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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
CRIMINAL JUSTICE
Senator Martin, Chair
Senator Bradley, Vice Chair

MEETING DATE: Tuesday, January 30, 2024
TIME: 9:00—11:00 a.m.
PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Martin, Chair; Senator Bradley, Vice Chair; Senators Ingoglia, Perry, Pizzo, Polsky, Powell, and Yarborough

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Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.

Florida Commission on Offender Review

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<td>Wyant, David A. ()</td>
<td>06/30/2028</td>
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<td>Cold Case Murders; Citing this act as the “Decker-Backmann Act”; requiring the heads of law enforcement agencies or their designees to review certain cold cases upon receiving a written application from a designated person; providing requirements for such reviews; requiring law enforcement agencies to provide specified training; requiring law enforcement agencies, by a specified date and periodically thereafter, to report certain data to the Global Forensic and Justice Center at Florida International University, etc.</td>
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<td>SB 1036 Ingoglia (Identical H 1449)</td>
<td>Reclassification of Criminal Penalties; Requiring reclassification of the penalty for the commission of a new felony committed by a person who unlawfully reenters the United States and while remaining unlawfully present after having been deported or removed from the United States under federal immigration proceedings for committing a felony, or who has departed the United States while such an order of deportation or removal was outstanding; defining the term “transnational crime organization”; authorizing reclassification of the penalty for any felony or misdemeanor offenses or certain other acts or violations upon a specified finding by the factfinder, etc.</td>
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<td>SB 1274 Martin (Similar CS/H 1181)</td>
<td>Juvenile Justice; Revising penalties for minors committing specified firearms violations; redesignating civil citation programs as prearrest delinquency citation programs; revising program requirements; requiring that youths who are arrested for certain electronic monitoring or supervised release violations be placed in secure detention until a detention hearing; requiring conditional release conditions for children released after confinement for specified firearms offenses; requiring the Department of Juvenile Justice to establish a specified class for firearms offenders, etc.</td>
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<td>SB 1352</td>
<td>Juvenile Justice; Authorizing personnel of the Department of Juvenile Justice and of certain contracted providers to possess, store, and administer emergency opioid antagonists and providing immunity from civil or criminal liability for such personnel; deleting a provision requiring the juvenile justice circuit advisory board to establish certain community service programs; requiring sheriffs’ offices to submit an annual report regarding certain received proceeds to the department, rather than the juvenile justice circuit advisory board; requiring the public safety coordinating council to cooperate with the department, rather than the juvenile justice circuit advisory board, to prepare a comprehensive public safety plan, etc.</td>
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<td>Prostitution and Related Acts; Prohibiting adults from offering to commit, committing, or engaging in prostitution, lewdness, or assignation; providing criminal penalties; prohibiting the owning, establishing, maintaining, operating, using, letting, or renting of a building, residence, place, or structure, in whole or in part, or a trailer or any other conveyance, with knowledge or reckless disregard that it will be used for the purpose of commercial sex; prohibiting the receiving, or offering or agreeing to receive, a person into a building, residence, place, or structure, or a trailer or any other conveyance, for the purpose of commercial sexual activity or to allow a person to remain there for such purpose, etc.</td>
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<td>SB 1618 Martin</td>
<td>Interception and Disclosure of Oral Communications; Authorizing the interception and recording of an oral communication by the parent or legal guardian of a child under a specified age under certain circumstances; requiring that the recording be provided to a law enforcement agency; prohibiting any further dissemination or sharing of the recording, etc.</td>
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<td>Child Exploitation Offenses; Revising penalties for specified offenses involving children; ranking offenses and revising offense ranking levels for purposes of the offense severity ranking chart of the Criminal Punishment Code, etc.</td>
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Other Related Meeting Documents
September 19, 2023

Secretary Cord Byrd  
Department of State  
R.A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Byrd:

Please be advised that the Cabinet and I have made the following appointment under the provisions of Section 947.02, Florida Statutes:

Mr. David Wyant

as a member of the Florida Commission on Offender Review, subject to confirmation by the Senate. This appointment is effective September 19, 2023, for a term ending June 30, 2028.

Sincerely,

Ron DeSantis  
Governor

RD/ch
STATE OF FLORIDA

County of Leon

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Commissioner at the Florida Commission on Offender Review
(Full Name of Office – Abbreviations Not Accepted)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words “so help me God.” See § 92.52, Fla. Stat.]

(Daffix Seal Below)

Sworn to and subscribed before me by means of ___ physical presence
Or ___ online notarization this ___ day of October, 2023.

Signature

(Ryan C. Schenck
Notary Public
State of Florida
Comm# HH402919
Expires 5/24/2027

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known [✓] or Produced Identification [ ]

Type of Identification Produced ________________________

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailine Address: Home [ ] Office [x]

David A. Wyant

Print Name

Signature
STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Cord Byrd, Secretary of State,
do hereby certify that

David A. Wyant

is duly appointed a member of the

Florida Commission on Offender Review

for a term beginning on the Nineteenth day of September, A.D.,
2023, until the Thirtieth day of June, A.D., 2028 and is subject
to be confirmed by the Senate during the next regular session of
the Legislature.

Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the First day of November, A.D., 2023.

[Signature]
Secretary of State

DSDE 99 (3/03)
I. Summary:

SB 270 reorganizes and amends subsection (4) of s. 790.15, F.S.

The bill deletes the current minimum residential density of an area - one or more dwelling units per acre – as the baseline spatial requirement for any person to recreationally discharge a firearm outdoors in particular areas, including target shooting. The density under the bill is a residential density of 1.25 or more acres per dwelling unit.

The bill provides that a person who “knows or reasonably should know” that the area is primarily residential in nature or that the area has a residential density of 1.25 or more acres per dwelling unit, and the firearm discharge by the person does not remain within the boundaries of the property in which the discharge takes place, commits a first degree misdemeanor.

The bill deletes current paragraphs (b) and (c) which eliminates the specified inapplicability of s. 790.15, F.S., to circumstances under which the discharge of a firearm does not pose a reasonable foreseeable risk to life, safety, or property; or to a person who accidentally discharges a firearm.

The bill retains the inapplicability of s. 790.15(4), F.S., to a person lawfully defending life or property or performing official duties requiring the discharge of a firearm.

The bill is effective October 1, 2024.
II. Present Situation:

Discharging a Firearm

Prior to 2012, s. 790.15(1), F.S., did not address discharging a firearm on private property except that it was a first degree misdemeanor to knowingly discharge a firearm over any occupied premises.¹

In 2012, the Legislature amended s. 790.15(1), F.S., to prohibit “recklessly or negligently discharging a firearm” outdoors on any property used primarily as the site of a dwelling as defined in s. 776.013, F.S., or zoned exclusively for residential use.²

Backyard Gun Ranges

In 2015, the Legislature created s. 790.15(4), F.S., to address safety issues surrounding the use of backyard gun ranges in residential areas. Section 790.15(4), F.S., states: Any person who recreationally discharges a firearm outdoors, including target shooting, in an area that the person knows or reasonably should know is primarily residential in nature and that has a residential density of one or more dwelling units per acre, commits a misdemeanor of the first degree.³ This section of the law does not apply:

- To a person lawfully defending life or property or performing official duties requiring the discharge of a firearm;
- If, under the circumstances, the discharge does not pose a reasonably foreseeable risk to life, safety, or property; or
- To a person who accidentally discharges a firearm.⁴

Now, based on more recent news accounts, it appears there may be additional and more recent concerns about backyard shooting ranges.⁵

III. Effect of Proposed Changes:

The bill deletes the current minimum residential density of an area - one or more dwelling units per acre – as the baseline spatial requirement for any person to recreationally discharge a firearm.

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¹ Section 790.15(1), F.S., also provides that it is a first degree misdemeanor to knowingly discharge a firearm in any public place or on the right-of-way of any paved public road, highway, or street.
² Chapter 2012-108, L.O.F. The term “dwelling” is defined in s. 776.013, F.S., as a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed to be occupied by people lodging therein at night.
³ A first degree misdemeanor is punishable by up to 1 year in the county jail and a $1,000 fine. Sections 775.082 and 775.083, F.S.
⁴ Section 790.15(4), F.S.
outdoors in particular areas, including target shooting. The density under the bill is a residential density of 1.25 or more acres per dwelling unit.

The bill provides that a person who “knows or reasonably should know” that the area is primarily residential in nature or that the area has a residential density of 1.25 or more acres per dwelling unit, and the firearm discharged by the person does not remain within the boundaries of the property in which the discharge takes place commits a first degree misdemeanor.

