death or life imprisonment. The decision to seek indictment rests entirely with the state attorney.

#### 2. EFFECT OF THE BILL:

Section 1:

Amends section 985.556, F.S., by raising the minimum age in which a youth can be transferred to adult court under “Involuntary Discretionary Waiver and Involuntary Mandatory Waiver” from 14 years of age to 15 years of age.

Section 2:

Amends section 985.557, F.S. by raising the age in which a youth can be transferred to adult court under “Discretionary Direct File”. The bill removes 14-year old youth from this process and adds 16-year-old youth. Currently, 16-year-olds are able to be direct filed for any felony in accordance with s. 985.557(1)(b), F.S. However, the bill also amends s. 985.557(1)(b), F.S., to remove that provision and restrict direct files under s. 985.557(1)(B), F.S., to 17-year-olds.

In FY 2019-2020, there were 20 youth who were 14 years of age who were direct filed and 249 who were 16 years of age. The bill would remove the ability for the 14-year-olds to be direct filed. Of the 249 youth who were 16 years of age at the time of their direct filing, only 164 of them would be eligible for direct file with this new change. This would remove 20 youth who were 14 years of age and 85 youth who were 16 years of age from being eligible for direct file.

Section 3:

Provides for an effective date of July 1, 2021.

**3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?** Y ☐ N ☒

If yes, explain:	Click or tap here to enter text.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	Click or tap here to enter text.

**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown.
Opponents and summary of position:	Unknown.

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?**

Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?** Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

**FISCAL ANALYSIS**

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**Y ☒ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	<b>Indeterminant.</b> The Department estimates the impact to the non-fiscally constrained counties will be <b>\$47,668</b> . In accordance with Detention Cost Share, all non-fiscally constrained counties and those that do not provide for their own detention care for juveniles will pay for half of their respective detention cost pre-adjudicatory detention cost. See state fiscal impact for more further information.
Does the legislation increase local taxes or fees? If yes, explain.	No.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?**Y ☒ N ☐

Revenues:	Click or tap here to enter text.
Expenditures:	<p><b>Indeterminate.</b></p> <p>Using adult transfer numbers from FY 2019-20, the Department can determine that 105 youth would not have been eligible for adult transfer via direct file under the new language.</p> <p>Youth who are not transferred to adult court will impose a financial cost to DJJ. These costs include, but are not limited to detention cost, evaluations, and treatment cost.</p> <p><b>Pre-Adjudicatory Detention Cost:</b>  Of the 105 youth, it is assumed that the seriousness of their crime along with prior offenses would score them for secure detention. The average number of days a youth is held in secure detention prior to their trial is 15 days.  15 days X 105 youth = 1,575 service days  1,575 service days X \$60.53 Variable Detention Cost = <b><u>\$95,335.</u></b></p> <p><b>**This cost would be split between the state and non-fiscally constrained counties that do not provide their own detention for juveniles.</b>  <b>**Detention cost are paid on a reimbursement basis with the counties. This means that DJJ would need the full cost for year one until reimbursed.</b>  <b>**Variable detention cost includes food, laundry, and medical.</b></p> <p><b>Post-Adjudicatory Detention Cost:</b>  After a youth is referred to a residential treatment program by a court, the youth is held in detention until their treatment facility is ready to accept them. Depending on multiple factors, a youth may wait numerous weeks prior to being placed in their bed. Using a similar cost structure as above, a single youth who waits 30 days for their treatment program could cost on average \$1,816.</p>

	<p><b>Treatment Cost:</b> The 105-youth kept in the juvenile court will likely be referred to juvenile treatment programs. Due to the seriousness of their offense, the Department can estimate that these youth would likely be placed in more intensive treatment programs. The Department does not wish to provide estimates on judicial behavior as to exactly what programs these youth would be referred to. Instead, we have provided information below on the cost for treating one youth in the various programs offered by DJJ.</p> <p><u>Max Risk Residential</u> \$247 a day X Average length of stay 645 days = \$159,315 per youth</p> <p><u>High Risk Residential</u> \$247 a day X Average length of stay 347 days = \$85,709 per youth</p> <p><u>Nonsecure Residential</u> \$223 a day X Average length of stay 229 days = \$51,067 per youth</p> <p><u>Day Treatment Probation</u> \$97 a day X Average Length of Stay 183 days = \$17,751 per youth</p> <p>These above estimates do not take into account the cost of post commitment probation or transition services.</p> <p>For example, if even 100 youth were served with juvenile sanctions and placed in high risk residential, the cost could exceed \$8,570,900.</p> <p><b>Evaluation Cost:</b> Youth who are referred to residential treatment must have a comprehensive evaluation completed. The standard comprehensive evaluation along with the average ad-on evaluation cost \$541. Evaluations for 100 youth could exceed \$54,100.</p>
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	Click or tap here to enter text.

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?**

Y ☒ N ☐

Revenues:	Residential treatment is contracted with private providers with oversight provided by the Department.
Expenditures:	Click or tap here to enter text.
Other:	Click or tap here to enter text.

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?**

Y ☐ N ☒

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

**TECHNOLOGY IMPACT**

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.	Click or tap here to enter text.
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**FEDERAL IMPACT**

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
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**ADDITIONAL COMMENTS****LEGAL - GENERAL COUNSEL'S OFFICE REVIEW**

Issues/concerns/comments:	Clarification will be needed to know whether the law applies only to youth who commit an offense after the effective date of the law, or also to youth who commit the offense before the effective date but a decision to direct file had not been made at the time of the effective date.
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## Introduction

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### ***REPORT OVERVIEW***

Florida's court system is organized into four different tiers, with a two-tier appellate court system and a two-tier trial court system. The appellate court system includes the Supreme Court of Florida and the five District Courts of Appeal. Additionally, the trial court system comprises both circuit and county courts. The Statistical Reference Guide provides statistics pertaining to Florida's trial courts for fiscal year 2018-19 (July 1, 2018 through June 30, 2019). These statistics were verified by the Office of the State Courts Administrator as of December 2019.

The Office of the State Courts Administrator (OSCA) publishes the *Statistical Reference Guide* annually as a resource for the judicial branch and others who often request information on Florida's trial courts. The majority of the requests deal with filings and dispositions data and are received from those outside of the OSCA including: state and local government agencies, circuit court administration, private sector businesses, citizens, clerks of court, and the media. In addition, all data can be accessed on the web at [www.flcourts.org](http://www.flcourts.org).

The information and statistics contained in this report are organized as follows:

Introduction - The first section of the report provides a map of the state of Florida identifying the location of each of Florida's 20 judicial circuits and 67 counties along with a table providing the population for each circuit and county. Additionally, this section provides an explanation for how the data are collected, maintained, and verified for accuracy.

Overall Statistics - The Overall Statistics section provides a breakdown of the number and assignment of circuit and county judgeships for each judicial circuit. Also provided are statewide statistics for total circuit and county court filings and dispositions.

By-Division Statistics - The By-Division section of the report displays filings, dispositions, clearance rates, reopenings, and other statistics by each division of court (Circuit Criminal, Circuit Civil, Circuit Family Court, Circuit Probate, County Criminal, and County Civil). Statewide, circuit, and county level data are furnished by various categories and case types that comprise each division.

Acknowledgements - This section of the report acknowledges those associated with the preparation, compilation, analysis, and submission of trial court data.

Glossary - The glossary provides definitions for common terms used across every division of the trial courts and terms specific to each division.

## Introduction

### FLORIDA POPULATION\* by Circuit/County as of January 2018 and January 2019

Circuit/County (Circuit Ranking**)	Total Population (as of January 2018)	Total Population (as of January 2019)	Percentage Change from 2018 to 2019
<b>Circuit 1 (14)</b>	<b>753,802</b>	<b>768,929</b>	<b>2.0%</b>
Escambia	315,819	321,601	1.8%
Okaloosa	197,394	200,032	1.3%
Santa Rosa	173,663	177,963	2.5%
Walton	66,926	69,333	3.6%
<b>Circuit 2 (16)</b>	<b>404,979</b>	<b>411,251</b>	<b>1.5%</b>
Franklin	12,303	11,976	-2.7%
Gadsden	48,167	47,822	-0.7%
Jefferson	8,743	9,080	3.9%
Leon	14,690	14,808	0.8%
Liberty	288,912	295,389	2.2%
Wakulla	32,164	32,176	0.0%
<b>Circuit 3 (19)</b>	<b>195,795</b>	<b>197,240</b>	<b>0.7%</b>
Columbia	16,727	16,469	-1.5%
Dixie	14,690	14,699	0.1%
Hamilton	69,305	70,306	1.4%
Lafayette	8,400	8,570	2.0%
Madison	19,425	19,521	0.5%
Suwannee	44,989	45,200	0.5%
Taylor	22,259	22,475	1.0%
<b>Circuit 4 (8)</b>	<b>1,241,051</b>	<b>1,264,060</b>	<b>1.9%</b>
Clay	211,501	215,045	1.7%
Duval	947,350	964,775	1.8%
Nassau	82,200	84,240	2.5%

**FLORIDA POPULATION\***  
**by Circuit/County**  
as of January 2018 and January 2019

<b>Circuit/County (Circuit Ranking**)</b>	<b>Total Population (as of January 2018)</b>	<b>Total Population (as of January 2019)</b>	<b>Percentage Change from 2018 to 2019</b>
<b>Circuit 5 (9)</b>	<b>1,143,128</b>	<b>1,171,481</b>	<b>2.5%</b>
Citrus	338,246	350,195	3.5%
Hernando	144,556	147,078	1.7%
Lake	123,460	128,439	4.0%
Marion	184,013	188,177	2.3%
Sumter	352,853	357,592	1.3%
<b>Circuit 6 (4)</b>	<b>1,481,525</b>	<b>1,498,693</b>	<b>1.2%</b>
Pasco	967,843	976,397	0.9%
Pinellas	513,682	522,296	1.7%
<b>Circuit 7 (11)</b>	<b>947,072</b>	<b>964,143</b>	<b>1.8%</b>
Flagler	107,106	109,400	2.1%
Putnam	237,167	245,403	3.5%
St. Johns	73,341	72,966	-0.5%
Volusia	529,458	536,374	1.3%
<b>Circuit 8 (17)</b>	<b>392,478</b>	<b>396,427</b>	<b>1.0%</b>
Alachua	262,377	265,470	1.2%
Baker	27,381	27,948	2.1%
Bradford	27,890	28,332	1.6%
Gilchrist	17,478	17,574	0.5%
Levy	41,377	41,192	-0.4%
Union	15,975	15,911	-0.4%
<b>Circuit 9 (3)</b>	<b>1,703,214</b>	<b>1,733,619</b>	<b>1.8%</b>
Orange	1,350,872	1,372,399	1.6%
Osceola	352,342	361,220	2.5%

## Introduction

### FLORIDA POPULATION\* by Circuit/County as of January 2018 and January 2019

Circuit/County (Circuit Ranking**)	Total Population (as of January 2018)	Total Population (as of January 2019)	Percentage Change from 2018 to 2019
<b>Circuit 10 (13)</b>	<b>804,544</b>	<b>812,151</b>	<b>0.9%</b>
Hardee	27,408	27,298	-0.4%
Highlands	102,861	102,976	0.1%
Polk	674,275	681,877	1.1%
<b>Circuit 11 (1)</b>	<b>2,777,418</b>	<b>2,809,733</b>	<b>1.2%</b>
Miami-Dade	2,777,418	2,809,733	1.2%
<b>Circuit 12 (12)</b>	<b>825,146</b>	<b>843,720</b>	<b>2.3%</b>
Desoto	35,885	35,585	-0.8%
Manatee	376,634	384,357	2.1%
Sarasota	412,627	423,778	2.7%
<b>Circuit 13 (6)</b>	<b>1,404,031</b>	<b>1,430,750</b>	<b>1.9%</b>
Hillsborough	1,404,031	1,430,750	1.9%
<b>Circuit 14 (18)</b>	<b>308,459</b>	<b>308,284</b>	<b>-0.1%</b>
Bay	180,980	180,871	-0.1%
Calhoun	15,237	15,037	-1.3%
Gulf	16,179	16,564	2.4%
Holmes	20,345	20,158	-0.9%
Jackson	50,577	50,392	-0.4%
Washington	25,141	25,262	0.5%
<b>Circuit 15 (5)</b>	<b>1,432,046</b>	<b>1,448,431</b>	<b>1.1%</b>
Palm Beach	1,432,046	1,448,431	1.1%
<b>Circuit 16 (20)</b>	<b>76,793</b>	<b>73,051</b>	<b>-4.9%</b>
Monroe	76,793	73,051	-4.9%

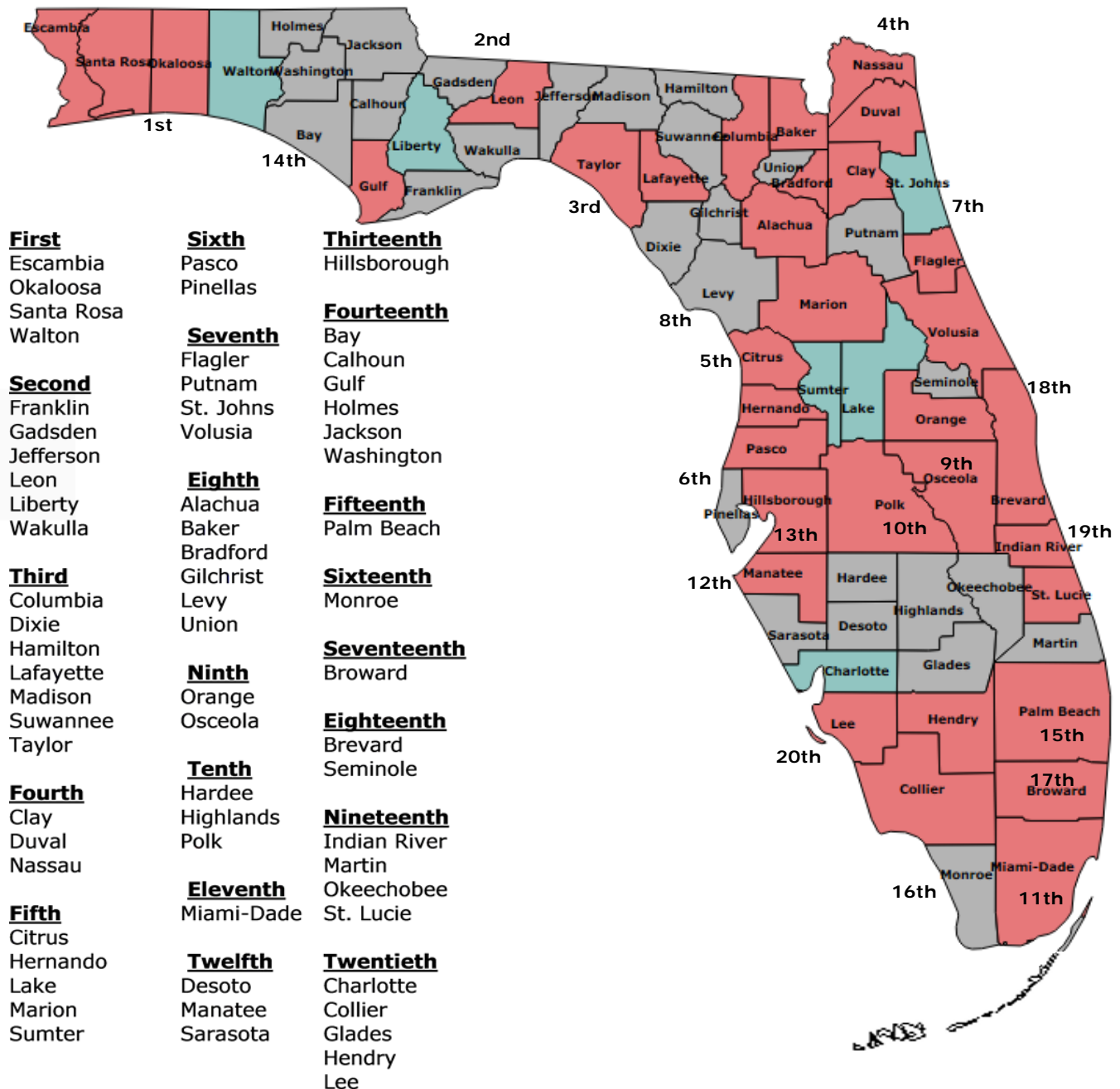
**FLORIDA POPULATION\***  
**by Circuit/County**  
**as of January 2018 and January 2019**

Circuit/County (Circuit Ranking**)	Total Population (as of January 2018)	Total Population (as of January 2019)	Percentage Change from 2018 to 2019
<b>Circuit 17 (2)</b>	<b>1,891,578</b>	<b>1,916,077</b>	<b>1.3%</b>
Broward	1,891,578	1,916,077	1.3%
<b>Circuit 18 (10)</b>	<b>1,040,801</b>	<b>1,059,018</b>	<b>1.8%</b>
Brevard	580,554	589,740	1.6%
Seminole	460,247	469,278	2.0%
<b>Circuit 19 (15)</b>	<b>648,784</b>	<b>658,788</b>	<b>1.5%</b>
Indian River	150,818	153,992	2.1%
Martin	154,751	157,164	1.6%
Okeechobee	41,347	41,230	-0.3%
St. Lucie	301,868	306,402	1.5%
<b>Circuit 20 (7)</b>	<b>1,302,965</b>	<b>1,334,157</b>	<b>2.4%</b>
Charlotte	174,307	181,039	3.9%
Collier	13,136	13,038	-0.7%
Glades	363,660	373,993	2.8%
Hendry	39,494	39,911	1.1%
Lee	712,368	726,176	1.9%
<b>Total</b>	<b>20,775,609</b>	<b>21,100,003</b>	<b>1.6%</b>

\*January 2018 and January 2019 population figures were provided by the Office of Economic and Demographic Research of the Florida Legislature in August 2018 and August 2019, respectively.

\*\*Circuit ranking is based on total population as of January 2019.

# Florida Judicial Map



## Population Percent Change from 2018 to 2019

- Less than 1%
- 1% to 2.9%
- 3% and Over

## Introduction

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### ***DESCRIPTION OF TRIAL COURT DATA***

Pursuant to section 25.075, Florida Statutes, the Summary Reporting System (SRS) was developed to provide the Office of the State Courts Administrator (OSCA) with data to assist the Supreme Court of Florida in its management and oversight role of the court system. The data are utilized as a measure of trial court activity in Florida. These data are not intended to measure the work of state attorneys or public defenders. Data for the SRS are submitted monthly by the 67 clerks of court offices via electronic or hard-copy submission in a format prescribed by the OSCA. Exceptions to this are traffic data (county criminal traffic, driving under the influence, and civil traffic infractions), which were obtained from the Florida Department of Highway Safety and Motor Vehicles through fiscal year 2011-12. Traffic data beginning in fiscal year 2012-13 are obtained from the Florida Court Clerks and Comptrollers.

Upon receipt of the SRS reports from the clerks of court, the OSCA staff review the data for accuracy, either manually, or through the use of an automated program designed to detect anomalies. If anomalies are detected, the county is contacted to verify or correct the data. SRS data are maintained in a dynamic database that is continually updated. All counties are required to maintain audit trail information for three years following the submission of the SRS data to the OSCA. Amendments to previously reported data may be submitted by the clerks up to three years after the original submission deadline. The OSCA also conducts remote and field audits of the trial courts data submitted by the clerks of court. These audits are conducted to ensure compliance to the SRS reporting guidelines as specified in the *Florida Summary Reporting System Manual* (available at [www.flcourts.org](http://www.flcourts.org)).

Each fall, a permanent database is created for the previous fiscal year. Data amendments submitted by the clerks of court after the creation of the database are not incorporated into the permanent database (although amendments are still incorporated into the dynamic database). If any data have not been submitted at the time the fiscal year database is generated, an automated program designed to estimate missing data is utilized. The permanent database is utilized for reporting statistics in the certification of new judgeships and in standardized judicial branch reports regarding performance and accountability and long-range program planning. The information in the permanent database is also utilized in the production of this *Statistical Reference Guide*.

As previously mentioned, the trial courts are composed of two levels and six different divisions. The circuit level includes criminal, civil, family court, and probate divisions and the county level consists of criminal and civil divisions. Within each division are several categories of cases. Moreover, within each of the categories are various case types. For instance, the Circuit Criminal division includes the following categories: capital murder, serious crimes against persons, less serious crimes against persons, crimes against property, and drug offenses.

Furthermore, the Crimes Against Property category includes the following case types: burglary, theft, forgery, fraud, worthless checks, other crimes against property, and other felony offenses. The detailed categories and case types pertaining to each division are provided in the by-division section of this report.

**Note: All percentages provided in the report have been rounded. Therefore, totals may not equal 100%.**



THE FLORIDA SENATE

APPEARANCE RECORD

3/2/21

Meeting Date

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

SB 474

Bill Number (if applicable)

Topic Prosecuting Children as Adults

Name Carrie Boyd

Job Title Policy Counsel

Address P.O. Box 10788

Street

Phone 850-570-9560

City

State

Zip

Email Carrie.boyd@splcenter.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing SPLC Action Fund

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/2/21

Meeting Date

SB474

Bill Number (if applicable)

Topic Criminal Justice Reform

Name Alexandra Barry

Job Title

Address 5841 Montanna Club Dr

Street

Phone 561-568-7694

Lake Worth

City

FL

State

33463

Zip

Email abarry@siblingsofmurderedsiblings.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

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.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3.2.2021

Meeting Date

474

Bill Number (if applicable)

Topic Criminal Justice

Name Carolyn Jones

Job Title \_\_\_\_\_

Address 6006 Forest Lake Dr

Street

Zephyrhills

City

FL

State

33540

Zip

Phone 517.554.91069

Email Carolyn.Renee1

@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

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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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-2-21

Meeting Date

474

Bill Number (if applicable)

Topic

CSR

Name

Amy McCourt

Amendment Barcode (if applicable)

Job Title

Address

Street

2911 SE Manning Side Blvd

Phone

904 2534928

City

PSL

State

FL

Zip

34552

Email

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

N/A

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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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-2-21

Meeting Date

474

Bill Number (if applicable)

Topic Criminal Reform

Name Shirley Daniels

Amendment Barcode (if applicable)

Job Title \_\_\_\_\_

Address PO BOX 235  
Street

Phone 8637092673

City

Lake Hamilton, FL 33851  
State Zip

Email Shirley30360@yahoo

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

03/02/2021

*Meeting Date*

474

*Bill Number (if applicable)*

Topic Prosecuting Children as Adults

*Amendment Barcode (if applicable)*

Name Ingrid Delgado

Job Title Associate Director for Social Concerns and Respect Life

Address 201 W Park Ave

*Street*

Phone 850-339-0075

Tallahassee

FL

32301

*City*

*State*

*Zip*

Email idelgado@flaccb.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

# APPEARANCE RECORD

3/1/21

Meeting Date

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

474

Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Jennifer Adams

Job Title Co-Chair Juvenile Justice State Committee

Address P.O. Box 1687

Street

Phone

Winter Park FL

City

State

32780

Zip

Email JenniferAdams11@outlook.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing League of Women Voters - Orange County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE

# APPEARANCE RECORD

3/2/21  
Meeting Date

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

474  
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Marleine Bastien

Job Title Executive Director

Address 100 NE 84th St.  
Street

Phone 305-756-8050

Miami FL 33138  
City State Zip

Email mbastien@fam.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Family Action Network

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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3/2/21  
Meeting Date

# THE FLORIDA SENATE APPEARANCE RECORD

SB474

---

*Bill Number (if applicable)*

Topic Prosecuting Children as Adults

Amendment Barcode (if applicable)

Name Laurette Philipsen

Job Title \_\_\_\_\_

Address 7240 Westwind Drive  
*Street*

Phone 352-484-0237

Port Richey	FL	34668
<i>City</i>	<i>State</i>	<i>Zip</i>

Email advocatephilipsen@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

## Representing Advocate for Prison Reform

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

3/2/21

*Meeting Date*

SB474

*Bill Number (if applicable)*

Topic Prosecuting Children as Adults

*Amendment Barcode (if applicable)*

Name Denise Rock

Job Title Executive Director

Address \_\_\_\_\_

*Street*

West Palm Beach

FL

33421

*City*

*State*

*Zip*

Phone 561-855-0833

Email denise@floridacarescharity.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
*(The Chair will read this information into the record.)*

Representing Florida Cares

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

03/02/2021

*Meeting Date*

SB 474

*Bill Number (if applicable)*

Topic Prosecuting Children as Adults

*Amendment Barcode (if applicable)*

Name Sean Pittman

Job Title Attorney

Address 1028 E. Park Ave.

Phone (850) 216-1002

*Street*

Tallahassee

FL

32301

*City*

*State*

*Zip*

Email sean@pittman-law.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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SENATE (10/14/14)

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

03/02/2021

*Meeting Date*

474

*Bill Number (if applicable)*

Topic Juvenile Justice

*Amendment Barcode (if applicable)*

Name David Moran

Job Title Assistant Public Defender

Address 4833 16th Ave N

Phone 727-464-6516

*Street*

St Petersburg

FL

33713

Email dcmnole99@gmail.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

3/2/21  
Meeting Date

474  
Bill Number (if applicable)

Topic Justice

Amendment Barcode (if applicable)

Name Marcy Mistrett

Job Title Senior Fellow

Address 1705 DeSales Street, NW 8th Floor

Phone 202-423-5213

Street

Washington

DC 20036

Email mmistrett@sentencingproject.org

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing The Sentencing Project

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

APPEARANCE RECORD

3/2/21  
Meeting Date

474  
Bill Number (if applicable)

Topic Justice

Amendment Barcode (if applicable)

Name Michelle Stephens

Job Title Executive Assistant

Address 5148 Clarendon Rd.

Phone 904-338-1734

Street

Jacksonville

FL

32205

City

State

Zip

Email krmdstephens@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing self

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 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Reset Form

3/1/2021

Meeting Date

THE FLORIDA SENATE

## APPEARANCE RECORD

474

Bill Number (if applicable)

Topic Prosecuting Children as Adults

Name Pamela Burch Fort

Amendment Barcode (if applicable)

Job Title

Address 104 South Monroe Street

Street

Tallahassee

FL

32301

City

State

Zip

Phone 850-425-1344

Email TcgLobby@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing NAACP Florida State Conference

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

3/2/21  
Meeting Date

474  
Bill Number (if applicable)

Topic Prosecuting Children as Adults

Amendment Barcode (if applicable)

Name Paula Montgomery

Job Title Retired Physician

Address 641 Connell Drive  
Street

Phone 850 438 8891

Pensacola FL 32503  
City State Zip

Email montpns@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

3/2/21  
*Meeting Date*

474  
*Bill Number (if applicable)*

Topic Prosecuting Children As Adults

*Amendment Barcode (if applicable)*

Name Kara Gross

Job Title Legislative Director & Senior Policy Counsel

Address 4343 West Flagler Dr.

Phone 786-363-4436

*Street*

Miami

FL

33134

*City*

*State*

*Zip*

Email kgross@aclufl.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
*(The Chair will read this information into the record.)*

Representing ACLU of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

Criminal Justice

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-2-21  
Meeting Date

474  
Bill Number (if applicable)

Topic Prosecuting Children or Adults

Amendment Barcode (if applicable)

Name Barbara DeMene

Job Title \_\_\_\_\_

Address 625 E. Brevard St  
Street

Phone 251-4280

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email barbara.demene1@xfinity.com

Speaking: ☐ For ☐ Against ☐ Information

\* Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL NOW

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/2  
Meeting Date

474  
Bill Number (if applicable)

Topic Prosecuting Children

Amendment Barcode (if applicable)

Name Karen L Robert

Job Title \_\_\_\_\_

Address 935 E University Ave  
Street  
Orange City, FL 32763  
City State Zip

Phone 727-366-4080  
Email kef87cpa@state.fl.gov

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

Meeting Date \_\_\_\_\_

474  
Bill Number (if applicable) \_\_\_\_\_

Topic Prison Reform

Amendment Barcode (if applicable) \_\_\_\_\_

Name Vanessa Marshall

Job Title \_\_\_\_\_

Address \_\_\_\_\_

Phone 321 377 3606

Street

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21

Meeting Date

474

Bill Number (if applicable)

Topic Prosecuting Children as Adults

Amendment Barcode (if applicable)

Name Jessica Yeary

Job Title Public Defender, 2nd Circuit

Address 301 S. Monroe St. #401

Phone 850 606-1000

Street

Talahassee

City

FL

State

32301

Zip

Email jessica.yeary@flpd2.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

**APPEARANCE RECORD**

3/2/21

Meeting Date

474

Bill Number (if applicable)

Topic Gain Time

Amendment Barcode (if applicable)

Name Greg Black

Job Title Lobbyist

Address 1727 Highland Place

Phone 850-509-8022

Street

Tallahassee

FL

32308

Email greg@waypointstrat.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing R Street Institute

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/2/21

Meeting Date

SB 474

Bill Number (if applicable)

Topic Prosecuting Children As Adults

Amendment Barcode (if applicable)

Name Khanh-Lien Banko "Con Lynn"

Job Title Treasurer, Florida PTA

Address 1747 Orlando Central Pkwy Phone 407-855-7604  
Street

Orlando FL 32809 Email \_\_\_\_\_  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21

Meeting Date

474

Bill Number (if applicable)

Topic Children as Adults

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title \_\_\_\_\_

Address \_\_\_\_\_

Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

3/2/2021 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)  
Meeting Date

SB 474  
Bill Number (if applicable)

Topic Prosecuting Children

Amendment Barcode (if applicable)

Name Trish Neely

Job Title DIRECTOR

Address 2524 Shangri La Lane  
Street

Phone 850 322 3317

Tally FL 32303  
City State Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing League Women Voters Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/2/21

Meeting Date

474

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name ANGELA BOUCHER

Job Title \_\_\_\_\_

Address 2435 W. JONQUIL DR.

Street

Phone \_\_\_\_\_

CITRUS SPRINGS FL 34434

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing N/A

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/2/21

Meeting Date

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

474

Bill Number (if applicable)

Topic PROSECUTING CHILDREN AS ADULTS

Amendment Barcode (if applicable)

Name REV DR RUSSELL MEYER

Job Title EXECUTIVE DIR

Address 1308 WINDSOR PL

Phone 813 435 5335

Street

JACKSONVILLE FL 32205

City

State

Zip

Email advocacy@floridachroches.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FLORIDA FAITH ADVOCACY OFFICE

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

CJ

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/2021

Meeting Date

474

Bill Number (if applicable)

Topic Prosecuting Children as Adults

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Executive Director

Address 579 E. Call St.

Phone 850-321-9386

Street

Tallahassee

City

FL

State

32301

Zip

Email fcfep@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/2/21

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

474

Meeting Date

Bill Number (if applicable)

Topic Prosecuting Children

Amendment Barcode (if applicable)

Name Charlotte Nycklemoe

Job Title Committee Chair - Juvenile Justice

Address 244 Melrose Pl.

Phone 612-669-3309

Street

City Naples State FL Zip 34104

Email drcharger@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL League of Women Voters

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 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Duplicate

THE FLORIDA SENATE

**APPEARANCE RECORD**

March 2, 2021

Meeting Date

474

Bill Number (if applicable)

Topic Prosecuting Childrern as Adults

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Chief Executive Officer

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email barney@barneybishop.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Smart Justice Allaince

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 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

7  
3/2/21  
Meeting Date

474  
Bill Number (if applicable)

Topic CJR

Amendment Barcode (if applicable)

Name Angela Kik

Job Title \_\_\_\_\_

Address 212 South Oleander Ave #4  
Street

Phone (386) 204-2438

Daytona Beach, FL 32118  
City State Zip

Email Kikangela69@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

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 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21  
Meeting Date

SB  
474  
Bill Number (if applicable)

Topic Prosecuting Children as Adults

Amendment Barcode (if applicable)

Name Anne Williams

Job Title \_\_\_\_\_

Address 4835 Andrade

Phone 850-712-0100

Pensacola, FL  
City State Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Self

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 (10/14/14)



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

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

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

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BILL: CS/SB 620

INTRODUCER: Criminal Justice Committee and Senator Bracy

SUBJECT: Long-Term Inmates

DATE: March 3, 2021

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Siples	Jones	CJ	Fav/CS
2. _____	_____	ACJ	_____
3. _____	_____	AP	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 620 revises the legislative intent regarding the determination of parole of eligible inmates by the Florida Commission on Offender Review (FCOR). The bill requires the FCOR to consider an inmate's institutional achievements, lack of disciplinary reports, and all indications of the lack of risk to the public in the decision to parole the inmate.

The bill requires the FCOR and the Department of Corrections (DOC) to jointly create a long-term inmate program for parole-eligible inmates to prepare them for reintegration into the community. The program, which is to be housed within the DOC, must be voluntary and provide evidence-based programming to inmates within three years of their presumptive parole release date. Prior to enrollment in the long-term inmate program, the bill requires the FCOR to refer an inmate for placement. The bill provides that the FCOR consider inmates for referral for the long-term inmate program if the inmate does not have disqualifying factors that would preclude placement into the program and is serving a parole-eligible sentence. Inmates who subsequently receive a parole-ineligible sentence may be considered for participation in the long-term inmate program.

The bill requires individuals participating in the program to complete 250 hours of community service, 100 hours of enrichment programs, and an evidence-based curriculum that address such topics as anger management, criminal thinking, educational and vocational needs, family relationships, lifestyle and wellness, substance use disorder treatment, and victim impact. The bill provides that a participant may be removed from program for failing to complete duties and

assignments as instructed. Upon completion, the bill requires participants receive a certificate of completion. However, the bill states that completion of the program does not guarantee that an inmate will be paroled.

The bill requires the FCOR and the DOC to adopt rules as necessary to implement the long-term inmate program.

According to the FCOR, the bill may have an indeterminate fiscal impact on the commission. The bill may have a negative fiscal impact on the DOC. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

## **II. Present Situation:**

### **Parole**

Parole is a discretionary release that allows certain offenders to serve the remainder of their court-imposed sentences in the community under strict supervision. The Florida Commission on Offender Release (FCOR) is a 3-member body that administers parole in this state.<sup>1</sup> The FCOR's powers and duties, as it relates to parole, include:

- Determining what persons shall be placed on parole;
- Fixing the time and conditions of parole;
- Determining whether a person has violated parole and taking action with respect to such violation; and
- Making such investigations as may be necessary.<sup>2</sup>

In Florida, parole is limited; and the only inmates who are eligible for parole consideration are those who committed:

- Any felony prior to October 1, 1983, or those who elected to be sentenced outside the sentencing guidelines for felonies committed prior to July 1, 1984;
- A capital felony prior to October 1, 1995, except:
  - Murder or felony murder committed after May 25, 1994;
  - Making, possessing, throwing, placing, or discharging a destructive device or attempting to do so which results in the death of another after May 25, 1994;
  - First degree murder of a law enforcement officer, correctional officer, state attorney, or assistant state attorney committed after January 1, 1990; and
  - First degree murder of a justice or judge committed after October 1, 1990;
- Any continuing criminal enterprise before June 7, 1993; and
- Any attempted murder of a law enforcement officer between October 1, 1988 and October 1, 1995.<sup>3</sup>

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<sup>1</sup> Section 947.01, F.S.

<sup>2</sup> Section 947.13, F.S. The FCOR has other powers and duties related to clemency, conditional release, conditional medical release, and Control Release Authority.

<sup>3</sup> Florida Commission on Offender Review, *2020 Annual Report*, p. 8, available at <https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202020.pdf> (last visited February 9, 2021).

As of January 6, 2021, there were approximately 3,754 inmates who were serving a parole-eligible sentence; however, roughly 603 of these inmates also have a parole-ineligible life sentence which renders them disqualified for release on parole.<sup>4</sup> Of the remaining 3,151 parole-eligible inmates, 79 are female. In Fiscal Year 2019-20, the FCOR made 1,419 parole determinations, granted parole to 41 inmates, and released 43 inmates on parole. There are 424 releasees on parole supervision.<sup>5</sup>

The decision to grant parole is an act of grace of the state and is not considered a right.<sup>6</sup> The FCOR established objective parole guidelines to guide its parole decisions, including setting a presumptive parole date for eligible offenders.<sup>7</sup> The presumptive parole date, which is the tentative date an eligible offender may be released, can change, with the FCOR deciding to modify or suspend it.<sup>8</sup>

In granting parole, the FCOR must find that the inmate, if released on parole, will live and conduct himself or herself as a respectable law-abiding person and that the inmate's release will be compatible with his or her own welfare and the welfare of society.<sup>9</sup> The FCOR must also be satisfied that the parolee will be suitably employed in self-sustaining employment or that he or she will not become a public charge.

If parole is to be granted, the FCOR must determine the conditions on which the inmate is released on parole.<sup>10</sup> The FCOR has adopted standard conditions of parole in rule; however, it has authority to impose special conditions of parole.<sup>11</sup> If the inmate was convicted of a controlled substance violation, one of the conditions must be that the person submit to random substance abuse testing intermittently throughout the term of supervision. Payment of any debt due and owing to the state, as well as any payment of attorney's fees and costs due and owing to the state must also be a condition of parole, as well as the payment of any other fines, fees, restitution, or other court-ordered costs.<sup>12</sup>

The FCOR must provide the inmate with a certified copy of the terms and conditions of his or her parole once it authorizes the actual parole release date.<sup>13</sup> If a parolee violates the terms of parole, he or she is subject to arrest and a return to prison to serve out the term for which the parolee was sentenced.<sup>14</sup> Within 30 days of an arrest of a person charged with a violation of the terms and conditions of his or her parole, the parolee is entitled to a preliminary hearing to

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<sup>4</sup> The DOC, *2021 Agency Bill Analysis for SB 620*, February 10, 2021, p. 2 (on file with the Senate Committee on Criminal Justice).

<sup>5</sup> *Id.*

<sup>6</sup> Section 947.002(5), F.S.

<sup>7</sup> Section 947.165, F.S. *See also* rr. 23-21.007-21.011, F.A.C., and Office of Program Policy Analysis and Government Accountability, *Parole and Early Release, Report No. 19-13*, (Nov. 2019), p. 5, available at <https://oppaga.fl.gov/Documents/Reports/19-13.pdf> (last visited February 9, 2021).

<sup>8</sup> *Id.*

<sup>9</sup> Section 947.18, F.S.

<sup>10</sup> *Id.*

<sup>11</sup> *See* r. 23-21.0165, F.A.C.

<sup>12</sup> *Id.*, and s. 947.18, F.S.

<sup>13</sup> Section 947.19, F.S.

<sup>14</sup> Section 947.21, F.S.

determine if probable cause exists to believe that the parolee has committed such violation.<sup>15</sup> If probable cause is found, a final revocation hearing is convened to determine if the charge of parole violation is sustained and based on the findings, the FCOR may:

- Revoke parole and return the parolee to prison to serve the sentence imposed upon him or her;
- Reinstate the original order of parole;
- Order the placement of the parolee into a community control program; or
- Enter such other order as is proper.<sup>16</sup>

More than 90 percent of parolees successfully complete their supervision without revocation within the first three years.<sup>17</sup>

## **Department of Corrections**

### ***Office of Programs and Re-Entry***

The Office of Programs and Re-Entry (Office), within the DOC, provides programming for productive learning, positively transforming behaviors, and teaching pro-social skills that assist with re-integration into communities.<sup>18</sup> The Office operates four sections:

- The Bureau of Program Development develops and implements technology used by institutions, community corrections, and community stakeholders to provide information about offenders.<sup>19</sup>
- The Bureau of Substance Abuse Treatment offers services and develops and fosters resources to facilitate successful reintegration from prison into the community.<sup>20</sup>
- The Bureau of Education provides opportunities to inmates, such as academic education, career and technical education, library services, transition programs, and services specific to the special needs of youthful offenders.<sup>21</sup>
- Chaplaincy and Volunteer Services provides for the spiritual needs of inmates and coordinates religious education.<sup>22</sup>

### ***Programs for Parole-Eligible Inmates***

Inmates incarcerated in DOC institutions generally have access to educational opportunities at faith- and character-based programs.<sup>23</sup> The goals of the programs are criminal rehabilitation, the

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<sup>15</sup> Section 947.23(1), F.S.

<sup>16</sup> Section 947.23(2)-(5), F.S.

<sup>17</sup> *Supra* note 3 at 9.

<sup>18</sup> The DOC, *Office of Programs and Re-Entry*, available at <http://www.dc.state.fl.us/development/index.html> (last visited February 10, 2021).

<sup>19</sup> The DOC, *Bureau of Program Development*, available at <http://www.dc.state.fl.us/development/applied.html> (last visited February 10, 2021).

<sup>20</sup> The DOC, *Bureau of Substance Abuse Treatment*, available at <http://www.dc.state.fl.us/development/readiness.html> (last visited February 10, 2021).

<sup>21</sup> The DOC, *Bureau of Education*, available at <http://www.dc.state.fl.us/development/programs.html> (last visited February 10, 2021).

<sup>22</sup> The DOC, *Bureau of Chaplaincy and Volunteer Services*, available at <http://www.dc.state.fl.us/development/chaplaincy.html> (last visited February 10, 2021).

<sup>23</sup> *Id.*

successful reintegration of offenders into the community, and the reduction of recidivism.<sup>24</sup> These programs must emphasize the importance of personal responsibility, meaningful work, education, substance abuse treatment, and peer support.<sup>25</sup>

A lifer's program is a reentry/transition program for long-term offenders that offers life skills and other social and educational courses to prepare them for successful reintegration into the community, and includes such courses as:

- Critical thinking;
- Problem solving;
- Substance abuse;
- Mental health;
- Stress/Anger management;
- Conflict resolution; and
- Life planning/goal setting.<sup>26</sup>

According to the DOC, the New River Correctional Institution, which houses adult male inmates, is the only prison that offers a lifer's program, the "Pathways Program." The Bureau of Education developed the program and the academic staff at the facility facilitates the program.<sup>27</sup> Program participants must:

- Complete at least 250 hours of community service activities, such as leading enrichment or wellness activities or tutoring other participants in academics;
- Participate for 100 hours in an enrichment program which is offered on Fridays, and may include activities such as art expression or creative writing; and
- Complete the available courses within each of the following paths:
  - Academic Path, which offers adult basic education and GED preparation;
  - Cognitive Path, which offers a cognitive-behavioral curriculum and includes courses that address anger management, communication skills, and critical thinking;
  - Employment Path, which offers financial literacy, computer literacy, employability, and a 100-hour course that covers job readiness and life management skills; and
  - Wellness Path, which offers courses on parenting, lifestyle and wellness, and transition elements, and a men-only workshop that addresses sensitive topics of relationships, sexuality, and intimacy.<sup>28</sup>

The program is available to parole-eligible male inmates recommend by the FCOR, which typically refers an inmate as he approaches his presumptive parole release date.<sup>29</sup> Completion of the program does not guarantee that a participant will be granted parole nor will it lengthen the participant's remaining sentence time.<sup>30</sup>

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<sup>24</sup> Section 944.803(7), F.S.

<sup>25</sup> Section 944.803(4)(b), F.S.

<sup>26</sup> The FCOR, *2021 Agency Bill Analysis for SB 620*, p. 3, February 10, 2021, (on file with the Senate Committee on Criminal Justice).

<sup>27</sup> *Supra* note 4.

<sup>28</sup> E-mail correspondence from Chris Taylor, Legislative Specialist, Department of Corrections, (February 10, 2021) (on file with the Senate Committee on Criminal Justice).

<sup>29</sup> *Supra* note 26.

<sup>30</sup> *Supra* note 28.

Although parole-eligible female inmates do not have access to the lifer's program, all female inmates have access to the faith-and character-based programs.<sup>31</sup>

### III. Effect of Proposed Changes:

The bill revises the legislative intent of the parole statute, ch. 947, F.S., to require the FCOR to consider an inmate's institutional achievements, lack of disciplinary reports, and all indications of the lack of risk to the public in its decision to parole an inmate from the incarceration portion of the inmate's sentence.

The bill creates s. 947.136, F.S., to require the FCOR to partner with the DOC to jointly develop a voluntary long-term inmate program for parole-eligible inmates to prepare the inmates for reintegration into the community. The long-term inmate program must provide evidence-based programming to inmates who are within three years of their presumptive parole release date, as established by the FCOR.

Prior to enrollment in the long-term inmate program, the bill requires the FCOR to refer inmates for participation in the program. The FCOR may consider inmates who:

- Do not have factors, as identified in rule, which would preclude placement at an institution operating a long-term inmate program; and
- Are serving a parole-eligible sentence.

Inmates who have subsequently received a parole-ineligible sentence may be considered for participation in the long-term inmate program on a case-by-case basis.

To successfully complete the program, the bill requires a participant to, at a minimum:

- Complete at least 250 hours of community service projects, approved by the DOC;
- Participate in at least 100 hours of enrichment programs, as defined by rule; and
- Complete an evidence-based curriculum, as provided in rule, that, at a minimum, addresses:
  - Anger management;
  - Criminal thinking;
  - Educational and vocational needs;
  - Family relationships;
  - Lifestyle and wellness;
  - Substance use disorder treatment; and
  - Victim impact.

The bill provides that an inmate who fails to perform the duties and assignments as instructed may be removed from the program. Upon successful completion of the long-term inmate program, the bill requires an inmate to be awarded a certificate of completion. Successful completion of the program does not guarantee that an inmate will be paroled and program participation may not extend the length of an inmate's sentence.

The bill requires the FCOR and the DOC to adopt rules as necessary to implement the long-term inmate program.

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<sup>31</sup> *Supra* note 4.

The bill is effective July 1, 2021.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FCOR indicates that the bill may have a potential fiscal impact as it may need to create a position to coordinate the long-term inmate program.<sup>32</sup>

The DOC is unable to precisely determine the fiscal effect on the department. The DOC estimates that it would need additional personnel and resources to develop, implement, and maintain a long-term inmate program that is equally available to all parole-eligible inmates. The DOC would also require additional staff for its Office of Community Corrections as it is anticipated that there will be an increased caseload as the population shifts to community corrections.<sup>33</sup>

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<sup>32</sup> *Supra* note 26 at 4-5.

<sup>33</sup> *Supra* note 4 at 4.

The DOC provides that the department would need 13 additional staff to provide community supervision of parolees. The staffing and funds requested by the DOC is as follows:

<b>Class Title</b>	<b>Class Code</b>	<b>Salary &amp; Benefits</b>	<b>FTE #</b>	<b>Year 1 Annual Costs</b>
Correctional Probation Specialist	8040	\$ 62,307	13	\$ 809,991
<b>Total salaries &amp; benefits</b>			<b>13</b>	<b>\$ 809,991</b>
Recurring expense - P&P		\$ 8,455		\$ 109,915
Non-recurring expense - P&P		\$ 5,949		\$ 77,337
<b>Total expenses</b>				<b>\$ 187,252</b>
Human Resource Services		\$ 330		\$ 4,290
Salary incentive (if applicable)		\$ 1,128		\$ 14,664
Technology Impact (100 hours @ \$87 per hour)				\$ 8,700
<b>Total</b>			<b>13</b>	<b>\$ 1,024,897</b>
<b>Summary of Costs</b>				
Recurring				\$ 938,860
Non-recurring				\$ 86,037
<b>Total</b>				<b>\$ 1,024,897</b>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 947.002 of the Florida Statutes.