The bill deletes current paragraphs (b) and (c) which eliminates the current specified inapplicability of s. 790.15, F.S., to circumstances under which the discharge of a firearm does not pose a reasonable foreseeable risk to life, safety, or property; or to a person who accidentally discharges a firearm.

The bill retains the inapplicability of s. 790.15(4), F.S., to a person lawfully defending life or property or performing official duties requiring the discharge of a firearm.

The bill does not change the first degree misdemeanor penalty.⁶

The bill is effective October 1, 2024.

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.

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⁶ A first degree misdemeanor is punishable by up to 1 year in the county jail and a $1,000 fine. Sections 775.082 and 775.083, F.S.
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 section 790.15 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
The Committee on Criminal Justice (Berman) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (1) and paragraph (h) of subsection (2) of section 810.09, Florida Statutes, is amended to read 810.09 Trespass on property other than structure or conveyance.—

(1)(a) A person who, without being authorized, licensed, or invited, willfully enters upon or remains in any property other
than a structure or conveyance:

1. As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation as described in s. 810.011; or

2. If the property is the unenclosed curtilage of a dwelling and the offender enters or remains with the intent to commit an offense thereon, other than the offense of trespass, commits the offense of trespass on property other than a structure or conveyance.

(b) As used in this section, the term “unenclosed curtilage” means the unenclosed land or grounds, and any outbuildings, that are directly and intimately adjacent to and connected with the dwelling and necessary, convenient, and habitually used in connection with that dwelling.

(2)

(h) Any person who in taking or attempting to take any animal described in s. 379.101(19) or (20), or in killing, attempting to kill, or endangering any animal described in s. 585.01(13) willfully and knowingly propels or causes to be propelled any potentially lethal projectile over or across private land without authorization commits trespass, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. For purposes of this paragraph, the term “potentially lethal projectile” includes any projectile launched from any firearm, bow, crossbow, or similar tensile device. This paragraph section does not apply:

1. To any governmental agent or employee acting within the scope of his or her official duties;
2. To a person lawfully defending life or property or performing official duties requiring the discharge of a potentially lethal projectile; or

3. If, under the circumstances, the discharge of a potentially lethal projectile does not pose a reasonably foreseeable risk to life, safety, or property.

Section 2. This act shall take effect October 1, 2024.

A bill to be entitled An act relating to lethal projectiles over or across private lands; amending s. 810.09, F.S.; prohibiting a person from knowingly and willfully propelling a projectile over or across private lands; providing exceptions; providing an effective date.
A bill to be entitled
An act relating to discharging a firearm in
residential areas; amending s. 790.15, F.S.; revising
prohibitions on the discharge of a firearm in
residential areas; providing criminal penalties;
removing exceptions; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:
Section 1. Subsection (4) of section 790.15, Florida
Statutes, is amended to read:
790.15 Discharging firearm in public or on residential
property.—
(4) (a) Any person who recreationally discharges a firearm
outdoors, including target shooting, in an area that the person
knows or reasonably should know:
1. Is primarily residential in nature; or
2. Has a residential density of one or more dwelling units per acre.
2. Has a residential density of 1.25 or more acres per
dwelling unit, and the firearm discharge by the person does not
remain within the boundaries of the property in which the
discharge takes place,
commits a misdemeanor of the first degree, punishable as
provided in s. 775.082 or s. 775.083.
(b) This subsection does not apply
(a) To a person lawfully defending life or property or
performing official duties requiring the discharge of a firearm.
(b) If, under the circumstances, the discharge does not
pose a reasonably foreseeable risk to life, safety, or property;
(c) To a person who accidentally discharges a firearm.

Section 2. This act shall take effect October 1, 2024.
I. Summary:

SB 350 creates s. 782.41, F.S., to require law enforcement agencies to review certain cold cases upon receiving a written application from a designated person if the murder occurred on or after January 1, 1970. The bill provides definitions for terms used in this section such as “cold case,” “designated person,” and “probative lead.”

The bill provides criteria for the review of a cold case, and requires a law enforcement agency to conduct a full reinvestigation if the review concludes that a reinvestigation may result in previously unidentified probative leads or in the identification of a likely perpetrator.

The bill requires each law enforcement agency to develop a written application. The head of each law enforcement agency must adopt procedures by July 1, 2025. Law enforcement employees and officers must be trained on the procedures. The bill requires the law enforcement agency to issue a confirmation of receipt of the written application. A cold case that does not meet the specifications must be denied and a written explanation be given to the designated person.

A review must take place no later than 1 year after receipt of a written application but allows a one-time only 6 month extension if the law enforcement agency finds that the number of cases to review makes compliance with this time limit impracticable without diverting resources from other law enforcement activities.

The bill requires each law enforcement agency to submit a report by October 1, 2025, and at least quarterly thereafter to the Global Forensic and Justice Center at Florida International University. The bill requires the Global Forensic and Justice Center to establish and maintain a case tracking system and provides criteria for such system.

The bill requires law enforcement agencies to coordinate a review or reinvestigation if more than one agency conducted the initial investigation of a cold case, and prohibits a full reinvestigation
to be conducted solely by the person who previously investigated the murder. The bill provides limitations to reinvestigations.

The bill is titled the “Decker-Backmann Act.”

The bill may have an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2025.

II. Present Situation:

Experience has shown that cold case programs can solve a substantial number of violent crime cold cases. Advances in DNA technologies have substantially increased the successful DNA analysis of aged, degraded, limited, or otherwise compromised biological evidence. As a result, crime scene samples once thought to be unsuitable for testing may now yield DNA profiles.¹

The Cold Case Advisory Commission, under the Florida Sheriff’s Association, meets quarterly to discuss strategies and hear cold case murder presentations from submitting law enforcement agencies. When cases are presented, advice regarding investigative steps and legal strategy may be offered to the case officer.²

The Commission is comprised of the following members:

- A Chair, who is a sheriff, appointed by the president;
- Two Vice-Chairs, who are sheriffs, appointed by the Chair;
- A medical examiner;
- A medical examiner investigator;
- A DNA scientist;
- 12 homicide investigators, crime scene techs, and other specialists;
- An assistant statewide prosecutor;
- A state attorney;
- A representative from the Attorney General’s Office;
- An FDLE Missing and Endangered Persons Information Clearinghouse representative;
- A Florida Department of Corrections representative;
- An FDLE Florida Fusion Center representative;
- A forensic anthropologist;
- A judge;
- A legal advisor;
- An FDLE Office of Statewide Intelligence representative; and
- A citizen.³

² See Florida Sheriff’s Associations, Cold Case Advisory Commission, available at https://www.flsheriffs.org/law-enforcement-programs/cold-case-review-advisory-commission#:~:text=To%20respond%20to%20this%20need,from%20submitting%20law%20enforcement%20agencies (Last accessed January 25, 2024.)
³ Id.
Currently there is no state-wide procedure in statute regarding cold cases.

III. Effect of Proposed Changes:

The bill creates s. 782.41, F.S., to require law enforcement agencies to review certain cold cases upon receiving a written application from a designated person if the murder occurred on or after January 1, 1970.

The bill provides definitions for cold case, designated person, immediate family member, law enforcement agency, murder, probative lead, and victim.

The bill provides criteria for the review of a cold case. A law enforcement agency must conduct a full reinvestigation if the review concludes that a reinvestigation may result in previously unidentified probative leads or in the identification of a likely perpetrator.

A review must include:
• An analysis of any investigative procedures that may have been absent or missed in the initial investigation;
• An assessment of whether witnesses should be interviewed or reinterviewed;
• An examination of physical evidence to determine whether all appropriate forensic testing and analyses were performed in the initial investigation and whether additional testing might produce relevant information; and,
• An update of the case file using the most current investigative standards, if such standards may help develop probative leads.

The bill prohibits a full reinvestigation to be conducted solely by the person who previously investigated the murder, and limits reinvestigations to only one full reinvestigation undertaken at any time with respect to the same victim. If a full reinvestigation is completed and a likely perpetrator is not identified, an additional review or full investigation may not be undertaken for a period of 5 years beginning from the date of the conclusion of the reinvestigation, unless materially significant evidence is discovered.

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4 “Cold case” means a murder for which no likely perpetrator has been identified and was committed more than 5 years before the date of the application requesting a review submitted by a designated person, that was previously investigated by a law enforcement agency, and for which all probative leads have been exhausted.

5 “Designated person” means an immediate family member or an immediate family member’s designated legal representative, which representative must be a member in good standing of The Florida Bar.

6 “Immediate family member” means a parent, parent-in-law, grandparent, grandparent-in-law, sibling, spouse, child, or stepchild of a victim, or any person who exercised in loco parentis control over such victim younger than 18 years of age at the time of the murder.

7 “Law enforcement agency” means a law enforcement agency with the jurisdiction to engage in the detection, investigation, or prosecution of a cold case.