This bill creates section 947.136 of the Florida Statutes.



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

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

**CS by Criminal Justice on March 2, 2021:**

The committee substitute:

- Removes bill language indicating that a pardon is an act of discretion based on reliable evidence and maintains current statutory language that a pardon is an act of grace of the state.
- Revises the intent to require the commission to consider certain factors rather than requiring the commission focus on such factors.
- Requires the FCOR and the DOC to jointly create a voluntary long-term inmate program for inmates who are eligible for parole. An inmate is eligible to participate in the program if he or she is within three years of his or her presumptive parole date and meets certain criteria.
- Establishes minimum requirements for the program relating to community service, enrichment programs, and an evidence-based curriculum.
- Provides for the removal of inmates from the program and declares that completion of the program does not guarantee parole. Participation in the program may not extend an inmate's sentence.
- Requires the FCOR and the DOC to adopt rules to implement the program.

**B. Amendments:**

None.



177598

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2021	.	
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The Committee on Criminal Justice (Bracy) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (6) is added to section 947.002,  
Florida Statutes, to read  
947.002 Intent.—

(6) The commission shall consider an inmate's institutional  
achievements, lack of disciplinary report, and all indications  
of the lack of risk to the public in the decision to parole an



177598

inmates from the incarceration portion of the inmate's sentence.

Section 2. Section 947.136, Florida Statutes, is created to read:

947.136 Long-Term Inmate Program.—

(1) The commission and the department shall jointly develop a long-term inmate program, housed within the department, for inmates who are eligible for parole under this chapter to prepare such inmates for reintegration into the community.

(2) The long-term inmate program shall be a voluntary program that provides evidence-based programming to inmates who are within 3 years of their presumptive parole release date as established by the commission under s. 947.172.

(3) Inmates must be referred by the commission for participation in the long-term inmate prior to the department placing the inmate into the program. An inmate who meets the following criteria may be referred by the commission for placement into the long-term inmate program:

(a) Does not have factors, as identified in rule, which would preclude placement at an institution operating a long-term inmate program.

(b) Must be serving a parole-eligible sentence. Inmates who have subsequently received a parole-ineligible sentence may be considered for participation on a case-by-case basis.

(4) To successfully complete the long-term inmate program, inmates participating must, at a minimum:

(a) Complete at least 250 hours of community service projects, as approved by the department.

(b) Participate in at least 100 hours of enrichment programs, as defined by rule.



177598

(c) Complete an evidence-based curriculum, as provided in rule that, at a minimum, address:

1. Anger management;
2. Criminal thinking;
3. Educational and vocational needs;
4. Family relationships;
5. Lifestyle and wellness;
6. Substance use disorder treatment; and
7. Victim impact.

(5) Inmates participating in the long-term inmate program are expected to perform their duties and assignments as instructed by their assignment supervisor. Inmates who fail to complete duties and assignments as instructed may be removed from the program.

(6) Upon successful completion of the program, an inmate shall be awarded a certificate of completion. Successful completion of the program does not guarantee that an inmate will be paroled and program participation may not extend the length of the inmate's sentence.

(7) The commission and the department shall adopt rules as necessary to implement the long-term inmate program.

Section 3. This act shall take effect July 1, 2021.

===== 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 long-term inmates; amending s.



177598

947.002, F.S.; revising legislative intent concerning the granting of parole; creating s. 947.136, F.S.; requiring the Commission on Offender Review and the Department of Corrections to jointly develop a voluntary long-term inmate program; requiring the program to provide evidence-based programming to certain inmates; establishing eligibility for referral for participation in the program; providing program requirements; providing that inmates may be removed from the program under certain circumstances; requiring a certificate of completion upon successful completion of the program; providing that successful completion of the program does not guarantee parole; requiring commission and the department to adopt rules; providing an effective date.

By Senator Bracy

11-00855-21

2021620\_\_

A bill to be entitled

An act relating to parole eligibility; amending s. 947.002, F.S.; revising legislative intent concerning the granting of parole; requiring the Commission on Offender Review to partner with the Department of Corrections to adopt a specified program with certain requirements; requiring rulemaking; providing an effective date.

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

Section 1. Subsection (5) of section 947.002, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

947.002 Intent.—

(5) It is the intent of the Legislature that the decision to parole an inmate from the incarceration portion of the inmate's sentence is an act of discretion based on reliable evidence, ~~grace of the state~~ and parole is shall not be considered a right.

(6) The commission's primary focus should be anticipating an inmate will become parole eligible. The commission should focus on an inmate's institutional achievements, lack of disciplinary reports, and all indications of the lack of risk to the public in parole release of the inmate. The commission shall partner with the department to create a lifer's program for all male and female inmates eligible for parole and adopt rules ensuring that the lifer's program is made equally available to all inmates, both male and female. The commission shall expedite

Page 1 of 2

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

11-00855-21

2021620\_\_

those inmates who appear to have sufficient rehabilitation achievements previously attained through completion of the lifer's program.

Section 2. This act shall take effect July 1, 2021.

Page 2 of 2

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



## 2021 AGENCY LEGISLATIVE BILL ANALYSIS

### AGENCY: Department of Corrections

<b><u>BILL INFORMATION</u></b>	
<b>BILL NUMBER:</b>	SB 620
<b>BILL TITLE:</b>	Parole Eligibility
<b>BILL SPONSOR:</b>	Senator Bracy
<b>EFFECTIVE DATE:</b>	July 1, 2021

<b><u>COMMITTEES OF REFERENCE</u></b>
1) Criminal Justice
2) Appropriations Subcommittee on Criminal and Civil Justice
3) Appropriations
4)
5)

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

<b><u>CURRENT COMMITTEE</u></b>

<b><u>SIMILAR BILLS</u></b>	
<b>BILL NUMBER:</b>	HB 69
<b>SPONSOR:</b>	Representative Hart

<b><u>IDENTICAL BILLS</u></b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b>Is this bill part of an agency package?</b>
No.

<b><u>BILL ANALYSIS INFORMATION</u></b>	
<b>DATE OF ANALYSIS:</b>	February 10, 2021
<b>LEAD AGENCY ANALYST:</b>	Pat Mahoney, Jennifer Rechichi
<b>ADDITIONAL ANALYST(S):</b>	Julie Jean, Shana Lasseter, Angella New, Antoinette McCaskill
<b>LEGAL ANALYST:</b>	David Mabry
<b>FISCAL ANALYST:</b>	Greg Holcomb

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

SB 620 amends s. 947.002, F.S., revising legislative intent regarding the decision to grant parole, and adds Subsection 6, which directs the Florida Commission of Offender Review (FCOR) to anticipate that an inmate will be parole eligible. This subsection further directs FCOR to partner with the Florida Department of Corrections (FDC or Department) to create a lifer's program and adopt rules to ensure that the program will be made available to male and female inmates. FCOR is further directed to expedite those inmates that complete the lifer's program. SB 620 takes effect July 1, 2021.

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. PRESENT SITUATION:

Currently, the Department operates a program at New River Correctional Institution (New River C.I.) for male inmates that are parole-eligible, and whom FCOR has recommended. This program is under the purview of the Department's Bureau of Education within the Office of Programs and Re-entry. The Bureau of Education developed this program, and academic staff at New River C.I. facilitate.

Inmates eligible for parole are those who committed:

1. Any felony committed prior to October 1, 1983, or those who elected to be sentenced "outside the guidelines" for felonies committed prior to July 1, 1984;
2. All capital felonies committed prior to October 1, 1995, except:
  - a.) murder or felony murder committed after May 25, 1994;
  - b.) making, possessing, throwing, placing, or discharging a destructive device or attempt to do so which results in the death of another person after May 25, 1994;
  - c.) first degree murder of a law enforcement officer, correctional officer, state attorney, or assistant state attorney committed after January 1, 1990; and
  - d.) first degree murder of a justice or judge committed after October 1, 1990.
3. Any continuing criminal enterprise committed before June 17, 1993; and
4. Any attempted murder of a law enforcement officer committed between October 1, 1988, and October 1, 1995.

On January 6, 2021, there were approximately 3,754 inmates who were serving a parole eligible sentence; however, roughly 603 (16%) of those inmates also have a parole ineligible life sentence within their current sentence structure rendering them disqualified for a release on parole. Of the remaining 3,151 parole eligible inmates, 79 are females.

#### 2. EFFECT OF THE BILL:

The proposed legislation as currently written is unclear as to the parameters for implementation. For example, lines 24 through 25 indicate that FCOR shall partner with the FDC to create a "lifer's program" and adopt rules. There is no description of "lifer's program" or program requirements. Additionally, this language appears to narrow the definition of "risk" to risk to the public (e.g., public safety), conflicting with the additional "risk" considerations within the chapter (i.e., See Section 947.18).

As previously noted, approximately 16% of inmates with a parole eligible sentence are "parole eligible", but not "release eligible", so parole would not be an option for this population. The language of the bill as written would require both groups to be offered the lifer's program.

The basis for a determination that there is an unmet need for additional programs is unclear. Under current practices, a lifer's program is already available to all male parole eligible inmates who are viable candidates for parole, and female inmates are afforded additional educational opportunities at faith and character institutions.

Ambiguity within the bill makes it difficult to precisely determine the effect on the Department. However, Department academic staff lacks the expertise and skillset to facilitate programming beyond that of academic, career and technical education, basic life/employment skills, and physical wellness. To develop, implement, and maintain a comprehensive evidence-based and gender-responsive program model addressing the needs of the parole-eligible population, FDC would need additional recurring funding. This funding would need to include skilled staff with backgrounds in substance abuse and mental health counseling in order to provide services that directly address the dynamic criminogenic factors and domains of criminal thinking/attitude, criminal associates, substance use prevention and treatment, social awareness, and leisure/holistic wellness. Additionally, increased coordination with FDC's Office of Community Corrections would also be necessary and would include the need for 13 Correctional Probation Specialist positions statewide to support the overall increase of caseloads as the population shifts to community supervision.



Additionally, FDC strategically and systematically allocates resources and program seats to the population of inmates that have determinate sentences based on evidence-based principles that inform effectiveness. Limited resources and these evidenced-based principles further segment the population of inmates with determinate sentences so that the criminogenic needs of those with shorter determinate sentences are typically addressed before the criminogenic needs of those with longer determinate sentences. The Department would likely need significant resources to support a population of inmates without a definitive release date, whose presumptive parole release date can be extended into the future, or who may not be paroled. It should be noted that there appears to be an implication that a "lifer's program" completer will be paroled, and that they will be paroled expeditiously (Lines 21-22; 29-32). There seems to be potential for conflict between program completion, objective determination of suitability for parole (e.g., substantively meeting all relevant guidelines within Chapter 947), and overall program effectiveness (e.g., likelihood of prosocial application and maintenance by the completer).

Finally, further support and resources would likely be necessary to evoke a commitment from the communities to which these parole-eligible inmates may be returning. Without support from the community, this population faces significant obstacles to successful re-entry and the likelihood of a favorable parole outcome (Refer to s. 947.165, F.S. and s. 947.18, F.S.).

**3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?** Y ☒ N ☐

If yes, explain:	FCOR is directed to adopt rules ensuring the lifer's program is made equally available to all inmates.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?**

Y ☐ N ☒

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?**

Y ☐ N ☒

Board:	
Board Purpose:	
Who Appoints:	
Changes:	

Bill Section Number(s):	
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## FISCAL ANALYSIS

### 1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☐ N ☐

Revenues:	Unknown
Expenditures:	Unknown
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

### 2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y ☒ N ☐

Revenues:	Indeterminate																																																																										
Expenditures:	<table border="1"> <thead> <tr> <th>Class Title</th> <th>Class Code</th> <th>Salary &amp; Benefits</th> <th>FTE #</th> <th>Year 1 Annual Costs</th> </tr> </thead> <tbody> <tr> <td>Correctional Probation Specialist</td> <td>8040</td> <td>\$ 62,307</td> <td>13</td> <td>\$ 809,991</td> </tr> <tr> <td><b>Total salaries &amp; benefits</b></td> <td></td> <td></td> <td><b>13</b></td> <td><b>\$ 809,991</b></td> </tr> <tr> <td>Recurring expense - P&amp;P</td> <td></td> <td>\$ 8,455</td> <td></td> <td>\$ 109,915</td> </tr> <tr> <td>Non-recurring expense - P&amp;P</td> <td></td> <td>\$ 5,949</td> <td></td> <td>\$ 77,337</td> </tr> <tr> <td><b>Total expenses</b></td> <td></td> <td></td> <td></td> <td><b>\$ 187,252</b></td> </tr> <tr> <td>Human Resource Services</td> <td></td> <td>\$ 330</td> <td></td> <td>\$ 4,290</td> </tr> <tr> <td>Salary incentive (if applicable)</td> <td></td> <td>\$ 1,128</td> <td></td> <td>\$ 14,664</td> </tr> <tr> <td>Technology Impact (100 hours @ \$87 per hour)</td> <td></td> <td></td> <td></td> <td>\$ 8,700</td> </tr> <tr> <td><b>Total</b></td> <td></td> <td></td> <td><b>13</b></td> <td><b>\$ 1,024,897</b></td> </tr> <tr> <td><b>Summary of Costs</b></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td></td> <td>Recurring</td> <td></td> <td></td> <td>\$ 938,860</td> </tr> <tr> <td></td> <td>Non-recurring</td> <td></td> <td></td> <td>\$ 86,037</td> </tr> <tr> <td></td> <td><b>Total</b></td> <td></td> <td></td> <td><b>\$ 1,024,897</b></td> </tr> </tbody> </table>					Class Title	Class Code	Salary & Benefits	FTE #	Year 1 Annual Costs	Correctional Probation Specialist	8040	\$ 62,307	13	\$ 809,991	<b>Total salaries &amp; benefits</b>			<b>13</b>	<b>\$ 809,991</b>	Recurring expense - P&P		\$ 8,455		\$ 109,915	Non-recurring expense - P&P		\$ 5,949		\$ 77,337	<b>Total expenses</b>				<b>\$ 187,252</b>	Human Resource Services		\$ 330		\$ 4,290	Salary incentive (if applicable)		\$ 1,128		\$ 14,664	Technology Impact (100 hours @ \$87 per hour)				\$ 8,700	<b>Total</b>			<b>13</b>	<b>\$ 1,024,897</b>	<b>Summary of Costs</b>						Recurring			\$ 938,860		Non-recurring			\$ 86,037		<b>Total</b>			<b>\$ 1,024,897</b>
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Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?**Y ☐ N ☐

Revenues:	Unknown
Expenditures:	Unknown
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?**Y ☐ N ☒

If yes, explain impact.	
Bill Section Number:	

## TECHNOLOGY IMPACT

**1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y ☐ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	<p>The impact of this bill is indeterminate due to the lack of clarity on the Department's Offender Based Information System (OBIS).</p> <p>However, there are possible programming cost to update data dictionary tables, code table additions and write queries to identify those inmates affected by the Lifer's program.</p> <p>Estimated Cost: Hours: 100 Cost Per Hour: \$87.00 Total Cost: \$8,700</p>
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## FEDERAL IMPACT

**1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y ☐ N ☐

If yes, describe the anticipated impact including any fiscal impact.	N/A
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## ADDITIONAL COMMENTS

N/A.

## LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	<p>In furtherance of the "Lifer's program", bill requires the Commission and Department to "adopt rules ensuring that the lifer's program is made equally to all inmates, both male and female" (Lines 27-29) This provision does not provide clear parameters for the Department's rulemaking authority. The Department will likely have difficulty creating rules that are "within the scope" of the bill. Therefore, with such vague guidelines, the Department's rule promulgation pursuant to this act could be vulnerable to rule challenges.</p> <p>The bill does not appear to provide the Department with sufficient authority to create a "Lifer's program" and adopt rules for its administration.</p>
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## 2021 AGENCY LEGISLATIVE BILL ANALYSIS

### AGENCY: Commission on Offender Review

<b><u>BILL INFORMATION</u></b>	
<b>BILL NUMBER:</b>	<u>SB 620</u>
<b>BILL TITLE:</b>	<u>Parole Eligibility</u>
<b>BILL SPONSOR:</b>	<u>Senator Bracy</u>
<b>EFFECTIVE DATE:</b>	<u>07/01/2021</u>

<b><u>COMMITTEES OF REFERENCE</u></b>
1) Criminal Justice
2) Appropriations Subcommittee on Criminal and Civil Justice
3) Appropriations
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	

<b><u>CURRENT COMMITTEE</u></b>
Criminal Justice

<b><u>SIMILAR BILLS</u></b>	
<b>BILL NUMBER:</b>	HB 69
<b>SPONSOR:</b>	Representative Hart

<b><u>IDENTICAL BILLS</u></b>	
<b>BILL NUMBER:</b>	Click or tap here to enter text.
<b>SPONSOR:</b>	Click or tap here to enter text.

<b>Is this bill part of an agency package?</b>
No.

<b><u>BILL ANALYSIS INFORMATION</u></b>	
<b>DATE OF ANALYSIS:</b>	02/10/2021
<b>LEAD AGENCY ANALYST:</b>	Alec Yarger, Legislative Affairs Director
<b>ADDITIONAL ANALYST(S):</b>	Click or tap here to enter text.
<b>LEGAL ANALYST:</b>	Lisa Martin, General Counsel
<b>FISCAL ANALYST:</b>	Gina Giacomo, Director of Administration

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## POLICY ANALYSIS

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### EXECUTIVE SUMMARY

Revising legislative intent concerning the granting of parole; requiring the Commission on Offender Review to partner with the Department of Corrections to adopt a specified program with certain requirements; requiring rulemaking, etc. Effective Date: 7/1/2021

### SUBSTANTIVE BILL ANALYSIS

#### PRESENT SITUATION:

##### Parole

Parole is a discretionary prison release, administered by the Florida Commission on Offender Review (FCOR), which allows an inmate who has been granted parole to serve the remainder of his or her prison sentence outside of the confines of the institution. Once released, the parolees are subject to strict conditions of supervision set by FCOR and supervised by Correctional Probation Officers employed by the Department of Corrections (DOC). FCOR monitors the parolee's progress through supervision reviews and may conduct revocation hearings when alleged violations are reported. If a parolee is found to have willfully and substantially violated the terms and conditions of his or her supervision, the Commission may return the parolee to prison.

Parole in Florida was largely eliminated in 1983 as a result of legislative action. Inmates eligible for parole are those who committed:

1. Any felony committed prior to October 1, 1983, or those who elected to be sentenced "outside the guidelines" for felonies committed prior to July 1, 1984;
2. All capital felonies committed prior to October 1, 1995, except:
  - a.) murder or felony murder committed after May 25, 1994;
  - b.) making, possessing, throwing, placing, or discharging a destructive device or attempt to do so which results in the death of another person after May 25, 1994;
  - c.) first degree murder of a law enforcement officer, correctional officer, state attorney, or assistant state attorney committed after January 1, 1990; and
  - d.) first degree murder of a justice or judge committed after October 1, 1990.
3. Any continuing criminal enterprise committed before June 17, 1993; and
4. Any attempted murder of a law enforcement officer committed between October 1, 1988, and October 1, 1995.

As of February 1, 2021, there were 3,862 inmates eligible for parole and 403 releasees on parole supervision. In FY 2019–20, FCOR made 1,419 parole determinations and granted parole to 41 inmates.

##### Objective Parole Guidelines

In 1978, the Florida Legislature directed FCOR to develop and implement objective parole guidelines for establishing a Presumptive Parole Release Date (PPRD) for parole eligible inmates (s. 947.165, F.S.). The PPRD is a tentative parole release date established during the inmate's Initial Interview Hearing. The criteria for establishing a PPRD pursuant to the Objective Parole Guidelines are set forth in FCOR's rules (Fla. Admin. Code R. 23-21.007 – 21.011).

There are six main steps in the Objective Parole Guidelines to establish a PPRD:

1. **Determining the Salient Factor Score** – Points are assessed based on the number of prior convictions, the number of prior incarcerations, the total time served in years, the number of parole/probation/conditional release revocations, the number of prior escape convictions, and if the present offense of conviction involves a burglary, breaking and entering, or robbery.
2. **Determining the Severity of the Offense** – FCOR determines what is the degree of felony or misdemeanor for the present offense of conviction.
3. **Determining the Matrix Time Range** – On the matrix time range chart, FCOR determines where the severity of offense intersects with the salient factor score calculated in the first step. This figure corresponds to a range of months. FCOR must set a number of months within that range.
4. **Aggravation and Mitigation** – FCOR may render a decision outside the matrix time range by adding months for aggravating circumstances, or removing months for mitigating circumstances, for those factors which indicate a relative likelihood of a favorable or unfavorable parole outcome.

5. **Calculating Time in Custody** – FCOR determines a date which starts with the date of the offender's conviction, subtracts the jail credit awarded by the courts, subtracts any credit awarded by FCOR, and adds in any time that the offender spent out of custody. The final date is the "time begins date."
6. **Determining the Presumptive Parole Release Date** – FCOR adds the number of months from the matrix time range and the number of months assessed for aggravating factors to the "time begins date", then subtracts any months assessed for mitigation. The result the inmate's PPRD.

### **Lifer's Programs**

Lifer's programs are reentry/transition programs for long-term offenders that offer life skills and other social/educational courses to prepare them for successful reintegration into the community. Each program has a unique curriculum, but they generally include courses and instruction on topics such as:

- Critical thinking
- Problem solving
- Substance abuse
- Mental Health
- Stress/Anger management
- Conflict Resolution
- Life planning/goal setting

FCOR refers parole eligible inmates to lifer's programs to prepare them for potential release. Typically, FCOR makes referrals as parole eligible inmates approach their PPRD.

### **EFFECT OF THE BILL:**

#### Section 1:

This bill amends 947.002(5) to provide that the decision to parole an inmate is an "act of discretion based on reliable evidence", rather than an "act of grace of the state" as the current statute provides.

The bill also creates 947.002(6) to provide that FCOR's primary focus should be anticipating an inmate will be parole eligible, as well as focusing on an inmate's:

- Institutional achievements;
- Lack of disciplinary report; and
- Indications of the lack of risk to the public.

The bill directs FCOR to partner with DOC to create a lifer's program for all male and female inmates eligible for parole. The bill further directs FCOR and DOC to adopt rules to make the lifer's program is made equal to both male and female inmates.

The bill directs FCOR to expedite those inmates who appear to have sufficient rehabilitation previously attained in the lifer's program.

#### Section 2:

The bill is effective July 1, 2021.

### **DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☒ N ☐**

If yes, explain:	Section 1 of the bill directs FCOR to adopt rules to make the proposed lifer's program equal to both male and female inmates.
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	23-21

### **WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

**ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?**

Y ☐ N ☒

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

**ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?**

Y ☐ N ☒

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A
Bill Section Number(s):	N/A

**FISCAL ANALYSIS**

**DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?**

Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

**DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?**

Y ☒ N ☐

Revenues:	N/A
Expenditures:	This bill has the potential to have a fiscal impact on FCOR, but it cannot be determined at this time. The bill requires FCOR to partner with DOC to create a lifer's program but does not indicate how the lifer's program will be funded. Some lifer's programs receive state funding while others are supported by



	donations or other sources. If the proposed lifer's program is intended to be supported with state funding, the bill does not indicate whether that funding would be appropriated in FCOR's budget or DOC's budget. There is also the potential fiscal impact based upon additional workload for FCOR. For example, FCOR may need to create a position for a lifer's program coordinator/point person.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

**DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?**

Y ☐ N ☒

Revenues:	N/A
Expenditures:	N/A
Other:	N/A

**DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?**

Y ☐ N ☒

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

## TECHNOLOGY IMPACT

DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact to the agency including any fiscal impact.

Click or tap here to enter text.

## FEDERAL IMPACT

DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.

Click or tap here to enter text.

## ADDITIONAL COMMENTS

Click or tap here to enter text.

## LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:

1. My first concern is that the title of this bill is "Parole Eligibility." In reading the proposed language, I cannot see where the class of persons subject to parole eligibility has been expanded. Second, I am unsure if the expansion of parole eligibility would be properly placed in the "Intent" section of the chapter.
2. I am unsure whether the proposed language in subsection (6) "*The commission should focus on an inmate's institutional achievements, lack of disciplinary reports, and all indications of the lack of risk to the public in parole release of the inmate,*" is consistent with the priorly enacted subsection (2) "*Objective parole criteria will be designed to give primary weight to the seriousness of the offender's present criminal offense and the offender's past criminal record. In considering the risk of recidivism, practice has shown that the best predictor is prior record.*"
3. The bill is silent on what would constitute "*reliable evidence*"?
4. The meaning of the following statement is unclear: "*FCOR's primary focus should be anticipating an inmate will become parole eligible.*"
5. It is unclear from the drafted language whether the joint lifer's program would be available to all parole-eligible inmates or all inmates.

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	<p>6. Regarding the sentence, “<i>The commission shall expedite those inmates who appear to have sufficient rehabilitation achievements previously attained through completion of the lifer’s program,</i>” I am unsure whether “<i>expedite</i>” means to release or to give priority consideration. I am concerned whether this mandate is consistent with the considerations the Legislature determined to be of primary importance in parole release decisions, found in priorly enacted subsection (2): <i>the seriousness of the offender’s present criminal offense and the offender’s past criminal record.</i></p>
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**Florida Department of Corrections**  
**New River Correctional Institution Program for FCOR Recommended Participants**  
**“PATHWAYS PROGRAM”**

In cooperation with the Florida Commission on Offender Review (FCOR), the Florida Department of Corrections “Pathways Program” is designed for incarcerated individuals whose crimes were committed prior to October 1, 1983 and are eligible for parole consideration. The goal of this program is to increase security and public safety by providing programming for productive learning, positively transforming behaviors, and developing pro-social skills that assists with re-integration into community.

Inmate transfers to New River CI (NRCI) began in April 2018. The Department accepts individuals who have been recommended by FCOR to attend. However, participation in the New River CI program or any other program offered will not guarantee that a participant will be granted parole nor will participation lengthen an individual’s remaining time. This program is completely voluntary, and individuals who have been recommended by FCOR to attend but have no interest in participating can “opt-out” through their Classification Officer. It should be noted that refusal to participate in the recommended programming is documented by FCOR.

**Detailed Program Description**

Monday through Friday, program participants at New River Correctional Institution are expected to actively engage in the available courses. Participants are not expected to repeat any courses that they have previously completed at other institutions. Additionally, participants are required to participate for 100 hours in an enrichment program that are available on Fridays. Available enrichment programs include: Art Expressions, Creative Writing, and Gavel Club. Participants are encouraged to continue their participation after they have reached the required hours.

Participants are also expected to participate and lead community service projects while at NRCI. Community service projects may include collecting soda tabs for the Ronald McDonald House, dedicating time to work on murals in the education building and dorm, tutoring other participants in academics, assisting staff with the facilitation of betterment curriculum, and leading additional enrichment and wellness activities. Participants are required to log 250 hours towards various community service projects; logs are signed off by overseeing staff member.

Courses for the program participants are grouped into paths where each participant is expected to complete the available courses within each path:

## **Academic Path**

### **Adult Basic Education**

Adult Basic Education covers math, reading, language, and career readiness skills. This self-paced course involves individualized instruction, small group tutoring, and whole class instruction using a variety of educational resources. Academic skill improvement will be documented by the Tests of Adult Basic Education (TABE), an approved Florida Department of Education adult education assessment tool. Once participants demonstrate academic skills ranging from 9.0 - 12.9 grade level on the TABE they will be advanced to the GED® class.

### **GED® Preparation**

Participants with no documented high school diploma or equivalency will prepare to take the GED®. Participants must have 9.0-12.9 grade level TABE scores ranging for enrollment. Instructors prepare participants in all areas of the GED®: Mathematical Reasoning, Reasoning Through Language Arts, Social Studies, and Science.

## **Cognitive Path**

Participants are expected to participate in each cognitive-behavioral curriculum in the following sequence:

### **Getting Motivated to Change**

Developed by the Texas Christian University, Institute of Behavioral Research, *Getting Motivated to Change* focuses on aspects of cognition that govern decisions to change behavior. It relies on visual-communication tools and related cognitive strategies to engage discussions. Participants are encouraged to make a commitment on a specific behavior or attitude they are willing to work on and report on to the group over the course of the intervention. Information is explored from a strength-based perspective that encourages participants to consider goals on which they are willing to work. Students are introduced to the thought processes and action phases of motivation and change. In addition, participants create and discuss goals and transition plans regarding their future. A certificate of completion will be reflected in the offender-based information system upon conclusion of the course.

### **Unlock Your Thinking, Open Your Mind**

Also developed by the Texas Christian University, Institute of Behavioral Research, *Unlock Your Thinking, Open Your Mind* consists of four sessions aimed at addressing the ingrained pattern of criminal thinking. Participants are introduced to various types of mind traps and are challenged to address destructive thinking patterns. Discussions driven by the intervention lead participants towards breaking out of distorted thinking and irresponsible behavioral cycles while striving toward the goal of incorporating recovery-appropriate thoughts, actions, and habits. A certificate of completion will be reflected in the offender based information system upon conclusion of the course.

## **Understanding & Reducing Angry Feelings**

*Understanding & Reducing Angry Feelings* was developed by the Texas Christian University, Institute of Behavioral Research. The curriculum includes worksheets, handouts, homework assignments and group instruction to facilitate sessions on the antecedents of anger in order to help participants become more aware of their physical cues and emotional responses to anger and frustration.

## **Communication and Anger**

Introduces and discusses the topic of effective and prosocial communication for the purpose of increasing awareness. By increasing awareness of communication topics, the course attempts to reorient participants to concepts of healthy communication and facilitate the practice of appropriate verbal and non-verbal communication. This course also provides education about anger considering appropriate and prosocial communication. Some objectives include improving participants' verbal and non-verbal communication skills, and helping participants learn about anger triggers/cues. Communication and Anger aims to provide information to participants about unrealistic ways of thinking that could lead to anger and to provide general information on some strategies to generally deal with anger and frustration.

## **Victim Impact: Listen and Learn**

Developed by the California Department of Corrections in conjunction with the U.S. Office of Victims of Crime. *Victim Impact: Listen and Learn* consists of material built around core crime topics: property crime, assault, robbery, hate and bias, gang violence, sexual assault, child abuse and neglect, domestic violence, drunk and impaired driving, and homicide. Through this course participants will have the opportunity to view crime through the perspective of victims and learn about the “ripple effect” their crime has on individuals and their communities.

## **Anger Management**

The information presented in this curriculum is intended to allow qualified mental health and/or substance abuse professionals to deliver group cognitive behavioral anger management treatment to participants with substance abuse and mental health disorders. The intended outcome of this program is to reduce frequent and intense anger and its destructive consequences to lead to improved physical and mental health of involved participants. This curriculum must be delivered by an experienced substance abuse or mental health clinician.

## **Employment Path**

### **Financial Literacy and Employability & Financial Freedom**

The Financial Literacy and Employability curriculum provides information to participants who may be returning to a different financial and employment landscape that existed prior to their incarceration. Individuals become aware of basic financial concepts and processes, develop a personal spending plan, and become aware of job search methods, as well as other basic aspects related to

employability.

Developed by the Florida Council on Economic Education, the Financial Freedom workbook is used to supplement the Department's Financial Literacy and Employability course. The content is designed to improve the participants' financial literacy skills while reinforcing the importance of making sound financial choices and remaining devoted to a solid set of priorities.

### **COMPASS 100**

*COMPASS 100* is a 100-hour, comprehensive, individualized community readiness course that covers job readiness and life management skills. *COMPASS 100* is centered around objectives that specifically align with and satisfy the most current Florida Curriculum Frameworks related to Adult Education, Career & Technical Education, and College & Career Readiness, while also addressing the common needs of the incarcerated populations and a 21<sup>st</sup> century workforce. Throughout the course modules, participants will be developing a Readiness Portfolio which will contain all of the important documents to assist in finding employment in today's job market – a resume, cover letter, explanation of criminal history and more.

### **Computer Literacy/Office Specialist**

This introductory-level course provides information and instruction related to everyday uses surrounding computer-technology. In this course, participants will learn to identify the different components of a computer and their uses. In addition to understanding the basic mechanisms of computers, students will have the opportunity to increase their understanding of standard workplace applications such as Microsoft Office Word, Excel, Access, and PowerPoint. At the end of this program students should be proficient with Microsoft Office programs for personal and professional use. Participants will have the opportunity to earn their Microsoft Office Specialist certification, which can be listed on their resumes upon release

### **Wellness Path**

#### **Time Out! For Men**

Developed by the Texas Christian University, Institute of Behavioral Research, *Time Out! For Men* is a men-only workshop that addresses sensitive topics of relationships, sexuality, and intimacy. Communication skills, self-esteem, sexual health, and conflict resolution skills are presented as a foundation for helping men find solutions to relationship difficulties. In this course, men are encouraged to explore gender stereotypes, sexual myths, and societal pressures on men and women.

#### **Parenting from Inside**

The *Parenting from Inside* curriculum provides information and skill training for parenting, promotes and reinforces child welfare, positive family relationships, and mutual support among inmates, spouses/co-parents and their children. Additionally, the parenting program provides inmates an opportunity to counteract negative family consequences from his or her incarceration and to strengthen positive contact with their families.

**Lifestyle and Wellness**

This curriculum specifically targets health and wellness needs of aging adults. This course provides an overview of health promotion and disease prevention to promote participants' engagement in healthy lifestyles. Throughout this course participants will analyze the influence of family, peers, culture, media, technology, and other factors on health behaviors. Upon conclusion of this course participants should be able to demonstrate the ability to access valid health information, products, and services to enhance health.

**Transition Elements**

This course provides participants with fundamental information related to transitioning back into the community. Participants will learn about the processes associated with securing housing, employment, and healthcare. Participants are expected to develop their own detailed plan related to transition based off their individual needs.



THE FLORIDA SENATE  
**APPEARANCE RECORD**

3/2/2021

Meeting Date

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

620

Bill Number (if applicable)

Topic Criminal Justice

Name ANGELA BOUCHER

Amendment Barcode (if applicable)

Job Title \_\_\_\_\_

Address 2435 W. JONQUIL DR.  
Street

Phone (860) 294-1718

CITRUS SPRINGS FL  
City State Zip

Email angela.boucher71@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

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.**

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-22-11  
Meeting Date

1020  
Bill Number (if applicable)

Topic Criminal reform

Name Shirley Daniels

Amendment Barcode (if applicable)

Job Title \_\_\_\_\_

Address PO Box 235  
Street

Phone 8037092673-

Lake Hamilton, FL 33851  
City State Zip

Email Shirley303@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

3-2-2021

Meeting Date

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

620

Bill Number (if applicable)

Topic Criminal Justice Reform

Name Carolyn Jones

Job Title \_\_\_\_\_

Address 6006 Forest Lake Dr

Street

Phone 517.554.9669

Zephyrhills, FL

City

State

33540

Zip

Email Carolyn-Renee1@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21  
Meeting Date

SB 620  
Bill Number (if applicable)

Topic \_\_\_\_\_

Name Keith R. Harris

Job Title Parole Specialist

Address 252 Tahoe Cir

Street

Winter Park, FL  
City

State

Zip

Phone

850-949-9122

Email

kharris@flajustice.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FJU

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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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21  
Meeting Date

SB 020  
Bill Number (if applicable)

Topic Criminal Justice Reform

Amendment Barcode (if applicable)

Name Alexandra Barry

Job Title \_\_\_\_\_

Address 5891 Monterra clay Dr  
Street

Phone 561-568-7694

Lake Worth  
City

FL  
State

33463  
Zip

Email a.barry@siblingsofmurderandsiblings.org

Speaking: ☒ For ☐ Against ☐ Information

*(if there is time)*

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2  
Meeting Date

6220  
Bill Number (if applicable)

Topic Parole

Name Karen Robert

Amendment Barcode (if applicable)

Job Title \_\_\_\_\_

Address 935 E University Ave  
Street

Phone 727 346-4080

Orange City, FL 32769  
City State Zip

Email wf87cp@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

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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THE FLORIDA SENATE

APPEARANCE RECORD

March 2, 2021

Meeting Date

620

Bill Number (if applicable)

Topic Parole Eligibility

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Chief Executive Officer

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

City

State

Zip

Email barney@barneybishop.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Smart Justice Allaince

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 (10/14/14)

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03/02/2021

*Meeting Date*

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

SB 620

*Bill Number (if applicable)*

Topic Parole Eligibility

Name Sean Pittman

*Amendment Barcode (if applicable)*

Job Title Attorney

Address 1028 E. Park Ave.

*Street*

Tallahassee

FL

32301

*City*

*State*

*Zip*

Phone (850) 216-1002

Email sean@pittman-law.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date

Bill Number (if applicable)

Topic

Name

Job Title

Address

Street

City

State

Zip

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

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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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21  
Meeting Date

1020  
Bill Number (if applicable)

Topic CJR

Name Angela Klix

Job Title \_\_\_\_\_

Address 212 South Oleander Ave #4  
Street  
Dayton Beach, FL 32118  
City State Zip

Phone (3810) 204-2438

Email Klikangel69@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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Reset Form

3/1/2021

Meeting Date

THE FLORIDA SENATE

## APPEARANCE RECORD

620

Bill Number (if applicable)

Topic Parole Eligibility

Name Pamela Burch Fort

Amendment Barcode (if applicable)

Job Title \_\_\_\_\_

Address 104 South Monroe Street

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-425-1344

Email TcgLobby@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing NAACP Florida State Conference

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/11)

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

3/2/21

Meeting Date

620

Bill Number (if applicable)

Topic Parole

Name Carrie Boyd

Amendment Barcode (if applicable)

Job Title Policy Counsel

Address P.O. Box 10788

Street

Tallahassee

City

FL

State

32311

Zip

Phone 850-570-9560

Email carrie.boyd@splcenter.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing SPLC Action Fund

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

3/2/21

Meeting Date

620

Bill Number (if applicable)

Topic Parole Eligibility

Name Kara Gross

Amendment Barcode (if applicable)

Job Title Legislative Director & Senior Policy Counsel

Address 4343 West Flagler Dr.

Street

Phone 786-363-4436

Miami

FL

33134

City

State

Zip

Email kgross@aclufl.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing ACLU of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

# APPEARANCE RECORD

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

3/20/21  
Meeting Date

620  
Bill Number (if applicable)

Topic PAROLE ELIGIBILITY

Amendment Barcode (if applicable)

Name Rev DR Russell Meyer

Job Title ~~1308 WINDSOR PLACE~~ EXEC DIR

Address 1308 WINDSOR PL  
Street

Phone 813 435 5335

JACKSONVILLE FL 32205  
City State Zip

Email advocacy@flondachrvr.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL FAITH ADVOCACY OFFICE

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

CJ

3/2/2021

Meeting Date

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

620

Bill Number (if applicable)

Topic Parole Eligibility

Name Karen Woodall

Job Title Executive Director

Address 579 E. Coll St.

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-321-9386

Email fstep@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

3/2/21  
Meeting Date

620  
Bill Number (if applicable)

Topic Parole

Amendment Barcode (if applicable)

Name Jessica Yearly

Job Title Public Defender, 2nd Circuit

Address 301 S. Monroe St. # 401

Phone 850 606-1000

Tallahassee, FL  
City State Zip

Email jessica.yearly@flpd2.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21  
Meeting Date

620  
Bill Number (if applicable)

Topic Gain Time

Name Ida V. Eskamani

Job Title \_\_\_\_\_

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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Criminal  
Justice

THE FLORIDA SENATE

APPEARANCE RECORD

3-2-21

Meeting Date

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

620

Bill Number (if applicable)

Topic

Parole Eligibility

Amendment Barcode (if applicable)

Name

Barbara Devane

Job Title

Address

625 E Bernard St

Street

Phone

257-4280

City

State

Zip

Email

barbadevane1@yahoo.com

Speaking:

☐

For

☐

Against

☐

Information

☒ Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FL NOW

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

3/2/21

Meeting Date

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

SB620

Bill Number (if applicable)

Topic Parole Eligibility

Name Denise Lock

Job Title Executive Director

Amendment Barcode (if applicable)

561-855-0833

Address

West Palm Beach FL

Street

City

State

Zip

Phone

denise@florida cares

Email

charity08

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Cares

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

SB 620

Bill Number (if applicable)

Amendment Barcode (if applicable)

Meeting Date

Topic SB 620 parole reform

Name Anne Williams

Job Title

Address 4835 Andradee  
Street

Phone 850-712-0100

Pensacola, FL 32504  
City State Zip

Email

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/2/21

Meeting Date

SB 620

Bill Number (if applicable)

Topic Parole eligibility

Amendment Barcode (if applicable)

Name Laurette Phillipsen

Job Title

Address 7240 Westwind Dr

352-533-7202

Phone

Street  
Port Richey FL 34668

City

State

Zip

Email advocatephilipsen@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Advocates

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 (10/14/14)

# THE FLORIDA SENATE

# APPEARANCE RECORD

*Bill Number (if applicable)*

Amendment Barcode (if applicable)

Name Vanessa Marshall

Job Title

## Address

Phone

Email

Zip

Speaking:

## Waive Speaking:

# Representing

Appearing at request of Chair:

Lobbyist registered with Legislature:

*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 (10/14/14)

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

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

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

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BILL: CS/SB 980

INTRODUCER: Criminal Justice Committee and Senator Perry

SUBJECT: Battery upon Public Transit Workers

DATE: March 3, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	<b>Fav/CS</b>
2.			ATD	
3.			AP	

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 980 creates s. 341.0611, F.S., which provides that:

- By January 1, 2022, every public transit provider operating regularly scheduled transit service for the general public must post in at least one conspicuous place at the entrance of each public transit vehicle a sign in accordance with specifications in the bill containing the following statement: “ATTENTION: COMMITTING A BATTERY UPON A TRANSIT WORKER IS A FELONY PUNISHABLE BY UP TO 5 YEARS IN PRISON.”
- By July 1, 2022, such public transit provider must create and implement a risk reduction program. Each risk reduction program must include conflict deescalation training for public transit employees and agents, and may include the deployment of battery mitigation infrastructure and technology on public transit vehicles, including barriers to restrict the unwanted entry of individuals and objects into the workstations of public transit employees and agents.

The bill also amends s. 784.07, F.S., which enhances punishment for assaults and batteries committed upon specified officials. A public transit employee or agent is included in the list of specified officials but the statute is missing one reference to public transit employee or agent. The bill corrects this omission.

Because the bill does not expand the scope of s. 784.07, F.S., or create or increase penalties, the bill does not appear to have any prison bed impact. The bill may have a fiscal impact on public transit providers. See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2021.

## II. Present Situation:

Section 784.07(2), F.S., reclassifies the misdemeanor or felony degree of assault,<sup>1</sup> aggravated assault,<sup>2</sup> battery,<sup>3</sup> and aggravated battery<sup>4</sup> when a person is charged with knowingly committing any of these offenses upon an officer or employee described as follows while that officer or employee is engaged in the lawful performance of his or her duties:

- A law enforcement officer;
- A firefighter;
- An emergency medical care provider;
- A railroad special officer;
- A traffic accident investigation officer;
- A nonsworn law enforcement agency employee who is certified as an agency inspector, a blood alcohol analyst, or a breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI;
- A law enforcement explorer;
- A traffic infraction enforcement officer;
- A parking enforcement specialist;
- A person licensed as a security officer and wearing a uniform bearing at least one patch or emblem that is visible at all times and clearly identifies the person's employing agency and that the person is a licensed security officer;
- A security officer employed by the board of trustees of a community college; or
- A public transit employee or agent.<sup>5</sup>

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<sup>1</sup> Assault, which is a second degree misdemeanor, is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent. Section 784.011(1) and (2), F.S.

<sup>2</sup> Aggravated assault, which is a third degree felony, is the commission of an assault using a deadly weapon without intent to kill or the commission of an assault with the intent to commit a felony. Section 784.021(1) and (2), F.S.

<sup>3</sup> Simple battery, which is a first degree misdemeanor, is actually and intentionally touching or striking another person against the will of that person or intentionally causing bodily harm to another person. Section 784.03(1)(a), F.S.

<sup>4</sup> A person commits aggravated battery, a second degree felony, if the person, in committing a battery: intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; uses a deadly weapon; or the person who was the victim of the battery was pregnant at the time of the offense and the offender knew or should have known that the victim was pregnant. Section 784.045(1) and (2), F.S.

<sup>5</sup> "Public transit employees or agents" is defined in s. 784.07(1)(e), F.S., as bus operators, train operators, revenue collectors, security personnel, equipment maintenance personnel, or field supervisors, who are employees or agents of a transit agency as described in s. 812.015(1)(l), F.S. There is no specific reference in the statute to a public transit employee or agent in the list of officers and employees referenced as being subject to an assault or battery, which triggers the reclassification if the assault or battery occurs while the officer or employee is engaged in his or her lawful duties. A public transit employee or agent is only referenced in regard to a listed officer or employee engaged in performance of his or her lawful duties. Further, the Florida jury instruction for s. 784.07(2)(a), F.S. (relating to reclassification of the degree of assault) does not specifically reference a public transit employee or agent. Fla. Std. Jury Instr. (Crim.) 8.10. However, notwithstanding the specific reference omission, it appears that the statute has been applied when the victim is a public transit employee. *See, e.g., Walker v. State*, 193 So.3d 946, 948-949 (Fla. 4th DCA 2016), rehearing denied, 193 So.3d 990 (Fla. 4th DCA 2016) (appellate court stating that the charges against the appellant included a count relating to battery on a public transit employee in violation of ss. 784.03(1), 784.07(1)(e), and 784.07(2)(b), F.S., and the appellant was found guilty as charged on this count).



The reclassification of the degree of the offense is as follows:

- In the case of assault, from a second degree misdemeanor to a first degree misdemeanor;
- In the case of battery, from a first degree misdemeanor to a third degree felony;
- In the case of aggravated assault, from a third degree felony to a second degree felony, and any person convicted of aggravated assault upon a law enforcement officer is subject to a mandatory three-year minimum term of imprisonment; and
- In the case of aggravated battery, from a second degree felony to a first degree felony, and any person convicted of aggravated battery of a law enforcement officer is subject to a mandatory five-year minimum term of imprisonment.