8 “Murder” means any criminal offense provided under s. 782.04, s. 782.071, or s. 782.072, F.S.

9 “Probative lead” means evidence that is sufficiently useful to prove an element of the crime and that was not identified or determined as part of the previous investigation by a law enforcement agency.

10 “Victim” means an individual who was murdered and whose case has been designated as a cold case.
The bill requires each law enforcement agency to develop a written application. The head of each law enforcement agency must adopt procedures by July 1, 2025. The bill requires law enforcement employees and officers to be trained on the procedures.

The law enforcement agency must issue a confirmation of receipt of the written application. A cold case that does not meet the specifications must be denied and a written explanation be given to the designated person.

The bill provides a review must take place no later than 1 year after receipt of a written application but allows a one-time only 6 month extension if the law enforcement agency finds that the number of cases to review makes compliance with this time limit impracticable without diverting resources from other law enforcement activities. If extended, the agency must provide notice and explanation of its reasoning for the extension to the designated person.

Each law enforcement agency must submit a report by October 1, 2025, and at least quarterly thereafter to the Global Forensic and Justice Center at Florida International University. The bill requires the Global Forensic and Justice Center to establish and maintain a case tracking system and provides criteria for such system.

The bill requires law enforcement agencies to coordinate a review or reinvestigation if more than one agency conducted the initial investigation of a cold case.

The bill provides the operation of such is subject to the availability of funds specifically appropriated by the Legislature or other relevant political subdivision of this state.

The bill allows for a medical examiner to issue a death certificate with a nonspecific cause of death and manner of murder if determined that the release of such information would not hinder the murder investigation.

The bill is titled the “Decker-Backmann Act.”

The bill is effective July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

   None.

B. Public Records/Open Meetings Issues:

   None.

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11 Confirmations must include a description of the process for submitting a complaint to, and contact information for, the law enforcement agency’s unit responsible for internal investigations involving allegations of misconduct.
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:
      Florida Department of Law Enforcement (FDLE) indicated additional positions and resources will be needed to comply with the new requirements of the bill. At a minimum, the forensic laboratory will be impacted for additional reviews for each case. FDLE has estimated an expenditure of $4,195,924 ($2,453,026 recurring funds).\(^\text{12}\)

VI. Technical Deficiencies:
   None.

VII. Related Issues:
   None.

VIII. Statutes Affected:
   This bill creates section 782.41 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.

\(^{12}\) See FDLE, 2024 Legislative Bill Analysis SB 350, (on file with the Senate committee on Criminal Justice).
B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
The Committee on Criminal Justice (Osgood) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. This act may be cited as the "Decker-Backmann Act."

Section 2. Section 782.41, Florida Statutes, is created to read:

782.41 Cold case murder; review; reinvestigation.—

(1) As used in this section, the term:
(a) "Cold case" means a murder, for which:
1. No likely perpetrator has been identified; and
2. At least 5 years have passed since it was committed, including the date of an application requesting a review submitted by a designated person, and the murder was previously investigated by a law enforcement agency and all probative leads have been exhausted.

(b) "Designated person" means an immediate family member or an immediate family member’s designated legal representative, which representative must be a member in good standing of The Florida Bar.

(c) "Immediate family member" means a parent, parent-in-law, grandparent, grandparent-in-law, sibling, spouse, child, or stepchild of a victim, or any person who exercised in loco parentis control over such victim younger than 18 years of age at the time of the murder.

(d) "Law enforcement agency" means the law enforcement agency having jurisdiction at the time of the murder.

(e) "Murder" means any criminal offense provided under s. 782.04, s. 782.071, or s. 782.072.

(f) "Probative lead" means evidence that is sufficiently useful to prove an element of the crime and that was not identified or determined as part of the previous investigation by a law enforcement agency.

(g) "Victim" means an individual who was murdered and whose case has been designated as a cold case.

(2) The head of a law enforcement agency or his or her designee shall review a cold case upon receiving a written application from a designated person to determine if a full
reinvestigation would result in any of the following:

(a) The identification of new probative leads.
(b) The identification of a likely perpetrator.

(3) A review conducted pursuant to subsection (2) must include all of the following:
(a) An analysis of any investigative procedures that may have been absent or missed in the initial investigation.
(b) An assessment of whether witnesses should be interviewed or reinterviewed.
(c) An examination of physical evidence to determine whether all appropriate forensic testing and analyses were performed in the initial investigation and whether additional testing might produce information relevant to the investigation.
(d) An update of the case file using the most current investigative standards as of the date of the review, if such standards may help develop probative leads.

(4)(a) The law enforcement agency must conduct a full reinvestigation of the cold case if the review pursuant to subsection (2) concludes that such reinvestigation may result in previously unidentified probative leads or in the identification of a likely perpetrator.
(b) A full reinvestigation must include a review of all available evidence and an analysis of those items that may contain forensic value which were collected for the purpose of developing probative leads or identifying a likely perpetrator.

(5)(a) A full reinvestigation required pursuant to subsection (4) may not be conducted solely by the person who previously investigated the murder.
(b) Only one full reinvestigation may be undertaken at any
time with respect to the same victim.

(c) If a full reinvestigation is completed and a likely perpetrator is not identified as a result, an additional case file review or full reinvestigation is not required for that cold case for a period of 5 years beginning on the date of the conclusion of the reinvestigation, unless materially significant evidence is discovered.

(6)(a) Each law enforcement agency shall develop a written application to be used by a designated person to request a cold case review under subsection (2).

(b) No later than July 1, 2025, the head of each law enforcement agency or his or her designee shall adopt procedures to ensure compliance with this section.

(c) Each law enforcement agency shall train the appropriate law enforcement employees and officers of that law enforcement agency on the procedures required and the responsibilities and obligations imposed under this section.

(7) The law enforcement agency shall, as soon as practicable, provide to the designated person who submitted the application requesting review of a cold case a written confirmation of receipt of the application. Such confirmation must include a description of the process for submitting a complaint to, and contact information for, the law enforcement agency’s unit responsible for internal investigations involving allegations of misconduct.

(8) An application for review of a case that does not meet the criteria for a cold case specified in paragraph (1)(a) may be denied. If an application is denied, the head of the law enforcement agency or his or her designee must issue to the
designated person who submitted the application a written explanation of the reason or reasons for the denial of the review.

(9) No later than 1 year after receipt of a written application requesting a cold case review, the law enforcement agency must complete the case file review and conclude, pursuant to subsection (2), whether a full reinvestigation as provided in subsection (4) is warranted.

(10) The law enforcement agency may, one time only, extend the time limit provided under subsection (9) for a period not to exceed 6 months if the law enforcement agency finds that the number of case files to be reviewed makes compliance with the time limit impracticable without diverting resources from other law enforcement activities. If the time limit is extended, the law enforcement agency must provide notice and an explanation of its reasoning for the extension to the designated person who submitted the written application for review.

(11) By October 1, 2025, and at least quarterly thereafter, each law enforcement agency shall report data as described in subsection (12) to the Global Forensic and Justice Center at Florida International University.

(12) The Global Forensic and Justice Center shall establish and maintain a case tracking system and searchable public website that includes all of the following information about cold case investigations covered under this section:

(a) The number of written applications for cold case reviews filed with each law enforcement agency as provided under subsection (2).

(b) The number of full reinvestigations initiated and
closed under subsection (9).

(c) The total number of cases in which the time for review was extended and a summary of the reasons for any such extensions under subsection (10).

(d) Statistical information on the aggregate number of cold cases, defendants, arrests, indictments, and convictions.

(13) The Global Forensic and Justice Center shall create and publish on its searchable public website a list of resources for immediate family members or designated persons who have submitted an application for a cold case review pursuant to subsection (2). The resources must, at a minimum, include system-based and community-based cold case advocacy services.

(14) If more than one law enforcement agency conducted the initial investigation of a cold case, each law enforcement agency must coordinate the case file review or full reinvestigation such that there is only one joint case file review or full reinvestigation occurring at a time as required by paragraph (5)(b).

(15) A law enforcement agency may request investigative assistance from the Department of Law Enforcement to complete a cold case review or reinvestigation under this section. The request must be submitted in writing.

(16) The operation of this section is subject to the availability of funds specifically appropriated by the Legislature or other relevant political subdivision of this state for this purpose.

(17) This section applies to any cold case in which the murder occurred on or after January 1, 1970.