Further, if the person, during the commission of a battery subject to reclassification as a third degree felony, possessed:

- A firearm or destructive device, the person is subject to a mandatory minimum term of imprisonment of three years; or
- A semiautomatic firearm and its high-capacity detachable box magazine or a machine gun, the person is subject to a mandatory minimum term of imprisonment of eight years.<sup>6</sup>

Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.<sup>7</sup>

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

#### **New Requirements Relating to Certain Public Transit Providers**

The bill creates s. 341.0611, F.S., which provides that:

- By January 1, 2022, every public transit provider operating regularly scheduled transit service for the general public must post in at least one conspicuous place at the entrance of each public transit vehicle a sign in accordance with specifications in the bill containing the following statement: “ATTENTION: COMMITTING A BATTERY UPON A PUBLIC TRANSIT WORKER IS A FELONY PUNISHABLE BY UP TO 5 YEARS IN PRISON.”
- By July 1, 2022, such public transit provider must create and implement a risk reduction program. Each risk reduction program must include conflict deescalation training for public transit employees and agents, and may include the deployment of battery mitigation

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<sup>6</sup> Section 784.07(3)(a) and (b), F.S. Additionally, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release, prior to serving the minimum sentence. Section 784.07(3), F.S.

<sup>7</sup> Section 775.082, F.S. (maximum penalties). Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.082, F.S., provides the following maximum fines: \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

infrastructure and technology on public transit vehicles, including barriers to restrict the unwanted entry of individuals and objects into the workstations of public transit employees and agents.

### **Declaration of Important State Interest**

The bill includes a declaration of important state interest supporting the requirements that public transit providers conspicuously post signage that provides notification of the criminal penalties for battery on a public transit worker, and also create and implement a risk reduction program that includes conflict deescalation training.

### **Correcting a Missing Reference in s. 784.07, F.S., to Public Transit Employee or Agent**

The bill also amends s. 784.07, F.S., which enhances punishment for assaults and batteries committed upon specified officials. A public transit employee or agent is included in the list of specified officials but the statute is missing one reference to public transit employee or agent.<sup>8</sup> The bill corrects this omission.

### **Effective Date**

The bill takes effect October 1, 2021.

## **IV. Constitutional Issues:**

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

Article VII, s. 18(a) of the State Constitution provides that: “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature....”

This bill requires public transit providers to post signage (as specified in the bill), and create and implement a risk reduction program that must include conflict deescalation training for transit operators. These requirements may cause public transit providers to spend funds.

Article VII, section 18(d) of the State Constitution, provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. If the bill does qualify as a mandate, and no exemption applies, in order to be binding on the counties, the bill must include a finding of important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

The bill includes a declaration of an important state interest supporting the requirements that public transit providers conspicuously post signage that provides notification of the criminal penalties for battery on a public transit worker, and also create and implement a

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<sup>8</sup> See footnote 5.

risk reduction program that includes conflict deescalation training (see “Effect of Proposed Changes” section of this analysis).

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill requires public transit providers to post signage (as specified in the bill), and create and implement a risk reduction program that must include conflict deescalation training for transit operators. Public transit providers may see an increase in costs to comply with the bill’s requirements.

The original bill amended s. 784.07, F.S., to increase an assault upon a specified official from a second degree misdemeanor to a third degree felony. The Legislature’s Office of Economic and Demographic Research preliminarily estimated that the original bill would have a “positive significant” prison bed impact (an increase of more than 25 prison beds).<sup>9</sup> However, CS/SB 980 does not amend s. 784.07, F.S., to increase an assault upon a specified official from a second degree misdemeanor to a third degree felony, and does not otherwise expand the scope of s. 784.07, F.S., or create or increase penalties. Therefore, CS/SB 980 does not appear to have a prison bed impact.

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<sup>9</sup> The EDR’s preliminary estimate of SB 980 is on file with the Senate Committee on Criminal Justice.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 784.07 of the Florida Statutes.

This bill creates section 341.0611 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Criminal Justice on March 2, 2021:**

The committee substitute removes language that amended s. 784.07, F.S., to increase the degree of an assault upon a specified official from a second degree misdemeanor to a third degree felony, and makes conforming changes to a signage requirement and other requirements consistent with that change.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2021	.	
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The Committee on Criminal Justice (Perry) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 30 - 88  
and insert:  
no smaller than 48 points: "ATTENTION: COMMITTING A BATTERY UPON  
A TRANSIT WORKER IS A CRIME PUNISHABLE BY UP TO 5 YEARS IN  
PRISON."

(2) By July 1, 2022, each public transit provider operating  
regularly scheduled transit service for the general public shall  
create and implement a risk reduction program. Each risk



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reduction program must include conflict deescalation training for public transit employees and agents. The risk reduction program may include the deployment of battery mitigation infrastructure and technology on public transit vehicles, including barriers to restrict the unwanted entry of individuals and objects into public transit employees' and agents' workstations.

Section 2. The Legislature finds that public transit employees and agents may be subject to battery while performing their jobs. The Legislature further finds and declares that this act fulfills an important state interest in protecting the safety of public transit employees and agents by requiring that each public transit provider operating regularly scheduled transit service conspicuously post signage that provides notification of the criminal penalties for committing a battery upon a public transit employee or agent and by creating and implementing a risk reduction program that includes conflict deescalation training. The Legislature further finds that these reasonable measures may reduce or prevent attacks on public transit employees and agents.

Section 3. Subsection (2) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.—

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, a firefighter, an emergency medical care provider, a railroad



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special officer, a traffic accident investigation officer as described in s. 316.640, a nonsworn law enforcement agency employee who is certified as an agency inspector, a blood alcohol analyst, or a breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI, a law enforcement explorer, a traffic infraction enforcement officer as described in s. 316.640, a parking enforcement specialist as defined in s. 316.640, a public transit employee or agent, a person licensed as a security officer as defined in s. 493.6101 and wearing a uniform that bears at least one patch or emblem that is visible at all times that clearly identifies the employing agency and that clearly identifies the person as a licensed security officer, or a security officer employed by the board of trustees of a community college, while the officer, firefighter, emergency medical care provider, railroad special officer, traffic accident investigation officer, traffic infraction enforcement officer, inspector, analyst, operator, law enforcement explorer, parking enforcement specialist, public transit employee or agent, or security officer is engaged in the lawful performance of his or her duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.

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

And the title is amended as follows:

Delete lines 2 - 17



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and insert:

An act relating to battery upon public transit workers; creating s. 341.0611, F.S.; requiring certain public transit providers to post a specified sign concerning the penalty for committing a battery upon a transit worker by a specified date; requiring public transit providers to create and implement a risk reduction program by a specified date; requiring each such program to include conflict deescalation training for public transit employees and agents; authorizing programs to include the deployment of battery mitigation infrastructure and technology on public transit vehicles; providing a declaration of important state interest; amending s. 784.07, F.S.; including assault or battery on a public transit employee or agent within specified reclassified offenses; providing an effective



By Senator Perry

8-01290-21

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A bill to be entitled

An act relating to assaults on specified persons; creating s. 341.0611, F.S.; requiring certain public transit providers to post a specified sign concerning the penalty for assaulting a transit worker by a specified date; requiring public transit providers to create and implement a risk reduction program by a specified date; requiring each such program to include conflict deescalation training for public transit employees and agents; authorizing programs to include the deployment of assault mitigation infrastructure and technology on public transit vehicles; providing a declaration of important state interest; amending s. 784.07, F.S.; including assault or battery on a public transit employee or agent within specified reclassified offenses; increasing the penalty for assault on specified persons; providing an effective date.

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

Section 1. Section 341.0611, Florida Statutes, is created to read:

341.0611 Public transit employee and agent safety.—

(1) By January 1, 2022, each public transit provider operating regularly scheduled transit service for the general public shall post in at least one conspicuous place at the entrance of each public transit vehicle a yellow sign with the following statement in capital letters in black, boldface type

Page 1 of 4

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

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no smaller than 48 points: "ATTENTION: ASSAULTING A TRANSIT WORKER IS A FELONY PUNISHABLE BY UP TO 5 YEARS IN PRISON."

(2) By July 1, 2022, each public transit provider operating regularly scheduled transit service for the general public shall create and implement a risk reduction program. Each risk reduction program must include conflict deescalation training for public transit employees and agents. The risk reduction program may include the deployment of assault mitigation infrastructure and technology on public transit vehicles, including barriers to restrict the unwanted entry of individuals and objects into public transit employees' and agents' workstations.

Section 2. The Legislature finds that public transit employees and agents may be subject to assault while performing their jobs. The Legislature further finds and declares that this act fulfills an important state interest in protecting the safety of public transit employees and agents by requiring that each public transit provider operating regularly scheduled transit service conspicuously post signage that provides notification of the criminal penalties for assaulting a public transit employee or agent and by creating and implementing a risk reduction program that includes conflict deescalation training. The Legislature further finds that these reasonable measures may reduce or prevent attacks on public transit employees and agents.

Section 3. Subsection (2) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit

Page 2 of 4

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

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employees or agents, or other specified officers;  
reclassification of offenses; minimum sentences.-

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer, a firefighter, an emergency medical care provider, a railroad special officer, a traffic accident investigation officer as described in s. 316.640, a nonsworn law enforcement agency employee who is certified as an agency inspector, a blood alcohol analyst, or a breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI, a law enforcement explorer, a traffic infraction enforcement officer as described in s. 316.640, a parking enforcement specialist as defined in s. 316.640, a public transit employee or agent, a person licensed as a security officer as defined in s. 493.6101 and wearing a uniform that bears at least one patch or emblem that is visible at all times that clearly identifies the employing agency and that clearly identifies the person as a licensed security officer, or a security officer employed by the board of trustees of a community college, while the officer, firefighter, emergency medical care provider, railroad special officer, traffic accident investigation officer, traffic infraction enforcement officer, inspector, analyst, operator, law enforcement explorer, parking enforcement specialist, public transit employee or agent, or security officer is engaged in the lawful performance of his or her duties, the offense for which the person is charged shall be reclassified as follows:

(a) In the case of assault, from a misdemeanor of the

Page 3 of 4

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second degree to a felony ~~misdemeanor~~ of the third ~~first~~ degree.

(b) In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.

(c) In the case of aggravated assault, from a felony of the third degree to a felony of the second degree. Notwithstanding any other provision of law, any person convicted of aggravated assault upon a law enforcement officer shall be sentenced to a minimum term of imprisonment of 3 years.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree. Notwithstanding any other provision of law, any person convicted of aggravated battery of a law enforcement officer shall be sentenced to a minimum term of imprisonment of 5 years.

Section 4. This act shall take effect October 1, 2021.

Page 4 of 4

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

## **SB 980 – Assaults on Specified Persons**

This bill creates s. 341.0611, F.S., requiring that a public transit provider include a sign noting that the assault of a transit worker is a felony punishable by up to five years in prison, as well as creating and implementing a risk reduction program that includes conflict de-escalation training for public transit employees and agents, with the option of deploying assault mitigating infrastructure and technology on public transit vehicles. It also amends s. 784.07, F.S., clarifying that this statute applies to an assault or battery on a public transit employee or agent and changing the current reclassification of a 2<sup>nd</sup> degree assault to a 1<sup>st</sup> degree misdemeanor, where a 2<sup>nd</sup> degree misdemeanor assault would now be a 3<sup>rd</sup> degree felony.

Per DOC, in FY 18-19, there were 400 new commitments to prison for assault or battery offenses against law enforcement officers, firefighters, emergency medical care providers, public transit employees, etc. (s. 784.07, F.S.). In FY 19-20, there were 286 new commitments. In FY 18-19, simple battery had an incarceration rate of 16.5%, and in FY 19-20, it had an incarceration rate of 15.0%. Per FDLE, in FY 18-19, there were 259 guilty/convicted and 77 adjudication withheld where a 2<sup>nd</sup> degree misdemeanor was increased to a 1<sup>st</sup> degree misdemeanor under s. 784.07, F.S. In FY 19-20, there were 208 guilty/convicted and 41 adjudication withheld. While it is expected that 2<sup>nd</sup> degree assault would have a lower incarceration rate as a 3<sup>rd</sup> degree felony, the large number of those impacted would be expected to be enough to reach significance.

**EDR PROPOSED ESTIMATE: Positive Significant**

**Requested by: Senate**



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** February 10, 2021

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I respectfully request that **Senate Bill #980**, relating to Assaults on Specified Persons, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written over a horizontal line.

Senator Keith Perry  
Florida Senate, District 8

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

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

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

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BILL: SB 1002

INTRODUCER: Senator Stewart

SUBJECT: DNA Evidence Collected in Sexual Offense Investigations

DATE: March 1, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones	CJ	<b>Favorable</b>
2.			ACJ	
3.			AP	

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**I. Summary:**

SB 1002 amends s. 943.326, F.S., to require that the Florida Department of Law Enforcement (FDLE) create and begin to maintain a statewide database, the purpose of which is to track the location, processing status, and storage of sexual assault evidence kits (SAKs), from evidence collection throughout the criminal justice process. The database must be created no later than July 1, 2023, and is subject to appropriation by the Legislature.

The alleged victim, who has reported the crime to law enforcement, will have the ability to access the database and follow his or her SAK from the collection site, to law enforcement agency storage, then to the crime laboratory for forensic testing and back to law enforcement agency storage.

If there is a DNA match between the SAK evidence and a person whose DNA is stored in a local, state, or federal database and who may be a suspect or person of interest in the case, the alleged victim will be notified of the match, but not the person's identity, via the newly-created statewide database. The investigating law enforcement agency may postpone this notification for up to 180 days if the investigators are of the opinion that immediate notification would negatively affect the investigation.

Law enforcement agencies, medical facilities, crime laboratories, and any other facilities that collect, receive, maintain, store, or preserve the SAKs must participate in the database, as required by the FDLE.

If the alleged victim is a minor, his or her parent, guardian, or legal representative will have access to the database. If the alleged victim is deceased, his or her personal representative will have access.

The FDLE is required to ensure that each alleged victim, or his or her representative is notified of the existence of the database and provided with instruction on how to access the database.

The FDLE may phase in participation and access to the new statewide SAK tracking database at its discretion and in the manner it chooses. All entities in the chain of custody of SAKs must fully participate in the statewide database no later than 1 year after its creation.

The bill states that the act may be cited as “Gail’s Law.”

The bill will have a negative fiscal impact on the FDLE. See Section V. Fiscal Impact Statement.

The bill becomes effective July 1, 2021.

## **II. Present Situation:**

### **Forensic Evidence Collection in Sexual Assault Cases**

A sexual assault kit (SAK), is a medical kit used by a healthcare provider to collect evidence from the body and clothing of a victim of sexual battery or other sexual offense during a forensic physical examination. The kit contains tools such as swabs, tubes, glass slides, containers, and plastic bags. These items are used to collect and preserve bodily fluids, hair, and fibers that can help identify DNA (deoxyribonucleic acid) and other forensic evidence left by a perpetrator.<sup>1</sup> SAK contents are typically very standardized and, because they are collected directly from the victim’s person, generally represent the most probative evidence.<sup>2</sup>

According to protocols developed by the Department of Legal Affairs (DLA), healthcare providers conducting the forensic physical examination should complete the document entitled “Sexual Assault Kit Form for Healthcare Providers.”<sup>3</sup> This document includes an exam consent form that requires the victim or his or her legal guardian to indicate that he or she consents to a forensic physical examination for the preservation of evidence of a sexual offense.<sup>4</sup> The victim or his or her legal guardian will also be asked whether he or she wants to report the sexual offense to law enforcement. Non-reporting victims’ SAKs will be retained as evidence should he

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<sup>1</sup> The White House, Office of the Press Secretary, *Fact Sheet: Investments To Reduce The National Rape Kit Backlog And Combat Violence Against Women*, March 16, 2015, available at <https://obamawhitehouse.archives.gov/the-press-office/2015/03/16/fact-sheet-investments-reduce-national-rape-kit-backlog-and-combat-viole> (last visited February 17, 2021).

<sup>2</sup> Florida Department of Law Enforcement, *Assessment of Unsubmitted Sexual Assault Kits*, Executive Summary, p. 5, available at <http://www.fdle.state.fl.us/docs/SAKResults.pdf> (last visited February 17, 2021).

<sup>3</sup> Florida Department of Legal Affairs, Division of Victim Services and Criminal Justice Programs, *Adult and Child Sexual Assault Protocols: Initial Forensic Physical Examination*, April 2015, pp. 12-13, available at [https://myfloridalegal.com/webfiles.nsf/WF/JFAO-77TKCT/\\$file/ACSP.pdf](https://myfloridalegal.com/webfiles.nsf/WF/JFAO-77TKCT/$file/ACSP.pdf); See also Florida Council Against Sexual Violence, *Sexual Assault Nurse Examiner Program Guidance Document, Forensic Exam: Evidence Collection*; May 29, 2018, available at <https://www.fcasv.org/sites/default/files/Evidence%20Collection%20Guidance%20Document%205.29.18%20%20FINAL.docx.pdf>; and Florida Department of Law Enforcement, *Sexual Assault/Forensic/Medical Exam*, available at <http://www.fdle.state.fl.us/Documents/SAEKrev5.aspx> (all sites last visited February 24, 2021).

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

or she decide to report the offense at a later date, but unless there is an active criminal case, the SAK will not be tested for DNA.<sup>5</sup>

The DLA protocols provide instructions for sealing the SAK upon completion of the exam and indicate that the SAK must stay with the examiner or secured in a locked area with limited access and proper chain of custody procedures until transferred to the proper law enforcement agency.<sup>6</sup>

### **Evidence Submission, DNA Testing, DNA Database**

A law enforcement agency must submit a SAK, or other DNA evidence if a kit is not collected, to a member of the statewide criminal analysis laboratory system for forensic testing within 30 days after:

- Receipt of the evidence by a law enforcement agency if a report of the sexual offense is made to the law enforcement agency; or
- A request to have the evidence tested is made to the medical provider or the law enforcement agency by:
  - The alleged victim;
  - The alleged victim's parent, guardian, or legal representative, if the alleged victim is a minor; or
  - The alleged victim's personal representative, if the alleged victim is deceased.<sup>7</sup>

The victim or the victim's representative must be informed of the purpose of submitting the SAK or other evidence by the law enforcement agency or the medical provider collecting the SAK.<sup>8</sup>

Generally, law enforcement agencies in Florida submit SAKs for DNA analysis to the statewide criminal analysis laboratory system, which consists of six laboratories operated by the Florida Department of Law Enforcement (FDLE) in Ft. Myers, Jacksonville, Pensacola, Orlando, Tallahassee, and Tampa and five local laboratories in Broward, Indian River, Miami-Dade, Palm Beach, and Pinellas Counties.<sup>9</sup>

Testing of SAKs must be completed no later than 120 days after submission to a member of the statewide criminal analysis laboratory system.<sup>10</sup> Testing satisfies the statutory timeline when a

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<sup>5</sup> *Id.* According to FDLE protocols, to test a non-reporting victim's SAK would violate the confidentiality and privacy of the victim's health records under the Health Insurance Portability and Accountability Act (HIPAA). Florida Department of Law Enforcement, *Sexual Assault Kit Submissions Frequently Asked Questions*, p. 1, available at [https://www.fdle.state.fl.us/Forensics/Documents/Sexual-Assault-Kit-FAQs-for-LEA\\_Final.aspx](https://www.fdle.state.fl.us/Forensics/Documents/Sexual-Assault-Kit-FAQs-for-LEA_Final.aspx) (last visited February 18, 2021). The DLA, which administers a program that pays for an alleged sexual assault victim's forensic physical exam, does not discriminate based upon whether the victim reports the crime to a law enforcement agency. Additionally, the DLA keeps the victim's identity confidential and exempt from the public records law. Section 960.28, F.S.

<sup>6</sup> *Id.* pp. 20-21. See also Florida Department of Law Enforcement, *Crime Laboratory Evidence Submission Manual*, March 2020, p. 15, available at <https://www.fdle.state.fl.us/Forensics/Documents/2020-ESM> (last visited February 18, 2021). A collected sexual offense evidence kit must be retained in a secure, environmentally safe manner until the prosecuting agency has approved its destruction. Section 943.326(3), F.S.

<sup>7</sup> Section 943.326(1), F.S.

<sup>8</sup> Section 943.326(2), F.S.

<sup>9</sup> Section 943.32, F.S.

<sup>10</sup> Section 943.326(4), F.S.

member of the statewide criminal analysis laboratory system tests the contents of the SAK in an attempt to identify the foreign DNA attributable to a suspect.<sup>11</sup>

Evidence that may carry a suspect's DNA can be found on physical evidence such as the victim's clothing or bedding. This type of physical evidence is typically accepted for laboratory analysis if no probative results are obtained from the SAK which may include a pair of underwear worn by the victim at the time of the crime or closely thereafter, and a condom, if applicable.<sup>12</sup>

The state crime laboratories perform STR (short tandem repeats)<sup>13</sup> DNA testing on evidence received from a law enforcement agency, comparing the SAK or crime scene DNA evidence to known DNA samples. The DNA samples from the SAK or other crime scene evidence that do not match the victim's DNA may be attributed to the suspect.<sup>14</sup> The suspect's DNA from the SAK or the crime scene may be submitted to the local, state or Federal Bureau of Investigation's Combined DNA Index System (CODIS) to be searched against local, state, and national casework index files and convicted offender profiles, which could reveal the identity of the perpetrator.<sup>15</sup>

## **Sexual Assault Kit Tracking**

### ***Law Enforcement Tracking***

Investigative reporting in the 2000's discovered that large cities like New York and Los Angeles, among others had large numbers of SAKs that had not been submitted to laboratories for DNA testing.<sup>16</sup> Florida was among the states that had a SAK backlog. For this reason, the 2015 Legislature required the FDLE to complete a statewide assessment of unsubmitted SAKs and report on the findings by January 1, 2016.<sup>17</sup>

Local law enforcement agencies were surveyed by the FDLE with 279 agencies responding. The survey responses showed that in 2015, there were approximately 13,435 unsubmitted SAKs of which agencies approximated 9,484 of them should be submitted (under agency guidelines) to the state crime laboratories for DNA testing. The decision to submit a SAK rested with the local

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<sup>11</sup> Section 943.326(4)(b), F.S.

<sup>12</sup> Florida Department of Law Enforcement, *Crime Laboratory Evidence Submission Manual*, March 2020, pp. 14-15, available at <https://www.fdle.state.fl.us/Forensics/Documents/2020-ESM> (last visited February 18, 2021).

<sup>13</sup> STR (short tandem repeats) DNA testing examines thirteen different areas (markers) of DNA that have been found to be highly variable. These thirteen markers have been standardized in the United States to allow the comparison of testing results from one state to another. Florida Department of Law Enforcement, *Biology/DNA Laboratory and the DNA Investigative Database*, Rev. January 2015, available at [https://www.fdle.state.fl.us/Publications/Documents/Brochures/DNABrochureJan2015\\_1.aspx#:~:text=Biology/DNA%20Laboratory%20and%20the%20DNA%20Investigative%20Support%20Database,LAW%20ENFORCEMENT%202331%20Philips%20Road%20Tallahassee,%20Florida%2032308](https://www.fdle.state.fl.us/Publications/Documents/Brochures/DNABrochureJan2015_1.aspx#:~:text=Biology/DNA%20Laboratory%20and%20the%20DNA%20Investigative%20Support%20Database,LAW%20ENFORCEMENT%202331%20Philips%20Road%20Tallahassee,%20Florida%2032308) (last visited February 18, 2021).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

<sup>16</sup> There were a reported 17,000 unsubmitted SAKs in New York City, and at least 12,669 in Los Angeles. Madeleine Carlisle, *A New System to Ensure Sexual-Assault Cases Aren't Forgotten*, The Atlantic, April 7, 2019, available at <https://www.theatlantic.com/politics/archive/2019/04/many-states-are-adopting-rape-kit-tracking-systems/586531/> (last visited February 23, 2021). See also Florida Department of Law Enforcement, *Assessment of Unsubmitted Sexual Assault Kits*, p. 1, available at <http://www.fdle.state.fl.us/docs/SAKResults.pdf> (last visited February 17, 2021).

<sup>17</sup> Florida Department of Law Enforcement, *Assessment of Unsubmitted Sexual Assault Kits*, Executive Summary, available at <http://www.fdle.state.fl.us/docs/SAKResults.pdf>, (last visited February 17, 2021).



law enforcement agencies.<sup>18</sup> Until s. 943.326, F.S., became effective on July 1, 2016, there were no statewide standards or expectations regarding the submission of SAKs.

The FDLE completed laboratory analysis of the previously unsubmitted SAKs with an offense date of prior to October 1, 2014, by the end of June, 2019.<sup>19</sup> DNA testing of the 8,023 SAKs resulted in 1,814 CODIS “hits” which linked the DNA from the SAKs to a possible suspect in the sexual assault and possibly other unsolved crimes throughout the country.<sup>20</sup>

### ***Other States Statewide SAK Tracking Provides Victims’ Access***

In 2016, Idaho was the first state to create its own statewide SAK tracking system. Idaho has shared this system with other states free of charge. The states that have not taken Idaho up on its offer have largely contracted with one of several companies that provide services like round-the-clock technical support.<sup>21</sup>

As adopted or considered in other states, SAK tracking typically consists of a software program that provides for the upload of SAK location information by medical, law enforcement, and laboratory personnel. A secure database that contains no personal information allows victims of sexual assault to monitor the progress of the SAK for his or her case through the criminal justice system. The tracking is typically accomplished by checking a randomly assigned bar code matching the bar code used to track the evidence by law enforcement and laboratories.<sup>22</sup>

Florida does not currently possess a statewide electronic tracking system for SAKs.

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

The bill requires that, subject to appropriation by the Legislature, and no later than July 1, 2023, the FDLE create and begin to maintain a statewide database, the purpose of which is to track the location, processing status, and storage of sexual assault evidence kits (SAKs), from evidence collection throughout the criminal justice process. The database must be accessible to:

- The alleged victim of the sexual assault;
- The alleged victim’s parent, guardian, or legal representative, if the alleged victim is a minor;
- The alleged victim’s personal representative, if the alleged victim is deceased; and

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<sup>18</sup> *Id.* at pp. 2-3.

<sup>19</sup> See Press Release containing the Florida Department of Law Enforcement, *Sexual Assault Kit Final Progress Report*, September 2019, Hernando Sun, *FDLE completes 3-year sexual assault kit project*, September 20, 2019, available at <https://www.hernandosun.com/article/fdle-completes-3-year-sexual-assault-kit-project> (last visited February 24, 2021).

<sup>20</sup> *Id.*

<sup>21</sup> Madeleine Carlisle, *A New System to Ensure Sexual-Assault Cases Aren’t Forgotten*, The Atlantic, April 7, 2019, available at <https://www.theatlantic.com/politics/archive/2019/04/many-states-are-adopting-rape-kit-tracking-systems/586531/>. See also Barbara Sprunt, *Virginia Launches Rape Kit Tracking System To Give Control Back To Survivors*, National Public Radio, WAMU 88.5, October 4, 2019, available at <https://www.npr.org/local/305/2019/10/04/767403524/virginia-launches-rape-kit-tracking-system-to-give-control-back-to-survivors>; Nicole Nixon, *Sexual Assault Survivors in California Could Track Their Rape Kit Online Under New Bill*, CapRadio, February 2, 2021, available at <https://www.capradio.org/articles/2021/02/02/sexual-assault-survivors-in-california-could-track-their-rape-kit-online-under-new-bill/>; and Doug Richards, *New bill introduced in Georgia would create online registry to track rape kits*, 11alive.com, February 4, 2021, available at <https://www.11alive.com/article/news/politics/rape-kits-tracking-bill/85-ba8092be-0a65-4241-8d26-2182f38c420f> (all sites last visited February 19, 2021).

<sup>22</sup> *Id.*

- Law enforcement agencies.

The bill specifies that law enforcement agencies, medical facilities, crime laboratories, and any other facilities that collect, receive, maintain, store, or preserve the SAKs must participate in the database, as required by the FDLE. This provision appears to give the FDLE the ability to require the listed facilities to input data into the database to the extent necessary to maintain uninterrupted tracking of the SAKs.

The FDLE is required to ensure that each alleged victim, the alleged victim's parent, guardian, or legal representative, if the alleged victim is a minor, and the alleged victim's personal representative, if the alleged victim is deceased is:

- Notified of the existence of the database;
- Provided with instruction on how to access the database; and
- Informed that he or she is entitled to access information regarding the alleged victim's SAK, including:
  - Tracking information;
  - Testing status; and
  - Any DNA matches to a person deemed by investigators to be a suspect or a person of interest in the investigation.

The bill provides that notification about a DNA match should be limited to the occurrence of a match, and without any genetic or other identifying information. Such notification may be delayed for up to 180 days if the investigators are of the opinion that immediate notification would negatively affect the investigation.

The FDLE may phase in participation and access to the new statewide SAK tracking database at its discretion and in the manner it chooses.

The bill requires that all entities in the chain of custody of SAKs fully participate in the statewide database no later than 1 year after its creation. The database must track the status of SAKs from entities in the chain of custody which include medical providers who collect the SAK evidence, the law enforcement personnel who receive, store, and send the SAK for testing, and laboratory personnel who process the SAK and return it to the law enforcement agency for storage until the prosecuting agency has approved its destruction according to s. 943.326(3), F.S.

The bill states that the act may be cited as "Gail's Law."

The bill becomes effective July 1, 2021.

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

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The FDLE expects a fiscal impact of \$932,266 which includes 2 FTE positions and of which \$824,476 are recurring funds.<sup>23</sup>

The FDLE expects it will cost \$600,000 to purchase a product that can accommodate the state's needs for a statewide SAKs tracking database. Recurring expenditures are expected to be \$500,000 plus some percentage annual increase to maintain the system. The FDLE will need \$150,000 annually to purchase standardized SAKs, designed to include barcodes for tracking. For management, training, and support, the 2 requested FTE positions will total \$182,266, of which \$174,476 will be recurring.<sup>24</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The FDLE suggests that the investigating law enforcement agency notify the alleged victim of a CODIS "hit," rather than that information being accessible through the database. This seems to be an issue of notification timing as well as the suggestion that "hit" notifications be limited to a

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<sup>23</sup> 2021 FDLE Legislative Bill Analysis, SB 1002, February 19, 2021 (on file with the Senate Criminal Justice Committee).

<sup>24</sup> *Id.*

“hit” that is a legitimate match to a potential suspect and not other types of “hits” that can occur through CODIS.<sup>25</sup>

From an investigatory standpoint, another concern regarding alleged victim access to CODIS “hit” confirmations arises under the following circumstances. If the alleged victim is a minor and, therefore, it is the parent or guardian who is entitled to database access, what might occur if the parent or guardian is actually the perpetrator and receives the identifying “hit” notification? This unintended occurrence may compromise the investigation by giving the perpetrator time to influence the alleged victim’s cooperation with law enforcement and time to concoct his or her “story.”

The FDLE also suggests that there is no apparent mechanism provided in the bill that would enforce compliance with the database participation requirements.<sup>26</sup>

### **VIII. Statutes Affected:**

This bill substantially amends section 943.326 of the Florida Statutes.

### **IX. Additional Information:**

#### **A. Committee Substitute – Statement of Changes:**

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

None.

#### **B. Amendments:**

None.

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

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<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

By Senator Stewart

13-00904A-21

20211002\_\_

A bill to be entitled

An act relating to DNA evidence collected in sexual offense investigations; providing a short title; amending s. 943.326, F.S.; requiring the Department of Law Enforcement, by a specified date and subject to legislative appropriation, to create and maintain a statewide database for tracking sexual offense evidence kits; providing database requirements; providing participation requirements; requiring the department to ensure that alleged sexual offense victims and certain other persons receive specified notice and instructions and be informed that they are entitled to access information regarding such kits and evidence; providing requirements for such notification; providing for implementation; providing an effective date.

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

Section 1. This act may be cited as "Gail's Law."

Section 2. Subsection (4) of section 943.326, Florida Statutes, is amended to read:

943.326 DNA evidence collected in sexual offense investigations.—

(4) ~~By January 1, 2017,~~ The department and each laboratory within the statewide criminal analysis laboratory system, in coordination with the Florida Council Against Sexual Violence, shall adopt and disseminate guidelines and procedures for the collection, submission, and testing of DNA evidence that is

13-00904A-21

20211002\_\_

obtained in connection with an alleged sexual offense. The timely submission and testing of sexual offense evidence kits is a core public safety issue. Testing of sexual offense evidence kits must be completed no later than 120 days after submission to a member of the statewide criminal analysis laboratory system.

(a) The guidelines and procedures must include the requirements of this section, standards for how evidence is to be packaged for submission, what evidence must be submitted to a member of the statewide criminal analysis laboratory system, and timeframes for when the evidence must be submitted, analyzed, and compared to DNA databases.

(b) The testing requirements of this section are satisfied when a member of the statewide criminal analysis laboratory system tests the contents of the sexual offense evidence kit in an attempt to identify the foreign DNA attributable to a suspect. If a sexual offense evidence kit is not collected, the laboratory may receive and examine other items directly related to the crime scene, such as clothing or bedding or personal items left behind by the suspect. If probative information is obtained from the testing of the sexual offense evidence kit, the examination of other evidence should be based on the potential evidentiary value to the case and determined through cooperation among the investigating agency, the laboratory, and the prosecutor.

(c) The department shall, subject to appropriation by the Legislature, no later than July 1, 2023, create and maintain a statewide database to track the location, processing status, and storage of sexual offense evidence kits which is accessible to

13-00904A-21 20211002  
 59 law enforcement agencies and alleged victims and other persons  
 60 listed in paragraph (1)(b). The database shall track the status  
 61 of the kits from the collection site throughout the criminal  
 62 justice process, including, but not limited to, the initial  
 63 collection at medical facilities, inventory and storage by law  
 64 enforcement agencies or crime laboratories, analysis at crime  
 65 laboratories, and storage or destruction after completion of  
 66 analysis. Law enforcement agencies, medical facilities, crime  
 67 laboratories, and any other facilities that collect, receive,  
 68 maintain, store, or preserve the kits shall participate in the  
 69 database, as required by the department.

70 (d) The department shall ensure that each alleged victim  
 71 and other person listed in paragraph (1)(b) is notified of the  
 72 existence of the database and provided with instruction on how  
 73 to access it and is informed that he or she is entitled to  
 74 access information regarding the alleged victim's sexual offense  
 75 evidence kit, including tracking information, testing status,  
 76 and any DNA matches to a person deemed by investigators to be a  
 77 suspect or person of interest. However, notification of a DNA  
 78 match shall state only that a DNA match has occurred and may not  
 79 contain any genetic or other identifying information. Such a  
 80 notification may be delayed for up to 180 days if such  
 81 notification would, in the opinion of investigators, negatively  
 82 affect the investigation.

83 Section 3. The Department of Law Enforcement may phase in  
 84 initial participation in the statewide database for tracking  
 85 sexual offense evidence kits created in s. 943.326, Florida  
 86 Statutes, as amended by this act, according to region, volume of  
 87 kits, or other appropriate classifications; however, all

13-00904A-21 20211002  
 88 entities in the chain of custody of sexual offense evidence kits  
 89 shall fully participate in the statewide database no later than  
 90 1 year after its creation.

91 Section 4. This act shall take effect July 1, 2021.



# 2021 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION	
<b>BILL NUMBER:</b>	SB 1002
<b>BILL TITLE:</b>	DNA Evidence Collected in Sexual Offense Investigations
<b>BILL SPONSOR:</b>	Senator Stewart
<b>EFFECTIVE DATE:</b>	July 1, 2021

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Appropriations Subcommittee on Criminal and Civil Justice
3) Appropriations
4)
5)

PREVIOUS LEGISLATION	
<b>BILL NUMBER:</b>	SB892
<b>SPONSOR:</b>	Berman
<b>YEAR:</b>	2020
<b>LAST ACTION:</b>	

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS	
<b>BILL NUMBER:</b>	HB 673
<b>SPONSOR:</b>	Slosberg, Eskamani

IDENTICAL BILLS	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

Is this bill part of an agency package?
No

BILL ANALYSIS INFORMATION	
<b>DATE OF ANALYSIS:</b>	February 19, 2021
<b>LEAD AGENCY ANALYST:</b>	Lori Mizell
<b>ADDITIONAL ANALYST(S):</b>	David Coffman, Becky Bezemek
<b>LEGAL ANALYST:</b>	Jim Martin, Jeff Dambly
<b>FISCAL ANALYST:</b>	Cynthia Barr

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

Requires FDLE, by a specified date and subject to legislative appropriation, to create and maintain a statewide database for tracking sexual offense evidence kits; providing database requirements; requires the department to ensure that alleged sexual offense victims and certain other persons receive specified notice and instructions and be informed that they are entitled to access information regarding such kits and evidence, etc.

### 2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Currently, there is no statewide database to track submitted sexual offense evidence kits.
2. **EFFECT OF THE BILL:** Amends s. 943.326, FS, to require FDLE, subject to appropriation by the Legislature, and no later than July 1, 2023, create and maintain a statewide database to track the location, processing status and storage of sexual offense evidence kits that is accessible to law enforcement agencies and alleged victims and other individuals such as the alleged victim's parent, guardian or legal representative if the alleged victim is a minor, or the alleged victim's personal representative, if the alleged victim is deceased. The database shall track the status of the kits from the collection site throughout the criminal justice process, including, but not limited to, the initial collection at medical facilities, inventory and storage by law enforcement agencies or crime laboratories, analysis at crime laboratories and storage or destruction after completion of analysis. Law enforcement agencies, medical facilities, crime laboratories and any other facilities that collect, receive, maintain, store or preserve the kits shall participate in the database as required by the department.

The department shall ensure each alleged victim and other persons listed above are notified of the existence of the database and provided with instruction on how to access it and are informed that he or she is entitled to access information regarding the evidence kit, including tracking information, testing status and any DNA matches to a person deemed by investigators to be a suspect or person of interest. However, notification of a DNA match shall state only that a DNA match has occurred and may not contain any genetic or other identifying information. The notification may be delayed for up to 180 days if such a notification would, in the opinion of investigators, negatively affect the investigation.

Allows FDLE to phase in initial participation in the statewide database for tracking sexual offense evidence kits created according to region, volume of kits or other appropriate classifications. However, all entities in the chain of custody of sexual offense evidence kits shall fully participate in the statewide database no later than one year after its creation.

### 3. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES OR PROCEDURES? Y ☒ N ☐

If yes, explain:	Requires development of policies and procedures.
What is the expected impact to the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

### 4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

List any known proponents and opponents:	Sexual assault victims
Provide a summary of the proponents' and opponents' positions:	Sexual assault victims are proponents due to the interest in obtaining the status of their submitted evidence kits in order to track it through the process. This will give the victim current information regarding when the kit was tested, whether any DNA was obtained from testing, whether any DNA was entered into a DNA database, and if it matches a profile within the database.

### 5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

If yes, provide a description:	
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Date Due:	
Bill Section Number:	

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSION, ETC. REQUIRED BY THIS BILL? Y ☐ N ☐**

Board:	
Board Purpose:	
Who Appointments:	
Appointee Term:	
Changes:	
Bill Section Number(s):	

### FISCAL ANALYSIS

**1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☐ N ☒**

Revenues:	
Expenditures:	Based on the design of the commercial off-the-shelf (COTS) product, local agencies should be able to enter data into the system without the need for additional FTE or equipment.
Does the legislation increase local taxes or fees?	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

**2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y ☒ N ☐**

Revenues:	
Expenditures:	<ul style="list-style-type: none"> <li>The department is requesting \$600,000 (\$500,000 recurring) to purchase and maintain a COTS statewide database (see Technology Impact).</li> <li>The department is requesting \$150,000 recurring funds to annually purchase 15,000 standardized sexual offense evidence kits, designed to include barcodes for tracking. The cost per kit is approximately \$10.</li> <li>To manage, train and support on the new system, the department is requesting two FTE positions (Planning &amp; Policy Administrator and Senior Program Analyst) totaling \$182,266 (\$174,476 recurring).</li> </ul> <p><b>Total FDLE Fiscal: 2 FTE, \$932,266 (\$824,476 recurring)</b></p>

Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y ☐ N ☐**

Revenues:	
Expenditures:	
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y ☐ N ☐**

Does the bill increase taxes, fees or fines?	
Does the bill decrease taxes, fees or fines?	
What is the impact of the increase or decrease?	
Bill Section Number:	

### TECHNOLOGY IMPACT

**1. DOES THE LEGISLATION IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)? Y ☒ N ☐**

If yes, describe the anticipated impact to the agency including any fiscal impact.	<p>Based on the size and scope of this initiative in Florida, a COTS product is recommended. FDLE will experience an initial fiscal impact and recurring costs concerning utilizing a COTS software solution for the statewide database:</p> <ul style="list-style-type: none"> <li>• \$600,000 for the first year (includes \$100,000 for state specific customization); and</li> <li>• \$500,000 recurring funds each year thereafter (with a TBD percentage increase annually). This cost estimate is based on state population, Uniform Crime Report sexual assault data, number of hospitals and law enforcement agencies. Fees include annual information technology (IT) services, support, software licenses, and IT management, as well as help desk support.</li> </ul>
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### FEDERAL IMPACT

**1. DOES THE LEGISLATION HAVE A FEDERAL IMPACT (I.E., FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☐**

If yes, describe the anticipated impact including any fiscal impact.	
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### LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments and recommended action:	Lines 66-69 provide that “Law enforcement agencies, medical facilities, crime laboratories, and any other facilities that collect, receive, maintain, store, or preserve the kits shall participate in the database, as required by the department.” However, the bill does not provide a mechanism for such enforcement. The department respectfully recommends expressly providing an enforcement mechanism to provide a means for ensuring compliance.
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## ADDITIONAL COMMENTS

- The bill requires FDLE to create a statewide system for tracking sexual offense evidence kits. A statewide information management system will track the location, lab submission status, testing completion and storage of each kit. To fully implement a system of this type will require system design, development of the application, standard operating procedures/policies, education, training, and management of the system. Two options are available for FDLE to accommodate the requirements of this bill: (1) an internal design and build of the application or (2) a commercial off-the-shelf (COTS) software solution. Based on the size and scope of this initiative in Florida, a COTS product is recommended.
- For efficiency and consistency, a standard statewide sexual offense evidence kit will be designed to include barcodes and will cost approximately \$10 per kit (current cost of the kits is \$3.59). The kits will be provided to all law enforcement and medical facilities within the state. Based on current kit usage by FDLE customers for examinations, duplicates for compromised kits and training purposes, FDLE would provide approximately 15,000 kits per year statewide.
- As previously stated, two FTE positions are necessary to manage the initiative, including a Planning & Policy Administrator and a Senior Program Analyst. The administrator would be responsible for developing policies and procedures, conducting customer outreach and providing training to various stakeholders across the state, including but not limited to, local law enforcement agencies, crime labs, hospitals, victim advocate programs, victims, etc. The analyst position will provide program implementation and analytical support to the administrator and all statewide customers and stakeholders
- The notification to the survivor of a sexual assault about a potential hit to CODIS should be made by the law enforcement agency. FDLE respectfully recommends the Florida Sheriffs Association and Florida Police Chiefs Association be brought in concerning consultation regarding appropriateness of the 180-day time frame.
  - Note that national recommendations exist regarding the use of a Qualified Victim Advocate for notification and FDLE respectfully recommends such recommendations be consulted. Possible language modification: “the law enforcement agency to which the crime was reported must ensure notification within 180 days.” This language provides the opportunity for partnerships between law enforcement agencies and rape crisis centers.
  - Clarification may be warranted regarding the type of “hit”, i.e. notification, regarding the identification of a potential offender versus notification of a hit to another unsolved case (which may or may not ultimately be a match when direct comparisons of data can be made.)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21

Meeting Date

SB1002

Bill Number (if applicable)

Topic RAPE KIT TRACKING SYSTEM

Amendment Barcode (if applicable)

Name GAIL GARDNER

Job Title ADVOCATE

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Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing GAIL'S LAW

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.**

**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

March 2, 2021

*Meeting Date*

1002

*Bill Number (if applicable)*

Topic DNA Evidence Collected in Sexual Offense Investigations

*Amendment Barcode (if applicable)*

Name Barney Bishop III

Job Title Chief Executive Officer

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Phone 850.510.9922

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Tallahassee

FL

32308

Email barney@barneybishop.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
*(The Chair will read this information into the record.)*

Representing Florida Smart Justice Allaince

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 (10/14/14)

Criminal  
Justice

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-2-21

Meeting Date

1002

Bill Number (if applicable)

Topic

DNA Evidence Gathered in Sexual

Amendment Barcode (if applicable)

Name

Barbara DeVane

Offense Investigation

Job Title

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Phone

251-4280

Street

Tallahassee

FL

32308

Email

barbaradevane1@yahoo.com

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

\*

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FL NOW

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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S-001 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

03/02/21

Meeting Date

1002

Bill Number (if applicable)

Topic DNA Evidence Collected in Sexual Offense Investigations

Amendment Barcode (if applicable)

Name Jennifer L. Dritt

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32301

City

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Zip

Email jdritt@fcasv.org

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Council Against Sexual Violence

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

*Criminal Justice*

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-2-21

Meeting Date

1002

Bill Number (if applicable)

Topic

DNA Evidence Gathered in Sexual

Amendment Barcode (if applicable)

Name

Barbara Devane

*Offense Investigation*

Job Title

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625 E Broadway St

Phone

251-4280

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FL

32308

Email

barbadevane1@  
yahoo.com

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

*\**

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FL NOW

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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S-001 (10/14/14)





The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** February 10, 2021

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I respectfully request that **Senate Bill #1002**, relating to DNA Evidence Collected in Sexual Offense Investigations, be placed on the:

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

A handwritten signature in cursive script that reads "Linda Stewart".

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Senator Linda Stewart  
Florida Senate, District 13

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

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

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

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BILL: CS/SB 1032

INTRODUCER: Criminal Justice Committee and Senator Perry

SUBJECT: Criminal Convictions

DATE: March 3, 2021

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Siples	Jones	CJ	Fav/CS
2. _____	_____	ACJ	_____
3. _____	_____	AP	_____

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

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1032 revises licensing requirements for individuals with criminal convictions, revises the purpose of the Criminal Punishment Code, and modifies the current system of gain-time, which allows prisoners to reduce the term of prison sentences.

The bill prohibits the Department of Business and Professional Regulation (DBPR) from denying an application for licensure for certain professions if more than two years have passed since the applicant's conviction, with exceptions. The bill also requires the DBPR to approved educational courses offered by correctional institutions or facilities, to satisfy applicable training requirements for licensure for certain professions.

The bill revises the purpose of the Criminal Punishment Code to provide that criminal offenders are to be appropriately *punished and rehabilitated*, rather than ensuring that violent criminal offenders are incarcerated. The bill also provides that the dual purpose of sentencing in the criminal justice system are punishment and *rehabilitation* of the offender so that he or she can successfully transition back into the community. Rehabilitation is no longer a subordinate goal.

The bill authorizes the Department of Corrections (DOC) to award three types of reductions to a prisoner's sentence in the form of outstanding deed awards, good behavior time, and rehabilitation credits.

The bill authorizes the DOC to award outstanding deed awards of 30 to 60 days, per outstanding deed, to a prisoner who performs an outstanding deed, such as saving a life. The bill requires the DOC to grant 10 days each month of good behavior time to encourage satisfactory behavior and develop character traits for successful reentry into the community. The bill authorizes prisoners who are serving sentences for offenses committed on or after July 1, 1978, to be granted good behavior time. The DOC grants rehabilitation credits for each month a prisoner participates in education or training. The amount of rehabilitation credit a prisoner may earn varies by the date of the offense for which he or she is incarcerated and the offense severity level of the offense.

The bill authorizes the DOC to grant up to two additional days per month of good behavior time to prisoners serving sentences related to certain offenses involving controlled substances. The grant of these two additional days of good behavior is to be applied retroactively.

The bill authorizes prisoners to earn rehabilitation credit for completion of a high school equivalency diploma, a college degree, vocational certificate, drug treatment program, life skills program, reentry program, or other evidence-based program approved by the DOC that serves the purpose of reducing recidivism and assisting a prisoner reintegrate into society. Prisoners may earn 60 days of rehabilitation credit for the completion of each program. Additionally, the bill authorizes prisoners to earn five days of rehabilitation credit for completion of any other DOC-approved program. The bill makes these rehabilitation credits retroactive.

The bill prohibits prisoners from earning good behavior time or outstanding deed awards in an amount that would cause them to serve less than 85 percent of the sentence imposed if the prisoner is serving a sentence for an offense committed after October 1, 1995. However, a prisoner may earn rehabilitation credits in an amount that would not cause him or her to serve less than 65 percent of the imposed sentence.

The bill also revises the Criminal Punishment Code to prohibit a prisoner from earning good behavior time or outstanding deed awards in an amount that would cause a prisoner to serve less than 85 percent of the sentence imposed if the prisoner is serving a sentence for an offense committed after October 1, 1995, and rehabilitation credits in an amount that would cause a prisoner to serve less than 65 percent of the sentence imposed.

The bill requires the DOC to provide a prisoner due process before the forfeiture of any gain-time.

The bill directs the DOC to adopt rules to implement its provisions. The bill also makes conforming changes and reenacts statutes.

The bill will likely have a fiscal impact on the DOC, as well as a prison bed impact. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2021.

## II. Present Situation:

### Licensing Determinations and Criminal History

Section 112.011, F.S., outlines general guidelines for considering criminal convictions during licensure determinations. Generally, a person may be denied a professional license based on his or her prior conviction of a crime if the crime was a felony<sup>1</sup> or first-degree misdemeanor<sup>2</sup> that is directly related to the standards determined by the regulatory authority to be necessary and reasonably related to the protection of the public health, safety, and welfare for the specific profession for which the license is sought.<sup>3</sup> Notwithstanding any law to the contrary, a state agency may not deny an application for a license based solely on the applicant's lack of civil rights.<sup>4</sup>

### Department of Business and Professional Regulation

#### *Licensure, Generally*

The Department of Business and Professional Regulation (DBPR) has 12 divisions that are tasked with the licensure and general regulation of several professions and businesses in Florida.<sup>5</sup> Fifteen boards and programs exist within the Division of Professions,<sup>6</sup> two boards exist within the Division of Real Estate,<sup>7</sup> and one board exists in the Division of Certified Public Accounting.<sup>8</sup>

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<sup>1</sup> Section 775.08(1), F.S., defines “felony” as any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by death or a term of imprisonment in a state penitentiary that exceeds one year.

<sup>2</sup> Section 775.08(2), F.S., defines “misdemeanor” as any criminal offense that is punishable under the laws of this state, or that would be punishable if committed in this state, by a term of imprisonment in a county correctional facility of less than one year. A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

<sup>3</sup> Section 112.011(1)(b), F.S. *See also, e.g., State ex rel. Sbordy v. Rowlett*, 138 Fla. 330, 190 So. 59, 63 (1939), holding that “the preservation of the public health is one of the duties of sovereignty and in a conflict between the right of a citizen to follow a profession and the right of a sovereignty to guard the health and welfare, it logically follows that the rights of the citizen to pursue his profession must yield to the power of the State to prescribe such restrictions and regulations as shall fully protect the people from ignorance, incapacity, deception, and fraud.”

<sup>4</sup> Section 112.011(1)(c), F.S.

<sup>5</sup> *See* s. 20.165, F.S., creating the divisions of Administration; Alcoholic Beverages and Tobacco; Certified Public Accounting; Drugs, Devices, and Cosmetics; Florida Condominiums, Timeshares, and Mobile Homes; Hotels and Restaurants; Pari-mutuel Wagering; Professions; Real Estate; Regulation; Service Operations; and Technology.

<sup>6</sup> Section 20.165(4)(a), F.S., establishes the following boards and programs which are noted with the implementing statutes: Board of Architecture and Interior Design, part I of ch. 481, F.S.; Florida Board of Auctioneers, part VI of ch. 468, F.S.; Barbers’ Board, ch. 476, F.S.; Florida Building Code Administrators and Inspectors Board, part XII of ch. 468, F.S.; Construction Industry Licensing Board, part I of ch. 489, F.S.; Board of Cosmetology, ch. 477, F.S.; Electrical Contractors’ Licensing Board, part II of ch. 489, F.S.; Board of Employee Leasing Companies, part XI of ch. 468, F.S.; Board of Landscape Architecture, part II of ch. 481, F.S.; Board of Pilot Commissioners, ch. 310, F.S.; Board of Professional Engineers, ch. 471, F.S.; Board of Professional Geologists, ch. 492, F.S.; Board of Veterinary Medicine, ch. 474, F.S.; Home Inspection Services Licensing Program, part XV of ch. 468, F.S.; and Mold-related Services Licensing Program, part XVI of ch. 468, F.S.

<sup>7</sup> *See* s. 20.165(4)(b), F.S. Florida Real Estate Appraisal Board, created under part II of ch. 475, F.S., and Florida Real Estate Commission, created under part I of ch. 475, F.S.

<sup>8</sup> *See* s. 20.165(4)(c), F.S., which establishes the Board of Accountancy, created under ch. 473, F.S.

Sections 455.203 and 455.213, F.S., establish the DBPR's general licensing authority, including its authority to charge license fees and license renewal fees. Each board within the DBPR must determine by rule the amount of license fees for each profession, based on estimates of the required revenue to implement the regulatory laws affecting the profession.<sup>9</sup> When a person is authorized to engage in a profession or occupation in Florida, the DBPR issues a "permit, registration, certificate, or license" to the licensee.<sup>10</sup>

In Fiscal Year 2019-2020, there were 468,949 active licensees in the Division of Professions.<sup>11</sup>

### *Denial of Licensure*

Chapter 455, F.S., provides the general powers of the DBPR and sets forth the procedural and administrative framework for all of the professional boards housed under the DBPR as well as the Divisions of Certified Public Accounting, Professions, Real Estate, and Regulation.<sup>12</sup>

The DBPR may regulate professions "only for the preservation of the health, safety, and welfare of the public under the police powers of the state."<sup>13</sup> Regulation is required when:

- The potential for harming or endangering public health, safety, and welfare is recognizable and outweighs any anticompetitive impact that may result;
- The public is not effectively protected by other state statutes, local ordinances, federal legislation, or other means; and
- Less restrictive means of regulation are not available.<sup>14</sup>

However, "neither the department nor any board may create a regulation that has an unreasonable effect on job creation or job retention," or a regulation that unreasonably restricts the ability of those who desire to engage in a profession or occupation to find employment.<sup>15</sup>

The DBPR or a pertinent regulatory board may deny an application for licensure based on the grounds set forth in s. 455.227(1), F.S., or in the profession's practice act.<sup>16</sup> Specifically, the DBPR or regulatory board may deny a licensure application for any person who was:

...convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, a licensee's profession.<sup>17</sup> (Emphasis added.)

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<sup>9</sup> Section 455.219(1), F.S.

<sup>10</sup> Section 455.01(4) and (5), F.S.

<sup>11</sup> See Department of Business and Professional Regulation, Division of Professions, Division of Certified Public Accounting, Division of Real Estate, and Division of Regulation, *Annual Report, Fiscal Year 2019-2020*, p. 20, available at [http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport\\_FY1920.pdf](http://www.myfloridalicense.com/DBPR/os/documents/DivisionAnnualReport_FY1920.pdf) (last visited March 2, 2021).

<sup>12</sup> See ss. 455.01(6) and 455.203, F.S. The DBPR must also provide legal counsel for boards within the DBPR by contracting with the Department of Legal Affairs, by retaining private counsel, or by providing DBPR staff counsel. See s. 455.221(1), F.S.

<sup>13</sup> Section 455.201(2), F.S.

<sup>14</sup> Section 455.201(2), F.S.

<sup>15</sup> Section 455.201(4)(b), F.S.

<sup>16</sup> Section 455.227(2), F.S.

<sup>17</sup> Section 455.227(1)(c), F.S.

Section 455.227, F.S., does not specifically require the DBPR or the applicable regulatory board to consider the passage of time since the disqualifying criminal offense before denying or granting a license.

***Licensing and Criminal Background for Certain Professions***

However, in 2019, the Legislature created a new process for reviewing the criminal history of applicants for specified professions or occupations regulated by the DBPR.<sup>18</sup> The new process applies to:

- Barbers;
- Cosmetologists and cosmetology specialists (i.e. hair braiders, hair wrappers, and body wrappers);
- Construction professionals, including:
  - Air-conditioning contractors;
  - Electrical contractors;
  - Mechanical contractors;
  - Plumbing contractors;
  - Pollutant storage systems contractors;
  - Roofing contractors;
  - Septic tank contractors;
  - Sheet metal contractors;
  - Solar contractors;
  - Swimming pool and spa contractors;
  - Underground utility and excavation contractors; and
  - Other specialty contractors; or
- Any other profession for which the DBPR issues a license, provided the profession is offered to prisoners in any correctional institution or correctional facility as a vocational training or through an industry certification program.<sup>19</sup>

Under this process, a prisoner may apply for a license before he or she is lawfully released from confinement or supervision.<sup>20</sup> The application may not be denied solely on the basis of the applicant's current confinement or supervision.

The DBPR may not deny a license for one of the above-listed occupations based on a conviction for a crime more than five years before the date of application.<sup>21</sup> However, a board may deny a license if the applicant's criminal history includes a crime listed in s. 775.21(4)(a)1., F.S., relating to sexual predator crimes, or s. 776.08, F.S., relating to forcible felonies, if such criminal history relates to the practice of the applicable profession.<sup>22</sup> A regulatory board may also consider the criminal history of an applicant if such criminal history is found to relate to good moral character.<sup>23</sup>

<sup>18</sup> Chapter 2019-167, L.O.F., codified at s. 455.213(3), F.S.

<sup>19</sup> Section 455.213(3)(a), F.S.

<sup>20</sup> Section 455.213(3)(c), F.S.

<sup>21</sup> Section 455.213(3)(b)1., F.S. "Conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld.

<sup>22</sup> *Id.*

<sup>23</sup> Section 455.213(3)(b) 2., F.S.

## Education for State Prisoners

Florida law establishes a Correctional Education Program (CEP) under the Department of Corrections (DOC), which must be composed of the educational facilities and services of all institutions, and facilities housing inmates operated by the DOC.<sup>24</sup> The duties of the CEP include, but are not limited to:

- Developing guidelines for collecting education-related information during the inmate reception process and for disseminating such information to the classification staff of the DOC.<sup>25</sup>
- Approving educational programs of the appropriate levels and types in the correctional institutions and developing procedures for the admission of inmate students into such programs.<sup>26</sup>
- Entering into agreements with public or private school districts, entities, community colleges, junior colleges, colleges, or universities as may be deemed appropriate for the purpose of carrying out the CEP duties.<sup>27</sup>
- Ensuring that such local agreements require minimum performance standards and standards for measurable objectives, in accordance with established Department of Education standards.<sup>28</sup>
- Developing and maintaining complete and reliable statistics on the number of high school equivalency diplomas and vocational certificates issued by each institution in each skill area, the change in inmate literacy levels, and the number of inmate admissions to and withdrawals from education courses.<sup>29</sup>
- Ensuring every inmate who has two years or more on his or her sentence at the time of being received at an institution and who lacks basic and functional literacy skills as defined in s. 1004.02, F.S.,<sup>30</sup> attends not less than 150 hours of sequential instruction in a correctional adult basic education program.<sup>31</sup>
- Ensuring that all education staff are certified in accordance with the Department of Education standards.<sup>32</sup>

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<sup>24</sup> Section 944.801(1), F.S.

<sup>25</sup> Section 944.801(3)(a), F.S., also provides that the information collected must include the inmate's areas of educational or vocational interest, vocational skills, and level of education.

<sup>26</sup> Section 944.801(3)(d), F.S.

<sup>27</sup> Section 944.801(3)(e), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> Section 944.801(3)(g), F.S.

<sup>30</sup> Section 1004.02(4), F.S., defines basic literacy to mean the demonstration of academic competence from 2.0 through 5.9 educational grade levels as measured by means approved for this purpose by the State Board of Education. Section 1004.02(15), F.S., defines functional literacy to mean the demonstration of academic competence from 6.0 through 8.9 educational grade levels as measured by means approved for this purpose by the State Board of Education.

<sup>31</sup> Section 944.801(3)(i), F.S., further provides that highest priority of inmate participation must be focused on youthful offenders and those inmates nearing release from the correctional system and that an inmate is not allowed to participate in the adult basic education program if he or she is serving a life sentence or is under sentence of death, specifically exempted for security or health reasons, housed at a community correctional center, road prison, work camp, or vocational center, attains a functional literacy level after attendance in fewer than 150 hours of adult basic education instruction, or is unable to enter such instruction because of insufficient facilities, staff, or classroom capacity.

<sup>32</sup> Section 944.801(3)(k), F.S. *See* ss. 1002.33(12)(f), 1012.54, 1012.55, and 1012.56, F.S.

The DOC provides 92 career and technical education courses in 37 district vocational trades, which are aligned to Florida's in-demand occupations.<sup>33</sup> The DOC has been able to expand these programs by contracting with state colleges, technical colleges, and community providers. Technical training, employability skill development, and industry-recognized credentialing are integrated into the career and technical education programs to ensure returning citizens are job-ready upon release.<sup>34</sup>

### **Criminal Punishment Code**

In 1997, the Legislature enacted the Criminal Punishment Code<sup>35</sup> (Code) as Florida's "primary sentencing policy."<sup>36</sup> The primary purpose of the Code is to punish the offender and though rehabilitation is desired, it is a subordinate goal.<sup>37</sup>

The Code also provides that the sentence imposed by the sentencing judge for noncapital felony offenses committed on or after October 1, 1998, reflects the length of actual time to be served, shortened only by the application of incentive and meritorious gain-time as provided by law.<sup>38</sup> The sentence may not be shortened if the defendant would consequently serve less than 85 percent of his or her term of imprisonment as provided in s. 944.275(4)(b)3., F.S.<sup>39</sup>

### **Gain-Time**

Section 944.275, F.S., allows the DOC to grant deductions from sentences in the form of gain-time in order to encourage satisfactory prisoner behavior, to provide incentive for prisoners to participate in productive activities, and to reward prisoners who perform outstanding deeds or services. There are currently three types of gain-time prisoners may earn: basic, incentive, and meritorious. As discussed below, the types of gain-time that a prisoner may earn, as well as the amount of gain-time a prisoner may earn, varies according to the offense date. Gain-time earned by a prisoner may also be forfeited for violations of state law or department rules.

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

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

- Portions of any sentences to be served concurrently are treated as a single sentence when determining basic gain-time;
- Basic gain-time for a partial month is prorated on the basis of a 30-day month; and

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<sup>33</sup> The DOC, *Bureau of Education*, available at <http://www.dc.state.fl.us/development/programs.html> (last visited March 2, 2021).

<sup>34</sup> *Id.*

<sup>35</sup> Sections 921.002-921.0027, F.S. The Code is effective for offenses committed on or after October 1, 1998.

<sup>36</sup> See chs. 97-194 and 98-204, L.O.F.

<sup>37</sup> Section 921.002(1)(b), F.S.

<sup>38</sup> Section 921.002(1)(e), F.S.

<sup>39</sup> Persons sentenced for offenses committed prior to October 1, 1995, are not subject to the 85 percent requirement. See *Frequently Asked Questions Regarding Gaintime*, DOC, available at [https://www.floridasupremecourt.org/content/download/242696/file/Johnson%2013-711\(1\).pdf](https://www.floridasupremecourt.org/content/download/242696/file/Johnson%2013-711(1).pdf) (last visited on February 18, 2021).



- When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, basic gain-time is granted for the amount of time the maximum sentence expiration date was extended.<sup>40</sup>

Basic gain-time is awarded as a lump sum upon receipt into the custody of the DOC. Basic gain-time only applies to sentences imposed or offenses committed on or after July 1, 1978, and before January 1, 1994.<sup>41</sup>

The DOC may not grant basic gain-time to prisoners who are convicted of committing a sexual battery on or after October 1, 1992.<sup>42</sup>

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

The DOC may grant incentive gain-time for each month during which a prisoner works diligently, participates in training, uses time constructively, or otherwise engages in positive activities. The rate of incentive gain-time in effect on the date the prisoner committed the offense that resulted in his or her incarceration is the prisoner's rate of eligibility to earn incentive gain-time throughout the period of incarceration and cannot be altered by a subsequent change in the severity level of the offense for which the prisoner was sentenced. Section 944.275(4)(b), F.S., specifies that:

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

The DOC may grant, upon a recommendation of the education program manager, a one-time award of 60 additional days of incentive gain-time to a prisoner who is otherwise eligible and who successfully completes requirements for and is awarded a high school equivalency diploma or vocational certificate. A prisoner may not receive more than 60 days for educational attainment.<sup>43</sup> The DOC may grant an additional six days of incentive gain-time if a prisoner attends and actively participates in 150 hours of adult basic education to attain basic and functional literacy.<sup>44</sup>

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

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<sup>40</sup> Section 944.275(4)(a), F.S.

<sup>41</sup> Section 944.275(6), F.S.

<sup>42</sup> Section 794.011(7), F.S.

<sup>43</sup> Section 944.275(4)(d), F.S.

<sup>44</sup> Section 944.801(3)(i), F.S. "Active participation" means at a minimum, that the inmate is attentive, responsive, cooperative, and completes assigned work.

- Homicide occurring in the perpetration of or attempted perpetration of a sexual battery;
- Kidnapping of a child under the age of 13, and in the course of committing the offense, commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- False imprisonment of a child under the age of 13, and in the course of committing the offense commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- Sexual battery;
- Lewd or lascivious offenses upon or in the presence of persons less than 16 years of age;
- Lewd or lascivious offenses upon or in the presence of an elderly person or disabled person; or
- Computer pornography.<sup>45</sup>

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

The DOC may grant meritorious gain-time to a prisoner who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped prisoner, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his or her sentence. The grant of meritorious gain-time may be from 1 to 60 days.<sup>46</sup>

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

For sentences imposed for offenses committed on or after October 1, 1995, a prisoner may not earn any type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, prior to serving a minimum of 85 percent of the sentence imposed.<sup>47</sup> Credits awarded by the court for time physically incarcerated are credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by s. 944.275, F.S., a prisoner may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. If a prisoner is found to have violated state law or department rules, gain-time may be forfeited according to law.<sup>48</sup>

State prisoners sentenced to life imprisonment must be incarcerated for the rest of their natural lives, unless granted pardon or clemency.<sup>49</sup> Certain offenders are statutorily prohibited from earning gain-time:

- Prison releasee reoffenders must serve 100 percent of the court-imposed sentence and may not earn gain-time to shorten the length of incarceration.<sup>50</sup>

<sup>45</sup> Section 944.275(4)(e), F.S.

<sup>46</sup> Section 944.275(4)(c), F.S.

<sup>47</sup> Section 944.275(4)(f), F.S.

<sup>48</sup> Sections 944.275(5) and 944.28, F.S.

<sup>49</sup> *Id.*

<sup>50</sup> Under s. 775.082(9), F.S., a defendant may be designated a "prison releasee offender" if within three years of being released from incarceration commits or attempts to commit: treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, arson, kidnapping, aggravated assault with a deadly weapon, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive device or bomb, any felony that involves the use or threat of physical force or violence against an individual, armed burglary, burglary of a dwelling, or burglary of an occupied structure, or any felony violation of ss. 790.07, 800.04, 827.03, 827.071, or 847.0135(5), F.S. A "prison releasee

- Certain prisoners convicted of offenses involving the fleeing or attempting to elude a law enforcement officer are ineligible for statutory gain-time.<sup>51</sup>
- Prisoners convicted of committing or attempting to commit certain felonies while possessing or using a firearm or destructive device.<sup>52</sup>
- Prisoners convicted of committing or attempting to commit certain felonies while possessing or using a semiautomatic firearm and its high-capacity box magazine or a machine gun.<sup>53</sup>
- Prisoners convicted of battery on a law enforcement officer, firefighter, emergency medical providers, public transit employees or agents, or other specified officers while possessing a firearm or semiautomatic firearm and its high-capacity box magazine.<sup>54</sup>
- Prisoners convicted under the dangerous sexual felony offender statute.<sup>55</sup>

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

Florida law allows gain-time to be forfeited or withheld if a prisoner is found guilty of an infraction of state law or department rules.<sup>56</sup> A prisoner shall, without prior notice or hearing, forfeit all earned gain-time upon:

- Conviction for an escape committed before October 1, 2013;
- Revocation of parole,<sup>57</sup> conditional release,<sup>58</sup> control release,<sup>59</sup> or clemency;<sup>60</sup>
- Revocation of conditional medical release,<sup>61</sup> if the revocation was for any reason other than improvement in medical condition; or

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

<sup>51</sup> Section 316.1935(6), F.S.

<sup>52</sup> Section 775.087(2), F.S.

<sup>53</sup> Section 775.087(3), F.S.

<sup>54</sup> Section 784.07(3), F.S.

<sup>55</sup> Section 794.0115, F.S.

<sup>56</sup> Section 944.275(5), F.S.

<sup>57</sup> Parole is the release of a prisoner, prior to the expiration of the prisoner’s court-imposed sentence with a period of supervision to be successfully completed by compliance with the conditions and terms of the release agreement ordered by the Florida Commission on Offender Review. Parole is only available to prisoners whose crimes were committed prior to October 1, 1983, with exceptions. *See* Florida Commission on Offender Review, *Release Types: Parole*, available at <https://www.fcor.state.fl.us/release-types.shtml> (last visited February 20, 2021).

<sup>58</sup> Section 947.1405, F.S., requires certain violent prisoners who have also served a prior felony commitment at a federal or state correctional institution or who are habitual offenders, violent habitual offenders, violent career criminals, or court-designated sexual offenders to be released under supervision subject to specified terms and conditions upon reaching the tentative release date or provisional release date, as established by the DOC. *See also* Florida Commission on Offender Review, *Release Types: Post Release*, available at <https://www.fcor.state.fl.us/postrelease.shtml#conditionalRelease> (last visited February 20, 2021).

<sup>59</sup> Control release is an administrative function to manage the state’s prison population within total capacity. The program, administered by the Florida Commission on Offender Review, through the Control Release Authority, maintains the prison population between 99 and 100 percent of its total capacity. Section 947.146, F.S.

<sup>60</sup> Article IV, Section 8 of the Florida Constitution authorizes a process to provide the means through which convicted individuals may be considered for relief from punishment and seek restoration of their civil rights. The clemency function is an act of mercy that absolves an individual from all, or any part, of the punishment that the law imposes. The power to grant clemency is vested in the Governor with the agreement of two cabinet members. The Governor also has the sole power to deny clemency. Florida Commission on Offender Review, *Clemency*, available at <https://www.fcor.state.fl.us/clemencyOverview.shtml> (last visited February 20, 2021).

<sup>61</sup> Section 947.149, F.S., authorizes the Florida Commission on Offender Review to grant a conditional medical release of a prisoner if, because of an existing medical or physical condition, the prisoner is determined by the department to be permanently incapacitated or terminally ill and the prisoner does not constitute a danger to herself or himself or others.

- Revocation of provisional release supervision,<sup>62</sup> or the revocation of probation<sup>63</sup> or community control<sup>64</sup> if such supervision was imposed for a crime committed on or after October 1, 1989.<sup>65</sup>

To declare a forfeiture, a written charge must be prepared, which specifies each instance of misconduct and the approximate date of each instance.<sup>66</sup> The prisoner must be given a copy of the charge, along with a notice of hearing before a disciplinary committee. The prisoner must be present at the hearing.<sup>67</sup> During the hearing, the prisoner:

- Will be read the charge, asked if he or she understands the charge, and explained the range of penalties that could be imposed if there is a finding of guilt;
- Will be asked if staff assistance is required or desired for the hearing;
- For minor violations, will be advised that he or she may request the charge be referred to the disciplinary team; and
- Will be read the statement of facts and be asked to plea.<sup>68</sup>

If the prisoner pleads guilty, no further action is needed. If the prisoner pleads not guilty, evidence, including witness statements, is to be presented. The prisoner may make only an oral closing statement concerning the infraction under consideration at the hearing. If a prisoner refuses to enter a plea, it is treated as a “not guilty” plea.<sup>69</sup>

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

- Violated a penal law of this state, or any rule of the DOC or institution;
- Threatened or knowingly endangered the life or physical well-being of another;
- Refused in any way to carry out or obey lawful instructions;
- Neglected to perform the work, duties, and tasks assigned in a faithful, diligent, industrious, orderly, and peaceful manner; or
- Escaped on or after October 1, 2013.<sup>70</sup>

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

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<sup>62</sup> Under the former s. 944.277, F.S., which was repealed by ch. 93-406, s. 32, L.O.F., the Secretary of Corrections was authorized to grant certain inmates with provisional credits when the population of the correctional system reached 98 percent of lawful capacity, which advanced the release date for such inmates.

<sup>63</sup> Section 948.001(8), F.S., defines “probation” as a form of community supervision requiring specified contacts with parole and probation officers and other terms and conditions as provided in s. 948.03, F.S.

<sup>64</sup> Section 948.001(3), F.S., defines “community control” as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Community control is an individualized program in which the freedom of an offender is restricted within the community, home, or non-institutional residential placement and specific sanctions are imposed and enforced.

<sup>65</sup> Rule 33-601.104, F.A.C.

<sup>66</sup> Section 944.28(2)(c), F.S.

<sup>67</sup> Rule 33-601.307(1)(b), F.A.C., provides instances in which the prisoner does not have to attend the hearing and procedures if the prisoner refuses to attend the hearing or is disruptive.

<sup>68</sup> Rule 33-601.307(1)(c)-(f), F.A.C.

<sup>69</sup> Rule 33-601.307(g), F.A.C.

<sup>70</sup> *Supra* note 65.

that the prisoner will continue to perform positively without further violation of the DOC's rules or state laws.<sup>71</sup>

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

The DOC must establish a maximum sentence expiration date for each prisoner who is committed to the DOC to serve a term of years. The maximum sentence expiration date is the date on which the sentence(s) imposed on the prisoner will expire. The DOC must reduce the total time to be served by any time lawfully credited.<sup>72</sup>

The DOC must also establish a tentative release date for each prisoner sentenced to a term of years. The tentative release date is the date on which the prisoner is projected to be released from custody based on the amount of gain-time earned or forfeited. The initial tentative release date is established by deducting basic gain-time from the maximum sentence expiration date.<sup>73</sup> Other gain-time is applied when earned or restored, to make the tentative release date earlier and forfeited gain-time is applied to make the tentative release date later.<sup>74</sup>

A prisoner who has served his or her time, as reduced by gain-time deductions, must be released and placed under further supervision and control of the DOC.<sup>75</sup>

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

### **Occupational Licensing**

The bill amends s. 455.213, F.S., to reduce the timeframe during which the DBPR may deny a license on the basis of criminal history from five years to two years from the date of criminal conviction for applicants applying for licenses as:

- Barbers;
- Cosmetologists and cosmetology specialists (i.e. hair braiders, hair wrappers, and body wrappers);
- Construction professionals, including:
  - Air-conditioning contractors;
  - Electrical contractors;
  - Mechanical contractors;
  - Plumbing contractors;
  - Pollutant storage systems contractors;
  - Roofing contractors;
  - Septic tank contractors;
  - Sheet metal contractors;
  - Solar contractors;

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<sup>71</sup> Rule 33-601.105, F.A.C.

<sup>72</sup> Section 944.275(2), F.S.

<sup>73</sup> Basic gain-time only applies to prisoners serving sentences imposed or for offenses committed on or after July 1, 1978, and before January 1, 1994.

<sup>74</sup> Section 944.275(3), F.S.

<sup>75</sup> Section 944.291, F.S. Prisoners serving sentences imposed for offenses committed on or after October 1, 1995, must serve at minimum 85 percent of the imposed sentence.

- Swimming pool and spa contractors;
- Underground utility and excavation contractors; and
- Other specialty contractors; or
- Any other profession for which the DBPR issues a license, provided the profession is offered to prisoners in any correctional institution or correctional facility as a vocational training or through an industry certification program

The bill retains the authority of a regulatory board to deny a license to certain individuals required to register as sexual predators or who have convictions for forcible felonies, if it relates to the practice of the applicable profession. A regulatory board may also consider an applicant's criminal history if such criminal history is found to relate to good moral character.

The bill requires the regulatory boards for the above-listed occupations to approve educational program credits offered to prisoners in any correctional institution or facility, whether offered as vocational training or through an industry certification program, to satisfy applicable training requirements for licensure.

### **Criminal Punishment Code**

The bill revises the purpose of the Criminal Punishment Code to provide that criminal offenders are to be appropriately *punished and rehabilitated*, rather than ensuring that violent criminal offenders are incarcerated. The bill also provides that the dual purpose of sentencing in the criminal justice system are punishment and *rehabilitation* of the offender so that he or she can successfully transition back into the community. Rehabilitation is no longer a subordinate goal.

The bill further revises the Criminal Punishment Code to prohibit a prisoner from earning outstanding deed awards or good behavior time in an amount that would cause a prisoner to serve less than 85 percent of the sentence imposed or earning rehabilitation credits in an amount that would cause a prisoner to serve less than 65 percent of the sentence imposed.

The bill revises the ways in which prisoners may earn gain-time. The bill eliminates the current gain-time categories of basic, incentive, and meritorious gain-time and creates new categories of gain-time: good behavior time, rehabilitation credits, and outstanding deed awards. The bill defines "gain-time" as good behavior time, rehabilitation credits, and outstanding deed awards, collectively, and as defined in the bill.

### **Good Behavior Time**

The bill requires the DOC to grant good behavior time, similar to the current basic gain-time, as a means of encouraging satisfactory behavior and developing character traits necessary for successful reentry to the community. The DOC must grant good behavior time, at a rate of 10 days per month, subject to the following:

- Portions of any sentence to be served concurrently shall be treated as a single sentence when determining good behavior time;
- Good behavior time for a partial month shall be prorated on the basis of a 30-day month; and

- When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, good behavior time shall be granted for the amount of time the maximum sentence expiration date was granted.

Unlike the current basic gain-time, which is only eligible for sentences imposed or offenses committed on or after July 1, 1978, and before January 1, 1994, the bill makes prisoners who are serving sentences for offenses committed on or after July 1, 1978, eligible to receive good behavior time. The good behavior time would be applied in a lump sum at the beginning of the prisoner's sentence, as it is with the current basic gain-time.

The bill also authorizes the DOC to award up to two additional days of good behavior time per month for prisoners who are serving sentences for violations of ss. 893.13 or 893.135, F.S., relating to certain controlled substance offenses.<sup>76</sup> These additional days of good behavior time are retroactive.

### **Rehabilitation Credits**

The bill authorizes the DOC to grant rehabilitation credits, similar to the current incentive gain-time, if a prisoner works diligently, participates in training or education, uses time constructively, or otherwise engages in positive activities. The rate of rehabilitation credits in effect on the date the prisoner committed the offense that resulted in his or her incarceration is the prisoner's rate of eligibility to earn rehabilitation throughout the period of incarceration:

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

Therefore, prisoners who committed offenses after October 1, 1995, are eligible to receive up to 20 days of rehabilitation credits, rather than the 10 days of incentive gain-time that they now receive. The other rates of awarding rehabilitation credit remain the same.

The bill further requires the DOC to grant additional awards of 60 days of rehabilitation credits to eligible prisoners for the successful completion of each of the following:

- A high school equivalency diploma;
- A college degree;
- A vocational certificate;
- A drug treatment program;

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<sup>76</sup> Section 893.13, F.S., makes it unlawful for a person to sell, manufacture, deliver, possess with intent to sell, manufacture, or deliver, a controlled substance, except as authorized by law; to purchase, possess, or possess with intent to purchase, a controlled substance, except as authorized by law. Section 893.135, F.S., makes it unlawful for a person to sell, purchase, manufacture, deliver, or bring into this state, or who is knowingly in actual or constructive possession of certain quantities of controlled substances (i.e. trafficking).

- A life skills program;<sup>77</sup>
- A reentry program; or
- Other evidence-based program approved by the DOC that serves the purpose of reducing recidivism and assisting a prisoner reintegrate into society.

The bill also requires the DOC to grant five additional days of rehabilitation credits for successful completion of any other department-approved program, including prisoner-developed programs or a passing grade in each online or in-person educational course.

The bill makes the award of rehabilitation credits related to educational or treatment programs retroactive.

As with the existing incentive gain-time, the bill retains the prohibition against the award of rehabilitative credits for sentences imposed for the following offenses committed on or after October 1, 2014:

- Homicide occurring in the perpetration of or attempted perpetration of a sexual battery;
- Kidnapping of a child under the age of 13, and in the course of committing the offense, commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- False imprisonment of a child under the age of 13, and in the course of committing the offense commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- Sexual battery;
- Lewd or lascivious offenses upon or in the presence of persons less than 16 years of age;
- Lewd or lascivious offenses upon or in the presence of an elderly person or disabled person; or
- Computer pornography.

Rehabilitation credits must be credited and applied monthly.

### **Outstanding Deed Awards**

The bill authorizes the DOC to grant from 30 days to 60 days of outstanding deed awards, which is similar to the current meritorious gain-time, for each outstanding deed a prisoner performs, such as saving a life or assisting in the recapture of an escaped prisoner, or who performs an outstanding service that would merit the grant of additional deductions from his or her sentence. The bill increases the minimum number of days a prisoner may get for performing an outstanding deed to 30 days from the current one day.

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<sup>77</sup> The bill defines “life skills program” as a program, approved by the DOC, which consists of at least 60 hours designed to reduce recidivism by addressing, at a minimum, education, job skills, interpersonal skills, stress and anger management, and personal development.



**Limitations on Awards of Good Behavior Time, Rehabilitation Credits, and Outstanding Deed Awards**

Similar to the current gain-time limitation, the bill prohibits a prisoner, serving a sentence for an offense committed on or after October 1, 1995, from receiving good behavior time or outstanding deed awards in an amount that would cause an inmate to serve less than 85 percent of his or her sentence. The bill does not apply the 85 percent sentence service requirement on prisoners who are serving sentences imposed for offenses committed before October 1, 1995, as they are not currently subject to the 85 percent service requirement.

The bill prohibits a prisoner serving a sentence imposed for an offense committed on or after October 1, 1995, from earning good behavior time once the prisoner's tentative release date is the same date as the date at which the prisoner will have served 85 percent of his or her sentence. The bill also prohibits a prisoner from receiving rehabilitation credits in an amount that would result in the prisoner's release prior to serving a minimum of 65 percent of the sentence imposed. Once a prisoner's tentative release date is equal to the date at which the prisoner will have served 65 percent of the sentence imposed, the prisoner may not accumulate any more awards.

The bill retains the current law's requirement that individuals serving a life sentence be incarcerated for the rest of their natural lives, unless granted pardon or clemency.

**Forfeiture of Gain-Time**

The bill requires that prior to the forfeiture of gain-time, the prisoner must be afforded due process. Prisoners are currently afforded a hearing prior to forfeiting any gain-time.

**Sentence Expiration and Release Dates**

The bill requires the DOC to establish an initial tentative release date for each prisoner by deducting good behavior time from the maximum sentence expiration date. The bill also requires that good behavior time, rehabilitation credits, and outstanding deed awards be applied when granted or restored to make the release date proportionately earlier and that any forfeitures of good behavior time be applied to make the tentative release date proportionately later.

**Rule-making**

The bill directs the DOC to adopt rules to implement the granting, forfeiture, restoration, and deletion of outstanding deed awards, good behavior time, and rehabilitation credits.

The bill makes conforming changes to several provisions of law.

The bill is effective July 1, 2021.

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The DOC indicates that overall impact of the bill is indeterminate.<sup>78</sup> However, based on the projected number of releases associated with allowing rehabilitation credits to reduce the minimum service requirement from 85 percent to 65 percent, and retroactive application of up to two days of good behavior time to reduce to the minimum service requirement of 85 percent, the DOC estimates the following savings are possible:

		Population for Per Diems			Prison Impact*			
		Inmate Variable	Dorm Per Diem	Full Per Diem				
Fiscal Year	ADP Reduction	Pop	Pop	Pop	Inmate Variable	Dorm Per Diem	Full Per Diem	Total
Allowing rehabilitation credits to reduce 85% minimum service to 65%								
Year 1	1,486	84	1,486	3,000	(21,017,613)		(21,017,613)	
Year 2	4,414		1,141		(16,138,019)	(69,959,550)	(86,097,569)	
Year 3	6,084		6,000		(683,411)	(139,919,100)	(140,602,511)	
Year 4	7,379		1,379		6,000	(19,504,231)	(139,919,100)	(159,423,331)
Year 5	8,244		744		7,500	(10,522,950)	(174,898,875)	(185,421,825)
Year 6	8,874		1,374		7,500	(19,433,513)	(174,898,875)	(194,332,388)
								(786,895,237)

<sup>78</sup> The DOC, *2021 Agency Bill Analysis for SB 1032*, February 26, 2021, pp. 12-14 (on file with the Senate Committee on Criminal Justice).

<b>Retroactive application of 2 days of good behavior time to reduce the 85% minimum service</b>				
Year 1	141	141	(1,147,155)	(1,147,155)
Year 2	294	294	(2,391,940)	(2,391,940)
Year 3	346	346	(2,815,004)	(2,815,004)
Year 4	337	337	(2,741,781)	(2,741,781)
Year 5	329	329	(2,676,695)	(2,676,695)
Year 6	325	325	(2,644,151)	(2,644,151)
				(14,416,726)

**\*Prison Per Diems Legend**

Full Per Diem	\$63.89	exceeds 1,499 inmates
Dorm Per Diem	\$38.75	500 - 1,499 inmates
Inmate Variable	\$22.29	Less than 500 inmates

Additionally, the DOC anticipates that there will be an increase in the number of officers needed for community supervision, but the need is indeterminate in respect to the impact to staffing since it is unknown how many inmates will be subject to supervision as a result of gain-time release. However, the Department's FY 19-20 average per diem for community supervision was \$6.01.<sup>79</sup>

The DOC also estimates that its Office of Information Technology will need \$130,500 for programming needs.<sup>80</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 455.213, 921.002, 944.02, 944.275, 316.027, 775.0845, 775.0847, 775.0861, 775.0862, 775.087, 775.0875, 777.03, 777.04, 794.011, 794.023, 817.568, 831.032, 843.22, 874.04, 944.281, 944.473, and 944.70.

This bill reenacts the following sections of the Florida Statutes: 775.084, 900.05, 944.28, 944.605, 944.607, 947.005, and 985.4815.

<sup>79</sup> *Id.* at p. 13.

<sup>80</sup> *Id.* at p. 14.

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

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

**CS by Criminal Justice on March 2, 2021:**

The committee substitute:

- Changes the title of the bill from “Gain-time” to “criminal convictions”;
- Shortens the lookback time for crimes by the Department of Business and Professional Regulation from 5 years to 2 years for certain occupations;
- Requires that training provided in a correctional institution be accepted by the Department of Business and Professional Regulation to meet licensure requirements for certain occupations;
- Changes the term “outstanding deed gain-time” to “outstanding deed awards”;
- Defines gain-time to collectively mean outstanding deed award, good behavior time, and rehabilitation credits;
- Clarifies that the 85 percent service requirement only applies to those inmates who are serving sentences for crimes committed before October 1, 1995;
- Clarifies that the 85 percent service requirement only applies to good behavior time and outstanding award deeds and that the 65 percent service requirement only applies to rehabilitation credits;
- Restores discretion to the department to award rehabilitation credits;
- Restores the phrase “otherwise eligible” to ensure that the DOC only awards rehabilitation credits to those who are eligible to receive such credits, under the law;
- Removes mental health treatment and behavior modification programs from the list of programs for which a prisoner may receive rehabilitation credit for successful completion;
- Authorizes the DOC to award *up to* two days of additional rehabilitation credit for certain prisoners serving time for drug offenses rather than only two days (or alternatively zero days);
- Removes the provision that only vested good behavior time may be forfeited and makes all gain-time eligible for forfeiture;
- Removes the provision that vests good behavior time two years after it is earned; and
- Makes conforming changes throughout statute to update terminology.

**B. Amendments:**

None.



925632

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/02/2021	.	
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The Committee on Criminal Justice (Perry) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Paragraph (b) of subsection (3) of section  
455.213, Florida Statutes, is amended, and paragraph (f) is  
added to that subsection, to read:

455.213 General licensing provisions.—

(3)

(b)~~4~~. A conviction, or any other adjudication, for a crime



925632

more than 2 5 years before the date the application is received by the applicable board may not be grounds for denial of a license specified in paragraph (a). For purposes of this paragraph, the term "conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is withheld. This paragraph does not limit the applicable board from considering an applicant's criminal history that includes a crime listed in s. 775.21(4)(a)1. or s. 776.08 at any time, but only if such criminal history has been found to relate to the practice of the applicable profession.

~~2. The applicable board may consider the criminal history of an applicant for licensure under subparagraph (a)3. if such criminal history has been found to relate to good moral character.~~

(f) The applicable board shall approve educational programs credits offered to inmates in any correctional institution or correctional facility, whether offered as vocational training or through an industry certification program, for the purposes of satisfying applicable training requirements for licensure in a profession specified in paragraph (a).

Section 2. Subsection (1) of section 921.002, Florida Statutes, is amended to read:

921.002 The Criminal Punishment Code.—The Criminal Punishment Code shall apply to all felony offenses, except capital felonies, committed on or after October 1, 1998.

(1) The provision of criminal penalties and of limitations upon the application of such penalties is a matter of predominantly substantive law and, as such, is a matter properly addressed by the Legislature. The Legislature, in the exercise



925632

of its authority and responsibility to establish sentencing criteria, to provide for the imposition of criminal penalties, and to make the best use of state prisons so that ~~violent~~ criminal offenders are appropriately punished and rehabilitated ~~incarcerated~~, has determined that it is in the best interest of the state to develop, implement, and revise a sentencing policy. The Criminal Punishment Code embodies the principles that:

(a) Sentencing is neutral with respect to race, gender, and social and economic status.

(b) The dual purposes ~~primary purpose~~ of sentencing in the criminal justice system are ~~is~~ to punish the offender and rehabilitate the offender so that he or she can successfully transition back into the community. ~~Rehabilitation is a desired goal of the criminal justice system but is subordinate to the goal of punishment.~~

(c) The penalty imposed is commensurate with the severity of the primary offense and the circumstances surrounding the primary offense.

(d) The severity of the sentence increases with the length and nature of the offender's prior record.

(e) The sentence imposed by the sentencing judge reflects the length of actual time to be served, shortened only by the application of good behavior time, rehabilitation credits, and outstanding deed awards, ~~incentive and meritorious gain-time~~ as provided by law, and may not be shortened if the defendant would consequently serve less than 85 percent of his or her term of imprisonment upon the application of good behavior time and outstanding deed awards or 65 percent of his or her term of imprisonment upon the application of rehabilitation credits, as



925632

provided in s. 944.275(4). The provisions of chapter 947, relating to parole, do not ~~shall not~~ apply to persons sentenced under the Criminal Punishment Code.

(f) Departures below the lowest permissible sentence established by the code must be articulated in writing by the trial court judge and made only when circumstances or factors reasonably justify the mitigation of the sentence. The level of proof necessary to establish facts that support a departure from the lowest permissible sentence is a preponderance of the evidence.

(g) The trial court judge may impose a sentence up to and including the statutory maximum for any offense, including an offense that is before the court due to a violation of probation or community control.

(h) A sentence may be appealed on the basis that it departs from the Criminal Punishment Code only if the sentence is below the lowest permissible sentence or as enumerated in s. 924.06(1).

(i) Use of incarcerative sanctions is prioritized toward offenders convicted of serious offenses and certain offenders who have long prior records, in order to maximize the finite capacities of state and local correctional facilities.

Section 3. Subsections (5), (6), (7), and (8) of section 944.02, Florida Statutes, are renumbered as subsections (6), (7), (8), and (9), respectively, and subsection (5) is added to that section, to read:

944.02 Definitions.—The following words and phrases used in this chapter shall, unless the context clearly indicates otherwise, have the following meanings:





925632

(5) "Gain-time" means good behavior time, rehabilitation credits, and outstanding deed awards, collectively, and as defined under this chapter.

Section 4. Section 944.275, Florida Statutes, is amended to read:

944.275 Good behavior time; rehabilitation credits; outstanding deed awards ~~gain-time~~.—

(1) The department is authorized to grant deductions from sentences in the form of good behavior time, rehabilitation credits, and outstanding deed awards ~~gain-time~~ in order to encourage satisfactory prisoner behavior, to provide incentive for prisoners to participate in productive activities, and to reward prisoners who perform outstanding deeds or services.

(2)(a) The department shall establish for each prisoner sentenced to a term of years a "maximum sentence expiration date," which shall be the date when the sentence or combined sentences imposed on a prisoner will expire. In establishing this date, the department shall reduce the total time to be served by any time lawfully credited.

(b) When a prisoner with an established maximum sentence expiration date is sentenced to an additional term or terms without having been released from custody, the department shall extend the maximum sentence expiration date by the length of time imposed in the new sentence or sentences, less lawful credits.

(c) When an escaped prisoner or a parole violator is returned to the custody of the department, the maximum sentence expiration date in effect when the escape occurred or the parole was effective shall be extended by the amount of time the



925632

prisoner was not in custody plus the time imposed in any new sentence or sentences, but reduced by any lawful credits.

(3) (a) The department shall also establish for each prisoner sentenced to a term of years a "tentative release date" which shall be the date projected for the prisoner's release from custody by virtue of good behavior time, rehabilitation credits, or outstanding deed awards ~~gain-time~~ granted or forfeited as described in this section. The initial tentative release date shall be determined by deducting good behavior time ~~basic gain-time~~ granted from the maximum sentence expiration date. Rehabilitation credits and outstanding deed awards ~~Other gain-time~~ shall be applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of gain-time, when ordered, shall be applied to make the tentative release date proportionately later.