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

And the title is amended as follows:
Delete everything before the enacting clause and insert:

A bill to be entitled An act relating to cold case murders; providing a short title; creating s. 782.41, F.S.; defining terms; requiring the heads of law enforcement agencies or their designees to review certain cold cases upon receiving a written application from a designated person; requiring the heads of law enforcement agencies or their designees to make a specified determination upon receiving such application; providing requirements for such reviews; requiring law enforcement agencies to conduct a full reinvestigation of a cold case under certain circumstances; providing requirements for such reinvestigations; requiring law enforcement agencies to develop certain written applications; requiring the heads of law enforcement agencies or their designees to adopt certain procedures to ensure compliance with specified provisions; requiring law enforcement agencies to provide specified training; requiring law enforcement agencies to provide written confirmation to a designated person of receipt of an application to review a cold case; authorizing the denial of an application for review of a cold case that does not satisfy certain criteria; requiring the head of the
law enforcement agency or his or her designee to issue
to the designated person a written explanation of the
reason or reasons for the denial; providing timeframe
and notice requirements for law enforcement agencies’
cold case reviews after receipt of a written
application; requiring law enforcement agencies, by a
specified date and periodically thereafter, to report
certain data to the Global Forensic and Justice Center
at Florida International University; requiring the
center to establish and maintain a case tracking
system and searchable public website that includes
specified information; requiring the center to create
and publish on its searchable public website a list of
certain resources; requiring coordination between law
enforcement agencies if more than one law enforcement
agency conducted the initial investigation;
authorizing law enforcement agencies to request
investigative assistance from the Department of Law
Enforcement to complete cold case reviews or
reinvestigations; requiring that such requests be in
writing; providing that specified provisions are
subject to appropriations; providing applicability;
providing an effective date.
Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the "Decker-Backmann Act."

Section 2. Section 782.41, Florida Statutes, is created to read:

782.41 Cold case murder; review; reinvestigation.—
(1) As used in this section, the term:
(a) "Cold case" means a murder:
1. For which no likely perpetrator has been identified; and
2. That was committed more than 5 years before the date of an application requesting a review submitted by a designated person, that was previously investigated by a law enforcement agency conducted the initial investigation; providing that specified provisions are subject to appropriations; providing applicability; authorizing a medical examiner to issue death certificates with nonspecific causes of death and manner of murder under certain circumstances; providing an effective date.

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

Section 1. This act may be cited as the "Decker-Backmann Act."

Section 2. Section 782.41, Florida Statutes, is created to read:

782.41 Cold case murder; review; reinvestigation.—
(1) As used in this section, the term:
(a) "Cold case" means a murder:
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2. That was committed more than 5 years before the date of an application requesting a review submitted by a designated person, that was previously investigated by a law enforcement agency conducted the initial investigation; providing that specified provisions are subject to appropriations; providing applicability; authorizing a medical examiner to issue death certificates with nonspecific causes of death and manner of murder under certain circumstances; providing an effective date.
32-00103C-24

(b) “Designated person” means an immediate family member or an immediate family member’s designated legal representative, which representative must be a member in good standing of The Florida Bar.

(c) “Immediate family member” means a parent, parent-in-law, grandparent, grandparent-in-law, sibling, spouse, child, or stepchild of a victim, or any person who exercised in loco parentis control over such victim younger than 18 years of age at the time of the murder.

(d) “Law enforcement agency” means a law enforcement agency with the jurisdiction to engage in the detection, investigation, or prosecution of a cold case.

(e) “Murder” means any criminal offense provided under s. 782.04, s. 782.071, or s. 782.072.

(f) “Probative lead” means evidence that is sufficiently useful to prove an element of the crime and that was not identified or determined as part of the previous investigation by a law enforcement agency.

(g) “Victim” means an individual who was murdered and whose case has been designated as a cold case.

(2) The head of a law enforcement agency or his or her designee shall review a cold case upon receiving a written application from a designated person to determine if a full reinvestigation would result in any of the following:

(a) The identification of new probative leads.

(b) The identification of a likely perpetrator.

(c) A review conducted pursuant to subsection (2) must include all of the following:

(3) A review conducted pursuant to subsection (2) must include all of the following:

(a) An analysis of any investigative procedures that may have been absent or missed in the initial investigation.

(b) An assessment of whether witnesses should be interviewed or reinterviewed.

(c) An examination of physical evidence to determine whether all appropriate forensic testing and analyses were performed in the initial investigation and whether additional testing might produce information relevant to the investigation.

(d) An update of the case file using the most current investigative standards as of the date of the review, if such standards may help develop probative leads.

(4) (a) The law enforcement agency must conduct a full reinvestigation of the cold case if the review pursuant to subsection (2) concludes that such reinvestigation may result in previously unidentified probative leads or in the identification of a likely perpetrator.

(b) A full reinvestigation must include a review of all available evidence and an analysis of those items that may contain forensic value which were collected for the purpose of developing probative leads or identifying a likely perpetrator.

(5) (a) A full reinvestigation required pursuant to subsection (4) may not be conducted solely by the person who previously investigated the murder.

(b) Only one full reinvestigation may be undertaken at any time with respect to the same victim.

(c) If a full reinvestigation is completed and a likely perpetrator is not identified as a result, an additional case file review or full reinvestigation may not be undertaken for that cold case for a period of 5 years beginning on the date of

CODING: Words **are** deletions; words **are** additions.
the conclusion of the reinvestigation, unless materially significant evidence is discovered.

(6)(a) Each law enforcement agency shall develop a written application to be used by a designated person to request a cold case review under subsection (2).

(b) No later than July 1, 2025, the head of each law enforcement agency or his or her designee shall adopt procedures to ensure compliance with this section.

(c) Each law enforcement agency shall train the appropriate law enforcement employees and officers within that law enforcement agency on the procedures required and the responsibilities and obligations imposed under this section.

(7) The law enforcement agency, as soon as practicable, shall provide to the designated person who submitted the application requesting review of a cold case written confirmation of receipt of the application. Such confirmation must include a description of the process for submitting a complaint to, and contact information for, the law enforcement agency’s unit responsible for internal investigations involving allegations of misconduct.

(8) An application for review of a case that does not meet the criteria for a cold case specified in paragraph (1)(a) must be denied. If an application is denied, the head of the law enforcement agency or his or her designee must issue to the designated person who submitted the application a written explanation of the reason or reasons for the denial of the review.

(9) No later than 1 year after receipt of a written application requesting a cold case review, the law enforcement agency must complete the case file review and conclude, pursuant to subsection (2), whether a full reinvestigation as provided in subsection (4) is warranted.

(10) The law enforcement agency may extend, for one time only, the time limit provided under subsection (9) for a period not to exceed 6 months if the law enforcement agency finds that the number of case files to be reviewed makes compliance with the time limit impracticable without diverting resources from other law enforcement activities. If the time limit is extended, the law enforcement agency must provide notice and an explanation of its reasoning for the extension to the designated person who submitted the written application for review.

(ii) By October 1, 2025, and at least quarterly thereafter, each law enforcement agency shall report all data relevant to the review of cold cases to the Global Forensic and Justice Center at Florida International University.

(12) The Global Forensic and Justice Center shall establish and maintain a case tracking system and searchable public website that includes all of the following information about cold case investigations covered under this section:

(a) The number of written applications for cold case reviews filed with each law enforcement agency as provided under subsection (6).

(b) The number of full reinvestigations initiated and closed under subsection (9).

(c) The total number of cases in which the time for review was extended and an explanation of the reasons for any such extensions under subsection (10).

(d) Statistical information on the aggregate number of cold case reviews initiated under subsection (2) and closed under subsection (9).
cases, suspects, arrests, indictments, and convictions.

(13) If more than one law enforcement agency conducted the initial investigation of a cold case, each law enforcement agency must coordinate the case file review or full reinvestigation such that there is only one joint case file review or full reinvestigation occurring at a time as required by paragraph (5)(b).

(14) The operation of this section is subject to the availability of funds specifically appropriated by the Legislature or other relevant political subdivision of this state for this purpose.

(15) This section applies to any cold case in which the murder occurred on or after January 1, 1970.

(16) A medical examiner may issue a death certificate with a nonspecific cause of death and manner of murder if the medical examiner determines that the release of such information would not hinder the murder investigation.