(b) When an initial tentative release date is reestablished because of additional sentences imposed before the prisoner has completely served all prior sentences, any good behavior time, rehabilitation credits, and outstanding deed awards ~~gain-time~~ granted during service of a prior sentence and not forfeited shall be applied.

(c) The tentative release date may not be later than the maximum sentence expiration date.

(4) (a) As a means of encouraging satisfactory behavior and developing character traits necessary for successful reentry to the community, the department shall grant good behavior time ~~basic gain-time~~ at the rate of 10 days for each month of each sentence imposed on a prisoner, subject to the following:

1. Portions of any sentences to be served concurrently



925632

shall be treated as a single sentence when determining good behavior time ~~basic gain-time~~.

2. Good behavior time ~~Basic gain-time~~ for a partial month shall be prorated on the basis of a 30-day month.

3. When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, good behavior time ~~basic gain-time~~ shall be granted for the amount of time the maximum sentence expiration date was extended.

(b) For each month in which a prisoner ~~an inmate~~ works diligently, participates in training or education, uses time constructively, or otherwise engages in positive activities, the department may grant rehabilitation credits ~~incentive gain-time~~ in accordance with this paragraph. The rate of rehabilitation credits ~~incentive gain-time~~ in effect on the date the prisoner ~~inmate~~ committed the offense that ~~which~~ resulted in his or her incarceration shall be the prisoner's ~~inmate's~~ rate of eligibility to earn rehabilitation credits ~~incentive gain-time~~ throughout the period of incarceration and may ~~shall~~ not be altered by a subsequent change in the severity level of the offense for which the prisoner ~~inmate~~ was sentenced.

1. For sentences imposed for offenses committed before ~~prior to~~ January 1, 1994, and on or after October 1, 1995, up to 20 days of rehabilitation credits ~~incentive gain-time~~ may be granted. If granted, such rehabilitation credits ~~gain-time~~ shall be credited and applied monthly.

2. For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:

a. For offenses ranked in offense severity levels 1 through 7, under former s. 921.0012 or former s. 921.0013, up to 25 days



925632

of rehabilitation credits ~~incentive gain-time~~ may be granted. If granted, such rehabilitation credits ~~gain-time~~ shall be credited and applied monthly.

b. For offenses ranked in offense severity levels 8, 9, and 10, under former s. 921.0012 or former s. 921.0013, up to 20 days of rehabilitation credits ~~incentive gain-time~~ may be granted. If granted, such rehabilitation credits ~~gain-time~~ shall be credited and applied monthly.

~~3. For sentences imposed for offenses committed on or after October 1, 1995, the department may grant up to 10 days per month of incentive gain-time.~~

(c) A prisoner ~~An inmate~~ who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped prisoner ~~inmate~~, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his or her sentence may be granted an outstanding deed award meritorious gain-time of from 30 ~~1~~ to 60 days per outstanding deed performed.

(d) Notwithstanding the monthly maximum awards of rehabilitation credits under subparagraphs (b)1. and 2., ~~incentive gain-time~~ under subparagraphs (b)1., 2., and 3., the education program manager shall recommend, and the department ~~of Corrections~~ may grant, to a prisoner who is otherwise eligible, ~~a one-time award of~~ 60 additional days of rehabilitation credits for each of the following successfully completed by a prisoner: ~~incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is, or has been during the current commitment, awarded a high school equivalency diploma, a college degree, a or vocational certificate, a drug~~



925632

treatment program, a life skills program, a reentry program, or  
other evidence-based program approved by the department that  
serves the purpose of reducing recidivism and assisting a  
prisoner reintegrate into society. For purposes of this  
paragraph, a "life skills program" means a program, approved by  
the department, which consists of at least 60 hours designed to  
reduce recidivism by addressing, at a minimum, education, job  
skill, interpersonal skills, stress and anger management, and  
personal development. Additionally, the department shall grant 5  
additional days of rehabilitation credits for successful  
completion of any other department-approved program, including  
prisoner-developed programs or a passing grade in each online or  
in-person educational course, as approved by the department.  
Rehabilitation credits under this paragraph are retroactive.

(e) Notwithstanding the monthly maximum awards of  
rehabilitation credits under subparagraphs (b)1. and 2., the  
department may grant up to 2 additional days per month of good  
behavior time to prisoners serving sentences for violations of  
s. 893.13 or s. 893.135. Good behavior time under this paragraph  
is retroactive ~~Under no circumstances may an inmate receive more~~  
~~than 60 days for educational attainment pursuant to this~~  
~~section.~~

(f)(e) Notwithstanding subparagraph (b)1. subparagraph  
~~(b)3.,~~ for sentences imposed for offenses committed on or after  
October 1, 2014, the department may not grant rehabilitation  
credits ~~incentive gain-time~~ if the offense is a violation of s.  
782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or  
3.; s. 794.011, excluding s. 794.011(10); s. 800.04; s.  
825.1025; or s. 847.0135(5).



925632

243        (g)1.(f) A prisoner An inmate who is subject to this  
244 subsection and who is serving a sentence imposed for an offense  
245 committed on or after October 1, 1995, subparagraph (b)3. is not  
246 eligible to earn or receive gain-time good behavior time or  
247 outstanding deed awards under paragraph (a), paragraph (b),  
248 paragraph (c), or paragraph (d) or any other type of gain-time  
249 in an amount that would cause a sentence to expire, end, or  
250 terminate, or that would result in a prisoner's release, before  
251 he or she serves prior to serving a minimum of 85 percent of the  
252 sentence imposed.

253        2. A prisoner who is subject to this subsection may not  
254 earn or receive rehabilitation credits in an amount that would  
255 cause a sentence to expire, end, or terminate, or that would  
256 result in a prisoner's release, before he or she serves a  
257 minimum of 65 percent of the sentence imposed.

258        3. For purposes of this paragraph, credits awarded by the  
259 court for time physically incarcerated shall be credited toward  
260 satisfaction of 85 percent of the sentence imposed. Except as  
261 provided by this section, a prisoner serving a sentence imposed  
262 for an offense committed on or after October 1, 1995, may not  
263 accumulate further good behavior time gain-time awards at any  
264 point when the tentative release date is the same as that date  
265 at which the prisoner will have served 85 percent of the  
266 sentence imposed. A prisoner may not accumulate further  
267 rehabilitation credits or outstanding deed awards at any point  
268 when the tentative release date is the same as that date at  
269 which the prisoner will have served 65 percent of the sentence  
270 imposed. State prisoners sentenced to life imprisonment shall be  
271 incarcerated for the rest of their natural lives, unless granted



925632

pardon or clemency.

(5) ~~If~~ ~~When~~ a prisoner is found guilty of an infraction of the laws of this state or the rules of the department, gain-time may be forfeited according to law after due process.

(6) (a) Good behavior time ~~Basic gain-time~~ under this section shall be computed on and applied to all sentences imposed for offenses committed on or after July 1, 1978, ~~and before January 1, 1994~~.

(b) All good behavior time, rehabilitation credits, and outstanding deed awards ~~are incentive and meritorious gain-time~~ ~~is~~ granted according to this section.

(c) All additional gain-time previously awarded under former subsections (2) and (3) and all forfeitures ordered before ~~prior to~~ the effective date of the act that created this section shall remain in effect and be applied in establishing an initial tentative release date.

(7) The department shall adopt rules to implement the granting, forfeiture, restoration, and deletion of good behavior time, rehabilitation credits, and outstanding deed awards, ~~gain-time~~.

Section 5. Subsection (2) of section 316.027, Florida Statutes, is amended to read:

316.027 Crash involving death or personal injuries.—

(2) (a) The driver of a vehicle involved in a crash occurring on public or private property which results in injury to a person other than serious bodily injury shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person



925632

who willfully violates this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) The driver of a vehicle involved in a crash occurring on public or private property which results in serious bodily injury to a person shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who willfully violates this paragraph commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) The driver of a vehicle involved in a crash occurring on public or private property which results in the death of a person shall immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and shall remain at the scene of the crash until he or she has fulfilled the requirements of s. 316.062. A person who is arrested for a violation of this paragraph and who has previously been convicted of a violation of this section, s. 316.061, s. 316.191, or s. 316.193, or a felony violation of s. 322.34, shall be held in custody until brought before the court for admittance to bail in accordance with chapter 903. A person who willfully violates this paragraph commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and shall be sentenced to a mandatory minimum term of imprisonment of 4 years. A person who willfully commits such a violation while driving under the influence as set forth in s. 316.193(1) shall be sentenced to a mandatory minimum term of imprisonment of 4 years.





925632

(d) Notwithstanding s. 775.089(1)(a), if the driver of a vehicle violates paragraph (a), paragraph (b), or paragraph (c), the court shall order the driver to make restitution to the victim for any damage or loss unless the court finds clear and compelling reasons not to order the restitution. Restitution may be monetary or nonmonetary restitution. The court shall make the payment of restitution a condition of probation in accordance with s. 948.03. An order requiring the defendant to make restitution to a victim does not remove or diminish the requirement that the court order payment to the Crimes Compensation Trust Fund under chapter 960. Payment of an award by the Crimes Compensation Trust Fund creates an order of restitution to the Crimes Compensation Trust Fund unless specifically waived in accordance with s. 775.089(1)(b).

(e) A driver who violates paragraph (a), paragraph (b), or paragraph (c) shall have his or her driver license revoked for at least 3 years as provided in s. 322.28(4).

1. A person convicted of violating paragraph (a), paragraph (b), or paragraph (c) shall, before his or her driving privilege may be reinstated, present to the department proof of completion of a victim's impact panel session in a judicial circuit if such a panel exists, or if such a panel does not exist, a department-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2).

2. The department may reinstate an offender's driving privilege after he or she satisfies the 3-year revocation period as provided in s. 322.28(4) and successfully completes either a victim's impact panel session or a department-approved driver



925632

improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2).

3. For purposes of this paragraph, an offender's driving privilege may be reinstated only after the department verifies that the offender participated in and successfully completed a victim's impact panel session or a department-approved driver improvement course.

(f) For purposes of sentencing under chapter 921 and determining ~~incentive gain time~~ eligibility for rehabilitation credits under chapter 944, an offense listed in this subsection is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the offense committed if the victim of the offense was a vulnerable road user.

(g) The defendant may move to depart from the mandatory minimum term of imprisonment prescribed in paragraph (c) unless the violation was committed while the defendant was driving under the influence. The state may object to this departure. The court may grant the motion only if it finds that a factor, consideration, or circumstance clearly demonstrates that imposing a mandatory minimum term of imprisonment would constitute or result in an injustice. The court shall state in open court the basis for granting the motion.

Section 6. Section 775.0845, Florida Statutes, is amended to read:

775.0845 Wearing mask while committing offense; reclassification.—The felony or misdemeanor degree of any criminal offense, other than a violation of ss. 876.12-876.15, shall be reclassified to the next higher degree as provided in



925632

this section if, while committing the offense, the offender was wearing a hood, mask, or other device that concealed his or her identity.

(1)(a) In the case of a misdemeanor of the second degree, the offense is reclassified to a misdemeanor of the first degree.

(b) In the case of a misdemeanor of the first degree, the offense is reclassified to a felony of the third degree. For purposes of sentencing under chapter 921 and determining ~~incentive gain time~~ eligibility for rehabilitation credits under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.

(2)(a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

For purposes of sentencing under chapter 921 and determining ~~incentive gain time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under former s. 921.0012, former s. 921.0013, s. 921.0022, or s. 921.0023 of the offense committed.

Section 7. Section 775.0847, Florida Statutes, is amended to read:

775.0847 Possession or promotion of certain images of child pornography; reclassification.—

(1) For purposes of this section:

(a) "Child" means any person, whose identity is known or



925632

unknown, less than 18 years of age.

(b) "Child pornography" means any image depicting a minor engaged in sexual conduct.

(c) "Sadomasochistic abuse" means flagellation or torture by or upon a person or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction, or satisfaction brought about as a result of sadistic violence, from inflicting harm on another or receiving such harm oneself.

(d) "Sexual battery" means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.

(e) "Sexual bestiality" means any sexual act, actual or simulated, between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(f) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother's breastfeeding of her baby does not under any circumstance constitute "sexual conduct."

(2) A violation of s. 827.071, s. 847.0135, s. 847.0137, or s. 847.0138 shall be reclassified to the next higher degree as



925632

provided in subsection (3) if:

(a) The offender possesses 10 or more images of any form of child pornography regardless of content; and

(b) The content of at least one image contains one or more of the following:

1. A child who is younger than the age of 5.

2. Sadomasochistic abuse involving a child.

3. Sexual battery involving a child.

4. Sexual bestiality involving a child.

5. Any movie involving a child, regardless of length and regardless of whether the movie contains sound.

(3)(a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this section is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 8. Section 775.0861, Florida Statutes, is amended to read:

775.0861 Offenses against persons on the grounds of religious institutions; reclassification.—

(1) For purposes of this section, the term:

(a) "Religious institution" is as defined in s. 496.404.

(b) "Religious service" is a religious ceremony, prayer, or other activity according to a form and order prescribed for



925632

worship, including a service related to a particular occasion.

(2) The felony or misdemeanor degree of any violation of:

(a) Section 784.011, relating to assault;

(b) Section 784.021, relating to aggravated assault;

(c) Section 784.03, relating to battery;

(d) Section 784.041, relating to felony battery;

(e) A statute defining any offense listed in s.

775.084(1)(b)1.; or

(f) Any other statute defining an offense that involves the use or threat of physical force or violence against any individual

shall be reclassified as provided in this section if the offense is committed on the property of a religious institution while the victim is on the property for the purpose of participating in or attending a religious service.

(3)(a) In the case of a misdemeanor of the second degree, the offense is reclassified to a misdemeanor of the first degree.

(b) In the case of a misdemeanor of the first degree, the offense is reclassified to a felony of the third degree. For purposes of sentencing under chapter 921, such offense is ranked in level 2 of the offense severity ranking chart.

(c) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(d) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

(e) In the case of a felony of the first degree, the offense is reclassified to a life felony.



925632

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 9. Section 775.0862, Florida Statutes, is amended to read:

775.0862 Sexual offenses against students by authority figures; reclassification.—

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

(a) "Authority figure" means a person 18 years of age or older who is employed by, volunteering at, or under contract with a school.

(b) "School" has the same meaning as provided in s. 1003.01 and includes a private school as defined in s. 1002.01, a voluntary prekindergarten education program as described in s. 1002.53(3), early learning programs, a public school as described in s. 402.3025(1), the Florida School for the Deaf and the Blind, and the Florida Virtual School established under s. 1002.37. The term does not include facilities dedicated exclusively to the education of adults.

(c) "Student" means a person younger than 18 years of age who is enrolled at a school.

(2) The felony degree of a violation of an offense listed in s. 943.0435(1)(h)1.a., unless the offense is a violation of s. 794.011(4)(e)7. or s. 810.145(8)(a)2., shall be reclassified as provided in this section if the offense is committed by an authority figure of a school against a student of the school.



925632

(3) (a) In the case of a felony of the third degree, the offense is reclassified to a felony of the second degree.

(b) In the case of a felony of the second degree, the offense is reclassified to a felony of the first degree.

(c) In the case of a felony of the first degree, the offense is reclassified to a life felony.

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 10. Subsections (1) and (3) of section 775.087, Florida Statutes, are amended to read:

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

(1) Unless otherwise provided by law, whenever a person is charged with a felony, except a felony in which the use of a weapon or firearm is an essential element, and during the commission of such felony the defendant carries, displays, uses, threatens to use, or attempts to use any weapon or firearm, or during the commission of such felony the defendant commits an aggravated battery, the felony for which the person is charged shall be reclassified as follows:

(a) In the case of a felony of the first degree, to a life felony.

(b) In the case of a felony of the second degree, to a felony of the first degree.

(c) In the case of a felony of the third degree, to a





925632

felony of the second degree.

For purposes of sentencing under chapter 921 and determining ~~incentive gain time~~ eligibility for rehabilitation credits under chapter 944, a felony offense which is reclassified under this section is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

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

- a. Murder;
- b. Sexual battery;
- c. Robbery;
- d. Burglary;
- e. Arson;
- f. Aggravated battery;
- g. Kidnapping;
- h. Escape;
- i. Sale, manufacture, delivery, or intent to sell, manufacture, or deliver any controlled substance;
- j. Aircraft piracy;
- k. Aggravated child abuse;
- l. Aggravated abuse of an elderly person or disabled adult;
- m. Unlawful throwing, placing, or discharging of a destructive device or bomb;
- n. Carjacking;
- o. Home-invasion robbery;
- p. Aggravated stalking; or
- q. Trafficking in cannabis, trafficking in cocaine, capital



925632

importation of cocaine, trafficking in illegal drugs, capital importation of illegal drugs, trafficking in phencyclidine, capital importation of phencyclidine, trafficking in methaqualone, capital importation of methaqualone, trafficking in amphetamine, capital importation of amphetamine, trafficking in flunitrazepam, trafficking in gamma-hydroxybutyric acid (GHB), trafficking in 1,4-Butanediol, trafficking in Phenethylamines, or other violation of s. 893.135(1);

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

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

3. Any person who is convicted of a felony or an attempt to commit a felony listed in subparagraph (a)1., regardless of whether the use of a weapon is an element of the felony, and during the course of the commission of the felony such person discharged a semiautomatic firearm and its high-capacity box magazine or a "machine gun" as defined in s. 790.001 and, as the result of the discharge, death or great bodily harm was inflicted upon any person, the convicted person shall be sentenced to a minimum term of imprisonment of not less than 25



925632

years and not more than a term of imprisonment of life in prison.

(b) Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not prevent a court from imposing a longer sentence of incarceration as authorized by law in addition to the minimum mandatory sentence, or from imposing a sentence of death pursuant to other applicable law. Subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3. does not authorize a court to impose a lesser sentence than otherwise required by law.

Notwithstanding s. 948.01, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time under s. 944.275 or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release under s. 947.149, prior to serving the minimum sentence.

(c) If the minimum mandatory terms of imprisonment imposed pursuant to this section exceed the maximum sentences authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the mandatory minimum sentence must be imposed. If the mandatory minimum terms of imprisonment pursuant to this section are less than the sentences that could be imposed as authorized by s. 775.082, s. 775.084, or the Criminal Punishment Code under chapter 921, then the sentence imposed by the court must include the mandatory minimum term of imprisonment as required in this section.

(d) It is the intent of the Legislature that offenders who possess, carry, display, use, threaten to use, or attempt to use



925632

a semiautomatic firearm and its high-capacity detachable box magazine or a machine gun as defined in s. 790.001 be punished to the fullest extent of the law, and the minimum terms of imprisonment imposed pursuant to this subsection shall be imposed for each qualifying felony count for which the person is convicted. The court shall impose any term of imprisonment provided for in this subsection consecutively to any other term of imprisonment imposed for any other felony offense.

(e) As used in this subsection, the term:

1. "High-capacity detachable box magazine" means any detachable box magazine, for use in a semiautomatic firearm, which is capable of being loaded with more than 20 centerfire cartridges.

2. "Semiautomatic firearm" means a firearm which is capable of firing a series of rounds by separate successive depressions of the trigger and which uses the energy of discharge to perform a portion of the operating cycle.

Section 11. Section 775.0875, Florida Statutes, is amended to read:

775.0875 Unlawful taking, possession, or use of law enforcement officer's firearm; crime reclassification; penalties.—

(1) A person who, without authorization, takes a firearm from a law enforcement officer lawfully engaged in law enforcement duties commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) If a person violates subsection (1) and commits any other crime involving the firearm taken from the law enforcement officer, such crime shall be reclassified as follows:



925632

(a)1. In the case of a felony of the first degree, to a life felony.

2. In the case of a felony of the second degree, to a felony of the first degree.

3. In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

(b) In the case of a misdemeanor, to a felony of the third degree. For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.

(3) A person who possesses a firearm that he or she knows was unlawfully taken from a law enforcement officer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 12. Section 777.03, Florida Statutes, is amended to read:

777.03 Accessory after the fact.—

(1)(a) Any person not standing in the relation of husband or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity to the offender, who maintains or assists the principal or an accessory before the fact, or gives the offender any other aid, knowing that the



925632

offender had committed a crime and such crime was a third degree felony, or had been an accessory thereto before the fact, with the intent that the offender avoids or escapes detection, arrest, trial, or punishment, is an accessory after the fact.

(b) Any person who maintains or assists the principal or accessory before the fact, or gives the offender any other aid, knowing that the offender had committed the offense of child abuse, neglect of a child, aggravated child abuse, aggravated manslaughter of a child under 18 years of age, or murder of a child under 18 years of age, or had been an accessory thereto before the fact, with the intent that the offender avoids or escapes detection, arrest, trial, or punishment, is an accessory after the fact unless the court finds that the person is a victim of domestic violence.

(c) Any person who maintains or assists the principal or an accessory before the fact, or gives the offender any other aid, knowing that the offender had committed a crime and such crime was a capital, life, first degree, or second degree felony, or had been an accessory thereto before the fact, with the intent that the offender avoids or escapes detection, arrest, trial, or punishment, is an accessory after the fact.

(2)(a) If the felony offense committed is a capital felony, the offense of accessory after the fact is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the felony offense committed is a life felony or a felony of the first degree, the offense of accessory after the fact is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



925632

(c) If the felony offense committed is a felony of the second degree or a felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023, the offense of accessory after the fact is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the felony offense committed is a felony of the third degree ranked in level 1 or level 2 under s. 921.0022 or s. 921.0023, the offense of accessory after the fact is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Except as otherwise provided in s. 921.0022, for purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, the offense of accessory after the fact is ranked two levels below the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

Section 13. Section 777.04, Florida Statutes, is amended to read:

777.04 Attempts, solicitation, and conspiracy.—

(1) A person who attempts to commit an offense prohibited by law and in such attempt does any act toward the commission of such offense, but fails in the perpetration or is intercepted or prevented in the execution thereof, commits the offense of criminal attempt, ranked for purposes of sentencing as provided in subsection (4). Criminal attempt includes the act of an adult who, with intent to commit an offense prohibited by law, allures, seduces, coaxes, or induces a child under the age of 12 to engage in an offense prohibited by law.



925632

(2) A person who solicits another to commit an offense prohibited by law and in the course of such solicitation commands, encourages, hires, or requests another person to engage in specific conduct which would constitute such offense or an attempt to commit such offense commits the offense of criminal solicitation, ranked for purposes of sentencing as provided in subsection (4).

(3) A person who agrees, conspires, combines, or confederates with another person or persons to commit any offense commits the offense of criminal conspiracy, ranked for purposes of sentencing as provided in subsection (4).

(4) (a) Except as otherwise provided in ss. 104.091(2), 379.2431(1), 828.125(2), 849.25(4), 893.135(5), and 921.0022, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is ranked for purposes of sentencing under chapter 921 and determining ~~incentive gain time~~ eligibility for rehabilitation credits under chapter 944 one level below the ranking under s. 921.0022 or s. 921.0023 of the offense attempted, solicited, or conspired to. If the criminal attempt, criminal solicitation, or criminal conspiracy is of an offense ranked in level 1 or level 2 under s. 921.0022 or s. 921.0023, such offense is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the offense attempted, solicited, or conspired to is a capital felony, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Except as otherwise provided in s. 893.135(5), if the





925632

offense attempted, solicited, or conspired to is a life felony or a felony of the first degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Except as otherwise provided in s. 104.091(2), s. 379.2431(1), s. 828.125(2), or s. 849.25(4), if the offense attempted, solicited, or conspired to is a:

1. Felony of the second degree;
2. Burglary that is a felony of the third degree; or
3. Felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under s. 921.0022 or s. 921.0023,

the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) Except as otherwise provided in s. 104.091(2), s. 379.2431(1), s. 849.25(4), or paragraph (d), if the offense attempted, solicited, or conspired to is a felony of the third degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(f) Except as otherwise provided in s. 104.091(2), if the offense attempted, solicited, or conspired to is a misdemeanor of the first or second degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) It is a defense to a charge of criminal attempt,



925632

criminal solicitation, or criminal conspiracy that, under circumstances manifesting a complete and voluntary renunciation of his or her criminal purpose, the defendant:

(a) Abandoned his or her attempt to commit the offense or otherwise prevented its commission;

(b) After soliciting another person to commit an offense, persuaded such other person not to do so or otherwise prevented commission of the offense; or

(c) After conspiring with one or more persons to commit an offense, persuaded such persons not to do so or otherwise prevented commission of the offense.

Section 14. Subsection (7) of section 794.011, Florida Statutes, is amended to read:

794.011 Sexual battery.—

(7) A person who is convicted of committing a sexual battery on or after October 1, 1992, is not eligible for good behavior ~~basic~~ gain-time under s. 944.275. This subsection may be cited as the "Junny Rios-Martinez, Jr. Act of 1992."

Section 15. Section 794.023, Florida Statutes, is amended to read:

794.023 Sexual battery by multiple perpetrators; reclassification of offenses.—

(1) The Legislature finds that an act of sexual battery, when committed by more than one person, presents a great danger to the public and is extremely offensive to civilized society. It is therefore the intent of the Legislature to reclassify offenses for acts of sexual battery committed by more than one person.

(2) A violation of s. 794.011 shall be reclassified as



925632

provided in this subsection if it is charged and proven by the prosecution that, during the same criminal transaction or episode, more than one person committed an act of sexual battery on the same victim.

(a) A felony of the second degree is reclassified to a felony of the first degree.

(b) A felony of the first degree is reclassified to a life felony.

This subsection does not apply to life felonies or capital felonies. For purposes of sentencing under chapter 921 and determining ~~incentive gain time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 16. Subsection (5) of section 817.568, Florida Statutes, is amended to read:

817.568 Criminal use of personal identification information.—

(5) If an offense prohibited under this section was facilitated or furthered by the use of a public record, as defined in s. 119.011, the offense is reclassified to the next higher degree as follows:

(a) A misdemeanor of the first degree is reclassified as a felony of the third degree.

(b) A felony of the third degree is reclassified as a felony of the second degree.

(c) A felony of the second degree is reclassified as a felony of the first degree.



925632

For purposes of sentencing under chapter 921 and ~~incentive gain-~~  
~~time~~ eligibility for rehabilitation credits under chapter 944, a  
felony offense that is reclassified under this subsection is  
ranked one level above the ranking under s. 921.0022 of the  
felony offense committed, and a misdemeanor offense that is  
reclassified under this subsection is ranked in level 2 of the  
offense severity ranking chart in s. 921.0022.

Section 17. Subsection (3) of section 831.032, Florida  
Statutes, is amended to read:

831.032 Offenses involving forging or counterfeiting  
private labels.—

(3)(a) Violation of subsection (1) or subsection (2) is a  
misdemeanor of the first degree, punishable as provided in s.  
775.082 or s. 775.083, except that:

1. A violation of subsection (1) or subsection (2) is a  
felony of the third degree, punishable as provided in s.  
775.082, s. 775.083, or s. 775.084, if the offense involves 100  
or more but less than 1,000 items bearing one or more  
counterfeit marks or if the goods involved in the offense have a  
total retail value of more than \$2,500, but less than \$20,000.

2. A violation of subsection (1) or subsection (2) is a  
felony of the second degree, punishable as provided in s.  
775.082, s. 775.083, or s. 775.084, if the offense involves  
1,000 or more items bearing one or more counterfeit marks or if  
the goods involved in the offense have a total retail value of  
\$20,000 or more.

3. A violation of subsection (1) or subsection (2) is a  
felony of the third degree, punishable as provided in s.



925632

775.082, s. 775.083, or s. 775.084 if, during the commission or as a result of the commission of the offense, the person engaging in the offense knowingly or by culpable negligence causes or allows to be caused bodily injury to another.

4. A violation of subsection (1) or subsection (2) is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if, during the commission or as a result of the commission of the offense, the person engaging in the offense knowingly or by culpable negligence causes or allows to be caused serious bodily injury to another.

5. A violation of subsection (1) or subsection (2) is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084 if, during the commission or as a result of the commission of the offense, the person engaging in the offense knowingly or by culpable negligence causes or allows to be caused death to another.

(b) For any person who, having previously been convicted for an offense under this section, is subsequently convicted for another offense under this section, such subsequent offense shall be reclassified as follows:

1. In the case of a felony of the second degree, to a felony of the first degree.

2. In the case of a felony of the third degree, to a felony of the second degree.

3. In the case of a misdemeanor of the first degree, to a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 4 of the offense severity ranking chart.



925632

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the felony offense committed.

(c) In lieu of a fine otherwise authorized by law, when any person has been convicted of an offense under this section, the court may fine the person up to three times the retail value of the goods seized, manufactured, or sold, whichever is greater, and may enter orders awarding court costs and the costs of investigation and prosecution, reasonably incurred. The court shall hold a hearing to determine the amount of the fine authorized by this paragraph.

(d) When a person is convicted of an offense under this section, the court, pursuant to s. 775.089, shall order the person to pay restitution to the trademark owner and any other victim of the offense. In determining the value of the property loss to the trademark owner, the court shall include expenses incurred by the trademark owner in the investigation or prosecution of the offense as well as the disgorgement of any profits realized by a person convicted of the offense.

Section 18. Section 843.22, Florida Statutes, is amended to read:

843.22 Traveling across county lines with intent to commit a burglary.—

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

(a) "County of residence" means the county within this state in which a person resides. Evidence of a person's county



925632

of residence includes, but is not limited to:

1. The address on a person's driver license or state identification card;
2. Records of real property or mobile home ownership;
3. Records of a lease agreement for residential property;
4. The county in which a person's motor vehicle is registered;
5. The county in which a person is enrolled in an educational institution; and
6. The county in which a person is employed.

(b) "Burglary" means burglary as defined in s. 810.02, including an attempt, solicitation, or conspiracy to commit such offense.

(2) If a person who commits a burglary travels any distance with the intent to commit the burglary in a county in this state other than the person's county of residence, the degree of the burglary shall be reclassified to the next higher degree if the purpose of the person's travel is to thwart law enforcement attempts to track the items stolen in the burglary. For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, a burglary that is reclassified under this section is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the burglary committed.

Section 19. Section 874.04, Florida Statutes, is amended to read:

874.04 Gang-related offenses; enhanced penalties.—Upon a finding by the factfinder that the defendant committed the charged offense for the purpose of benefiting, promoting, or



925632

furthering the interests of a criminal gang, the penalty for any felony or misdemeanor, or any delinquent act or violation of law which would be a felony or misdemeanor if committed by an adult, may be enhanced. Penalty enhancement affects the applicable statutory maximum penalty only. Each of the findings required as a basis for such sentence shall be found beyond a reasonable doubt. The enhancement will be as follows:

(1)(a) A misdemeanor of the second degree may be punished as if it were a misdemeanor of the first degree.

(b) A misdemeanor of the first degree may be punished as if it were a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 1 of the offense severity ranking chart. The criminal gang multiplier in s. 921.0024 does not apply to misdemeanors enhanced under this paragraph.

(2)(a) A felony of the third degree may be punished as if it were a felony of the second degree.

(b) A felony of the second degree may be punished as if it were a felony of the first degree.

(c) A felony of the first degree may be punished as if it were a life felony.

For purposes of sentencing under chapter 921 and determining ~~incentive gain-time~~ eligibility for rehabilitation credits under chapter 944, such felony offense is ranked as provided in s. 921.0022 or s. 921.0023, and without regard to the penalty enhancement in this subsection.

Section 20. Section 944.281, Florida Statutes, is amended





925632

to read:

944.281 Ineligibility to earn gain-time due to disciplinary action.—The department may declare that a prisoner who commits a violation of any law of the state or rule or regulation of the department or institution on or after January 1, 1996, and who is found guilty pursuant to s. 944.28(2), shall not be eligible to earn rehabilitation credits ~~incentive gain-time~~ for up to 6 months following the month in which the violation occurred. The department shall adopt rules to administer the provisions of this section.

Section 21. Subsection (1) of section 944.473, Florida Statutes, is amended to read:

944.473 Inmate substance abuse testing program.—

(1) RULES AND PROCEDURES.—The department shall establish programs for random and reasonable suspicion drug and alcohol testing by urinalysis or other noninvasive procedure for inmates to effectively identify those inmates abusing drugs, alcohol, or both. The department shall also adopt rules relating to fair, economical, and accurate operations and procedures of a random inmate substance abuse testing program and a reasonable suspicion substance abuse testing program by urinalysis or other noninvasive procedure which enumerate penalties for positive test results, including but not limited to the forfeiture of both good behavior time and rehabilitation credits ~~basic and incentive gain-time~~, and which do not limit the number of times an inmate may be tested in any one fiscal or calendar year.

Section 22. Subsection (1) of section 944.70, Florida Statutes, is amended to read:

944.70 Conditions for release from incarceration.—



925632

(1) (a) A person who is convicted of a crime committed on or after October 1, 1983, but before January 1, 1994, may be released from incarceration only:

1. Upon expiration of the person's sentence;
2. Upon expiration of the person's sentence as reduced by accumulated gain-time;
3. As directed by an executive order granting clemency;
4. Upon attaining the provisional release date;
5. Upon placement in a conditional release program pursuant to s. 947.1405; or
6. Upon the granting of control release pursuant to s. 947.146.

(b) A person who is convicted of a crime committed on or after January 1, 1994, may be released from incarceration only:

1. Upon expiration of the person's sentence;
2. Upon expiration of the person's sentence as reduced by accumulated rehabilitation credits and outstanding deed awards ~~meritorious or incentive gain-time~~;
3. As directed by an executive order granting clemency;
4. Upon placement in a conditional release program pursuant to s. 947.1405 or a conditional medical release program pursuant to s. 947.149; or
5. Upon the granting of control release, including emergency control release, pursuant to s. 947.146.

Section 23. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, paragraph (k) of subsection (4) of section 775.084, Florida Statutes, is reenacted to read:

775.084 Violent career criminals; habitual felony offenders



925632

and habitual violent felony offenders; three-time violent felony offenders; definitions; procedure; enhanced penalties or mandatory minimum prison terms.—

(4)

(k)1. A defendant sentenced under this section as a habitual felony offender, a habitual violent felony offender, or a violent career criminal is eligible for gain-time granted by the Department of Corrections as provided in s. 944.275(4)(b).

2. For an offense committed on or after October 1, 1995, a defendant sentenced under this section as a violent career criminal is not eligible for any form of discretionary early release, other than pardon or executive clemency, or conditional medical release granted pursuant to s. 947.149.

3. For an offense committed on or after July 1, 1999, a defendant sentenced under this section as a three-time violent felony offender shall be released only by expiration of sentence and shall not be eligible for parole, control release, or any form of early release.

Section 24. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in references thereto, paragraph (v) of subsection (2) and paragraph (e) of subsection (3) of section 900.05, Florida Statutes, are reenacted to read:

900.05 Criminal justice data collection.—

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

(v) "Gain-time credit earned" means a credit of time awarded to an inmate in a county detention facility in accordance with s. 951.21 or a state correctional institution or facility in accordance with s. 944.275.



925632

(3) DATA COLLECTION AND REPORTING.—An entity required to collect data in accordance with this subsection shall collect the specified data and report them in accordance with this subsection to the Department of Law Enforcement on a monthly basis.

(e) *Department of Corrections.*—The Department of Corrections shall collect the following data:

1. Information related to each inmate, including:

a. Identifying information, including name, date of birth, race, ethnicity, gender, case number, and identification number assigned by the department.

b. Highest education level.

c. Date the inmate was admitted to the custody of the department for his or her current incarceration.

d. Current institution placement and the security level assigned to the institution.

e. Custody level assignment.

f. Qualification for a flag designation as defined in this section, including sexual offender flag, habitual offender flag, habitual violent felony offender flag, prison releasee reoffender flag, three-time violent felony offender flag, violent career criminal flag, gang affiliation flag, or concurrent or consecutive sentence flag.

g. County that committed the prisoner to the custody of the department.

h. Whether the reason for admission to the department is for a new conviction or a violation of probation, community control, or parole. For an admission for a probation, community control, or parole violation, the department shall report



925632

whether the violation was technical or based on a new violation of law.

i. Specific statutory citation for which the inmate was committed to the department, including, for an inmate convicted of drug trafficking under s. 893.135, the statutory citation for each specific drug trafficked.

j. Length of sentence served.

k. Length of concurrent or consecutive sentences served.

l. Tentative release date.

m. Gain time earned in accordance with s. 944.275.

n. Prior incarceration within the state.

o. Disciplinary violation and action.

p. Participation in rehabilitative or educational programs while in the custody of the department.

q. Digitized sentencing scoresheet prepared in accordance with s. 921.0024.

2. Information about each state correctional institution or facility, including:

a. Budget for each state correctional institution or facility.

b. Daily prison population of all inmates incarcerated in a state correctional institution or facility.

c. Daily number of correctional officers for each state correctional institution or facility.

3. Information related to persons supervised by the department on probation or community control, including:

a. Identifying information for each person supervised by the department on probation or community control, including his or her name, date of birth, race, ethnicity, gender, case



925632

number, and department-assigned case number.

b. Length of probation or community control sentence imposed and amount of time that has been served on such sentence.

c. Projected termination date for probation or community control.

d. Revocation of probation or community control due to a violation, including whether the revocation is due to a technical violation of the conditions of supervision or from the commission of a new law violation.

4. Per diem rates for:

a. Prison bed.

b. Probation.

c. Community control.

This information only needs to be reported once annually at the time the most recent per diem rate is published.

Section 25. For the purpose of incorporating the amendment made in this act to section 944.275, Florida statutes, in reference thereto, section 944.28, Florida Statutes, is reenacted to read:

944.28 Forfeiture of gain-time and the right to earn gain-time in the future.—

(1) If a prisoner is convicted of escape, or if the clemency, conditional release as described in chapter 947, probation or community control as described in chapter 948, provisional release as described in s. 944.277, parole, or control release as described in s. 947.146 granted to the prisoner is revoked, the department may, without notice or



925632

hearing, declare a forfeiture of all gain-time earned according to the provisions of law by such prisoner prior to such escape or his or her release under such clemency, conditional release, probation, community control, provisional release, control release, or parole.

(2)(a) All or any part of the gain-time earned by a prisoner according to the provisions of law is subject to forfeiture if such prisoner unsuccessfully attempts to escape; assaults another person; threatens or knowingly endangers the life or person of another person; refuses by action or word to carry out any instruction duly given to him or her; neglects to perform in a faithful, diligent, industrious, orderly, and peaceful manner the work, duties, and tasks assigned to him or her; is found by a court to have brought a frivolous suit, action, claim, proceeding, or appeal in any court; is found by a court to have knowingly or with reckless disregard for the truth brought false information or evidence before the court; or violates any law of the state or any rule or regulation of the department or institution.

(b) A prisoner's right to earn gain-time during all or any part of the remainder of the sentence or sentences under which he or she is imprisoned may be declared forfeited because of the seriousness of a single instance of misconduct or because of the seriousness of an accumulation of instances of misconduct.

(c) The method of declaring a forfeiture under paragraph (a) or paragraph (b) shall be as follows: A written charge shall be prepared, which shall specify each instance of misconduct upon which it is based and the approximate date thereof. A copy of such charge shall be delivered to the prisoner, and he or she



925632

shall be given notice of a hearing before the disciplinary committee created under the authorization of rules heretofore or hereafter adopted by the department for the institution in which he or she is confined. The prisoner shall be present at the hearing. If at such hearing the prisoner pleads guilty to the charge or if the committee determines that the prisoner is guilty thereof upon the basis of proof presented at such hearing, it shall find him or her guilty. If the committee considers that all or part of the prisoner's gain-time and the prisoner's right to earn gain-time during all or any part of the sentence or sentences under which he or she is imprisoned shall be forfeited, it shall so recommend in its written report. Such report shall be presented to the warden of the institution, who may approve such recommendation in whole or in part by endorsing such approval on the report. In the event of approval, the warden shall forward the report to the department. Thereupon, the department may, in its discretion, declare the forfeiture thus approved by the warden or any specified part thereof.

(3) Upon the recommendation of the warden, the department may, in its discretion, restore all or any part of any gain-time forfeited under this section.

Section 26. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, subsection (1) of section 944.605, Florida Statutes, is reenacted to read:

944.605 Inmate release; notification; identification card.—

(1) Within 6 months before the release of an inmate from the custody of the Department of Corrections or a private correctional facility by expiration of sentence under s.





925632

1258 944.275, any release program provided by law, or parole under  
1259 chapter 947, or as soon as possible if the offender is released  
1260 earlier than anticipated, notification of such anticipated  
1261 release date shall be made known by the Department of  
1262 Corrections to the chief judge of the circuit in which the  
1263 offender was sentenced, the appropriate state attorney, the  
1264 original arresting law enforcement agency, the Department of Law  
1265 Enforcement, and the sheriff as chief law enforcement officer of  
1266 the county in which the inmate plans to reside. In addition,  
1267 unless otherwise requested by the victim, the victim's parent or  
1268 guardian if the victim is a minor, the lawful representative of  
1269 the victim or of the victim's parent or guardian if the victim  
1270 is a minor, the victim's next of kin in the case of a homicide,  
1271 the state attorney or the Department of Corrections, whichever  
1272 is appropriate, shall notify such person within 6 months before  
1273 the inmate's release, or as soon as possible if the offender is  
1274 released earlier than anticipated, when the name and address of  
1275 such victim, or the name and address of the parent, guardian,  
1276 next of kin, or lawful representative of the victim has been  
1277 furnished to the agency. The state attorney shall provide the  
1278 latest address documented for the victim, or for the victim's  
1279 parent, guardian, next of kin, or lawful representative, as  
1280 applicable, to the sheriff with the other documents required by  
1281 law for the delivery of inmates to those agencies for service of  
1282 sentence. Upon request, within 30 days after an inmate is  
1283 approved for community work release, the state attorney, the  
1284 victim, the victim's parent or guardian if the victim is a  
1285 minor, the victim's next of kin in the case of a homicide, or  
1286 the lawful representative of the victim or of the victim's



925632

parent or guardian if the victim is a minor shall be notified that the inmate has been approved for community work release. This section does not imply any repeal or modification of any provision of law relating to notification of victims.

Section 27. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, subsection (6) of section 944.607, Florida Statutes, is reenacted to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.—

(6) The information provided to the Department of Law Enforcement must include:

(a) The information obtained from the sexual offender under subsection (4);

(b) The sexual offender's most current address, place of permanent, temporary, or transient residence within the state or out of state, and address, location or description, and dates of any current or known future temporary residence within the state or out of state, while the sexual offender is under supervision in this state, including the name of the county or municipality in which the offender permanently or temporarily resides, or has a transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state, and, if known, the intended place of permanent, temporary, or transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state upon satisfaction of all sanctions;

(c) The legal status of the sexual offender and the



925632

scheduled termination date of that legal status;

(d) The location of, and local telephone number for, any Department of Corrections' office that is responsible for supervising the sexual offender;

(e) An indication of whether the victim of the offense that resulted in the offender's status as a sexual offender was a minor;

(f) The offense or offenses at conviction which resulted in the determination of the offender's status as a sex offender; and

(g) A digitized photograph of the sexual offender which must have been taken within 60 days before the offender is released from the custody of the department or a private correctional facility by expiration of sentence under s. 944.275 or must have been taken by January 1, 1998, or within 60 days after the onset of the department's supervision of any sexual offender who is on probation, community control, conditional release, parole, provisional release, or control release or who is supervised by the department under the Interstate Compact Agreement for Probationers and Parolees. If the sexual offender is in the custody of a private correctional facility, the facility shall take a digitized photograph of the sexual offender within the time period provided in this paragraph and shall provide the photograph to the department.

If any information provided by the department changes during the time the sexual offender is under the department's control, custody, or supervision, including any change in the offender's name by reason of marriage or other legal process, the



925632

department shall, in a timely manner, update the information and provide it to the Department of Law Enforcement in the manner prescribed in subsection (2).

Section 28. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, subsection (15) of section 947.005, Florida Statutes, is reenacted to read:

947.005 Definitions.—As used in this chapter, unless the context clearly indicates otherwise:

(15) "Tentative release date" means the date projected for the prisoner's release from custody by virtue of gain-time granted or forfeited pursuant to s. 944.275(3)(a).

Section 29. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, paragraph (a) of subsection (6) of section 985.4815, Florida Statutes, is reenacted to read:

985.4815 Notification to Department of Law Enforcement of information on juvenile sexual offenders.—

(6)(a) The information provided to the Department of Law Enforcement must include the following:

1. The information obtained from the sexual offender under subsection (4).

2. The sexual offender's most current address and place of permanent, temporary, or transient residence within the state or out of state, and address, location or description, and dates of any current or known future temporary residence within the state or out of state, while the sexual offender is in the care or custody or under the jurisdiction or supervision of the department in this state, including the name of the county or



925632

municipality in which the offender permanently or temporarily resides, or has a transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state; and, if known, the intended place of permanent, temporary, or transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state upon satisfaction of all sanctions.

3. The legal status of the sexual offender and the scheduled termination date of that legal status.

4. The location of, and local telephone number for, any department office that is responsible for supervising the sexual offender.

5. An indication of whether the victim of the offense that resulted in the offender's status as a sexual offender was a minor.

6. The offense or offenses at adjudication and disposition that resulted in the determination of the offender's status as a sex offender.

7. A digitized photograph of the sexual offender, which must have been taken within 60 days before the offender was released from the custody of the department or a private correctional facility by expiration of sentence under s. 944.275, or within 60 days after the onset of the department's supervision of any sexual offender who is on probation, postcommitment probation, residential commitment, nonresidential commitment, licensed child-caring commitment, community control, conditional release, parole, provisional release, or control release or who is supervised by the department under the



925632

Interstate Compact Agreement for Probationers and Parolees. If the sexual offender is in the custody of a private correctional facility, the facility shall take a digitized photograph of the sexual offender within the time period provided in this subparagraph and shall provide the photograph to the department.

Section 30. This act shall take effect July 1, 2021.

===== 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 criminal convictions; amending s. 455.213, F.S.; revising the timeframe when a conviction, or any other adjudication, for a crime may not be grounds for denial of licensure in specified professions; removing a provision requiring good moral character for licensure in such professions; requiring the applicable board to approve certain education program credits offered to inmates in correctional institutions or facilities to satisfy training requirements for licensure in specified professions; amending s. 921.002, F.S.; revising the principles that the Criminal Punishment Code embodies as it relates to punishment and rehabilitation; conforming provisions to changes made by the act; amending s. 944.02, F.S.; defining the term "gain-time"; amending s. 944.275, F.S.; authorizing the Department of Corrections to grant deductions from sentences in the



925632

1432 form of, good behavior time, rehabilitation credits,  
1433 and outstanding deed awards rather than solely for  
1434 gain-time, for specified purposes; revising a  
1435 prisoner's "tentative release date" that the  
1436 department must calculate for each prisoner based on  
1437 his or her good behavior time, rehabilitation credits,  
1438 and outstanding deed awards; requiring the department  
1439 to grant good behavior time, rather than basic gain-  
1440 time, as a means of encouraging satisfactory behavior  
1441 and developing character traits necessary for  
1442 successful reentry to the community, subject to  
1443 certain conditions; authorizing the department to  
1444 grant rehabilitation credits, rather than incentive  
1445 gain-time, for each month during which a prisoner  
1446 engages in specified activities; revising the rates of  
1447 eligibility to earn rehabilitation credits; increasing  
1448 the authorized amount of outstanding deed awards which  
1449 a prisoner may be granted per outstanding deed  
1450 performed; authorizing the department to grant a  
1451 specified number of additional days of rehabilitation  
1452 credit for successful completion of specified  
1453 programs; defining terms; providing for retroactivity  
1454 of specified rehabilitation credits; authorizing the  
1455 department to grant a certain additional amount of  
1456 days per month to prisoners serving sentences for  
1457 certain violations; providing for retroactivity of  
1458 specified good behavior time; prohibiting certain  
1459 prisoners from being eligible to earn or receive good  
1460 behavior time or outstanding deed awards in an amount



925632

that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, before he or she serves a specified minimum percentage of the sentence imposed; prohibiting certain prisoners from earning or receiving rehabilitation credits in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, before he or she serves a specified minimum percentage of the sentence imposed; providing that gain-time may be forfeited according to law after due process if a prisoner is found guilty of an infraction of certain laws or rules; requiring the department to adopt rules in accordance with the changes made by the act; conforming provisions to changes made by the act; making technical changes; amending ss. 316.027, 775.0845, 775.0847, 775.0861, 775.0862, 775.087, 775.0875, 777.03, 777.04, 794.011, 784.023, 817.568, 831.032, 843.22, 874.04, 944.281, 944.473, 944.70, F.S.; conforming provisions to changes made by the act; reenacting ss. 775.084(4)(k), 900.05(2)(v) and (3)(e), 944.28, 944.605(1), 944.607(6), 947.005(15), and 985.4815(6)(a), F.S., relating to gain-time granted by the department, the definition of "gain-time credit earned" and gain-time data that the department must collect, a required notification of expiration of sentence, a requirement that a digitized photograph of sexual offenders be taken within a certain time before release, the definition of





925632

1490 "tentative release date," and a requirement that a  
1491 digitized photograph of sexual offenders be taken  
1492 within a certain time before release, respectively, to  
1493 incorporate the amendment made to s. 944.275, F.S., in  
1494 references thereto; providing an effective date.

By Senator Perry

8-00700B-21

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1 A bill to be entitled  
 2 An act relating to gain-time; amending s. 921.002,  
 3 F.S.; revising the principles that the Criminal  
 4 Punishment Code embodies as it relates to punishment  
 5 and rehabilitation; conforming provisions to changes  
 6 made by the act; amending s. 944.275, F.S.;  
 7 authorizing the Department of Corrections to grant  
 8 deductions from sentences in the form of outstanding  
 9 deed gain-time, good behavior time, and rehabilitation  
 10 credits, rather than solely for gain-time, for  
 11 specified purposes; revising a prisoner's "tentative  
 12 release date" that the department must calculate for  
 13 each prisoner based on his or her outstanding deed  
 14 gain-time, good behavior time, and rehabilitation  
 15 credits; requiring the department to grant good  
 16 behavior time, rather than basic gain-time, as a means  
 17 of encouraging satisfactory behavior and developing  
 18 character traits necessary for successful reentry to  
 19 the community, subject to certain conditions;  
 20 authorizing the department to grant rehabilitation  
 21 credits, rather than incentive gain-time, for each  
 22 month during which a prisoner engages in specified  
 23 activities; revising the rates of eligibility to earn  
 24 rehabilitation credits; increasing the authorized  
 25 amount of outstanding deed gain-time which a prisoner  
 26 may be granted per outstanding deed performed;  
 27 requiring, rather than authorizing, the department to  
 28 grant a certain amount of days of rehabilitation  
 29 credits to a prisoner for the successful completion of

Page 1 of 21

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8-00700B-21

20211032\_\_

30 specified degrees, certificates, or programs;  
 31 requiring the department to grant a specified number  
 32 of additional days of rehabilitation credit for  
 33 successful completion of specified programs; providing  
 34 for retroactivity of specified rehabilitation credits;  
 35 authorizing the department to grant a certain  
 36 additional amount of days per month to prisoners  
 37 serving sentences for certain violations; providing  
 38 for retroactivity of specified good behavior time;  
 39 prohibiting certain prisoners from being eligible to  
 40 earn or receive outstanding deed gain-time or good  
 41 behavior time in an amount that would cause a sentence  
 42 to expire, end, or terminate, or that would result in  
 43 a prisoner's release, before he or she serves a  
 44 specified minimum percentage of the sentence imposed;  
 45 prohibiting certain prisoners from earning or  
 46 receiving rehabilitation credits in an amount that  
 47 would cause a sentence to expire, end, or terminate,  
 48 or that would result in a prisoner's release, before  
 49 he or she serves a specified minimum percentage of the  
 50 sentence imposed; providing that good behavior time  
 51 not yet vested may be forfeited according to law after  
 52 due process if a prisoner is found guilty of an  
 53 infraction of certain laws or rules; providing a  
 54 vesting period for good behavior time; requiring the  
 55 department to adopt rules in accordance with the  
 56 changes made by the act; conforming provisions to  
 57 changes made by the act; making technical changes;  
 58 amending s. 794.011, F.S.; conforming a provision to

Page 2 of 21

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8-00700B-21

20211032\_\_

changes made by the act; reenacting ss. 775.084(4)(k), 900.05(2)(v) and (3)(e), 944.605(1), 944.607(6), 947.005(15), and 985.4815(6)(a), F.S., relating to gain-time granted by the department, the definition of "gain-time credit earned" and gain-time data that the department must collect, a required notification of expiration of sentence, a requirement that a digitized photograph of sexual offenders be taken within a certain time before release, the definition of "tentative release date," and a requirement that a digitized photograph of sexual offenders be taken within a certain time before release, respectively, to incorporate the amendment made to s. 944.275, F.S., in references thereto; providing an effective date.

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

Section 1. Subsection (1) of section 921.002, Florida Statutes, is amended to read:

921.002 The Criminal Punishment Code.—The Criminal Punishment Code shall apply to all felony offenses, except capital felonies, committed on or after October 1, 1998.

(1) The provision of criminal penalties and of limitations upon the application of such penalties is a matter of predominantly substantive law and, as such, is a matter properly addressed by the Legislature. The Legislature, in the exercise of its authority and responsibility to establish sentencing criteria, to provide for the imposition of criminal penalties, and to make the best use of state prisons so that ~~violent~~

8-00700B-21

20211032\_\_

criminal offenders are appropriately punished and rehabilitated ~~incarcerated~~, has determined that it is in the best interest of the state to develop, implement, and revise a sentencing policy. The Criminal Punishment Code embodies the principles that:

(a) Sentencing is neutral with respect to race, gender, and social and economic status.

(b) The dual purposes ~~primary purpose~~ of sentencing in the criminal justice system are ~~is~~ to punish the offender and rehabilitate the offender so that he or she can successfully transition back into the community. ~~Rehabilitation is a desired goal of the criminal justice system but is subordinate to the goal of punishment.~~

(c) The penalty imposed is commensurate with the severity of the primary offense and the circumstances surrounding the primary offense.

(d) The severity of the sentence increases with the length and nature of the offender's prior record.

(e) The sentence imposed by the sentencing judge reflects the length of actual time to be served, shortened only by the application of outstanding deed ~~incentive and meritorious~~ gain-time, good behavior time, and rehabilitation credits as provided by law, and may not be shortened if the defendant would consequently serve less than ~~65~~ 85 percent of his or her term of imprisonment as provided in s. 944.275(4). The provisions of chapter 947, relating to parole, do not ~~shall not~~ apply to persons sentenced under the Criminal Punishment Code.

(f) Departures below the lowest permissible sentence established by the code must be articulated in writing by the trial court judge and made only when circumstances or factors

8-00700B-21 20211032\_\_

reasonably justify the mitigation of the sentence. The level of proof necessary to establish facts that support a departure from the lowest permissible sentence is a preponderance of the evidence.

(g) The trial court judge may impose a sentence up to and including the statutory maximum for any offense, including an offense that is before the court due to a violation of probation or community control.

(h) A sentence may be appealed on the basis that it departs from the Criminal Punishment Code only if the sentence is below the lowest permissible sentence or as enumerated in s. 924.06(1).

(i) Use of incarcerative sanctions is prioritized toward offenders convicted of serious offenses and certain offenders who have long prior records, in order to maximize the finite capacities of state and local correctional facilities.

Section 2. Section 944.275, Florida Statutes, is amended to read:

944.275 Outstanding deed gain-time; good behavior time; rehabilitation credits.—

(1) The department is authorized to grant deductions from sentences in the form of outstanding deed gain-time, good behavior time, and rehabilitation credits in order to encourage satisfactory prisoner behavior, to provide incentive for prisoners to participate in productive activities, and to reward prisoners who perform outstanding deeds or services.

(2) (a) The department shall establish for each prisoner sentenced to a term of years a "maximum sentence expiration date," which shall be the date when the sentence or combined

8-00700B-21 20211032\_\_

sentences imposed on a prisoner will expire. In establishing this date, the department shall reduce the total time to be served by any time lawfully credited.

(b) When a prisoner with an established maximum sentence expiration date is sentenced to an additional term or terms without having been released from custody, the department shall extend the maximum sentence expiration date by the length of time imposed in the new sentence or sentences, less lawful credits.

(c) When an escaped prisoner or a parole violator is returned to the custody of the department, the maximum sentence expiration date in effect when the escape occurred or the parole was effective shall be extended by the amount of time the prisoner was not in custody plus the time imposed in any new sentence or sentences, but reduced by any lawful credits.

(3) (a) The department shall also establish for each prisoner sentenced to a term of years a "tentative release date" which shall be the date projected for the prisoner's release from custody by virtue of outstanding deed gain-time, good behavior time, or rehabilitation credits granted or forfeited as described in this section. The initial tentative release date shall be determined by deducting outstanding deed ~~basic~~ gain-time, good behavior time, or rehabilitation credits granted from the maximum sentence expiration date. Outstanding deed ~~Other~~ gain-time, good behavior time, and rehabilitation credits shall be applied when granted or restored to make the tentative release date proportionately earlier; and forfeitures of good behavior time ~~gain-time~~, when ordered, shall be applied to make the tentative release date proportionately later.

8-00700B-21

20211032\_\_

(b) When an initial tentative release date is reestablished because of additional sentences imposed before the prisoner has completely served all prior sentences, any outstanding deed gain-time, good behavior time, and rehabilitation credits granted during service of a prior sentence and not forfeited shall be applied.

(c) The tentative release date may not be later than the maximum sentence expiration date.

(4) (a) As a means of encouraging satisfactory behavior and developing character traits necessary for successful reentry to the community, the department shall grant good behavior time ~~basic gain-time~~ at the rate of 10 days for each month of each sentence imposed on a prisoner, subject to the following:

1. Portions of any sentences to be served concurrently shall be treated as a single sentence when determining good behavior time ~~basic gain-time~~.

2. Good behavior time ~~Basic gain-time~~ for a partial month shall be prorated on the basis of a 30-day month.

3. When a prisoner receives a new maximum sentence expiration date because of additional sentences imposed, good behavior time ~~basic gain-time~~ shall be granted for the amount of time the maximum sentence expiration date was extended.

(b) For each month in which a prisoner ~~an inmate~~ works diligently, participates in training or education, uses time constructively, or otherwise engages in positive activities, the department may grant rehabilitation credits ~~incentive gain-time~~ in accordance with this paragraph. The rate of rehabilitation credits ~~incentive gain-time~~ in effect on the date the prisoner ~~inmate~~ committed the offense that ~~which~~ resulted in his or her

8-00700B-21

20211032\_\_

incarceration shall be the prisoner's inmate's rate of eligibility to earn rehabilitation credits ~~incentive gain-time~~ throughout the period of incarceration and may ~~shall~~ not be altered by a subsequent change in the severity level of the offense for which the prisoner inmate was sentenced.

1. For sentences imposed for offenses committed before ~~prior to~~ January 1, 1994, and on or after October 1, 1995, up to 20 days of rehabilitation credits ~~incentive gain-time~~ may be granted. If granted, such rehabilitation credits ~~gain-time~~ shall be credited and applied monthly.

2. For sentences imposed for offenses committed on or after January 1, 1994, and before October 1, 1995:

a. For offenses ranked in offense severity levels 1 through 7, under former s. 921.0012 or former s. 921.0013, up to 25 days of rehabilitation credits ~~incentive gain-time~~ may be granted. If granted, such rehabilitation credits ~~gain-time~~ shall be credited and applied monthly.

b. For offenses ranked in offense severity levels 8, 9, and 10, under former s. 921.0012 or former s. 921.0013, up to 20 days of rehabilitation credits ~~incentive gain-time~~ may be granted. If granted, such rehabilitation credits ~~gain-time~~ shall be credited and applied monthly.

~~3. For sentences imposed for offenses committed on or after October 1, 1995, the department may grant up to 10 days per month of incentive gain-time.~~

(c) A prisoner ~~An inmate~~ who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped prisoner inmate, or who in some manner performs an outstanding service that would merit the granting of additional

8-00700B-21 20211032

deductions from the term of his or her sentence may be granted outstanding deed meritorious gain-time of from 30 + to 60 days per outstanding deed performed.

(d) Notwithstanding the monthly maximum awards of rehabilitation credits under subparagraphs (b)1. and 2., ~~incentive gain-time under subparagraphs (b)1., 2., and 3., the education program manager shall recommend, and the department shall grant awards of Corrections may grant, a one-time award of~~ 60 additional days of rehabilitation credits for each of the following successfully completed by a prisoner: incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is, or has been during the current commitment, awarded a high school equivalency diploma, a college degree, a ~~or~~ vocational certificate, a drug treatment program, a mental health treatment program, a life skills program, a behavioral modification program, a reentry program, or an equivalent rehabilitative program. Additionally, the department shall grant 5 additional days of rehabilitation credits for successful completion of any other department-approved program, including prisoner-developed programs or a passing grade in each online or in-person educational course. Rehabilitation credits under this paragraph are retroactive.

(e) Notwithstanding the monthly maximum awards of rehabilitation credits under subparagraphs (b)1. and 2., the department may grant 2 additional days per month of good behavior time to prisoners serving sentences for violations of s. 893.13 or s. 893.135. Good behavior time under this paragraph is retroactive Under no circumstances may an inmate receive more than 60 days for educational attainment pursuant to this

8-00700B-21 20211032

~~section.~~

(f)(e) Notwithstanding ~~subparagraph (b)1. subparagraph (b)3.,~~ for sentences imposed for offenses committed on or after October 1, 2014, the department may not grant rehabilitation credits incentive gain-time if the offense is a violation of s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.; s. 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s. 800.04; s. 825.1025; or s. 847.0135(5).

(g)1.(f) ~~A prisoner An inmate~~ who is subject to this subsection subparagraph (b)3. is not eligible to earn or receive outstanding deed gain-time or good behavior time under paragraph (a), paragraph (b), paragraph (c), or paragraph (d) or any other type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, before he or she serves prior to serving a minimum of 85 percent of the sentence imposed.

2. A prisoner who is subject to this subsection may not earn or receive rehabilitation credits in an amount that would cause a sentence to expire, end, or terminate, or that would result in a prisoner's release, before he or she serves a minimum of 65 percent of the sentence imposed.

3. For purposes of this paragraph, credits awarded by the court for time physically incarcerated shall be credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by this section, a prisoner may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 65 percent of the sentence imposed. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their

8-00700B-21

20211032\_\_

291 natural lives, unless granted pardon or clemency.

292 (5) ~~If when~~ a prisoner is found guilty of an infraction of  
 293 the laws of this state or the rules of the department, good  
 294 behavior time not yet vested gain-time may be forfeited  
 295 according to law after due process. For purposes of this  
 296 subsection, good behavior time vests 2 years after being  
 297 granted.

298 (6) (a) Good behavior time ~~Basic gain-time~~ under this  
 299 section shall be computed on and applied to all sentences  
 300 imposed for offenses committed on or after July 1, 1978, ~~and~~  
 301 ~~before January 1, 1994.~~

302 (b) All outstanding deed incentive and meritorious gain-  
 303 time, good behavior time, and rehabilitation credits ~~are~~ is  
 304 granted according to this section.

305 (c) All additional gain-time previously awarded under  
 306 former subsections (2) and (3) and all forfeitures ordered  
 307 before ~~prior to~~ the effective date of the act that created this  
 308 section shall remain in effect and be applied in establishing an  
 309 initial tentative release date.

310 (7) The department shall adopt rules to implement the  
 311 granting, forfeiture, restoration, and deletion of outstanding  
 312 deed gain-time, good behavior time, and rehabilitation credits.

313 Section 3. Subsection (7) of section 794.011, Florida  
 314 Statutes, is amended to read:

315 794.011 Sexual battery.—

316 (7) A person who is convicted of committing a sexual  
 317 battery on or after October 1, 1992, is not eligible for  
 318 statutory ~~basic~~ gain-time under s. 944.275. This subsection may  
 319 be cited as the "Junny Rios-Martinez, Jr. Act of 1992."

8-00700B-21

20211032\_\_

320 Section 4. For the purpose of incorporating the amendment  
 321 made by this act to section 944.275, Florida Statutes, in a  
 322 reference thereto, paragraph (k) of subsection (4) of section  
 323 775.084, Florida Statutes, is reenacted to read:

324 775.084 Violent career criminals; habitual felony offenders  
 325 and habitual violent felony offenders; three-time violent felony  
 326 offenders; definitions; procedure; enhanced penalties or  
 327 mandatory minimum prison terms.—

328 (4)

329 (k)1. A defendant sentenced under this section as a  
 330 habitual felony offender, a habitual violent felony offender, or  
 331 a violent career criminal is eligible for gain-time granted by  
 332 the Department of Corrections as provided in s. 944.275(4)(b).

333 2. For an offense committed on or after October 1, 1995, a  
 334 defendant sentenced under this section as a violent career  
 335 criminal is not eligible for any form of discretionary early  
 336 release, other than pardon or executive clemency, or conditional  
 337 medical release granted pursuant to s. 947.149.

338 3. For an offense committed on or after July 1, 1999, a  
 339 defendant sentenced under this section as a three-time violent  
 340 felony offender shall be released only by expiration of sentence  
 341 and shall not be eligible for parole, control release, or any  
 342 form of early release.

343 Section 5. For the purpose of incorporating the amendment  
 344 made by this act to section 944.275, Florida Statutes, in  
 345 references thereto, paragraph (v) of subsection (2) and  
 346 paragraph (e) of subsection (3) of section 900.05, Florida  
 347 Statutes, are reenacted to read:

348 900.05 Criminal justice data collection.—

8-00700B-21

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- 349 (2) DEFINITIONS.—As used in this section, the term:
- 350 (v) "Gain-time credit earned" means a credit of time
- 351 awarded to an inmate in a county detention facility in
- 352 accordance with s. 951.21 or a state correctional institution or
- 353 facility in accordance with s. 944.275.
- 354 (3) DATA COLLECTION AND REPORTING.—An entity required to
- 355 collect data in accordance with this subsection shall collect
- 356 the specified data and report them in accordance with this
- 357 subsection to the Department of Law Enforcement on a monthly
- 358 basis.
- 359 (e) *Department of Corrections*.—The Department of
- 360 Corrections shall collect the following data:
- 361 1. Information related to each inmate, including:
- 362 a. Identifying information, including name, date of birth,
- 363 race, ethnicity, gender, case number, and identification number
- 364 assigned by the department.
- 365 b. Highest education level.
- 366 c. Date the inmate was admitted to the custody of the
- 367 department for his or her current incarceration.
- 368 d. Current institution placement and the security level
- 369 assigned to the institution.
- 370 e. Custody level assignment.
- 371 f. Qualification for a flag designation as defined in this
- 372 section, including sexual offender flag, habitual offender flag,
- 373 habitual violent felony offender flag, prison releasee
- 374 reoffender flag, three-time violent felony offender flag,
- 375 violent career criminal flag, gang affiliation flag, or
- 376 concurrent or consecutive sentence flag.
- 377 g. County that committed the prisoner to the custody of the

Page 13 of 21

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8-00700B-21

20211032\_\_

- 378 department.
- 379 h. Whether the reason for admission to the department is
- 380 for a new conviction or a violation of probation, community
- 381 control, or parole. For an admission for a probation, community
- 382 control, or parole violation, the department shall report
- 383 whether the violation was technical or based on a new violation
- 384 of law.
- 385 i. Specific statutory citation for which the inmate was
- 386 committed to the department, including, for an inmate convicted
- 387 of drug trafficking under s. 893.135, the statutory citation for
- 388 each specific drug trafficked.
- 389 j. Length of sentence served.
- 390 k. Length of concurrent or consecutive sentences served.
- 391 l. Tentative release date.
- 392 m. Gain time earned in accordance with s. 944.275.
- 393 n. Prior incarceration within the state.
- 394 o. Disciplinary violation and action.
- 395 p. Participation in rehabilitative or educational programs
- 396 while in the custody of the department.
- 397 q. Digitized sentencing scoresheet prepared in accordance
- 398 with s. 921.0024.
- 399 2. Information about each state correctional institution or
- 400 facility, including:
- 401 a. Budget for each state correctional institution or
- 402 facility.
- 403 b. Daily prison population of all inmates incarcerated in a
- 404 state correctional institution or facility.
- 405 c. Daily number of correctional officers for each state
- 406 correctional institution or facility.

Page 14 of 21

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8-00700B-21

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3. Information related to persons supervised by the department on probation or community control, including:

a. Identifying information for each person supervised by the department on probation or community control, including his or her name, date of birth, race, ethnicity, gender, case number, and department-assigned case number.

b. Length of probation or community control sentence imposed and amount of time that has been served on such sentence.

c. Projected termination date for probation or community control.

d. Revocation of probation or community control due to a violation, including whether the revocation is due to a technical violation of the conditions of supervision or from the commission of a new law violation.

4. Per diem rates for:

a. Prison bed.

b. Probation.

c. Community control.

This information only needs to be reported once annually at the time the most recent per diem rate is published.

Section 6. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, subsection (1) of section 944.605, Florida Statutes, is reenacted to read:

944.605 Inmate release; notification; identification card.—

(1) Within 6 months before the release of an inmate from the custody of the Department of Corrections or a private

8-00700B-21

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correctional facility by expiration of sentence under s.

944.275, any release program provided by law, or parole under chapter 947, or as soon as possible if the offender is released earlier than anticipated, notification of such anticipated release date shall be made known by the Department of Corrections to the chief judge of the circuit in which the offender was sentenced, the appropriate state attorney, the original arresting law enforcement agency, the Department of Law Enforcement, and the sheriff as chief law enforcement officer of the county in which the inmate plans to reside. In addition, unless otherwise requested by the victim, the victim's parent or guardian if the victim is a minor, the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, the state attorney or the Department of Corrections, whichever is appropriate, shall notify such person within 6 months before the inmate's release, or as soon as possible if the offender is released earlier than anticipated, when the name and address of such victim, or the name and address of the parent, guardian, next of kin, or lawful representative of the victim has been furnished to the agency. The state attorney shall provide the latest address documented for the victim, or for the victim's parent, guardian, next of kin, or lawful representative, as applicable, to the sheriff with the other documents required by law for the delivery of inmates to those agencies for service of sentence. Upon request, within 30 days after an inmate is approved for community work release, the state attorney, the victim, the victim's parent or guardian if the victim is a minor, the victim's next of kin in the case of a homicide, or

8-00700B-21

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the lawful representative of the victim or of the victim's parent or guardian if the victim is a minor shall be notified that the inmate has been approved for community work release. This section does not imply any repeal or modification of any provision of law relating to notification of victims.

Section 7. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, subsection (6) of section 944.607, Florida Statutes, is reenacted to read:

944.607 Notification to Department of Law Enforcement of information on sexual offenders.—

(6) The information provided to the Department of Law Enforcement must include:

(a) The information obtained from the sexual offender under subsection (4);

(b) The sexual offender's most current address, place of permanent, temporary, or transient residence within the state or out of state, and address, location or description, and dates of any current or known future temporary residence within the state or out of state, while the sexual offender is under supervision in this state, including the name of the county or municipality in which the offender permanently or temporarily resides, or has a transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state, and, if known, the intended place of permanent, temporary, or transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state upon satisfaction of all sanctions;

8-00700B-21

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(c) The legal status of the sexual offender and the scheduled termination date of that legal status;

(d) The location of, and local telephone number for, any Department of Corrections' office that is responsible for supervising the sexual offender;

(e) An indication of whether the victim of the offense that resulted in the offender's status as a sexual offender was a minor;

(f) The offense or offenses at conviction which resulted in the determination of the offender's status as a sex offender; and

(g) A digitized photograph of the sexual offender which must have been taken within 60 days before the offender is released from the custody of the department or a private correctional facility by expiration of sentence under s. 944.275 or must have been taken by January 1, 1998, or within 60 days after the onset of the department's supervision of any sexual offender who is on probation, community control, conditional release, parole, provisional release, or control release or who is supervised by the department under the Interstate Compact Agreement for Probationers and Parolees. If the sexual offender is in the custody of a private correctional facility, the facility shall take a digitized photograph of the sexual offender within the time period provided in this paragraph and shall provide the photograph to the department.

If any information provided by the department changes during the time the sexual offender is under the department's control, custody, or supervision, including any change in the offender's

8-00700B-21

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name by reason of marriage or other legal process, the department shall, in a timely manner, update the information and provide it to the Department of Law Enforcement in the manner prescribed in subsection (2).

Section 8. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, subsection (15) of section 947.005, Florida Statutes, is reenacted to read:

947.005 Definitions.—As used in this chapter, unless the context clearly indicates otherwise:

(15) "Tentative release date" means the date projected for the prisoner's release from custody by virtue of gain-time granted or forfeited pursuant to s. 944.275(3)(a).

Section 9. For the purpose of incorporating the amendment made by this act to section 944.275, Florida Statutes, in a reference thereto, paragraph (a) of subsection (6) of section 985.4815, Florida Statutes, is reenacted to read:

985.4815 Notification to Department of Law Enforcement of information on juvenile sexual offenders.—

(6)(a) The information provided to the Department of Law Enforcement must include the following:

1. The information obtained from the sexual offender under subsection (4).

2. The sexual offender's most current address and place of permanent, temporary, or transient residence within the state or out of state, and address, location or description, and dates of any current or known future temporary residence within the state or out of state, while the sexual offender is in the care or custody or under the jurisdiction or supervision of the

8-00700B-21

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department in this state, including the name of the county or municipality in which the offender permanently or temporarily resides, or has a transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state; and, if known, the intended place of permanent, temporary, or transient residence, and address, location or description, and dates of any current or known future temporary residence within the state or out of state upon satisfaction of all sanctions.

3. The legal status of the sexual offender and the scheduled termination date of that legal status.

4. The location of, and local telephone number for, any department office that is responsible for supervising the sexual offender.

5. An indication of whether the victim of the offense that resulted in the offender's status as a sexual offender was a minor.

6. The offense or offenses at adjudication and disposition that resulted in the determination of the offender's status as a sex offender.

7. A digitized photograph of the sexual offender, which must have been taken within 60 days before the offender was released from the custody of the department or a private correctional facility by expiration of sentence under s. 944.275, or within 60 days after the onset of the department's supervision of any sexual offender who is on probation, postcommitment probation, residential commitment, nonresidential commitment, licensed child-caring commitment, community control, conditional release, parole, provisional release, or control

8-00700B-21

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581 release or who is supervised by the department under the  
582 Interstate Compact Agreement for Probationers and Parolees. If  
583 the sexual offender is in the custody of a private correctional  
584 facility, the facility shall take a digitized photograph of the  
585 sexual offender within the time period provided in this  
586 subparagraph and shall provide the photograph to the department.

587 Section 10. This act shall take effect July 1, 2021.



## 2021 AGENCY LEGISLATIVE BILL ANALYSIS

### AGENCY: Department of Corrections

<b><u>BILL INFORMATION</u></b>	
<b>BILL NUMBER:</b>	SB 1032
<b>BILL TITLE:</b>	Gain-time
<b>BILL SPONSOR:</b>	Senator Perry
<b>EFFECTIVE DATE:</b>	July 1, 2021

<b><u>COMMITTEES OF REFERENCE</u></b>
1) Criminal Justice
2) Appropriations Subcommittee on Criminal and Civil Justice
3) Appropriations
4)
5)

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

<b><u>CURRENT COMMITTEE</u></b>

<b><u>SIMILAR BILLS</u></b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b><u>IDENTICAL BILLS</u></b>	
<b>BILL NUMBER:</b>	
<b>SPONSOR:</b>	

<b>Is this bill part of an agency package?</b>
No.

<b><u>BILL ANALYSIS INFORMATION</u></b>	
<b>DATE OF ANALYSIS:</b>	February 26, 2021
<b>LEAD AGENCY ANALYST:</b>	Michelle Palmer
<b>ADDITIONAL ANALYST(S):</b>	Mary Le, Jennifer Rechici, Brad Locke, Lee Adams, Antoinette McCaskill
<b>LEGAL ANALYST:</b>	Daniel Burke
<b>FISCAL ANALYST:</b>	Tommy Milito

## POLICY ANALYSIS

### 1. EXECUTIVE SUMMARY

The bill amends s. 921.002, F.S., the Criminal Punishment Code, to revise legislative intent to include rehabilitation as a purpose of sentencing. Amends s. 944.275, F.S., to change the names of basic, incentive and meritorious gain-time. Creates a 65 percent minimum service requirement, increases rehabilitation credits (incentive gain-time) awards from 10 days to 20 days per month. Allows for multiple 60-day rehabilitation credit awards for educational achievement and an additional 2 days per month good behavior time (basic gain-time) for inmates serving sentences for offenses under s. 893.13, F.S., or s. 893.135, F.S.

### 2. SUBSTANTIVE BILL ANALYSIS

#### 1. **PRESENT SITUATION:**

Currently, s. 921.002 F.S., criminal punishment code, the primary purpose of sentencing is to punish the offender, with rehabilitation being a desired goal, but secondary to punishment.

Under current law, s. 944.275, F.S., the Florida Department of Corrections (FDC or Department) is authorized to reduce the time an inmate will serve by the award of gain-time. Over time there have been significant changes to Florida's gain-time laws. Some of these changes have caused unintended ex post facto violations. For ease of identification, there are five (5) main categories used by the Department in determining the amount of gain-time an inmate could potentially be eligible for (Weaver, Waldrup, Reform, Safe Streets Initiative, Stop Turning Out Prisoners Act). All categories of inmates are still incarcerated in the Department's prison system and gain-time applications are as follows (it should be noted that approximately 90 percent of the inmates currently in Department custody fall under the Stop Turning Out Prisoners Act):

- **Weaver** (*Weaver v. Graham*, 450 U.S. 24 (1981))- Offense dates prior to 7/1/1978

**Incentive Gain-time (s. 944.275, F.S.)** – Currently, inmates in this category can earn up to 20 days per month incentive gain-time.

The Florida Supreme Court, in *Waldrup v. Dugger*, 562 So.2d 687 (Fla. 1990), on Motion for Clarification, provided the Department could apply the 1983 amendments to inmates who committed crimes prior to the 1978 amendments; thus, allowing for a more generous award of up to 20 days per month incentive gain-time in lieu of the Extra Good time Allowances under former s. 944.29, F.S.

**Extra Good time Allowances (former s. 944.29, F.S., repealed 7/1/78)** - Historically, under s. 944.29, F.S., the statute allowed the Department to grant an unspecified amount of extra gain-time for meritorious conduct (replaced with meritorious gain-time in 1983). By rule (Florida Division of Corrections Rule 190-6.05), the Department awarded up to 6 days per month for good conduct. In addition, the Department awarded from 1 to 60 days for meritorious conduct and from 1 to 15 days for constructive labor. With the amendments in the Correctional Reform Act of 1983, the Department retroactively allowed inmates in this category to begin earning up to 20 days per month of incentive gain-time. Once these increased awards were given, they could not be rescinded retrospectively (See *Raske v. Martinez*, 876 F.2d 1496 (11th Cir. 1989)).

**Gain-time for Good Conduct (Basic Gain-time) (former s. 944.27, F.S., repeal effective 7/1/79)** – This form of gain-time was applied on a progressive scale (5 days per month during 1<sup>st</sup> and 2<sup>nd</sup> years of imposed term; 10 days per month 3<sup>rd</sup> and 4<sup>th</sup> year; 15 days per month 5<sup>th</sup> year and all succeeding years; currently applied as a lump sum, up front).

The United States Supreme Court held that the reduction in the 5-10-15 basic gain-time scale in 1978 to the 3-6-9 scale violated the ex post facto clause of the Constitution. The *Weaver* decision created two levels of automatic gain-time awards based upon date of offense. For offenses committed prior to 7/1/1978, gain-time is awarded on the 5-10-15 progressive scale established by s. 944.27, F.S., (1977). For offenses committed on or after 7/1/1978, the 3-6-9 progressive scale pursuant to s. 944.275 (1978), Florida Statutes was applied; however, the Florida Legislature changed the 3-6-9 scale to the rate of 10 days month for each month of the term imposed when it enacted the Correctional Reform Act, effective 6/15/1983.

In 1976, the legislature implemented 944.271, which read, in part:

"Prior to January 1, 1979, the department is authorized to grant additional gain-time allowances on a monthly basis as earned up to 1 day off the sentence for each productive or institutional labor..."

The Department was not able to implement the provisions of s. 944.271, F.S., because the phrase "each productive or institutional labor performed" provided no clear direction as to how the legislature intended the awards to be assessed and applied. Further, as s. 944.29, F.S., was to remain in effect until 1/1/1979, s. 944.271, F.S., appeared to be an enhancement to the already existing statute under which the Department was awarding gain-time. S. 944.271, F.S., did not mandate additional gain-time awards but simply provided the Department the authority to make these awards at its discretion. Since a gain-time system was already operative under the provisions of s.944.29, the Department continued making awards under that statute until the Legislature had the opportunity to clarify the vague language of s. 944.271, F.S.

**Meritorious gain-time (s. 944.275(4)(c))** – Discretionary gain-time awarded at a rate of 0-60 days per award for an outstanding deed or service by an inmate.

**Educational Achievement Award (s. 944.275(4)(d)) , F.S.** – A one-time award of 60 days incentive gain-time earned for receiving a high school equivalency diploma (G.E.D.) or a vocational certificate.

**Educational gain-time (s. 944.801(3)(i)5), F.S.** - A one-time award of 6 days incentive gain-time earned for completing the mandatory literacy program.

- **Waldrup** (*Waldrup v. Dugger*, 562 So.2d 687 (Fla. 1990)) - Offense dates on or between 7/1/1978 – 6/14/1983

**Work Gain-time (former s. 944.275(2)(b), F.S., subsection removed in 1983)** – Day for day - deductions from sentence for every day of productive or institutional labor.

**Constructive Gain-time (former s. 944.275(2)(e), F.S., subsection removed in 1983)** - 0-6 days - deductions from sentence in lieu of work gain-time when an inmate is unable to work due to reasons beyond his or her control.

**Extra Gain-time (former s. 944.275(3)(a), F.S., subsection removed in 1983)** - 0-6 days - extra gain-time reduction for inmates in self-betterment programs.

**Basic Gain-time (s. 944.275, F.S.)** – Currently, 10 days per month for the term imposed, awarded lump sum upfront.

In 1983, the "Correctional Reform Act" (ch. 83-131, sec. 8) was enacted and s. 944.275, F.S., was substantially revised resulting in the removal of work, constructive and extra gain-time from s. 944.275, F.S. The Department applied the method of calculating gain-time, adopted in this act, to all inmates, including those in the Waldrup category. The Waldrup category of inmates' maximum earning potential was reduced to 20 days per month incentive gain-time (replacing the work/extra/constructive), while increasing the basic gain-time to 10 days per month for the term imposed (previously 3-6-9 progressive scale). The Florida Supreme Court opinion in *Waldrup* held: 1) The revised incentive gain-time statute, which adversely affected Waldrup and similarly situated prisoners, violated ex post facto and was therefore unconstitutional. 2)The revised basic gain-time statute which increased Waldrup's gain-time was constitutional. 3) Prisoners have no vested right in gain-time until it is actually awarded. Accordingly, inmates convicted prior to 1978 had "no vested right to avail themselves" of the more generous gain-time statutes in effect between 1978 and 1983.

**Special Gain-time/Meritorious Gain-time (s. 944.275(3)(b), F.S., renumbered to s. 944.275(4)(c),F.S.)** - discretionary gain-time awarded at a rate of 0-60 days per award for an outstanding deed or service by an inmate. This type of gain-time was renamed from special to meritorious gain-time when s.944.275 was amended in 1983.

**Educational Achievement Award (s. 944.275(4)(d), F.S.)** – A one-time award of 60 days incentive gain-time earned for receiving a high school equivalency diploma (G.E.D.) or a vocational certificate.

**Educational gain-time (s. 944.801(3)(i)5), F.S.** - A one-time award of 6 days incentive gain-time earned for completing the mandatory literacy program.

- **Correctional Reform Act** - Offense dates on or between 6/15/1983 – 12/31/1993

**Incentive Gain-time (s. 944.275, F.S.)** - up to 20 days per month

**Basic Gain-time (s. 944.275 (4)(a), F.S.)** - flat rate 10 days per month for the term imposed applied lump sum up front.

**Meritorious gain-time (s. 944.275(4)(c), F.S.)** – Discretionary gain-time awarded at a rate of 0-60 days per award for an outstanding deed or service by an inmate.

**Educational Achievement Award (s. 944.275(4)(d), F.S.)** – A one-time award of 60 days incentive gain-time earned for receiving a high school equivalency diploma (G.E.D.) or a vocational certificate.

**Educational gain-time (s. 944.801(3)(i)5, F.S.)** - A one-time award of 6 days incentive gain-time earned for completing the mandatory literacy program.

- **Safe Streets Initiative** - Offense dates on or between 1/1/1994 – 9/30/1995 – Basic gain-time eliminated

**Incentive Gain-time (s. 944.275(4)(b), F.S.)**

**Guideline level 1-7** - 0-25 days per month

**Guideline level 8-10** - 0-20 days per month

Capital felony offenses in this category are ineligible to earn monthly gain-time awards as s. 944.275, F.S., authorized the Department to award incentive gain-time based on the sentencing guideline severity level of the offense under s. 921.0012, F.S., or s. 921.0013, F.S. Capital felonies were explicitly excluded from the guidelines (s. 921.001(4)(b), F.S.) and no capital felony was assigned a severity level under either s. 921.0012, F.S., or s. 921.0013, F.S.

**Meritorious gain-time (s. 944.275(4)(c), F.S.)** – Discretionary gain-time awarded at a rate of 0-60 days per award for an outstanding deed or service by an inmate.

**Educational Achievement Award (s. 944.275(4)(d), F.S.)** – A one-time award of 60 days incentive gain-time earned for receiving a high school equivalency diploma (G.E.D.) or a vocational certificate.

**Educational gain-time (s. 944.801(3)(i)5, F.S.)** - A one-time award of 6 days incentive gain-time earned for completing the mandatory literacy program.

- **Stop Turning Out Prisoners Act** - Offense dates on or after 10/1/1995

**Incentive gain-time (s. 944.275(4)(b), F.S.)** - 0-10 days per month

**Meritorious gain-time (s. 944.275(4)(c), F.S.)** – Discretionary gain-time awarded at a rate of 0-60 days per award for an outstanding deed or service by an inmate.

**Educational achievement award (s. 944.275(4)(d), F.S.)** – A one-time award of 60 days incentive gain-time earned for receiving a high school equivalency diploma (G.E.D.) or a vocational certificate.

**Educational gain-time (s. 944.801(3)(i)5, F.S.)** - A one-time award of 6 days incentive gain-time earned for completing the mandatory literacy program.

**85 percent minimum service requirement (s. 944.275(4)(f), F.S.)** - all inmates with offense dates on or after 10/1/1995.

All monthly gain-time awards are earned; however, the methodology by which different types of gain-time are awarded varies, depending on the type of gain-time and eligibility. Despite the permissive language in s. 944.275, F.S. which governs gain-time (“may grant”), Florida courts have held that the Department’s discretion exists to establish the conditions under which an award of gain-time will be earned, and to determine whether or not an inmate has earned a given monthly award. The Department may not simply decline to make an award.

The most common type of monthly award is labeled “incentive gain-time”. This award varies based on offense date but the mechanism for earning it is uniform. The basis for an award is work participation, training, using time



constructively, or otherwise engaging in positive activities. Inmates receive an evaluation from facility staff for their conduct and their performance in assigned work or programs. These evaluations create a preliminary base gain-time recommendation, which can be increased or decreased by the inmate's classification officer based on factors set forth in rule 33-601.101. The award, as modified by classification, is the final gain-time award that is applied to the sentence.

As indicated above, those inmates, whose crimes were committed between 7/1/1978 and 6/14/1983, are eligible to receive "work" gain-time of up to one day of gain-time for each day worked. These inmates are evaluated by field staff and are awarded gain-time on the basis of diligence, quality and quantity of work performed. These inmates can also earn "extra" gain-time of up to 6 days per month for participation in educational or vocational programs. An inmate serving a sentence for a crime in this time frame who is unable to work due to infirmity can earn up to 6 days per month for good conduct and constructive use of time.

The educational achievement gain-time in the amount of 60 days is awarded upon completion of a qualifying educational or vocational program. Meritorious gain-time is awarded based on the performance of some outstanding deed, such as saving a life or assisting in recapturing an escaped inmate.

In addition, "basic" gain-time is considered earned when applied, and is subject to forfeiture, even though this award is based on the sentence length and is applied in a lump sum upon receipt into Department custody. As noted above, basic gain-time was discontinued, effective 1/1/1994, so it is rarely applied to new receipts as the offense date would have to be prior to that date.

It should be noted that other statutory amendments have been enacted over the years that prohibit the earning of different types of gain-time for certain convictions and court-imposed provisions. (e.g., habitual offenders - no basic gain-time for offenses committed on or after 10/1/1988, principal sex offender - no basic gain-time for offenses committed on or after 10/1/1992, certain sex crimes committed on or after 10/1/2014 - no gain-time, firearm mandatory no gain-time during mandatory , minimum service requirements as a prison release reoffender and habitual violent offender).

The Department establishes for each inmate sentenced to a term of years a maximum release date and tentative release date, pursuant to s. 944.275, F.S. This tentative release date is the date projected for the inmate to release from custody by virtue of gain-time granted or forfeited.

All gain-time forfeitures are subject to due process through either disciplinary hearings conducted by FDC, violation of probation/community control hearings through the court, or revocation hearings conducted by the Florida Commission on Offender Review (FCOR).

In 2018, voters approved Amendment 11 which modified the "savings clause" in significant ways and led to the creation of s. 775.022, F.S. This allows the Legislature to alter the punishment for a crime retroactively through amendments if expressly provided in an act of the Legislature. It does not allow convictions to be affected. Thus, existing convictions would not be overturned as a sentencing law. The Ex Post Facto Clause prohibits a retroactive increase in punishment, so an amended sentencing law would only permit a retroactive decrease in punishment.

## **2. EFFECT OF THE BILL:**

The bill amends s. 921.002, F.S., (Criminal Punishment Code) to strike language that rehabilitation is subordinate to the goal of punishment in the criminal justice system and specifies that to punish an offender and to "rehabilitate the offender so that he or she can successfully transition back to the community" are dual purposes of sentencing. The Florida Department of Corrections deploys a robust risk and needs system known as the Corrections Integrated Needs Assessment System or CINAS. CINAS is based on one of the most widely known and used rehabilitative models – Risk-Need-Responsivity. Among other things, CINAS assesses an inmate's likelihood to recidivate as well as the criminogenic risk factors that cause criminality. The Recidivism Index (RI) measures an inmate's likelihood to recidivate. The higher the RI score, the higher the probability that the inmate will recidivate. Considerable research reveals that programs targeting offenders who are at a higher risk to recidivate are more effective in reducing recidivism than those that do not.<sup>[i]</sup> Widely accepted evidence-based practice suggests that agencies prioritize primary supervision and treatment resources for offenders who are at higher risk to re-offend. The Risk-Needs-Responsivity model (RNR) refers to predicting which inmates have a higher probability of recidivating, and treating the criminogenic needs of those higher risk inmates with appropriate programming and services based on their level of need<sup>[ii]</sup>. Criminogenic needs are those factors that are associated with recidivism that can be changed (e.g. lack of education, substance abuse, criminal thinking, lack of marketable job skills, etc.). Offenders are not higher risk because they have a particular risk factor, but, rather, because they have multiple risk factors. Accordingly, a range of services and interventions should be provided that target the specific crime producing needs of offenders who are

higher risk. Consistent findings from a wide variety of recidivism studies show that supervision and treatment resources focused on lower-risk offenders produce little if any positive effect on the rates of subsequent criminal behavior<sup>[iii]</sup> and can at times increase the risk level of low-risk offenders. Maximum benefit is gained only when intervention resources are directed to moderate- and high-risk offenders. Independent of core programs that provide for a high school diploma, career and technical education, and substance use treatment that are proven to reduce recidivism. Currently, the Department has a limited capacity to provide evidence-based programming designed to specifically target additional criminogenic risk factors identified through the CINAS assessment that enhance rehabilitation and restoration efforts for medium to high risk inmates and offenders. In order for the Department to provide the necessary evidenced-based programs and services to all inmates prior to returning to the community, additional funding, additional positions and additional resources would be required. Currently, the Department does not have the necessary resources available to address the needs of the entire population.

**Substance Abuse:**

On June 30, 2020, 59.2% of the inmate population was identified as having a substance use disorder treatment need. However, because of limited resources, over half of those with identified need (61.1%) were released during FY 2019-20, without receiving treatment. As of February 19, 2021, 58.1% of the inmate population has been identified as having a substance use disorder treatment need; however, only 8.4% (3,870) have received treatment during the current fiscal year.

**Education:**

The Florida Department of Corrections (FDC) offers education programs in 57 correctional institutions statewide. Personnel reduction in past years has resulted in 18 major institutions without adequate teaching staff to administer programming, testing, and literacy programs. Presently, the FDC has 4,907 academic education seats funded through general revenue and grant funds to educate the entire inmate population.

**Vocational:**

The Department does not have adequate funding, infrastructure, or equipment to significantly improve the statewide number of career and technical education (CTE) training seats. There are currently 48 state-operated institutions that offer CTE programs with a current contractually-funded expansion plan in progress to add 17 new CTE programs at seven institutional sites. At the end of FY 19-20, the Department's vocational capacity totals 1,776 daily seats which are funded through general revenue and grant funds. For general planning purposes, each CTE program's annual operating cost estimate has been \$100,000 which provides for 30 daily training seats; once initial program investments in equipment and curriculum are completed, a total of 300 training seats may be realized for every \$1,000,000. Operational costs for college programs and specific geographic locations may vary significantly. Annual cost estimates may vary based on local economic conditions. Additional changes to total number of seats due to social distancing guidelines will affect all funding and training seat totals.