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

BILL NUMBER: SB0350
BILL TITLE: Cold Case Murders
BILL SPONSOR: Senator Osgood
EFFECTIVE DATE: July 1, 2025

COMMITTEES OF REFERENCE
1) Criminal Justice
2) Appropriations Committee on Criminal and Civil Justice
3) Fiscal Policy

CURRENT COMMITTEE
Criminal Justice

SIMILAR BILLS
BILL NUMBER: HB0837
SPONSOR: Rep. Benjamin

IDENTICAL BILLS
BILL NUMBER: HB0837
SPONSOR: Rep. Benjamin

Is this bill part of an agency package?
No

PREVIOUS LEGISLATION
BILL NUMBER: 
SPONSOR: 
YEAR: 
LAST ACTION: 

BILL ANALYSIS INFORMATION
DATE OF ANALYSIS: December 12, 2023
LEAD AGENCY ANALYST: Lori Mizell
ADDITIONAL ANALYST(S): Keith Wilmer, Jason Cook, Jennifer Spears, Keesha Nauss, Brannon Sheely, Jason Bundy
LEGAL ANALYST: Phil Lindley, Jim Martin
FISCAL ANALYST: Elizabeth Martin
1. EXECUTIVE SUMMARY

Citing this act as the “Decker-Backmann Act”; requiring the heads of law enforcement agencies or their designees to review certain cold cases upon receiving a written application from a designated person; providing requirements for such reviews; requiring law enforcement agencies to provide specified training; requiring law enforcement agencies, by a specified date and periodically thereafter, to report certain data to the Global Forensic and Justice Center at Florida International University, etc.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION: Currently, the Florida Department of Law Enforcement (FDLE) supports local law enforcement in the review, consideration, and investigation of cold cases. FDLE has a Cold Case Investigations procedure which outlines the following key areas: Purpose, Evaluation Criteria, Review of Case, Resource Considerations and Resolution. Cold cases are currently reviewed and approved for investigation by FDLE regional leadership teams. Forensic Services reviews and collaborates with local agencies to identify additional testing that may produce new results as well as perform the additional testing.

2. EFFECT OF THE BILL: Creates s. 782.41, F.S., requiring the head of a law enforcement agency or their designees to review and make a specified determination on certain cold cases upon receiving a written application from a designated person. Requires law enforcement agencies to conduct a full reinvestigation of a cold case under certain circumstances. Requires law enforcement agencies to develop written applications, adopt certain procedures, provide specified training, provide written confirmation of receipt of an application to review a cold case, and issue a written explanation of the reason(s) for the denial. Requires law enforcement agencies to report data to the Global Forensic and Justice Center at Florida International University quarterly by October 1, 2025.

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: Lines 122-124: Requires FDLE to adopt procedures to ensure compliance by no later than July 1, 2025.

What is the expected impact to the agency's core mission?

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:

Provide a summary of the proponents’ and opponents’ positions:

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

If yes, provide a description:

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:
**FISCAL ANALYSIS**

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

   - **Revenues:**
   - **Expenditures:**
   - 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:**
   - FDLE is requesting 21 FTE positions [10 Senior Crime Laboratory Analysts; 3 Crime Laboratory Analysts; 1 Special Agent Supervisor; and 7 Special Agents: $2,995,924 ($2,253,026 recurring)]

   Approximately $1.2 million ($200,000 recurring) is needed for the FDLE forensic laboratory to be able to handle the additional review and testing.

   This bill will increase the workload of existing FDLE personnel. Additional positions and resources will be needed to comply with the new requirements. At minimum, the forensic laboratory will be impacted for additional initial reviews and for each case deemed appropriate for additional testing.

   **Total Fiscal:** $4,195,924 ($2,453,026 recurring)

   - 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?**  

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

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**TECHNOLOGY IMPACT**

1. **DOES THE LEGISLATION IMPACT THE AGENCY’S TECHNOLOGY SYSTEMS (I.E., IT SUPPORT, LICENSING, SOFTWARE, DATA STORAGE, ETC.)?**  

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**FEDERAL IMPACT**

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

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**LEGAL - GENERAL COUNSEL’S OFFICE REVIEW**

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**ADDITIONAL COMMENTS**

- Lines 69-71: The definition of “law enforcement agency” lacks clarity as to whether or not the investigating agency must be the agency with primary jurisdiction. The addition of language is requested to clarify that the request process begins with the agency of primary jurisdiction.
o FDLE has jurisdiction throughout the state. It is unclear if it would become the responsibility of FDLE to conduct reinvestigations where the agency of primary jurisdiction cannot.

o This bill has potential to increase the workload of existing FDLE investigative personnel. Additional positions and resources may be needed to comply with the new requirements.

- Lines 92-95: The forensic review and testing suggested will impact the laboratory system in both initial review and collaboration with law enforcement agencies to determine if the investigation can be aided with additional forensic testing. Review will be required by a forensic member in nearly all cases where a request has been made to identify and recommend potential items for additional forensic testing.
  o The increased workload is the most time-intensive analysis and testing due to the age and historical knowledge needed of past and present testing techniques. An additional 21 FTE will be required: 3 lab supervisors who specialize in the review and collaboration with the agencies and to coordinate testing; 10 analysts to perform the complex additional testing required by the cases; and 1 Special Agent Supervisor to oversee 7 Special Agents who will provide investigative assistance to local law enforcement agencies.
  o Additional equipment will be required, costing approximately one million dollars to purchase the tools for additional members to perform DNA testing; including extraction, quantitation and genetic analysis of aged DNA samples. Recurring supplies of approximately $200,000 would also be needed.

- Line 115: The language “may not be undertaken” is restrictive and does not allow decision making for other reasons for a period of five years. FDLE respectfully recommends the following beginning at line 113:

  (c) If a full reinvestigation is completed and a likely perpetrator is not identified as a result, an additional case file review or full reinvestigation will not be required...

- Line 138: The use of the word “must” does not allow leniency for the department to make a determination on the review of a case that does not meet all criteria. For example, if the homicide occurred in 1969 and would otherwise meet the criteria, this language states that it must be denied.

- Lines 144-157: The provided timeframe may create a resource deficit. The time necessary may vary based on the investigative techniques utilized. For example, genetic genealogy can be a time consuming and labor-intensive process.

- Line 159-160: The phrase “all data relevant to” is broad and undefined and could include information not appropriate to share with non-law enforcement entities. FDLE recommends the following beginning at line 159:

  "each law enforcement agency shall report all data relevant to the review of cold cases..."

- Line 172: FDLE recommends replacing “an explanation” with “a summary” as a full explanation may not be appropriate to share with non-law enforcement entities.

- Lines 174-175: FDLE recommends changing “suspects” to “defendants”. A public access website should not publish “suspect” information in ongoing investigations; even cold cases.

- Lines 188-191: The Chair of the Florida Medical Examiners Commissioner strongly recommends for these lines to be omitted due to the following reasons.
  o Classification of murder is not a medical examiner term that is used in pathology.
  o Medical examiners do not make a determination that would hinder law enforcement investigation.
  o Medical examiners already hold back reports when a case is under active criminal investigation until released by the state attorney’s office.
I. Summary:

SB 682 revises the timeframe during which a law enforcement officer must mail a copy of the notice posted on an article of lost or abandoned property, a derelict vessel, or a public nuisance vessel, so that the notice may be mailed to the owner after the date of posting.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Lost or Abandoned Property

Lost property includes all tangible personal property that does not have an identifiable owner and that has been mislaid on public property,\(^1\) on a public conveyance, on premises used at the time for business purposes, or in parks, places of amusement, public recreation areas, or other places open to the public in a substantially operable, functioning condition or which has an apparent intrinsic value to the rightful owner.\(^2\)

Abandoned property includes all tangible personal property that does not have an identifiable owner and that has been disposed of on public property in a wrecked, inoperative, or partially dismantled condition, or has no apparent intrinsic value to the rightful owner.\(^3\) Derelict vessel and vessels declared a public nuisance are abandoned property.\(^4\)

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\(^1\) Public property means lands and improvements owned by the Federal Government, the state, the county, or a municipality and includes sovereignty submerged lands located adjacent to the county or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, rights-of-way, and other similar property. Section 705.101(5), F.S.

\(^2\) Section 705.101(4), F.S.

\(^3\) Section 705.101(4), F.S.

\(^4\) Id.
Derelict Vessels

A derelict vessel is a vessel that is in a wrecked,\(^5\) junked,\(^6\) or substantially dismantled\(^7\) condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without their consent.\(^8\) It is unlawful to leave any derelict vessel on waters of this state.\(^9\) Further, a vessel that is at risk of becoming derelict may not anchor on, moor on, or occupy the waters of this state.\(^10\)

A vessel is declared at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is listing due to water intrusion;
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives notice; or
- The vessel is tied to an unlawful or unpermitted structure or mooring.\(^11\)

Vessels Declared to be a Public Nuisance

If a vessel is declared at risk of becoming derelict under the same condition three or more times within an 18-month period, and if the determination results in dispositions other than acquittal or dismissal, the vessel is declared to be a public nuisance.\(^12\) A vessel that is declared to be a public nuisance and threatens navigation, or is a danger to the environment, property, or persons, may be relocated, removed, stored, destroyed, or disposed of by Florida Fish and Wildlife Conservation Commission or other law enforcement.\(^13\)

\(^5\) A vessel is wrecked if it is sunken or sinking; aground without the ability to extricate itself absent mechanical assistance; or remaining after a marine casualty, including, but not limited to, a boating accident, extreme weather, or a fire. Section 823.11(1)(b), F.S.