**Job Training:**

The Department also operates Job Assignment Credentialing (JAC) programs that combine inmate institutional work assignments with on-the-job training components. Each JAC program is facilitated by a subject matter expert (SME), generally the work squad supervisor, and has a standard set of job-specific competencies as outlined in the U.S. Department of Labor Dictionary of Occupational Titles. The skills and training hours must be demonstrated and certified by the SME prior to the award of a completion certificate. To further authenticate skill sets, the JAC programs have an embedded industry-recognized credential that inmates earn and can use to improve post-release employment opportunities. Focus areas of these programs are Beekeeper Training, Canine Obedience, Construction/Maintenance Worker, Culinary/Food Worker, Farm Worker, Horticulture Training, Office Computer Operator, and Warehouse Training. JAC programs are currently available in 26 institutions throughout the state. A meta-analysis published by the Washington State Institute for Public Policy reveals the following: For every dollar spent on Academic Education (basic skills) there is a \$9.65 return, with a 97% chance the program will produce benefits greater than the cost. This study also concludes that for every dollar spent on Career & Technical Education (workforce development), a return of \$11.95 is realized, with a 97% chance the program will produce benefits greater than the cost. Additional research studies by the RAND Corporation found that post-release employment is 13 percent higher among prisoners who participated in either academic or vocational programs and 28 percent higher for those who participated in vocational programs alone. FDC research reports similar results in that individuals who completed a Career/Technical Education program recidivated at a rate of 25.1% less than those who did not complete.

FDC's review of both the Florida Department of Economic Opportunity's Occupational Outlook Demand lists and community employers' feedback has provided FDC with a comprehensive list of current and projected growth trades. Employment statistical indicators document Florida's need for a skilled workforce and many employment sectors are

reporting difficulty in keeping pace with the demand. Concurrently, FDC's analysis of current CTE training programs provided by both the agency and college/community education partners, document alignment to Florida's growth industries. Staffing, program startup, and operating funds are needed to increase a ready and skilled workforce and to equip inmates with the entry-level job skills needed to productively contribute to Florida's communities.

To meet the academic, CTE, reentry, rehabilitative, and wellness needs of the Department's current population, and increase quality instruction and program provisions in each of these respective disciplines, additional funding is required. This overall need is consistent with the Florida Strategic Plan for Economic Development strategy to ensure Floridians in all communities and life stages have opportunities to achieve healthier outcomes and societal contributions. The below chart represents the academic and CTE programming needs for inmates within 50 months of release and inmates within 36 months of release in 2019. As reflected below, an increase in funding and positions would be necessary to provide such programs to all inmates who may be in need of these services:

<b>Academic Educational Programming</b>	
<b>Estimated Release Date &lt; 50 months</b>	<b>Academic Education (GED and HSD)</b>
Total Number of Students Served by Each Teacher Annually	72
Total Number of Eligible Inmates in Need of Educational Programming	15,009
Total Cost for an Academic Teacher position	\$62,600
Total Number of Additional Teachers Needed	208
<b>Total Additional Funding Needed</b>	<b>\$13,020,800.00</b>
<b>Estimated Release Date &lt; 36 months</b>	<b>Academic Education (GED and HSD)</b>
Total Number of Students Served by Each Teacher Annually	72
Total Number of Eligible Inmates in Need of Educational Programming	13,748
Total Cost for an Academic Teacher position	\$62,600
Total Number of Additional Teachers Needed	191
<b>Total Additional Funding Needed</b>	<b>\$11,956,600.00</b>
<b>Career and Technical Educational Programming</b>	
<b>Estimated Release Date &lt;50 months</b>	<b>Career and Technical Education</b>
Total Number of inmates in Need of CTE Programming	6287
Total Cost per Student	\$3,000.00
<b>Total Additional Funding Needed for CTE Teachers</b>	<b>18,861,000.00</b>
<b>Estimated Release Date &lt;36 months</b>	<b>Career and Technical Education</b>
Total Number of inmates in Need of CTE Programming	5735
Total Cost per Student	\$3,000.00
<b>Total Additional Funding Needed for CTE Teachers</b>	<b>\$17,205,000.00</b>
<b>Combined Academic and CTE Fiscal Need: Estimated Release Date &lt;50 months</b>	
<b>\$31,881,800.00</b>	
<b>Combined Academic and CTE Fiscal Need: Estimated Release Date &lt;36 months</b>	
<b>\$29,161,600.00</b>	

New language in s. 921.002(e), F.S., allows for an imposed sentence to be shortened by the application of outstanding deed gain-time, good behavior time, and rehabilitation credits. Language added to this subparagraph would also reduce the current 85 percent minimum service requirement to a 65 percent minimum service requirement.

This bill amends s. 944.275, F.S., to revise the terms used for gain-time in the following manner:

- The term “good behavior time” replaces the term “basic gain-time.”
- The term “rehabilitation credits” replaces the term “incentive gain-time.”
- The term “outstanding deed gain-time” replaces the term “meritorious gain-time.”

The bill also amends s. 944.275, F.S., to strike the term “inmate” and replace with the term “prisoner.”

#### **Forfeitures:**

The bill amends language in s. 944.275(3)(a), F.S., pertaining to gain-time forfeitures by striking the term “gain-time” and replacing it with “good behavior time”. This is significant as it appears to limit the Department’s authority to forfeit gain-time to only good behavior time awards while s.944.28 provides authority for the Department to forfeit gain-time under certain circumstances, to include conditional release violators, probation violators, etc. Changing the names for “gain-time” in s. 944.275, F.S., but not including these changes to s. 944.28, F.S., s. 947.141(6), F.S., and s. 948.06, F.S., would create questions as to whether or not the renamed awards would meet the definition of gain-time for purposes of forfeitures. S. 944.28, F.S., authorizes forfeiture of “gain time”, to include gain-time forfeitures due to disciplinary action. S. 947.141, F.S., declares a forfeiture of “gain-time or commutation of time for good conduct”.

#### **Outstanding Deed Gain-time:**

The bill increases the minimum amount of gain-time an inmate is eligible to earn for performing an outstanding deed from 1 day to 30 days. The bill would allow such an award “per outstanding deed performed.” There are currently approximately 60 inmates in custody who have received an award of meritorious gain-time during their current incarceration, therefore it appears that any impact as a result of these changes would be minimal.

#### **Good Behavior Time:**

Under the language of the bill, good behavior time (formerly basic gain-time) would be awarded as a means of encouraging satisfactory behavior “and developing character traits necessary for successful reentry” and will be awarded at a rate of 10 days per month. As noted in the present situation, basic gain-time was eliminated for offenses occurring on or after 1/1/94 under the Safe Streets Initiative. Basic gain-time was applied up front in a lump sum upon an inmate’s receipt into the custody of the Department and was not earned in the sense that the inmate had to earn it before it could apply to the reduction of an inmate’s release date; however, this basic gain-time was subject to forfeiture for rule violations, for subsequent escape convictions or for subsequent violations of certain types of supervision.

A new subsection is added to s. 944.275, F.S., which would allow for inmates to receive an additional 2 days per month of good behavior credits if serving sentences for offenses in violation of s. 893.13, F.S., or s. 893.135, F.S., “notwithstanding the monthly maximum awards for rehabilitation credits under subparagraphs (b)1. and 2”. Language in this subsection specifically states that these awards are retroactive.

Added language in the subsection (5) would allow for good behavior time to be vested after 2 years and mandates that only good behavior time that is not vested may be forfeited after due process. It is unclear how this will affect gain-time forfeitures for inmates returning to prison for violations of probation or conditional release supervision and could have far reaching effects beyond the current incarceration. Pursuant to s. 944.28, F.S., without notice or hearing, the Department may declare a forfeiture of all gain-time earned, according to the provisions of law, by such prisoner prior to such escape or his or her release under such clemency, conditional release, probation, community control, provisional release, control release, or parole. This would require significant programming changes and testing.

Subsection 944.275(6)(a), F.S., relating to good behavior time, is amended to strike language “and before January 1, 1994.” Given the language of s. 775.022, F.S., savings clause, it does not appear the bill provides express, explicit direction as to retroactive application of good behavior time, with the exception for the 2-day award for convictions falling under s. 893.13, F.S., or s. 893.135, F.S. In addition, the savings clause appears to prohibit changes to punishment that has already been imposed.

The bill specifies that outstanding deed gain-time and good behavior time cannot be awarded in an amount which would reduce an inmate’s sentence prior to the inmate serving 85 percent of his or her sentence. Previously, inmates eligible for the basic gain-time (now rehabilitation credits) received these awards lump sum upfront and receive the immediate benefit of a reduction in the release date. As the language in s. 944.275, F.S., does not specifically provide for how this good behavior time is to be applied, the Department could use the same lump sum method, allowing the inmates’ release dates to automatically reduce to the 85% minimum service requirement. It should be noted that these inmates would not receive the full benefit of this type of award, as 10 days per month for a term imposed would reduce the inmate’s date below the 85% minimum service requirement. It is unclear as to how the remaining balance of the good behavior time award will be treated. It appears that the bill does not strike, nor does it include language contained in the current s. 944.275(f), F.S. cited below. Absent this language, it appears that a remaining balance of

such gain-time could be applied to future disciplinary action or forfeitures. If this language were to be included, an inmate would not be able to receive the benefit of any such gain-time in the future once the 85 percent minimum is satisfied.

“Except as provided by this section, a prisoner may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the prisoner will have served 85 percent of the sentence imposed. State prisoners sentenced to life imprisonment shall be incarcerated for the rest of their natural lives, unless granted pardon or clemency.”

### **Rehabilitation Credits/Monthly Awards:**

The bill would add participating in education as one of the criteria to consider when awarding rehabilitation credits. This change would have no impact as education participation is currently taken into consideration when incentive gain-time is awarded each month. The bill retains existing language under s. 944.275(4)(b), F.S., allowing the offense date to determine the rate of eligibility to earn rehabilitation credits.

The bill strikes s. 944.275(4)(b)3, F.S., “for sentences imposed for offenses committed on or after October 1, 1995, the Department may grant up to 10 days per month of incentive gain-time.” The language in s. 944.275(4)(b)1, F.S., is amended to read: “For sentences imposed for offenses committed before January 1, 1994 and on or after October 1, 1995, up to 20 days of rehabilitation credits may be granted.” This change appears to be in conflict with language in s. 944.275(4)(b), F.S., which provides that “the rate of rehabilitation credits in effect on the date the prisoner committed the offense that resulted in his or her incarceration shall be the prisoner’s rate of eligibility to earn rehabilitation credits throughout the period of incarceration”.

Given the language of s. 775.022, F.S., savings clause, it does not appear the bill provides expressed, explicit direction as to retroactive application regarding rehabilitation credits. As it pertains to s. 944.275(b)1, F.S., once this change goes into effect, this would create an unusual situation whereby inmates who are sentenced on or after the effective date of the bill would reap the benefit of earning up to 20 days per month, while those inmates who were sentenced prior to the effective date of the bill would remain at a lower rate. Additionally, since the 1<sup>st</sup> group of inmates with sentences prior to the effective date of the bill, would remain at a up to 10 day per month award, this would appear to be in conflict with subparagraph (4)(b)(1) which provides for up to 20 days per month.

Inmates with offenses committed on or after 1/1/1994 and before 10/1/1995 (Safe Streets Initiative), would be awarded rehabilitation credits at the same rate they currently receive incentive gain-time (up to 20-25 days per month).

### **Rehabilitation Credits (Education/Program Completion):**

The bill strikes language that allows for a one-time 60-day educational achievement award for eligible diplomas or certificates during current incarceration only. This would require the Department to review previous incarceration records to determine if there were qualifying programs completed. As the additions to the programs in the bill language were not in effect at that time, not all qualifying programs would have an electronic history of completion; thus, requiring manual review. In addition, the bill would allow an inmate to earn multiple 60-day awards during his or her incarceration, adding the following:

- college degree
- drug treatment programs
- mental health programs
- life skills programs
- reentry programs
- other equivalent rehabilitative programs

The bill does not provide specific definitions for these types of programs or provide guidance to determine what programs may fall into these categories, leaving some of the language open to interpretation. In addition to the 60-day award of rehabilitation credits for education achievement, the bill also requires an additional 5-day award of rehabilitation credits for any inmate who successfully completes “any other department-approved program”.

It is unclear what would constitute “successful completion” as it relates to mental health programs. It should be noted that mental health is not a program, but a medical condition and many inmates in mental health treatment (inpatient) will never “complete.” It is unclear if being released from inpatient mental health treatment status would qualify as “completing” or if readmission into any of these treatments constitute a relapse and would be subject to forfeiture of previously awarded credits. Incentivizing compliance with mental health treatment may also lead to the unintended consequence of inmates feigning mental illness to access care in order to qualify for such awards, thereby increasing mental health staff workload. Also, it is unclear if any services offered would qualify as a “behavioral modification

program". It should be noted that various other organizations have suffered lawsuits for using behavior modification techniques.

As all types of programs do not currently have electronic tracking mechanisms, programming changes would be necessary to ensure that every program in which an inmate enrolls has a course code, a job code, a completion status applied, and a certification entered in the Offender Based Information System (OBIS).

The bill specifies that these changes pertaining to educational achievement awards are retroactive. Applying these type awards retroactively would require manual review of the current inmate population files to determine if there were programs completed that "might" qualify. In addition, the Department would be required to conduct file reviews for future inmates being received, as long as this law is in effect. It is unclear how this could be applied retroactively as there was no existing structure in place to define these type programs and not all courses/programs would have been tracked electronically.

There would need to be a consistent and measurable vetting system in place in order to qualify such programs that may lead to credited time toward an inmate's release from custody. The Department would need to write rules and procedures to guide which programs would qualify for the awards. Excluding certain programs/activities could lead to litigation.

The bill strikes "may" grant such awards and replaces with "shall" grant these awards. Currently, the Department grants a one-time award of 60 days of incentive gain-time to any and all inmates who are eligible and successfully complete the requirements for a high school equivalency diploma or a vocational certificate.

The bill amends ss. 794.011, F.S., conforming provisions to changes made by the bill. The bill reenacts ss. 775.084(4)(k), 900.05(2)(v) and (3)(e), 944.605(1), 944.607(6), 947.005(15), 985.4815(6)(a), F.S., to incorporate the amendments made to s. 944.275, F.S., under the bill.

Conforming language added to s. 794.011, F.S. would strike the term "basic gain-time" and replace with "statutory gain-time". Under current law, persons convicted under s. 794.011, F.S., with offense dates on or after 10/1/1992, are not eligible to earn basic gain-time but are eligible to earn incentive gain-time and meritorious gain-time. It is unclear what meets the definition of statutory gain-time and if the new title of good behavior time, previously basic gain-time, would still be prohibited.

No amendments are made to the following sections to add conforming language nor are they reenacted to incorporate the amendments made to s. 944.275, F.S., ss. 316.027, 316.1935, 775.084, 775.0845, 775.0861, 775.0862, 775.087, 775.0875, 777.03, 777.04, 784.07, 794.023, 817.568, 831.032, 843.22, 874.04, 944.28, 944.281, 944.473, 944.70, 944.801, and 947.005, F.S.

The bill requires the Department to adopt rules to implement this section.

The impact of the bill is significant; however, the Department is not able to provide impact for certain portions of the bill as data is not currently available; specifically, retroactive application of the multiple 60-day and 5-day awards. The following is partial impact statement for the prospective application of the 65%-85%, allowing the Good Behavior to reduce to the 85% minimum service requirement and allowing the rehabilitation credits to reduce to the 65% minimum service requirement. Increased application of these awards will cause inmates to be released earlier and will cause those who have certain types of supervision to serve more time on supervision. There will be significant programming changes, extensive testing of changes and significant rule modifications.

#### **ADP Population Reduction:**

Year 1	1,486
Year 2	4,141
Year 3	6,084
Year 4	7,379
Year 5	8,244
Year 6	8,874

The following is a partial impact statement for the retroactive application of 2 days of good behavior time for offenses falling under s. 893.13, F.S., and s. 893.135, F.S.; allowing for good behavior time to reduce to the 85% minimum service requirement.

#### **ADP Population Reduction:**

Year 1	141
Year 2	294
Year 3	346
Year 4	337
Year 5	329
Year 6	325

Historically, approximately 30 percent of all releasing inmates are subject to some form of supervision (probation, conditional release, etc). It is not possible to determine the specific type of supervision inmates released as a result of the gain time changes outlined in the bill will be given; however, the following supervision types have statutory restrictions of maximum cases per officer:

- community control (30:1),
- drug offender probation (50:1),
- mental health probation (50:1)
- high risk supervision (40:1)

While regular probation cases do not have a statutory maximum, the current average caseload is around 90 cases per officer. Therefore, using the average of 60 cases per officer to represent each supervision type, the Office of Community Corrections can only state that there will be an increase to the number of officers needed, but the need is indeterminate in respect to the impact to staffing since it is unknown how many inmates will be subject to supervision upon release.

The bill would have an effective date of July 1, 2021. The Department would request the effective date be extended to allow for rule modifications and extensive programming changes to the Offender Based Information System.

**3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☐ N ☒**

If yes, explain:	
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

**4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?**

Proponents and summary of position:	N/A
Opponents and summary of position:	N/A

**5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒**

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

**6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒**

Board:	
--------	--

Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

## FISCAL ANALYSIS

### 1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT?

Y ☐ N ☐

Revenues:	Unknown
Expenditures:	Unknown
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

### 2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?

Y ☒ N ☐

Revenues:	Indeterminate																																																																																																																
Expenditures:	<p>The overall impact of this bill is indeterminate at this time, due to timing of application of credits. However, based on the projected number of releases associated with allowing Good Behavior time to reduce the minimum service requirement from 85% to 65%, and retroactive application of 2 days good behavior time to reduce to minimum service requirement of 85%, the following savings is possible:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th rowspan="2">Fiscal Year</th> <th rowspan="3">ADP Reduction</th> <th colspan="3">Population for Per Diems</th> <th colspan="3">Prison Impact <sup>(1)</sup></th> <th rowspan="3">Total</th> </tr> <tr> <th>Inmate Variable Pop</th> <th>Dorm Per Diem Pop</th> <th>Full Per Diem Pop</th> <th>Inmate Variable</th> <th>Dorm Per Diem</th> <th>Full Per Diem</th> </tr> </thead> <tbody> <tr> <td colspan="9"><b>Allowing rehabilitation credits to reduce 85% minimum service to 65%</b></td> </tr> <tr> <td>Year 1</td> <td>1,486</td> <td></td> <td>1,486</td> <td></td> <td></td> <td>(21,017,613)</td> <td></td> <td>(21,017,613)</td> </tr> <tr> <td>Year 2</td> <td>4,414</td> <td></td> <td>1,141</td> <td>3,000</td> <td></td> <td>(16,138,019)</td> <td>(69,959,550)</td> <td>(86,097,569)</td> </tr> <tr> <td>Year 3</td> <td>6,084</td> <td>84</td> <td></td> <td>6,000</td> <td>(683,411)</td> <td></td> <td>(139,919,100)</td> <td>(140,602,511)</td> </tr> <tr> <td>Year 4</td> <td>7,379</td> <td></td> <td>1,379</td> <td>6,000</td> <td></td> <td>(19,504,231)</td> <td>(139,919,100)</td> <td>(159,423,331)</td> </tr> <tr> <td>Year 5</td> <td>8,244</td> <td></td> <td>744</td> <td>7,500</td> <td></td> <td>(10,522,950)</td> <td>(174,898,875)</td> <td>(185,421,825)</td> </tr> <tr> <td>Year 6</td> <td>8,874</td> <td></td> <td>1,374</td> <td>7,500</td> <td></td> <td>(19,433,513)</td> <td>(174,898,875)</td> <td>(194,332,388)</td> </tr> <tr> <td colspan="8"></td> <td>(786,895,237)</td> </tr> <tr> <td colspan="9"><b>Retroactive application of 2 days of good behavior time to reduce the 85% minimum service</b></td> </tr> <tr> <td>Year 1</td> <td>141</td> <td></td> <td>141</td> <td></td> <td>(1,147,155)</td> <td></td> <td></td> <td>(1,147,155)</td> </tr> </tbody> </table>								Fiscal Year	ADP Reduction	Population for Per Diems			Prison Impact <sup>(1)</sup>			Total	Inmate Variable Pop	Dorm Per Diem Pop	Full Per Diem Pop	Inmate Variable	Dorm Per Diem	Full Per Diem	<b>Allowing rehabilitation credits to reduce 85% minimum service to 65%</b>									Year 1	1,486		1,486			(21,017,613)		(21,017,613)	Year 2	4,414		1,141	3,000		(16,138,019)	(69,959,550)	(86,097,569)	Year 3	6,084	84		6,000	(683,411)		(139,919,100)	(140,602,511)	Year 4	7,379		1,379	6,000		(19,504,231)	(139,919,100)	(159,423,331)	Year 5	8,244		744	7,500		(10,522,950)	(174,898,875)	(185,421,825)	Year 6	8,874		1,374	7,500		(19,433,513)	(174,898,875)	(194,332,388)									(786,895,237)	<b>Retroactive application of 2 days of good behavior time to reduce the 85% minimum service</b>									Year 1	141		141		(1,147,155)			(1,147,155)
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	Year 3	346	346	(2,815,004)	(2,815,004)
	Year 4	337	337	(2,741,781)	(2,741,781)
	Year 5	329	329	(2,676,695)	(2,676,695)
	Year 6	325	325	(2,644,151)	(2,644,151)
					(14,416,726)
	<b>1. Prison Per Diems Legend</b>				
	Full Per Diem	\$63.89	exceeds 1,499 inmates		
	Dorm Per Diem	\$38.75	500 - 1,499 inmates		
	Inmate Variable	\$22.29	Less than 500 inmates		
<p>In addition, it is anticipated that there will be an increase to the number of officers needed for community supervision, but the need is indeterminate in respect to the impact to staffing since it is unknown how may inmates will be subject to supervision as a result of gain-time release. However, the Department’s FY 19-20 average per diem for community supervision was \$6.01.</p> <p>Office of Information Technology also estimates a \$130,500 cost for programming needs.</p>					
Does the legislation contain a State Government appropriation ?	No				
If yes, was this appropriated last year?					

**3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?**

Y ☐ N ☐

Revenues:	Unknown
Expenditures:	Unknown
Other:	

**4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?**

Y ☐ N ☐

If yes, explain impact.	No
Bill Section Number:	

## TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	<p>The Department anticipates impact to the Inmate Management System.</p> <p>Cost Estimate:</p> <p>Estimated Hours: 1,500</p> <p>Estimated Cost Per Hour: \$87</p> <p>Estimated Total Cost: \$130,500</p>
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## FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☐ N ☒

If yes, describe the anticipated impact including any fiscal impact.	
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## ADDITIONAL COMMENTS

N/A.

## LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	<p>Preliminarily, it may appear that this bill makes superficial changes to the names of the different types of gain-time, but it contains significant substantive changes. Even to implement changing the names would be significant undertaking for the Department to implement.</p> <p>Basic gain-time -- Good behavior <u>time</u></p> <p>Incentive gain-time -- Rehabilitation <u>credits</u></p> <p>Meritorious gain-time -- Outstanding deed <u>gain-time</u></p> <p>Thus, the only actual "gain-time" that would exist would be "outstanding deed".</p> <p><b>Section 1</b> of the bill creates a new philosophy for the Criminal Punishment Code and amends s. 921.002, F.S., by adding <i>rehabilitation</i> to make it a dual purpose of sentencing in addition to punishment.</p> <p><b>Section 2</b> is a major overhaul of the current gain-time s. 944.275, F.S. To start, the only actual named <i>gain-time</i> would be "outstanding deed" (formerly "meritorious") gain-time. Incentive gain-time becomes "rehabilitation credits". And "basic" gain-time transforms into "good behavior time". The bill also replaces "inmate" to "prisoner" throughout in this section pertaining to s. 944.275, F.S., although the entirety of the bill does not, and "inmate" continues to be used elsewhere. (See Section 5, for example.) Basic gain-time was abolished in the Safe Streets Initiative of 1994 starting on January 1, 1994. Good behavior time in this bill is only restricted to offenses committed on or after 7/1/78. [lines 298-301] This bill strikes the language limiting it to the period of time before January 1,</p>
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1994. Like basic gain-time, under this bill, good behavior time alone would reduce a sentence by approximately 33%. Section (4)(g)1., though, creates an 85% minimum for good behavior time.

Proposed s. 944.275(3)(a), F.S., may be an issue with respect to creating an *initial tentative release date* because the statute in its current form determines it by deducting “basic” gain-time from the maximum release date. Basic gain-time was awarded in a lump sum in the beginning of an inmate’s sentence, and apparently good behavior time will work the same way. An *initial tentative release date* can be calculated by subtracting a lump sum from the overall sentence. The bill, however, brings in outstanding deed gain-time and rehabilitative credits into the calculation of the initial tentative release date. But those awards are discretionary and prospective, so the initial tentative release date cannot be determined by using outstanding deed gain-time or rehabilitative credits. [lines 161-174]

Education is added as an activity that supports a grant rehabilitation credits (formerly incentive gain-time). [lines 197-208]

For offenses committed before 1/1/94 and on or after 10/1/95, up to 20 days of rehabilitation credits may be granted monthly. [lines 209-213] This is a net gain of up to 10 days per month for offenses after 10/1/95 previously limited to 10 days of incentive gain-time. For the 21-month window between those dates (1/1/94-10/1/95), the amounts of rehabilitation credits remain the same as currently exist for incentive gain-time depending on the offense severity levels: either up to 25 days per months (severity levels 1-7) or up to 20 days per month (severity levels 8-10).

Existing section (4)(b)3. is deleted because it is incorporated into (4)(b)1.

Where the bill changes “meritorious” gain-time to “outstanding deed” gain-time, the minimum amount of such gain-time is raised from a 30-day minimum instead of 1 day up to 60 days and unlike the existing statute is clear that may be granted per outstanding deed. [lines 229-235]

Proposed s. 944.275(4)(d), F.S., awards 60 days of formerly education incentive gain-time, now rehabilitation credits, as mandatory for the Department to award rather than discretionary for each of the listed events such as an inmate’s successful completion of a college degree, drug treatment program, life skills program, etc. [lines 236-254] The Department must also award 5 days of credits for successful completion of “any other department-approved program” including inmate developed programs, or a passing grade in each online or in-person educational course. [lines 196-200] The bill makes these good behavior time days retroactive, thus presumably affecting many prisoners who may have completed multiple combinations of programs and education courses.

Currently education gain-time is a form of incentive gain-time and for the offenders who committed any of the following crimes listed in (4)(e) on or after 10/1/2014: s. 782.04(1)(a)2.c.; s. 787.01(3)(a)2. or 3.F.S.; s. 787.02(3)(a)2. or 3, F.S; s. 794.011, F.S., excluding s. 794.011(10), F.S.; s. 800.04, F.S., s. 825.1025,F.S; or s. 847.0135(5), F.S. Such inmates have been deemed by the Department and affirmed by the courts as *not* otherwise eligible for incentive gain-time. But the “otherwise eligible” language is removed in the bill. [line 243] Thus, sexual offenders, etc. would become eligible retroactively for rehabilitation credits mandated by (4)(d). Section (4)(f) [lines 263-269] prohibits such offenders from rehabilitation credits in (4)(b)1., but not (4)(d) rehabilitation education credits.

Line 254 states that “Rehabilitation credits under this paragraph are retroactive.” Because the retroactivity clause is in subsection (4)(d), it is addressing rehabilitation credits within (4)(d) such as for college degree, passing grades for each online or in-person education course, etc.

	<p>The bill creates a new (4)(e) and moves the content of existing (4)(e) to (4)(f). The proposed (4)(e) allows the Department to award 2 days of <i>good behavior time</i> (basic gain-time) retroactively to prisoners serving sentences for violations of 893.13 (controlled substances) and 893.135 (trafficking controlled substances). This section does not allow for <i>up to</i> 2 days, 2 days exactly. This section seems disjointed because it begins with “notwithstanding the monthly maximum awards of rehabilitation credits under subparagraphs (b)1. and 2.” rather than <i>good behavior time</i>. It also is permissive in that the Department “may” grant 2 additional days for those specific crime categories but provides no direction as to why or what criteria the Department is to use to decide on those 2-day awards.</p> <p>An ex post facto issue may exist regarding (4)(g). [lines 270-277] Section (g)1. limits outstanding deed gain-time and good behavior time such that a sentence cannot go below 85% of the sentence imposed.</p> <p>The current statute only applies that 85% requirement for offenses committed on or after 10/1/95 as to incentive gain-time. Good behavior time replaces basic gain-time and basic gain-time was never subject to the 85% provision.</p> <p>Rehabilitation credits can be accumulated to the point of 65% minimum of sentence served. [lines 278-282] Proposed amended section (5) would drastically cut the Department’s ability to forfeit gain-time. The new language limits forfeiture to <i>good behavior time (formerly basic gain-time)</i> only. [lines 292-297] Rehabilitation credits and outstanding deed gain-time are not mentioned. And good behavior time is deemed vested after 2 years from being granted. This section, notwithstanding the impact on the Department’s ability to influence inmate behavior, could result in litigation. The above forfeiture issue is further complicated by this bill’s lack of amendment of existing s. 944.28, F.S., – Forfeiture of gain-time and the right to earn gain-time in the future. The only named gain-time remaining if this bill were law would be Outstanding Deed gain-time. Thus, it does not appear there will be any authority to forfeit Good Behavior Time or Rehabilitation Credits. Likewise, it is unclear if violations of probation (VOPs) in s. 948.06, F.S., would continue to mandate gain-time or commutation time forfeiture. The same forfeiture issue as to parole and conditional release revocations under chapter 947 because the bill does not incorporate those statutes.</p> <p>Sections 3-9 go through various other statutes referencing either apparently gain-time or s. 944.275, F.S. This bill does not adequately include all the references throughout other statutory sections that should be amended to integrate the proposed changes to s. 944.275, F.S. See for example, sections 316.0127, 316.1935, 775.084, F.S., etc. Section 4-9 are reenactments of statutes that reference s. 944.275, F.S. There are no specific amendments in sections 4-9. One reenactments, however, does not address thoroughly the significant language or terminology revisions to s. 944.275, F.S. For example, in Section 4 of the bill (lines 320-342), s. 775.084(4)(k)(1), F.S. is reenacted because it mentions “gain-time ... as provided in s. 944.274(4)(b), F.S.” Proposed s. 944.275(4)(b), F.S., however, in this bill deletes the phrase incentive gain-time and replaces it with “rehabilitation credits”. In other words, there is no gain-time in s. 944.275(4)(b), F.S., so an ambiguity problem is created.</p> <p>This bill does not amend s. 944.28, F.S., regarding gain-time forfeiture or s. 944.281, F.S., regarding future gain-time ineligibility due to disciplinary infractions. Another statute, s. 921.0017, F.S., reference gain-time forfeiture but is not addressed in this bill. Because the bill leaves in place by name only one type of gain-time (outstanding deed), it may undermine the Department’s authority to withhold <i>rehabilitation credits</i> and <i>good behavior time</i> in firearm mandatory minimum sentences in s. 775.087, F.S., and aggravated fleeing sentences in s. 316.1935, F.S., Florida Statutes. Case law is favorable to inmates in instances of ambiguity. As stated in <u>Mastay v. McDonough</u>, 928 So.2d 512, 515 (Fla. 1st DCA 2006):</p>
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	<p>“... if there is any ambiguity in the language of section 893.135(3), we must construe it in favor of the accused. .... Because incentive gain-time is not properly considered a form of “discretionary early release” under section 893.135(3), we conclude that the trial court departed from the essential requirements of the law when it concluded that petitioner was not eligible for incentive gain-time during the service of his mandatory-minimum term for drug trafficking.”</p> <p>Because of the potential different interpretations, it is expected that litigation using the <u>Mastay</u> line of argument would increase.</p> <p>Because good behavior time applies to all sentenced imposed for offenses committed on or after 7/1/78, there is a potential calculation issue. The bill, under 944.275(4)(g)(1), F.S., caps the award of this gain-time to 85% minimum of sentence. As 10 days per month for each month in a sentence reduces the sentence by about 33%, down to roughly 66% remaining, it means that only a portion of the authorized 10 days can be applied. It is unclear what happens to the remainder of this award, which is about 5.5 day/month. The language that typically prevents banking or accumulation of gain-time is found now at (4)(g)3, but it disallows banking once the release date hits 65%, not 85%. This issue would have to be litigated and an outcome would be unknown. Will inmates be allowed to store credits to offset the impact of a future act of misconduct? Second, there is no limitation on accrual of “rehabilitation credits”, which the next paragraph allows to be used to reduce the sentence to 65%. Given that “good behavior time” can reduce a sentence to 66%, rehabilitation credits will only be worth a percent or so of the sentence, which thoroughly undermines the rationale for the credits as stated in the bill.</p> <p>It is unknown how the bill would affect sentences under s. 794.011(7), F.S., which prohibits “basic gain time” from applying to sentences for sexual battery committed 10/1/92 or after.</p> <p>The bill retains this provision: “The rate of rehabilitation credits in effect on the date the [prisoner] committed the offense [that] resulted in his or her incarceration shall be the [prisoner’s] rate of eligibility to earn rehabilitation credits throughout the period of incarceration...”. [lines 201-208] However, in the next paragraph it sets out new gain-time amounts apparently to be applied retroactively. It states, “For sentences imposed for offenses committed before January 1, 1994, and on or after October 1, 1995, up to 20 days of rehabilitation credits may be granted.” Under existing law, post-10/1/95 offense date sentences can be reduced only by 10 days/month, so the two statements are in conflict because it seems the new 20-day award amount would apply to all post 10/1/95 offenses. Given the language of s.775.022(4), F.S., it could be argued that any sentence imposed after the law goes into effect will be subject to the new provisions of the bill. It will also have to be determined how resentencing is affected by s. 775.022, F.S. If an inmate was sentenced when the 10 days per month statute was in place but the sentence is vacated and a new sentence imposed, it would likely be argued that s.775.022, F.S., requires the new sentence be under the new law. For the first time, the bill creates the concept of “vested” time. It provides for the forfeiture of good behavior time, “not yet vested”. Apparently, once vested this time is protected from forfeiture. The bill does not say other types of good time can be forfeited at all.</p>
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<sup>[i]</sup> Andrews, D.A., Bonta, J., and J.S. Wormith (2006) The Recent Past and Near Future of Risk and/or Need Assessment. *Crime & Delinquency* 52:1

<sup>[ii]</sup> Taxman, F.S. & M Thannner (2006) Risk, Need, and Responsivity (RNR): It all depends. *Crime & Delinquency* 52:1

<sup>[iii]</sup> McGuire, J. (2002). Evidence-based programming today. Paper presented International Community Corrections Association Conference, Boston, MA, November 2002.

McGuire, J. (2001). What works in correctional intervention? Evidence and practical implications. Pp. 25-43 in *Offender rehabilitation in practice: Implementing and evaluating effective programs*, edited by D.F. Gary Bernfeld, Alan Leschied. New York, NY: John Wiley & Sons, LTD.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21

Meeting Date

SB 1032

Bill Number (if applicable)

925632

Amendment Barcode (if applicable)

Topic

Gain Time - Amendment

Name

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Policy Counsel

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Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

SPLC Action Fund

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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THE FLORIDA SENATE

**APPEARANCE RECORD**

March 2, 2021

*Meeting Date*

1032

*Bill Number (if applicable)*

Topic Gain Time SB 1032

*Amendment Barcode (if applicable)*

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against  
(The Chair will read this information into the record.)

Representing The Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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3/2/2021

Meeting Date

SB1032

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

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Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

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THE FLORIDA SENATE

**APPEARANCE RECORD**

3/2/21  
Meeting Date

1032  
Bill Number (if applicable)

Topic Gain Time Reform

Amendment Barcode (if applicable)

Name Kara Gross

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing ACLU of Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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Reset Form

THE FLORIDA SENATE  
**APPEARANCE RECORD**

3/1/2021

Meeting Date

1032

Bill Number (if applicable)

Topic Gain Time

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing NAACP Florida State Conference

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

3/2/21

Meeting Date

1032

Bill Number (if applicable)

Topic Gain Time

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing R Street Institute

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

03/02/2021

*Meeting Date*

SB 1032

*Bill Number (if applicable)*

Topic Gain Time

*Amendment Barcode (if applicable)*

Name Sean Pittman

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*Zip*

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Broward County

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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3-2-2021

Meeting Date

1032

Bill Number (if applicable)

Topic Gain Time

Amendment Barcode (if applicable)

Name Adam Haack

Job Title \_\_\_\_\_

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

Meeting Date \_\_\_\_\_

SB 1032

Bill Number (if applicable)

Topic criminal Justice reform

Amendment Barcode (if applicable)

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Speaking: ☒ For ☐ Against ☐ Information  
(if there is time)

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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3/2/21

Meeting Date

1032

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name ANGELA BOUCHER

Job Title \_\_\_\_\_

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing N/A

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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25  
THE FLORIDA SENATE

# APPEARANCE RECORD

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3/2/2021  
Meeting Date

1032  
Bill Number (if applicable)

Topic Gain-time

Amendment Barcode (if applicable)

Name Karen Woodall

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Phone 850-321-9386

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Email fcfep@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FI Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21

Meeting Date

1032

Bill Number (if applicable)

Topic Parole Eligibility

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title \_\_\_\_\_

Address \_\_\_\_\_  
Street

Phone \_\_\_\_\_

City

State

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Rising

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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March 2 2020  
Meeting Date

SB 1032  
Bill Number (if applicable)

Topic Gain Time

Amendment Barcode (if applicable)

Name Diego Echeverri "Dee-yay-Goh

Etch-uh-vay-ree"

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read ~~this~~ information into the record.)

Representing Americans For Prosperity

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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3/2/21

Meeting Date

1032

Bill Number (if applicable)

Topic Gain-time

Amendment Barcode (if applicable)

Name Jessica Yeary

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Public Defender Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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1032  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic Gain Time

Amendment Barcode (if applicable) \_\_\_\_\_

Name Vanessa Marshall

Job Title \_\_\_\_\_

Address \_\_\_\_\_  
Street

Phone 321 377 3606

City \_\_\_\_\_

State \_\_\_\_\_

Zip \_\_\_\_\_

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/24  
Meeting Date

1032  
Bill Number (if applicable)

Topic CTR

Amendment Barcode (if applicable)

Name Angela Klix

Job Title \_\_\_\_\_

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

3/2/21

Meeting Date

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

1032

Bill Number (if applicable)

Topic

Gain time

Amendment Barcode (if applicable)

Name

Greg Newburn

Job Title

Address

Street

Phone

City

State

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

(The Chair will read this information into the record.)

Representing

FAMM

Appearing at request of Chair:

☐

Yes

☐

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

3/2/21

Meeting Date

1032

Bill Number (if applicable)

Topic GAIN TIME

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing FL FAITH ADVOCACY OFFICE

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3.2.2021

Meeting Date

1032

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Carolyn Jones

Job Title \_\_\_\_\_

Address 6006 Forest Lk Dr  
Street

Phone 517.554.9665

Zephyrhills FL 33540  
City State Zip

Email Carolyn-Renee Dykstra  
Com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-2-21

Meeting Date

1032

Bill Number (if applicable)

Topic prison reform

Amendment Barcode (if applicable)

Name Shirley Daniels

Job Title \_\_\_\_\_

Address PO Box 235

Phone 863 709 6273

Street

Lake Hamilton

City

State

FL

Zip

Email \_\_\_\_\_

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE

APPEARANCE RECORD

3/22/1

Meeting Date

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

SB1032

Bill Number (if applicable)

Topic Gain time

Amendment Barcode (if applicable)

Name Denise Rock

Job Title Executive Director

561-855-0833

Address

West Palm Beach FL

Phone

denise@florida

Email

CaresCharity.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Cares

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21

Meeting Date

SB1032

Bill Number (if applicable)

Topic Gain Time

Amendment Barcode (if applicable)

Name GREG NEWBORN

Job Title

Address

Street

Gainesville FL

City

State

Zip

Phone

352-682-

2542

Email

gnewborn@famm.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Famm

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2/21  
Meeting Date

SB1032  
Bill Number (if applicable)

Topic Gain time

Amendment Barcode (if applicable)

Name Laurette Philipson

Job Title \_\_\_\_\_

352-533-7202

Address 1240 Westwind Dr

Phone \_\_\_\_\_

Email advocatephilipson@gmail.com

Port Richey FL 34668  
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Advocate

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/2  
Meeting Date

1032  
Bill Number (if applicable)

Topic Gain Rehab Time

Amendment Barcode (if applicable)

Name Helen L. Roberts

Job Title \_\_\_\_\_

Address 935 E University Ave  
Street  
Orange City FL 32763  
City State Zip

Phone 727-326-4080

Email h487cp@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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THE FLORIDA SENATE

APPEARANCE RECORD

March 2, 2021

Meeting Date

1032

Bill Number (if applicable)

Topic Gain Time

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Chief Executive Officer

Address 2215 Thomasville Road

Street

Tallahassee

City

FL

State

32308

Zip

Phone 850.510.9922

Email barney@barneybishop.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Smart Justice Allaince

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-2-21

Meeting Date

1032

Bill Number (if applicable)

Topic Gain time

Amendment Barcode (if applicable)

Name Amy McCourt

Job Title ✓

Address 2911 SE Morningstar Dr

Phone 954 253 4928

Street

City

PSC

State

FL

Zip

34552

Email

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing N/A

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3-2-2021  
Meeting Date

1032  
Bill Number (if applicable)

Topic Gamtime

Amendment Barcode (if applicable)

Name Teresa Haack

Job Title \_\_\_\_\_

Address 4100 NE 33 Ave  
Street

Phone 352-274-4742

Orlando  
City

FL  
State

32809  
Zip

Email thack@cox.net

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing \_\_\_\_\_

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/12  
Meeting Date

SB  
1032  
Bill Number (if applicable)

Topic Gain Time

Amendment Barcode (if applicable)

Name Anne Williams

Job Title RN BSN

Address 4835 Andrade  
Street

Phone 850-712-0100

Pensacola, FL 32504  
City State Zip

Email \_\_\_\_\_

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing self

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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THE FLORIDA SENATE  
**APPEARANCE RECORD**

3/2/21

Meeting Date

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

1032

Bill Number (if applicable)

Topic Gain Time

Amendment Barcode (if applicable)

Name Carrie Boyd

Job Title Policy Counsel

Address P.O. Box 10788

Phone 850-570-9560

Street

Tallahassee FL 32309

City

State

Zip

Email carrie.boyd@splcenter.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing SPLC Action Fund

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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**THE FLORIDA SENATE**

**APPEARANCE RECORD**

03/02/2021

*Meeting Date*

1032

*Bill Number (if applicable)*

Topic Gain Time

*Amendment Barcode (if applicable)*

Name Ingrid Delgado

Job Title Associate Director for Social Concerns and Respect Life

Address 201 W Park Ave

*Street*

Phone 850-339-0075

Tallahassee

FL

32301

Email idelgado@flaccb.org

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
*(The Chair will read this information into the record.)*

Representing Florida Conference of Catholic Bishops

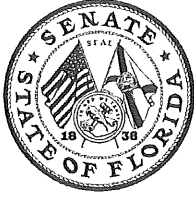
Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** February 10, 2021

---

I respectfully request that **Senate Bill #1032**, relating to Gain-time, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry".

---

Senator Keith Perry  
Florida Senate, District 8

**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 Committee on Criminal Justice

---

BILL: SB 1046

INTRODUCER: Senator Bean

SUBJECT: Arrest Booking Photographs

DATE: March 1, 2021

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

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Stokes	Jones	CJ	<b>Favorable</b>
2. _____	_____	CM	_____
3. _____	_____	RC	_____

---

**I. Summary:**

SB 1046 amends s. 901.43, F.S., expanding this section to subject any person or entity that publishes or disseminates information relating to arrest booking photographs when the person or entity's primary business model is the publishing and disseminating of arrest booking photographs for a commercial purpose or pecuniary gain, to a civil penalty for failing to remove the arrest booking photograph upon written request.

Section 901.43, F.S., prohibits any person or entity engaged in the business of publishing or otherwise disseminating arrest booking photographs from soliciting or accepting a fee to remove the photographs. Additionally, this section provides that persons or entities who accept a fee for the removal of such photographs must remove the photographs within ten days of a written request or be subject to a civil penalty.

Additionally, this bill ensures that this section does not apply to any act performed for the purpose of disseminating news to the public, including gathering, publishing, or broadcasting information to the public for a news-related purpose, or to any other act performed by a publisher, owner, agent, employee, or retailer of a newspaper, radio station, radio network, television station, television broadcast network, cable television network, or other online news outlet associated with any news organization in connection with the dissemination of news to the public.

This bill may have an indeterminate fiscal impact on the courts due to the expansion of what entities are subject to civil penalties. See Section V. Fiscal Impact Statement.

This bill is effective October 1, 2021.

## II. Present Situation:

### Dissemination of Arrest Booking Photographs

Section 901.43, F.S., provides that any person or entity engaged in the business of publicly publishing arrest booking photographs may not solicit or accept a fee or other form of payment to remove the photographs.<sup>1</sup>

A person whose arrest booking photograph is published, or his or her legal representative, may make a request for the removal of the photograph to the registered agent of the person or entity who published the photograph. The request must:

- Be made in writing.
- Be sent by registered mail.
- Include sufficient proof of identification of the person whose arrest booking photograph was published.
- Include specific information identifying the arrest booking photograph that the request seeks to remove.<sup>2</sup>

The person or entity that published the arrest booking photograph must remove the photograph within 10 days of receipt of the written request for removal.<sup>3</sup> If the photograph is not removed within 10 calendar days, the person seeking removal may bring a civil action to enjoin the continued publication of the photograph. Additionally, the court may impose a civil penalty of \$1,000 per day for noncompliance and must award reasonable attorney fees and court costs. Money recovered for civil penalties must be deposited into the General Revenue Fund.<sup>4</sup>

Refusal to remove an arrest booking photograph after written request has been made constitutes an unfair or deceptive trade practice in accordance with part II of ch. 501, F.S.<sup>5</sup>

Section 901.43, F.S., only applies to a person or entity that solicits or accepts payments to remove arrest booking photographs.<sup>6</sup>

### Public Disclosure of Criminal Record Information

All “materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge” are public records and open for public inspection, unless a specific exemption applies.<sup>7</sup>

---

<sup>1</sup> Section 901.43(1), F.S.

<sup>2</sup> Section 901.43(2), F.S.

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

<sup>4</sup> Section 901.43(3), F.S.