\(^6\) A vessel is junked if it has been substantially stripped of vessel components, if vessel components have substantially degraded or been destroyed, or if the vessel has been discarded by the owner or operator. Attaching an outboard motor to a vessel that is otherwise junked will not cause the vessel to no longer be junked if such motor is not an effective means of propulsion. Section 823.11(1)(b), F.S.

\(^7\) A vessel is substantially dismantled if at least two of the three following vessel systems or components are missing, compromised, incomplete, inoperable, or broken: the steering system, the propulsion system, or the exterior hull integrity. Attaching an outboard motor to a vessel that is otherwise substantially dismantled will not cause the vessel to no longer be substantially dismantled if such motor is not an effective means of propulsion. Section 823.11(1)(b), F.S.

\(^8\) Section 823.11(1)(b), F.S.

\(^9\) Section 823.11(2), F.S. The term “leave” means to allow a vessel to remain occupied or unoccupied on waters of this state for more than 24 hours.

\(^10\) Section 327.4107(1), F.S.

\(^11\) Section 327.4107(2), F.S.

\(^12\) Id.; Section 327.73(1)(aa), F.S.

\(^13\) Section 327.73(1)(aa), F.S.; s. 823.11(3), F.S.
**Procedure for Lost or Abandoned Property**

When a law enforcement officer ascertains that an article of lost or abandoned property, other than a derelict vessel or a vessel declared a public nuisance, is present on public property and is unable to be easily removed, the officer must place a notice on the property which states that the property must be removed within five days or it will be removed and disposed of at the expense of the owner.\(^{15}\)

When a derelict vessel or a vessel declared to be a public nuisance is located on the waters of the state, a law enforcement officer must place a notice on the vessel which states that the vessel must be removed within 21 days or it will be removed and disposed of.\(^{16}\) The owner and other interested parties have the right to a hearing to challenge the determination that the vessel is derelict or a public nuisance. If the vessel is not removed by the owner, the owner or the party determined to be legally responsible for the vessel’s presence on waters of the state will be liable for the costs of removal, destruction, and disposal.

In addition to posting a notice on the lost or abandoned property, the law enforcement officer must make a reasonable effort to ascertain the name and address of the owner. If it is reasonably available to the officer, he or she must mail a copy of the notice to the owner on or before the date of posting.

If the property is a motor vehicle or a vessel, the law enforcement agency must contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel. Upon receipt of the information, the law enforcement agency must mail a copy of the notice to the owner and to any lienholder.\(^{17}\) If the property is a derelict vessel or a vessel declared a public nuisance, the mailed notice must inform the owner or responsible party that he or she has the right to a hearing.

If, at the end of five days after posting a notice on an article of lost or abandoned property, or at the end of 21 days after posting and mailing the notice on a derelict vessel or vessel declared a public nuisance, the owner has not removed the property or shown reasonable cause for failure to do so, or has not requested a hearing if applicable, the law enforcement agency may retain or dispose of the property as directed by statute.\(^{18}\)

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\(^{14}\) “Law enforcement officer” means any person who is elected, appointed, or employed full-time by any sheriff, any municipality, or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers or auxiliary law enforcement officers, but does not include support personnel employed by the employing agency. Section 705.101(2), F.S.

\(^{15}\) Section 705.103(2), F.S.

\(^{16}\) Section 705.103(2), F.S.

\(^{17}\) *Id.* A law enforcement officer who has issued a citation for a violation of the derelict vessel law to the owner of a derelict vessel is not required to mail a copy of the notice to the owner.

\(^{18}\) *Id.*
III. **Effect of Proposed Changes:**

Section 1 amends s. 705.103, F.S., to revise the timeframe during which a law enforcement officer must mail a copy of the applicable notice posted on an article of lost or abandoned property, a derelict vessel, or a vessel declared a public nuisance if the name and address of the owner of the property or vessel is reasonably available to the officer. The revision removes the requirement that the notice must be mailed to the owner on or before the date of posting, allowing the notice to be mailed following the date of posting.

Sections 2 through 11 reenact s. 327.4107(7)(a), F.S., relating to vessels at risk of becoming derelict on waters of this state; s. 327.4108(6)(d), F.S., relating to anchoring vessels in anchoring limitation areas; s. 327.60(5), F.S., relating to local regulations; s. 327.66(2)(a), F.S., relating to carriage of gasoline on vessels; s. 327.73(1)(aa), F.S., relating to noncriminal infractions; s. 379.338(1), F.S., relating to confiscation and disposition of illegally taken wildlife, freshwater fish, and saltwater fish; s. 705.104(1), F.S., relating to the title to lost or abandoned property; s. 705.105(1)(a), F.S., relating to procedure regarding unclaimed evidence; s. 713.585(8), F.S., relating to the enforcement of a lien by sale of a motor vehicle; and s. 823.11(2)(d), F.S., relating to derelict vessels, their relocation or removal, and penalties, to incorporate the amendment made by this bill in a reference to the amended section.

Section 12 provides an effective date of July 1, 2024.

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 bill may have a positive fiscal impact on local governments and on the Florida Fish and Wildlife Conservation Commission by reducing the number of required trips by law enforcement to a derelict or public nuisance vessel.\(^{19}\)

VI. Technical Deficiencies:
None.

VII. Related Issues:
None.

VIII. Statutes Affected:
This bill substantially amends section 705.103 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 327.4107, 327.4108, 327.60, 327.66, 327.73, 379.338, 705.104, 705.105, 713.585, and 823.11.

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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\(^{19}\) Florida Fish and Wildlife Conservation Commission, 2024 Agency Legislative Bill Analysis: SB 682, 3-4 (on file with the Senate Committee on Environment and Natural Resources).
By Senator Martin

A bill to be entitled
An act relating to lost or abandoned property;
amending s. 705.103, F.S.; revising the timeframe
after which a law enforcement agency may take certain
actions relating to abandoned property or specified
vessels if the owner has not taken specified actions;
making technical changes; reenacting ss.
327.4107(7)(a), 327.4108(6)(d), 327.60(5),
327.66(2)(a), 327.73(1)(aa), 705.104(1),
705.105(1)(a), 713.585(8), and 823.11(2)(d), F.S.,
relating to a program to remove, relocate, or destroy
vessels at risk of becoming derelict on waters of this
state, the anchoring of vessels with more than three
violations within a 12-month period in anchoring
limitation areas, local regulations for procedures to
remove abandoned or lost vessels affixed to a public
dock or mooring, the removal of specified gasoline and
gasoline containers on vessels and the removal of such
vessels by a law enforcement agency, civil penalties
for violations of specified laws relating to certain
vessels, confiscation and disposition of illegally
taken wildlife, freshwater fish, and saltwater fish,
title to lost or abandoned property, the procedure
regarding certain unclaimed evidence, the proceeds and
disposition from the sale of certain motor vehicles,
and the removal and destruction of specified derelict
vessels, respectively, to incorporate the amendment
made to s. 705.103, F.S., in references thereto;
providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section
705.103, Florida Statutes, is amended to read:
(2) (a)1. Whenever a law enforcement officer ascertains
that:
(a) An article of lost or abandoned property other than a
derelict vessel or a vessel declared a public nuisance pursuant
to s. 327.73(1)(aa) is present on public property and is of such
nature that it cannot be easily removed, the officer shall cause
a notice to be placed upon such article in substantially the
following form:
NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
PROPERTY. This property, to wit: ...(setting forth brief
description) is unlawfully upon public property known as
...(setting forth brief description of location)... and must be
removed within 5 days; otherwise, it will be removed and
disposed of pursuant to chapter 705, Florida Statutes. The owner
will be liable for the costs of removal, storage, and
publication of notice. Dated this: ...(setting forth the date of
posting of notice)... signed: ...(setting forth name, title,
address, and telephone number of law enforcement officer)....
b. A derelict vessel or a vessel declared a public nuisance
pursuant to s. 327.73(1)(aa) is present on the waters of this
state, the officer shall cause a notice to be placed upon such
vessel in substantially the following form:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED VESSEL. This vessel, to wit: ...(setting forth brief description of location)... has been determined to be ...(derelict or a public nuisance)... and is unlawfully upon the waters of this state ...(setting forth brief description of location)... and must be removed within 21 days; otherwise, it will be removed and disposed of pursuant to chapter 705, Florida Statutes. The owner and other interested parties have the right to a hearing to challenge the determination that this vessel is derelict or otherwise in violation of the law. Please contact ...(contact information for person who can arrange for a hearing in accordance with this section).... The owner or the party determined to be legally responsible for the vessel being upon the waters of this state in a derelict condition or as a public nuisance will be liable for the costs of removal, destruction, and disposal if this vessel is not removed by the owner. Dated this: ...(setting forth the date of posting of notice)..., signed: ...(setting forth name, title, address, and telephone number of law enforcement officer)....

2. The notices required under subparagraph 1. may not be less than 8 inches by 10 inches and must be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the law enforcement officer shall make a reasonable effort to ascertain the name and address of the owner, and, if such is reasonably available to the officer, he or she must mail a copy of the applicable such notice to the owner on or before the date of posting. If the property is a motor vehicle as defined in s. 320.01(1) or a vessel as defined in s. 327.02, the law enforcement agency must contact the Department of Highway Safety and Motor Vehicles in order to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel as provided in s. 319.27(2) or (3) or s. 328.15. On receipt of this information, the law enforcement agency shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to the lienholder, if any, except that a law enforcement officer who has issued a citation for a violation of s. 823.11 to the owner of a derelict vessel is not required to mail a copy of the notice by certified mail, return receipt requested, to the owner. For a derelict vessel or a vessel declared a public nuisance pursuant to s. 327.73(1)(aa), the mailed notice must inform the owner or responsible party that he or she has a right to a hearing to dispute the determination that the vessel is derelict or otherwise in violation of the law. If a request for a hearing is made, a state agency must follow the processes as set forth in s. 120.569. Local governmental entities shall follow the processes set forth in s. 120.569, except that a local judge, magistrate, or code enforcement officer may be designated to conduct such a hearing. If, at the end of 5 days after posting the notice in sub-subparagraph 1.a., or at the end of 21 days after the posting or mailing of the notice, if required, whichever occurs later, posting the notice in sub-subparagraph 1.b., and mailing such notice, if required, the owner or any person interested in the lost or abandoned article or articles described has not removed the article or
Section 3. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (d) of subsection (6) of section 327.4108, Florida Statutes, is reenacted to read:

(d) A vessel that is the subject of more than three violations within 12 months which result in dispositions other than to declare a public nuisance, derelict or at risk of becoming derelict, or lost or abandoned in accordance with s. 327.53(7), s. 705.103(2) and (4), or s. 823.11(3).

The commission may adopt rules to implement this subsection.

A law enforcement agency or its designee may also take action as described in this sub-subparagraph if, following a hearing pursuant to this section, the judge, magistrate, administrative law judge, or hearing officer has determined the vessel to be derelict as provided in s. 823.11 or otherwise in violation of the law in accordance with s. 327.73(1)(aa) and a final order has been entered or the case is otherwise closed.

Section 4. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (c) of subsection (7) of section 327.4107, Florida Statutes, is reenacted to read:

(c) Vessels at risk of becoming derelict on waters of this state.—

The commission may establish a derelict vessel prevention program to address vessels at risk of becoming derelict. Such program may, but is not required to, include:

(a) Removal, relocation, and destruction of vessels declared a public nuisance, derelict or at risk of becoming derelict, or lost or abandoned in accordance with s. 327.53(7), s. 327.73(1)(aa), s. 705.103(2) and (4), or s. 823.11(3).

The commission may adopt rules to implement this subsection.

A law enforcement agency or its designee may take action pursuant to this section, the judge, magistrate, administrative law judge, or hearing officer has determined the vessel to be derelict as provided in s. 823.11 or otherwise in violation of the law in accordance with s. 327.73(1)(aa) and a final order has been entered or the case is otherwise closed.
than acquittal or dismissal shall be declared to be a public
nuisance and subject to s. 705.103 or, for a derelict vessel,
subject to s. 823.11.

Section 4. For the purpose of incorporating the amendment
made by this act to section 705.103, Florida Statutes, in a
reference thereto, subsection (5) of section 327.60, Florida
Statutes, is reenacted to read:

327.60 Local regulations; limitations.—
(5) A local government may enact and enforce regulations to
implement the procedures for abandoned or lost property that
are affixed to a public dock or mooring within its jurisdiction that
is abandoned or lost property pursuant to s. 705.103(1). Such
regulation must require the local law enforcement agency to post
a written notice at least 24 hours before removing the vessel.

Section 5. For the purpose of incorporating the amendment
made by this act to section 705.103, Florida Statutes, in a
reference thereto, paragraph (a) of subsection (2) of section
327.66, Florida Statutes, is reenacted to read:

327.66 Carriage of gasoline on vessels.—
(2)(a) Gasoline possessed or transported in violation of
this section and all containers holding such gasoline are
declared to be a public nuisance. A law enforcement agency
discovering gasoline possessed or transported in violation of
paragraph (1)(a) shall abate the nuisance by removing the
gasoline and containers from the vessel and from the waters of
this state. A law enforcement agency that removes gasoline or
containers pursuant to this subsection may elect to:
1. Retain the property for the agency's own use;
2. Transfer the property to another unit of state or local
government;
3. Donate the property to a charitable organization; or
4. Sell the property at public sale pursuant to s. 705.103.

Section 6. For the purpose of incorporating the amendment
made by this act to section 705.103, Florida Statutes, in a
reference thereto, paragraph (aa) of subsection (1) of section
327.73, Florida Statutes, is reenacted to read:

327.73 Noncriminal infractions.—
(aa) Violations of the following provisions of the vessel
laws of this state are noncriminal infractions:
(a) Section 327.4107, relating to vessels at risk of
becoming derelict on waters of this state, for which the civil
penalty is:
1. For a first offense, $100.
2. For a second offense occurring 30 days or more after a
first offense, $250.
3. For a third or subsequent offense occurring 30 days or
more after a previous offense, $500.

A vessel that is the subject of three or more violations issued
pursuant to the same paragraph of s. 327.4107(2) within an 18-
month period which result in dispositions other than acquittal
or dismissal shall be declared to be a public nuisance and
subject to ss. 705.103(2) and (4) and 823.11(3). The commission,
an officer of the commission, or a law enforcement agency or
officer specified in s. 327.70 may relocate, remove, or cause to
be relocated or removed such public nuisance vessels from waters
of this state. The commission, an officer of the commission, or
Section 9. All wildlife, freshwater fish, and saltwater fish
confiscated under the authority of this chapter, except those
sold at public sale pursuant to s. 705.103, Florida Statutes,
have their title vested in the commission, except for those
sold by a law enforcement agency or officer acting pursuant to
this subsection. Any wildlife, freshwater fish, or saltwater fish
sold at public sale pursuant to s. 705.103, Florida Statutes,
shall be disposed of in accordance with s. 705.103.

Section 10. No person shall receive, keep, or sell any
wildlife, freshwater fish, or saltwater fish of appreciable
value that has been taken or possessed in violation of
this chapter. The person violating this section shall, if
charged with such an infraction, be guilty of a misdemeanor
of the second degree, punishable as provided in s. 775.082 or
s. 775.083.

Section 11. No person shall remove or destroy any
wildlife, freshwater fish, or saltwater fish if none of the
other options is practicable or if the wildlife,
fish, or saltwater fish is unwholesome or otherwise
not of appreciable value. All illegally possessed live wildlife,
fish, and saltwater fish that are properly documented
as evidence as provided in s. 379.3381 may be returned to
the habitat unharmed. Any unclaimed wildlife, freshwater fish,
or saltwater fish shall be retained by the investigating law
enforcement agency and disposed of in accordance with this
subsection.

Section 8. For the purpose of incorporating the amendment
made by this act to section 705.104, Florida Statutes, in
reference thereto, subsection (1) of section 705.104, Florida
Statutes, is reenacted to read:

705.104 Title to lost or abandoned property.—
(1) Title to lost or abandoned property is hereby vested in
the finder upon the expiration of the 90-day custodial time
period specified in s. 705.103(2)(b), provided the notice
requirements of s. 705.103 have been met, unless the rightful
owner or a lienholder claims the property within that time.

Section 9. For the purpose of incorporating the amendment
made by this act to section 705.103, Florida Statutes, in a
reference thereto, paragraph (a) of subsection (1) of section

CODING: Words strike are deletions; words underline are additions.
705.105, Florida Statutes, is reenacted to read:

(1) Title to unclaimed evidence or unclaimed tangible personal property lawfully seized pursuant to a lawful investigation in the custody of the court or clerk of the court from a criminal proceeding or seized as evidence by and in the custody of a law enforcement agency shall vest permanently in the law enforcement agency 60 days after the conclusion of the proceeding.

(a) If the property is of appreciable value, the agency may elect to:

1. Retain the property for the agency’s own use;
2. Transfer the property to another unit of state or local government;
3. Donate the property to a charitable organization;
4. Sell the property at public sale, pursuant to the provisions of s. 705.103.