<sup>5</sup> Section 901.43(4), F.S.

<sup>6</sup> Section 901.43(5), F.S.

<sup>7</sup> Office of the Attorney General (Florida), *Public Records: A Guide for Law Enforcement Agencies* (2019 Edition), at p. 1. and endnote 1 (citing *Shevin v. Byron, Harless, Schaffer, Reid and Assocs., Inc.*, 379 So. 2d 633, 640 (Fla. 1980)) and endnote 2 (citing *Wait v. Fla. Power & Light Co.*, 372 So. 2d 420 (Fla. 1979)), available at [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-BAMQDX/\\$file/2019+Law+Enforcement+Guide+v6.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-BAMQDX/$file/2019+Law+Enforcement+Guide+v6.pdf) (last visited on February 16, 2021).

Criminal record information may be obtained and published by non-governmental publishers. This information includes booking photographs, arrest reports, charging documents, sentencing orders, and criminal history information.<sup>8</sup> Like all other records prepared by Florida government agencies, arrest and crime reports are generally considered to be subject to public disclosure unless specifically exempted.<sup>9</sup> Statutory exemptions for active criminal investigative and intelligence information, confessions, juvenile offender records, and certain victim information may apply to crime reports and other law enforcement records.<sup>10</sup>

### ***Arrest Record Information***

Public record information pertaining to a person's arrest for the alleged commission of a crime includes the arrest report and booking photograph ("mugshot"). With few exceptions, arrest record information (including booking photographs) must be disclosed pursuant to a public records request.<sup>11</sup> However, the arrest record information of juveniles charged with misdemeanors is confidential and exempt,<sup>12</sup> and a public records custodian may choose to not electronically publish on the arrest or booking photograph of a child that is not confidential and exempt.<sup>13</sup>

Arrest record information may be requested by many persons and entities, including members of the public, traditional news companies, companies that provide criminal history or criminal record information for a service or subscriber fee (e.g., so that a private employer may determine if a job applicant has a criminal history), and companies that are often referred to as "mugshot" companies.

Mugshot companies operate commercial websites that repost booking photographs. The companies often make a profit by charging a fee to remove the image. Photos posted on one site may also be reposted to other sites, causing continuing harm to the reputation of the individual.<sup>14</sup> Florida law does not specifically prohibit mugshot companies from posting booking photographs, but does prohibit charging a removal fee.<sup>15</sup>

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<sup>8</sup> The Florida Department of Law Enforcement is the central repository of criminal history information for the State of Florida. For a fee, a search of Florida criminal history information regarding a person may be performed. Excluded from the search is sealed or expunged information. Florida Department of Law Enforcement, Criminal History Information, *Search Florida's Criminal Histories*, available at <https://web.fdle.state.fl.us/search/app/default> (last visited on February 16, 2021).

<sup>9</sup> Office of the Attorney General (Florida), *Public Records: A Guide for Law Enforcement Agencies* (2019 Edition), at p. 6., available at [http://myfloridalegal.com/webfiles.nsf/WF/MNOS-BAMODX/\\$file/2019+Law+Enforcement+Guide+v6.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MNOS-BAMODX/$file/2019+Law+Enforcement+Guide+v6.pdf) (last visited on February 16, 2021).

<sup>10</sup> *Id.* at 6-7.

<sup>11</sup> Op. Att'y Gen. 94-90 (October 25, 1994) (footnotes omitted), available at <http://www.myfloridalegal.com/ago.nsf/Opinions/83A1D5004064269D852562210063168E> (last visited on February 16, 2021).

<sup>12</sup> Sections 943.053(3), and 985.04(2), F.S.

<sup>13</sup> Section 985.04(2)(a)(2), F.S.

<sup>14</sup> National Conference of State Legislatures, *Mug Shots and Booking Photo Websites, Overview*, May 4, 2020, available at <http://www.ncsl.org/research/telecommunications-and-information-technology/mug-shots-and-booking-photo-websites.aspx> (last visited on February 16, 2021).

<sup>15</sup> Section 901.43, F.S.



### ***Laws and Legislation of Other States***

Some states have passed laws addressing the issue of publishing booking photographs for commercial gain. Fourteen states, including Florida, have enacted legislation designed to prohibit commercial website operators from posting mugshot photos on a website and charging a removal fee.<sup>16</sup> Additionally, some states have limited public access to booking photographs. For example, law enforcement in California have the discretion to furnish copies of booking photographs in response to a public request. However, once a copy is furnished to one member of the general public, it must be made available to all who make a request.<sup>17</sup>

An American Bar Association article suggests that there is no legal solution to this problem, and instead, the solution will develop through private sector activity.<sup>18</sup> For example, Google has adjusted its algorithms so that the mugshot companies will not appear as prominently in the search results. In addition, some credit card companies such as MasterCard, American Express, and Discover are cutting ties with these types of websites.<sup>19</sup>

### ***Case Law***

Persons having their booking photographs posted by commercial entities have sought relief based on various causes of action. These include claims for an invasion of privacy based on false light, invasion of privacy based on unauthorized appropriation of name or likeness, defamation by slander, and unjust enrichment.<sup>20</sup>

In 2008, the Florida Supreme Court indicated that Florida does not recognize tort claims based on false light, “because we conclude that false light is largely duplicative of existing torts, but without the attendant protections of the First Amendment.”<sup>21</sup> The Court specifically noted that the key elements of a false claim are nearly identical to the elements required in a defamation case.<sup>22</sup> Florida does recognize defamation claims.<sup>23</sup>

### ***Right of Publicity***

Section 540.08(1), F.S., prohibits a person from publishing, printing, displaying, or otherwise publicly using for purposes of trade or for any commercial or advertising purpose the name,

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<sup>16</sup> *Id.* The thirteen states are California, Colorado, Georgia, Illinois, Kentucky, Maryland, Missouri, Oregon, South Carolina, Texas, Utah, Virginia, and Wyoming.

<sup>17</sup> Office of the Attorney General, State of California, Opinion No. 03-205 (July 14, 2003).

<sup>18</sup> Stephanie Francis Ward, *Hoist Your Mug: Websites Will Post Your Name and Photo; Others Will Charge You to Remove Them*, ABA Journal, August 1, 2012, available at [http://www.abajournal.com/magazine/article/hoist\\_your\\_mug\\_websites\\_will\\_post\\_your\\_name\\_and\\_photo\\_others\\_will\\_charge\\_e\\_yo](http://www.abajournal.com/magazine/article/hoist_your_mug_websites_will_post_your_name_and_photo_others_will_charge_you) (last visited on February 16, 2021).

<sup>19</sup> National Conference of State Legislatures, *Mug Shots and Booking Photo Websites, Overview*, May 4, 2020, available at <http://www.ncsl.org/research/telecommunications-and-information-technology/mug-shots-and-booking-photo-websites.aspx> (last visited on February 16, 2021).

<sup>20</sup> A claim of false light is a type of a claim of invasion of privacy based in tort. For example, to prevail in a false light claim in Pennsylvania, a defendant must establish that a highly offensive false statement was publicized by a defendant with knowledge or in reckless disregard of its falsity. *Santillo v. Reedel*, 430 Pa. Super. 290, 295-296 (Pa. Super. Ct.1993).

<sup>21</sup> *Jews for Jesus, Inc. v. Rapp*, 997 So. 2d 1098, 1100 (Fla. 2008).

<sup>22</sup> *Id.* at 1105-1106.

<sup>23</sup> *Id.* at 1111-1112. See ch. 770, F.S.

portrait, photograph, or other likeness of any natural person without the person's express written or oral consent to such use. There are exceptions for:

- Publication, printing, display, or use of the name or likeness of any person in any newspaper, magazine, book, news broadcast or telecast, or other news medium or publication as part of any bona fide news report or presentation having a current and legitimate public interest and where such name or likeness is not used for advertising purposes;
- The use of such name, portrait, photograph, or other likeness in connection with the resale or other distribution of literary, musical, or artistic productions or other articles of merchandise or property where such person has consented to the use on or in connection with the initial sale or distribution; and
- Any photograph of a person solely as a member of the public and where such person is not named or otherwise identified in or in connection with the use of such photograph.<sup>24</sup>

When necessary consent is not obtained, the person whose name, portrait, photograph, or other likeness is used may bring an action to enjoin the unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained, including an amount which would have been a reasonable royalty, and punitive or exemplary damages.<sup>25</sup>

In 2014, a Florida federal district court denied the defendant's motion to dismiss a cause of action alleging a violation of s. 540.08, F.S., for publishing the plaintiff's booking photograph without her consent and advertising "unpublishing services" that required the payment of a fee to remove the photograph.<sup>26</sup> In a later proceeding, the court denied the plaintiff's Motion to Certify Class (to allow the case to proceed as a class action) without prejudice.<sup>27</sup> The class action was not re-filed, nor was the case resolved by trial on the merits. The resolution of the case and whether the plaintiff would have succeeded on the merits of her claim is unknown.

## **The Florida Deceptive and Unfair Trade Practices Act (FDUTPA)**

### ***History and Purpose of FDUTPA***

The Florida Deceptive and Unfair Trade Practices Act (FDUTPA) is a consumer and business protection measure that prohibits unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in trade or commerce.<sup>28</sup> The FDUTPA is based on federal law.<sup>29</sup> The State Attorney or the Department of Legal Affairs may bring actions when it is in the public interest on behalf of consumers or governmental entities.<sup>30</sup> The Office of the State Attorney may enforce violations of the FDUTPA if the violations take place in its jurisdiction. The Department of Legal Affairs has enforcement authority if the violation is multi-

<sup>24</sup> Section 540.08(4), F.S.

<sup>25</sup> Section 540.08(2), F.S.

<sup>26</sup> *Bilotta v. Citizen Info. Assocs., LLC*, 2014 U.S. Dist. LEXIS 3229 (M.D. Fla. Jan. 10, 2014).

<sup>27</sup> *Bilotta v. Citizen Info. Assocs., LLC*, 2014 U.S. Dist. LEXIS 68495 (M.D. Fla. May 19, 2014).

<sup>28</sup> Chapter 73-124, L.O.F., and s. 501.202, F.S.

<sup>29</sup> D. Matthew Allen, et. al., *The Federal Character of Florida's Deceptive and Unfair Trade Practices Act*, 65 U. Miami L. Rev. 1083, Summer 2011.

<sup>30</sup> Section 501.207, F.S. David J. Federbush, *FDUTPA for Civil Antitrust: Additional Conduct, Party, and Geographic Coverage; State Actions for Consumer Restitution*, 76 FLA. B.J. 52, December 2002, available at [http://www.floridabar.org/divcom/jn/jnjournal01.nsf/c0d731e03de9828d852574580042ae7a/99aa165b7d8ac8a485256c8300791ec1!OpenDocument&Highlight=0.business.Division\\*](http://www.floridabar.org/divcom/jn/jnjournal01.nsf/c0d731e03de9828d852574580042ae7a/99aa165b7d8ac8a485256c8300791ec1!OpenDocument&Highlight=0.business.Division*) (last visited on February 16, 2021).

jurisdictional, the state attorney defers in writing, or the state attorney fails to act within 90 days after a written complaint is filed.<sup>31</sup> Consumers may also file suit through private actions.<sup>32</sup>

### ***Remedies under the FDUTPA***

The Department of Legal Affairs and the State Attorney, as enforcing authorities, may seek the following remedies:

- Declaratory judgments;
- Injunctive relief;
- Actual damages on behalf of consumers and businesses;
- Cease and desist orders; and
- Civil penalties of up to \$10,000 per willful violation.<sup>33</sup>

Remedies for private parties are limited to:

- A declaratory judgment and an injunction where a person is aggrieved by a FDUTPA violation; and
- Actual damages, attorney fees and court costs, where a person has suffered a loss due to a FDUTPA violation.<sup>34</sup>

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

The bill amends s. 901.43, F.S., expanding this section to subject any person or entity that publishes or disseminates information relating to arrest booking photographs when the person or entity's primary business model is the publishing and disseminating of arrest booking photographs for a commercial purpose or pecuniary gain, to a civil penalty for failing to remove the arrest booking photograph upon written request.

Section 901.43, F.S., prohibits any person or entity engaged in the business of publishing or otherwise disseminating arrest booking photographs from soliciting or accepting a fee to remove the photographs. Additionally, this section provides that persons or entities who accept a fee for the removal of such photographs must remove the photographs within ten days of a written request or be subject to a civil penalty.

Additionally, this bill ensures that this section does not apply to any act performed for the purpose of disseminating news to the public, including gathering, publishing, or broadcasting information to the public for a news-related purpose, or to any other act performed by a publisher, owner, agent, employee, or retailer of a newspaper, radio station, radio network, television station, television broadcast network, cable television network, or other online news outlet associated with any news organization in connection with the dissemination of news to the public.

This bill is effective October 1, 2021.

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<sup>31</sup> Section 501.203(2), F.S.

<sup>32</sup> Section 501.211, F.S.

<sup>33</sup> Sections 501.207(1), 501.208, and 501.2075, F.S. Civil Penalties are deposited into general revenue. Enforcing authorities may also request attorney fees and costs of investigation or litigation. Section 501.2105, F.S.

<sup>34</sup> Section 501.211(1) and (2), F.S.

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

This bill may have an indeterminate fiscal impact on the courts due to the expansion of what entities are subject to civil penalties.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 901.43 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

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

None.

**B. Amendments:**

None.

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

---

By Senator Bean

4-01228-21

20211046\_\_

A bill to be entitled

An act relating to arrest booking photographs; amending s. 901.43, F.S.; expanding the applicability of provisions relating to the dissemination of arrest booking photographs to include a person or entity whose primary business model is the publishing or dissemination of such photographs for a commercial purpose or pecuniary gain; revising applicability; providing an effective date.

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

Section 1. Section 901.43, Florida Statutes, is amended to read:

901.43 Dissemination of arrest booking photographs.—

(1) Any person or entity engaged in the business of publishing through a publicly accessible print or electronic medium or otherwise disseminating arrest booking photographs of persons who have previously been arrested may not solicit or accept a fee or other form of payment to remove the photographs.

(2) A person whose arrest booking photograph is published or otherwise disseminated, or his or her legal representative, may make a request, in writing, for the removal of an arrest booking photograph to the registered agent of the person or entity who published or otherwise disseminated the photograph. The written request for removal of the arrest booking photograph must be sent by registered mail and include sufficient proof of identification of the person whose arrest booking photograph was published or otherwise disseminated and specific information

Page 1 of 3

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

4-01228-21

20211046\_\_

identifying the arrest booking photograph that the written request is seeking to remove. Within 10 days of receipt of the written request for removal of the arrest booking photograph, the person or entity who published or otherwise disseminated the photograph shall remove the arrest booking photograph without charge.

(3) The person whose arrest booking photograph was published or otherwise disseminated in the publication or electronic medium may bring a civil action to enjoin the continued publication or dissemination of the photograph if the photograph is not removed within 10 calendar days after receipt of the written request for removal. The court may impose a civil penalty of \$1,000 per day for noncompliance with an injunction and shall award reasonable attorney fees and court costs related to the issuance and enforcement of the injunction. Moneys recovered for civil penalties under this section shall be deposited into the General Revenue Fund.

(4) Refusal to remove an arrest booking photograph after written request has been made constitutes an unfair or deceptive trade practice in accordance with part II of chapter 501.

(5) This section does not apply to:

(a) Any person or entity that publishes or disseminates information relating to arrest booking photographs unless:

1. The person or entity solicits or accepts payment to remove the photographs; or

2. The person or entity's primary business model is the publishing and disseminating of arrest booking photographs for a commercial purpose or pecuniary gain.

(b) Any act performed for the purpose of disseminating news

Page 2 of 3

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

4-01228-21

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59 to the public, including gathering, publishing, or broadcasting  
60 information to the public for a news-related purpose, or to any  
61 other act performed by a publisher, owner, agent, employee, or  
62 retailer of a newspaper, radio station, radio network,  
63 television station, television broadcast network, cable  
64 television network, or other online news outlet associated with  
65 any news organization in connection with the dissemination of  
66 news to the public.

67 Section 2. This act shall take effect October 1, 2021.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

March 2, 2021

Meeting Date

1046

Bill Number (if applicable)

Topic Arrest Booking Photographs

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Chief Executive Officer

Address 2215 Thomasville Road

Street

Tallahassee

City

FL

State

32308

Zip

Phone 850.510.9922

Email barney@barneybishop.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Florida Smart Justice Allaince

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 (10/14/14)



**YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM**

**THE FLORIDA SENATE**

**APPEARANCE RECORD**

03/02/2021

*Meeting Date*

SB 1046

*Bill Number (if applicable)*

Topic Arrest Booking Photographs

*Amendment Barcode (if applicable)*

Name Sean Pittman

Job Title Attorney

Address 1028 E. Park Ave.

Phone (850) 216-1002

*Street*

Tallahassee

FL

32301

Email sean@pittman-law.com

*City*

*State*

*Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Broward County

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 (10/14/14)

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

03/02/2021

Meeting Date

SB 1046

Bill Number (if applicable)

Topic Arrest Booking Photographs

Name Blake R. Mathesie

Amendment Barcode (if applicable)

Job Title FSU Law Student

Address 3001 S Bronough St #600

Phone (954) 695-8190

Street

Tallahassee

FL

32301

City

State

Zip

Email bmathesie@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against  
(The Chair will read this information into the record.)

Representing Myself

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 (10/14/14)



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** February 10, 2021

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I respectfully request that **Senate Bill #1046**, relating to Arrest Booking Photographs, be placed on the:

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

A handwritten signature in black ink that reads "Aaron Bean". The signature is written in a cursive, flowing style.

---

Senator Aaron Bean  
Florida Senate, District 4

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

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

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

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BILL: SB 1048

INTRODUCER: Senator Bean

SUBJECT: Public Records/Conviction Integrity Unit Reinvestigation Information

DATE: March 1, 2021

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones	CJ	<b>Favorable</b>
2.			JU	
3.			RC	

---

**I. Summary:**

SB 1048 creates a public records exemption for conviction integrity unit reinvestigation information. Conviction integrity unit reinvestigation information is defined in the bill as information or materials generated during a new investigation by a conviction integrity unit following the unit's formal written acceptance of an applicant's case. The bill contains specific exceptions to the term "conviction integrity unit reinvestigation information." The bill defines the term "conviction integrity unit" as a unit within a state attorney's office established for the purpose of reviewing plausible claims of actual innocence.

The conviction integrity unit reinvestigation information is made exempt from public inspection and copying for a reasonable period of time during an active, ongoing, and good faith investigation of a claim of actual innocence in a case that previously resulted in the conviction of the accused person and until the claim is no longer capable of further investigation. This exemption appears to be no more broad than necessary to accomplish the public interest of safeguarding, preserving, and protecting information relating to a claim of actual innocence by a person who may have been convicted of a crime that he or she did not commit.

The bill provides the public necessity statement for the public records exemption. The bill makes legislative findings in support of the public necessity for the exemption.

The bill requires a two-thirds vote of the members present and voting for final passage. It will stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill takes effect July 1, 2021.

## II. Present Situation:

### Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup>

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and the statutory provisions are adopted in the rules of each house of the legislature.<sup>3</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>4</sup> Lastly, ch. 119, F.S., provides requirements for public records held by executive agencies.

### Executive Agency Records – The Public Records Act

Chapter 119, F.S., known as the Public Records Act, provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.<sup>5</sup>

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted the statutory definition of “public record” to include “material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”<sup>7</sup>

The Florida Statutes specify conditions under which public access to public records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

<sup>2</sup> *Id.*

<sup>3</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020).

<sup>4</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

<sup>5</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

custodian of the public record.<sup>8</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>9</sup>

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>10</sup> The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>11</sup>

General exemptions from the public records requirements are contained in the Public Records Act.<sup>12</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>13</sup>

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” Custodians of records designated as “exempt” are not prohibited from disclosing the record; rather, the exemption means that the custodian cannot be compelled to disclose the record.<sup>14</sup> Custodians of records designated as “confidential and exempt” may not disclose the record except under circumstances specifically defined by the Legislature.<sup>15</sup>

### **Open Government Sunset Review Act**

The Open Government Sunset Review Act<sup>16</sup> (the Act) prescribes a legislative review process for newly created or substantially amended<sup>17</sup> public records or open meetings exemptions, with specified exceptions.<sup>18</sup> It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>19</sup>

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>20</sup>

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<sup>8</sup> Section 119.07(1)(a), F.S.

<sup>9</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>10</sup> FLA. CONST. art. I, s. 24(c).

<sup>11</sup> *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

<sup>12</sup> *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>13</sup> *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

<sup>14</sup> *See Williams v. City of Minneola*, 575 So. 2d 683, 687 (Fla. 5th DCA 1991).

<sup>15</sup> *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>16</sup> Section 119.15, F.S.

<sup>17</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>18</sup> Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>19</sup> Section 119.15(3), F.S.

<sup>20</sup> Section 119.15(6)(b), F.S.

An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivisions to effectively and efficiently administer a governmental program, and administration would be significantly impaired without the exemption;<sup>21</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>22</sup> or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>23</sup>

The Act also requires specified questions to be considered during the review process.<sup>24</sup> In examining an exemption, the Act directs the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>25</sup> If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>26</sup>

### Agency Investigations

Section 119.071(2), F.S., contains general exemptions from the public records law for agency investigations. For purposes of ch. 119, F.S., the term “agency” means:

“any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”<sup>27</sup>

<sup>21</sup> Section 119.15(6)(b)1., F.S.

<sup>22</sup> Section 119.15(6)(b)2., F.S.

<sup>23</sup> Section 119.15(6)(b)3., F.S.

<sup>24</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means?  
If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>25</sup> See generally s. 119.15, F.S.

<sup>26</sup> Section 119.15(7), F.S.

<sup>27</sup> Section 119.011(2), F.S.

## Conviction Integrity Review Units

Conviction Integrity Review (CIR) units are divisions of prosecutorial offices that work to prevent, identify, and correct false convictions. There were 59 CIR units in the United States in 2019, four times the number of just five years earlier. Fifty-five CIR exonerations took place in 2019.<sup>28</sup>

Currently, four state attorney's offices in Florida have established CIR units within their offices. These offices are located in the:

- Fourth Circuit, covering Duval, Clay, and Nassau Counties;
- Ninth Circuit, covering Orange and Osceola Counties;
- Thirteenth Circuit, covering Hillsborough County; and
- Seventeenth Circuit, covering Broward County.<sup>29</sup>

The first state attorney's office to establish a CIR unit was the Fourth Circuit in early 2018. All four of the CIR units have essentially the same procedures in place that begin with criteria a person must meet to warrant more than an initial screening. For example, the CIR units require that a person present a plausible claim of innocence, and some of the units report they rely upon an independent review panel of legal experts to work with the units to review and evaluate the cases under investigation.<sup>30</sup> Prior to 2018, Florida had 64 exonerations, including eight defendants who had been sentenced to death.<sup>31</sup>

The work of the Fourth Circuit's CIR unit resulted in the 2019 exoneration of two men, Clifford Williams and Nathan Myers, who were sentenced to life in prison for the 1976 Jacksonville murder of Jeanette Williams.<sup>32</sup> The CIR unit's investigation confirmed multiple alibi witnesses for the whereabouts of the two men at the time of the murder, and further confirmed that another man, Nathaniel Lawson, admitted to committing the murder. The CIR unit's investigation was able to independently confirm Lawson's presence at the scene at the time of the shooting.<sup>33</sup> Prior to Mr. Williams' and Mr. Myers' convictions and sentences being vacated by the Fourth Circuit Court on March 28, 2019, they had served 42 years and 11 months in prison.<sup>34</sup>

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<sup>28</sup> The National Registry of Exonerations, *Exonerations in 2019*, March 31, 2020, p. 2, available at [http://www.law.umich.edu/special/exoneration/Documents/Exonerations\\_in\\_2019.pdf](http://www.law.umich.edu/special/exoneration/Documents/Exonerations_in_2019.pdf), (last visited February 15, 2021).

<sup>29</sup> Office of the State Attorney for the Fourth Judicial Circuit, *Conviction Integrity Review*, available at <https://www.sao4th.com/about/programs-and-initiatives/conviction-integrity-review/>; Office of the State Attorney for the Ninth Judicial Circuit, *Conviction Integrity Policy*, available at <https://www.sao9.net/conviction-integrity.html>; Office of the State Attorney for the Thirteenth Circuit, *Conviction Review Unit*, available at <https://www.sao13th.com/conviction-review-unit-cru/>; Office of the State Attorney for the Seventeenth Circuit, *Conviction Review Unit*, available at <https://browardsaocom/conviction-review-unit/> (all sites last visited February 15, 2021).

<sup>30</sup> *Id.*

<sup>31</sup> The National Registry of Exonerations, *Exonerations in 2019*, March 31, 2020, p. 9, available at [http://www.law.umich.edu/special/exoneration/Documents/Exonerations\\_in\\_2019.pdf](http://www.law.umich.edu/special/exoneration/Documents/Exonerations_in_2019.pdf), (last visited February 15, 2021).

<sup>32</sup> State Attorney's Office of the Fourth Judicial Circuit of Florida, *Conviction Integrity Investigation, State of Florida v. Hubert Nathan Meyers, State of Florida v. Clifford Williams, Jr.*, March 28, 2019, p. 44, available at [https://secureservercdn.net/198.71.233.254/9c2.a8b.myftpupload.com/wp-content/uploads/2019/03/CIR\\_Investigative\\_Report\\_FINAL\\_3.28.19\\_R.pdf](https://secureservercdn.net/198.71.233.254/9c2.a8b.myftpupload.com/wp-content/uploads/2019/03/CIR_Investigative_Report_FINAL_3.28.19_R.pdf) (last visited February 15, 2021).

<sup>33</sup> *Id.* at 4.

<sup>34</sup> The Florida Senate, *Senate Bill 28 Special Master's Final Report*, January 23, 2020, p. 1-2, available at <http://www.flsenate.gov/Session/Bill/2020/28/Analyses/2020s00028.sm.PDF> (last visited February 15, 2021).



Currently, the information gathered by CIR units is not considered exempt from the public records law.

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

The bill creates a public records exemption for conviction integrity unit reinvestigation information in s. 119.071(2)(q), F.S.

Conviction integrity unit is defined in the bill as a unit within a state attorney's office established for the purpose of reviewing plausible claims of actual innocence.

The term "conviction integrity unit reinvestigation information" is defined in the bill as information or materials generated during a new investigation by a conviction integrity unit following the unit's formal written acceptance of an applicant's case. The term specifically does not include:

- Information, materials, or records generated by a state attorney's office during an investigation done for the purpose of responding to motions made pursuant to Rule 3.800, Rule 3.850, or Rule 3.853, Florida Rules of Criminal Procedure, or any other collateral proceeding;
- Petitions by applicants to the conviction integrity unit; or
- Criminal investigative information generated before the commencement of a conviction integrity unit investigation which is not otherwise exempt from this section.

The bill makes conviction integrity unit reinvestigation information exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution for a reasonable time during an active, ongoing, and good faith investigation of a claim of actual innocence in a case that previously resulted in the conviction of the accused person and until the claim is no longer capable of further investigation. This exemption appears to be no more broad than necessary to accomplish the public interest of safeguarding, preserving, and protecting information relating to a claim of actual innocence by a person who may have been convicted of a crime that he or she did not commit.

The bill provides a public necessity statement for the creation of the public records exemption stating:

The Legislature finds that it is a public necessity that conviction integrity unit reinvestigation information be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution for a reasonable period of time during an active, ongoing, and good faith investigation of a claim of actual innocence in a case that previously resulted in the conviction of the accused person and until the claim is no longer capable of further investigation. Public release of conviction integrity unit reinvestigation information could result in the disclosure of sensitive information, such as the identity or location of an alternate suspect, a witness, or other evidence needed to exonerate a wrongfully convicted person, which could compromise the investigation of a wrongfully convicted person's case. The Legislature further finds that it is necessary to protect this information in order to encourage witnesses, who might otherwise be reluctant to

come forward, to be forthcoming with evidence of a crime. It is in the interest of pursuing justice for persons who may have been wrongfully convicted that all conviction integrity unit reinvestigation information be protected until investigation of the claim of actual innocence is no longer capable of further investigation. The Legislature finds that the harm that may result from the release of such information outweighs any public benefit that may be derived from its disclosure, and that it is in the interest of the public to safeguard, preserve, and protect information relating to a claim of actual innocence by a person who may have been convicted of a crime that he or she did not commit.

The bill requires a two-thirds vote of the members present and voting for final passage. It will stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill takes effect July 1, 2021.

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

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

Not applicable. The bill does not require counties or municipalities to spend funds or take action requiring the expenditure of funds, nor does it reduce the authority of counties or municipalities to raise revenue.

##### **B. Public Records/Open Meetings Issues:**

###### ***Vote Requirement***

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill creates an exemption for conviction integrity unit reinvestigation information, as defined in the bill, in s. 119.071(2)(q), F.S., thus, the bill requires a two-thirds vote to be enacted.

###### ***Public Necessity Statement***

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

###### ***Breadth of Exemption***

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect conviction integrity unit reinvestigation information relating to a claim of actual innocence by a convicted person that may be developed or generated during the investigation of the claim. The bill exempts the information until investigation of the claim of actual innocence is no longer capable of reasonable

investigation. The exemption does not appear to be broader than necessary to accomplish the purpose of the exemption.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None reported.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 119.071 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

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By Senator Bean

4-01003-21

20211048\_\_

A bill to be entitled

An act relating to public records; amending s.

119.071, F.S.; defining the terms "conviction

integrity unit" and "conviction integrity unit

reinvestigation information"; providing a public

records exemption for certain conviction integrity

unit reinvestigation information; providing for the

future review and repeal of the exemption; providing a

statement of public necessity; providing an effective

date.

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

Section 1. Paragraph (q) is added to subsection (2) of section 119.071, Florida Statutes, to read:

119.071 General exemptions from inspection or copying of public records.—

(2) AGENCY INVESTIGATIONS.—

(q)1. As used in this paragraph, the term:

a. "Conviction integrity unit" means a unit within a state attorney's office established for the purpose of reviewing plausible claims of actual innocence.

b. "Conviction integrity unit reinvestigation information" means information or materials generated during a new investigation by a conviction integrity unit following the unit's formal written acceptance of an applicant's case. The term does not include:

(I) Information, materials, or records generated by a state attorney's office during an investigation done for the purpose

4-01003-21

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of responding to motions made pursuant to Rule 3.800, Rule

3.850, or Rule 3.853, Florida Rules of Criminal Procedure, or

any other collateral proceeding.

(II) Petitions by applicants to the conviction integrity unit.

(III) Criminal investigative information generated before the commencement of a conviction integrity unit investigation which is not otherwise exempt from this section.

2. Conviction integrity unit reinvestigation information is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution for a reasonable period of time during an active, ongoing, and good faith investigation of a claim of actual innocence in a case that previously resulted in the conviction of the accused person and until the claim is no longer capable of further investigation. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2026, unless reviewed and saved from repeal through reenactment by the Legislature.

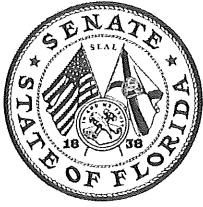
Section 2. The Legislature finds that it is a public necessity that conviction integrity unit reinvestigation information be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution for a reasonable period of time during an active, ongoing, and good faith investigation of a claim of actual innocence in a case that previously resulted in the conviction of the accused person and until the claim is no longer capable of further investigation. Public release of conviction integrity unit reinvestigation information could result in the disclosure of sensitive information, such as the identity or location of an

4-01003-21

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59 alternate suspect, a witness, or other evidence needed to  
60 exonerate a wrongfully convicted person, which could compromise  
61 the investigation of a wrongfully convicted person's case. The  
62 Legislature further finds that it is necessary to protect this  
63 information in order to encourage witnesses, who might otherwise  
64 be reluctant to come forward, to be forthcoming with evidence of  
65 a crime. It is in the interest of pursuing justice for persons  
66 who may have been wrongfully convicted that all conviction  
67 integrity unit reinvestigation information be protected until  
68 investigation of the claim of actual innocence is no longer  
69 capable of further investigation. The Legislature finds that the  
70 harm that may result from the release of such information  
71 outweighs any public benefit that may be derived from its  
72 disclosure, and that it is in the interest of the public to  
73 safeguard, preserve, and protect information relating to a claim  
74 of actual innocence by a person who may have been convicted of a  
75 crime that he or she did not commit.

76 Section 3. This act shall take effect July 1, 2021.



The Florida Senate

## Committee Agenda Request

**To:** Senator Jason Pizzo, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** February 10, 2021

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I respectfully request that **Senate Bill #1048**, relating to Public Records/Conviction Integrity Unit Reinvestigation Information, be placed on the:

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

A handwritten signature in cursive script that reads "Aaron Bean".

---

Senator Aaron Bean  
Florida Senate, District 4

# CourtSmart Tag Report

**Room:** SB 110

**Case No.:**

**Type:**

**Caption:** Criminal Justice Committee

**Judge:**

**Started:** 3/2/2021 4:00:43 PM

**Ends:** 3/2/2021 5:54:46 PM **Length:** 01:54:04

4:00:42 PM Meeting called to order by Senator Pizzo  
4:00:45 PM Roll call by CAA Sue Arnold  
4:00:52 PM Quorum present  
4:01:02 PM Comments from Chair Pizzo  
4:01:47 PM Introduction of Tab 1, CS/SB 354 by Chair Pizzo  
4:02:00 PM Explanation of CS/SB 354, Restitution by Senator Harrell  
4:05:53 PM Comments from Chair Pizzo  
4:05:57 PM Question from Chair Pizzo  
4:06:05 PM Response from Senator Harrell  
4:07:07 PM Follow-up question from Chair Pizzo  
4:07:14 PM Response from Senator Harrell  
4:08:48 PM Response from Senator Harrell  
4:08:56 PM Comments from Chair Pizzo  
4:09:48 PM Speaker Trish Neely, League of Women Voters in opposition  
4:10:42 PM Question from Chair Pizzo  
4:10:47 PM Response from Ms. Neely  
4:12:10 PM Speaker Barney Bishop, Florida Smart Justice Alliance in support  
4:12:30 PM Comments from Chair Pizzo  
4:13:38 PM Chair Pizzo in debate  
4:14:07 PM Senator Harrell in closure  
4:14:12 PM Roll call by CAA  
4:15:07 PM CS/SB 354 reported favorably  
4:15:16 PM Introduction of Tab 5, SB 1002 by Chair Pizzo  
4:15:31 PM Explanation of SB 1002, DNA Evidence Collected in Sexual Offense Investigations by Sen. Stewart  
4:17:16 PM Question from Senator Baxley  
4:17:26 PM Response from Senator Stewart  
4:17:55 PM Follow-up question from Senator Baxley  
4:18:04 PM Response from Senator Stewart  
4:18:53 PM Follow-up question from Senator Baxley  
4:19:04 PM Response from Chair Pizzo  
4:20:02 PM Question from Chair Pizzo  
4:20:09 PM Response from Senator Stewart  
4:20:24 PM Follow-up question from Senator Pizzo  
4:20:33 PM Response from Senator Stewart  
4:20:59 PM Follow-up question from Senator Pizzo  
4:21:07 PM Response from Senator Stewart  
4:21:36 PM Question from Chair Pizzo  
4:21:41 PM Response from Senator Stewart  
4:22:49 PM Follow-up question from Chair Pizzo  
4:22:59 PM Response from Senator Stewart  
4:23:33 PM Speaker Barbara DeVane. FL NOW  
4:23:42 PM Speaker Jennifer Dritt, Florida Council Against Sexual Violence in support  
4:27:31 PM Barney Bishop, Florida Smart Justice Alliance waives in support  
4:27:38 PM Barbara DeVane waives in support  
4:27:47 PM Speaker Gail Gardner, Gail's Law in support  
4:34:39 PM Comments from Chair Pizzo  
4:34:43 PM Senator Powell in debate  
4:35:36 PM Chair Pizzo in debate  
4:36:03 PM Senator Stewart in closure  
4:36:19 PM Roll call by CAA  
4:36:56 PM SB 1002 reported favorably  
4:37:14 PM Introduction of Tab 7, SB 1046 by Chair Pizzo and wishing for a speedy recovery for Senator Bean



4:37:55 PM Explanation of SB 1046, Arrest Booking Photographs by Senator Baxley  
4:38:40 PM Question from Senator Powell  
4:38:46 PM Response from Senator Baxley  
4:40:34 PM Question from Chair Pizzo  
4:40:44 PM Response from Lauren Jones, Staff Director  
4:41:25 PM Comments from Chair Pizzo  
4:41:31 PM Barney Bishop, Florida Smart Justice Alliance waives in support  
4:41:34 PM Sean Pittman, Broward County waives in support  
4:41:47 PM Blake Mathesie waives in support  
4:42:22 PM Chair Pizzo in debate  
4:42:48 PM Roll call by CAA  
4:42:53 PM SB 1046 reported favorably  
4:43:04 PM Introduction of Tab 8, 1048 by Chair Pizzo  
4:43:15 PM Explanation of SB 1048, Public Records/Conviction Integrity Unit Reinvestigation Information by Senator Baxley  
4:45:10 PM Comments from Chair Pizzo  
4:45:15 PM Question from Chair Pizzo  
4:45:22 PM Response from Senator Baxley  
4:47:23 PM Comments from Chair Pizzo  
4:47:30 PM Closure by Senator Baxley  
4:47:35 PM Roll call by CAA  
4:47:44 PM SB 1048 reported favorably  
4:47:57 PM Introduction of Tab 4, SB 980 by Chair Pizzo  
4:48:13 PM Explanation of SB 980, Assaults on Specified Persons by Senator Perry  
4:48:45 PM Introduction of Amendment Barcode 264610 by Chair Pizzo  
4:48:49 PM Explanation of Amendment by Senator Perry  
4:49:02 PM Question from Chair Pizzo  
4:49:15 PM Response from Senator Perry  
4:49:26 PM Closure waived  
4:49:29 PM Amendment Barcode 264610 adopted  
4:49:32 PM Comments from Chair Pizzo  
4:49:38 PM Senator Powell in debate  
4:49:44 PM Response from Senator Perry  
4:50:24 PM Comments from Chair Pizzo  
4:50:31 PM Closure waived  
4:50:33 PM Roll call by CAA  
4:50:36 PM CS/SB 980 reported favorably  
4:50:47 PM Introduction of Tab 6, SB 1032 by Chair Pizzo  
4:50:57 PM Explanation of delete-all Amendment Barcode 925632 by Senator Perry  
4:52:51 PM Introduction of Amendment by Chair Pizzo  
4:53:03 PM Carrie Boyd, SPLC Action Fund waives in support on Amendment  
4:53:16 PM Closure waived  
4:53:18 PM Amendment Barcode 925632 adopted  
4:53:22 PM Comments from Chair Pizzo  
4:53:36 PM Kara Gross, ACLU of Florida waives in support  
4:53:38 PM Pamela Burch Fort, NAACP Florida State conference waives in support  
4:53:42 PM Greg Black, R Street Institute waives in support  
4:53:47 PM Sean Pittman, Broward County waives in support  
4:53:53 PM Adam Haack waives in support  
4:54:01 PM Alexander Barry waives in support  
4:54:06 PM Angela Klix waives in support  
4:54:09 PM Karen Woodall, Florida Center for Fiscal and Economic Policy waives in support  
4:54:15 PM Ida Eskamani, Florida Rising waives in support  
4:54:19 PM Diego Echeverri, Americans for Prosperity waives in support  
4:54:31 PM Jessica Yearly, Florida Public Defender Association waives in support  
4:54:38 PM Vanessa Marshall waives in support  
4:54:42 PM Angela Boucher waives in support  
4:54:45 PM Greg Newburn, FAMM waives in support  
4:54:49 PM Rev. Dr. Russell Myer, Florida Faith Advocacy Office waives in support  
4:54:56 PM Carolyn Jones waives in support  
4:54:59 PM Shirley Daniels waives in support  
4:55:03 PM Denise Rock, Florida Cares waives in support

4:55:11 PM Ingrid Delgado, Florida Conference of Catholic Bishops in support  
4:55:15 PM Laurette Philipson waives in support  
4:55:20 PM Karen Roberts waives in support  
4:55:22 PM Barney Bishop, Florida Smart Justice Alliance waives in support  
4:55:26 PM Jennifer Cook Pritt, The Florida Police Chiefs Association waives in opposition  
4:55:34 PM Speaker Anne Williams in support  
4:56:16 PM Speaker Keith Harris in support  
4:56:43 PM Speaker Amy McCourt in support  
4:58:42 PM Speaker Teresa Haack in support  
4:59:18 PM Comments from Chair Pizzo  
4:59:31 PM Response from Ms. Haack  
5:01:24 PM Carrie Boyd, SPLC Action Fund waives in support  
5:01:57 PM Senator Taddeo in debate  
5:02:17 PM Senator Baxley in debate  
5:05:24 PM Senator Boyd in debate  
5:07:02 PM Senator Powell in debate  
5:10:04 PM Senator Gainer in debate  
5:11:58 PM Senator Brandes in debate  
5:13:41 PM Chair Pizzo in debate  
5:16:42 PM Senator Perry in closure  
5:19:01 PM Roll call by CAA  
5:20:01 PM CS/SB 1032 reported favorably  
5:20:18 PM Introduction of Tab 2, SB 474 by Chair Pizzo  
5:20:38 PM Explanation of SB 474, Prosecuting Children as Adults by Senator Bracy  
5:23:37 PM Comments from Chair Pizzo  
5:23:41 PM Question from Senator Baxley  
5:23:49 PM Response from Senator Bracy  
5:24:30 PM Follow-up question from Senator Baxley  
5:24:40 PM Carrie Boyd, SPLC Action Fund waives in support  
5:25:33 PM Alexandra Barry waives in support  
5:25:36 PM Speaker Barney Bishop, Florida Smart Justice Alliance in opposition  
5:26:04 PM Carolyn Jones waives in support  
5:26:07 PM Amy McCourt waives in support  
5:26:08 PM Shirley Daniels waives in support  
5:26:10 PM Ingrid Delgado, Florida conference of Catholic Bishops waives in support  
5:26:15 PM Jennifer Adams, League of Women Voters - Orange County waives in support  
5:26:20 PM Marleine Bastien, Family Action Network waives in support  
5:26:28 PM Laurette Philipson, Advocate for Prison Reform waives in support  
5:26:32 PM Denise Rock, Florida Cares waives in support  
5:26:36 PM Sean Pittman, Broward County waives in support  
5:26:39 PM David Moran waives in support  
5:26:44 PM Marcy Mistrett, The Sentencing Project waives in support  
5:26:49 PM Michelle Stephens waives in support  
5:26:54 PM Pamela Burch Fort, NAACP Florida State Conference waives in support  
5:26:58 PM Paula Montgomery waives in support  
5:27:01 PM Donald Robert Stanton, Church Without Walls waives in support  
5:27:07 PM Kara Gross, ACLU of Florida waives in support  
5:27:11 PM Barbara DeVane, FL NOW waives in support  
5:27:15 PM Karen Roberts waives in support  
5:27:18 PM Vanessa Marshall waives in support  
5:27:20 PM Jessica Yearly, Florida Public Defender Association waives in support  
5:27:24 PM Greg Black, R Street Institute waives in support  
5:27:28 PM Khanh-Lien Banko, Florida PTA waives in support  
5:27:33 PM Ida Eskamani, Florida Rising waives in support  
5:27:36 PM Trish Neely, League of Women Voters Florida waives in support  
5:27:39 PM Angela Boucher waives in support  
5:27:42 PM Rev. Dr. Russell Meyer, Florida Faith Advocacy Office waives in support  
5:27:47 PM Karen Woodall, Florida Center for Fiscal and Economic Policy waives in support  
5:27:52 PM Charlotte Nycklemoe, Florida League of Women Voters waives in support  
5:28:02 PM Speaker Angela Klix in support  
5:29:30 PM Speaker Anne Williams in support  
5:31:07 PM Comments from Chair Pizzo

5:31:24 PM	Senator Baxley in debate
5:34:51 PM	Senator Gainer in debate
5:35:20 PM	Response from Senator Bracy
5:35:41 PM	Follow-up question from Senator Gainer
5:35:49 PM	Response from Senator Bracy
5:36:33 PM	Senator Boyd in debate
5:37:09 PM	Senator Powell in debate
5:39:03 PM	Chair Pizzo in debate
5:39:28 PM	Senator Bracy in closure
5:40:27 PM	Roll call by CAA
5:41:28 PM	SB 474 reported favorably
5:41:45 PM	Introduction of Tab 3, SB 620 by Chair Pizzo
5:41:57 PM	Introduction of Amendment Barcode
5:42:12 PM	Explanation of Amendment by Senator Bracy
5:42:56 PM	Comments from Chair Pizzo
5:43:05 PM	Closure waived
5:43:07 PM	Amendment Barcode 177598 adopted
5:43:10 PM	Comments from Chair Pizzo
5:43:21 PM	Alexandra Barry waives in support
5:43:25 PM	Karen Robert waives in support
5:43:27 PM	Barney Bishop, Florida Smart Justice Alliance waives in support
5:43:30 PM	Sean Pittman, Broward County waives in support
5:43:33 PM	Amy McCourt waives in support
5:43:34 PM	Angela Klix waives in support
5:43:36 PM	Pamela Burch Fort, NAACP Florida State Conference waives in support
5:43:39 PM	Carrie Boyd, SPLC Action Fund waives in support
5:43:41 PM	Kara Gross, ACLU of Florida waives in support
5:43:47 PM	Rev. Dr. Russell Meyer waives in support
5:43:52 PM	Karen Woodall, Florida Center for Fiscal and Economic Policy waives in support
5:43:57 PM	Jessica Yearly, Florida Public Defender Association waives in support
5:44:01 PM	Ida Eskamani, Florida Rising waives in support
5:44:03 PM	Barbara DeVane, FL NOW waives in support
5:44:06 PM	Denise Rock, Florida Cares waives in support
5:44:08 PM	Anne Williams waives in support
5:44:11 PM	Angela Boucher waives in support
5:44:12 PM	Laurette Philipson waives in support
5:44:14 PM	Carolyn Jones would like to speak
5:44:54 PM	Speaker Vanessa Marshall in support
5:46:29 PM	Speaker Keith Harris in support
5:48:43 PM	Speaker Carolyn Jones in support
5:49:08 PM	Shirley Daniels waives in support
5:49:34 PM	Speaker Angela Boucher
5:51:37 PM	Comments from Chair Pizzo
5:52:46 PM	Senator Bracy in closure
5:52:54 PM	Roll call by CAA
5:53:35 PM	CS/SB 620 reported favorably
5:53:58 PM	Comments from Chair Pizzo
5:54:10 PM	Senator Brandes would like to be shown voting in the affirmative Tab 1, CS/SB 354
5:54:21 PM	Senator Taddeo moves to adjourn
5:54:25 PM	Meeting adjourned