Section 10. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, subsection (8) of section 713.585, Florida Statutes, is reenacted to read:

713.585 Enforcement of lien by sale of motor vehicle.—A person claiming a lien under s. 713.58 for performing labor or services on a motor vehicle may enforce such lien by sale of the vehicle in accordance with the following procedures:

(8) A vehicle subject to lien enforcement pursuant to this section must be sold by the lienor at public sale. Immediately upon the sale of the vehicle and payment in cash of the purchase price, the lienor shall deposit with the clerk of the circuit court the proceeds of the sale less the amount claimed by the lienor for work done and storage, if any, and all reasonable costs and expenses incurred in conducting the sale, including any attorney’s fees and costs ordered by the court. Simultaneously with depositing the proceeds of sale remaining after payment to the lienor, the lienor shall file with the clerk a verified report of the sale stating a description of the vehicle sold, including the vehicle identification number; the name and address of the purchaser; the date of the sale; and the selling price. The report shall also itemize the amount retained by the lienor pursuant to this section and shall indicate whether a hearing was demanded and held. All proceeds held by the court shall be held for the benefit of the owner of the vehicle or any lienholder whose lien is discharged by the sale and shall be disbursed only upon order of the court. Unless a proceeding is initiated to validate a claim to such proceeds within 1 year and a day from the date of the sale, the proceeds shall be deemed abandoned property and disposition thereof shall be governed by s. 705.103. The clerk shall receive 5 percent of the proceeds deposited with her or him, not to exceed $25, for her or his services under this section.

Section 11. For the purpose of incorporating the amendment made by this act to section 705.103, Florida Statutes, in a reference thereto, paragraph (d) of subsection (2) of section 823.11, Florida Statutes, is reenacted to read:

823.11 Derelict vessels; relocation or removal; penalty.—
(2)
(d) Notwithstanding the additional 45 days provided in subparagraph (b)2.b. during which an owner or a responsible
party may not be charged for a violation of this section, the
commission, an officer of the commission, a law enforcement
agency or officer specified in s. 327.70, or, during a state of
emergency declared by the Governor, the Division of Emergency
Management or its designee, may immediately begin the process
set forth in s. 705.103(2)(a) and, once that process has been
completed and the 45 days provided herein have passed, any
vessel that has not been removed or repaired such that it is no
longer derelict upon the waters of this state may be removed and
destroyed as provided therein.

Section 12. This act shall take effect July 1, 2024.
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 1036
INTRODUCER: Senator Ingoglia
SUBJECT: Reclassification of Criminal Penalties
DATE: January 29, 2024

ANALYST STAFF DIRECTOR REFERENCE ACTION
1. Cellon Stokes CJ Pre-meeting
2. ________________ ________________ ACJ
3. ________________ ________________ FP

I. Summary:

SB 1036 creates s. 775.0848, F.S., reclassifying felony offenses to the next higher level in cases:
- Where a person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or who has departed the United States while such an order of deportation or removal is outstanding; and
- Has unlawfully reentered the United States and while remaining unlawfully present has committed a new felony.

The bill defines the term “removal” as any agreement in which a person stipulates to removal during a criminal proceeding under federal or state law.

The bill also creates s. 908.12, F.S., providing similar reclassifications of criminal offenses applicable to a defendant who the factfinder finds beyond a reasonable doubt committed a crime for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization.

“Transnational crime organization” is defined as an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.

The bill may have a positive indeterminate fiscal impact on the Department of Corrections due to an increase in prison beds. See Section V., Fiscal Impact Statement.

The bill becomes effective October 1, 2024.
II. Present Situation:

Recently, the Statewide Grand Jury recommended increases in criminal sentences for:
- Aliens who have been removed from the State, unlawfully reentered, and subsequently committed a new criminal offense;¹ and
- Persons who are proven to be a member of a transnational crime organization and who have committed a related felony offense.²

Federal Law-Unlawful Reentry

Reentry to the United States by aliens³ who have been removed from the U.S. is addressed in 8 U.S.C.A. 1326 as follows:
- Any alien who has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter
  o Enters, attempts to enter, or is at any time found in, the United States...shall be fined under Title 18, or imprisoned not more than 2 years, or both.
- Any alien whose removal was subsequent to a conviction for the commission of three or more misdemeanors involving drugs, crimes against the person, or both, or a felony (other than an aggravated felony⁴), such alien shall be fined under Title 18, imprisoned not more than 10 years, or both.
- Any alien whose removal was subsequent to a conviction for commission of an aggravated felony, such alien shall be fined under such title, imprisoned not more than 20 years, or both.

The term “removal” includes any agreement in which an alien stipulates to removal during (or not during) a criminal trial under either Federal or State law.⁵ The U.S. Department of Homeland Security reports that in Fiscal Year 2022, 79,395 convicted criminals were removed from the United States.⁶

¹ Generally, under federal law any alien who has been denied admission, excluded, deported, or removed or has departed the United States while an order of exclusion, deportation, or removal is outstanding, and thereafter enters, attempts to enter, or is at any time found in, the United States, shall be fined or imprisoned, or both. 8 U.S.C.A. s. 1326.
² Case No. SC 22-796, Florida Supreme Court, Fifth Presentment of the Twenty-First Statewide Grand Jury, November 17, 2023.
³ The term “alien” means any person not a citizen or national of the United States. 8 U.S.C.A. 1101(a)(3).
⁴ “Aggravated felony” is defined in 8 U.S.C.A. 1101(a)(43)(A)-(U). The term applies to a felony offense, whether in violation of Federal or State law, and applies to such an offense in violation of the law of a foreign country for which the term of imprisonment was completed within the previous 15 years. 8 U.S.C.A.1101(a).
⁵ 8 U.S.C.A. 1326(b).
Transnational Crime Organization

A “transnational crime organization” has been defined as an organization that routinely facilitates the international trafficking of drugs, humans, or weapons, or the international smuggling of humans.  

These organizations make money by smuggling humans from place to place, often across the borders of other countries. It can be a lucrative business. For example, a 2010 report by the United Nations Office on Drug Crime estimated that the smuggling of persons from Latin America to the United States generated approximately $6.6 billion annually in illicit proceeds for human smuggling networks. A report by the Homeland Security Operational Analysis Center estimates that the smuggling of unlawful migrants from Guatemala, Honduras, and El Salvador generated between $200 million and $2.3 billion for human smugglers in 2017, however a lack of reliable data contributes to substantial uncertainty in both estimates. 

The U.S. Department of Homeland Security (DHS) reports:

- U.S. Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations referred information in dozens of cases to Homeland Security Investigations (HSI), resulting in the arrest of human traffickers and identification of trafficking victims. HSI initiated 1,373 criminal investigations related to sex trafficking and forced labor, leading to 3,655 arrests and 638 convictions.
- In December, 2023, following an investigation by HSI, the Department of the Treasury’s Office of Foreign Assets Control (OFAC) sanctioned the Malas Mañas transnational criminal organization, a human smuggling and narcotics trafficking organization based in Sonora, Mexico, along with two individuals in its support network.
- In August, 2023, the DHS and its federal partners, including the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), announced the results of increased enforcement efforts to stem the trafficking of firearms from the United States into Mexico for use by

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7 Although, as the Statewide Grand Jury presentment explains, these organizations may also be involved in financial crimes, firearm and weapon smuggling, and a diverse list of criminal activity. Case No. SC 22-796, Florida Supreme Court, Fifth Presentment of the Twenty-First Statewide Grand Jury, November 17, 2023. See also Another “Se Busca Información” criminal target arrested; U.S. Customs and Border Protection, News Release, January 2, 2024, available at https://www.cbp.gov/newsroom/local-media-release/another-se-busca-informaci-n-criminal-target-arrested (last visited January 17, 2024).


9 Operated by the RAND Corporation on behalf of the U.S. Department of Homeland Security.


transnational criminal organizations.\textsuperscript{13} The DHS has seized over twice as many firearms in Fiscal Year 2023 than it did in Fiscal Year 2022.\textsuperscript{14}

Reclassification of Criminal Offenses and Enhancement of Penalties

Reclassification occurs when the Legislature \textit{increases the degree of a conviction}. The reclassification attaches at the time the charges are filed.\textsuperscript{15} Reclassification of a criminal conviction from one degree to a higher degree stems from an express and explicit grant of statutory authority.\textsuperscript{16}

An example of a reclassification statute is s. 775.0863, F.S., Evidencing prejudice while committing offense against person with mental or physical disability; reclassification. The statute states in part:

- The penalty for any felony or misdemeanor shall be reclassified as provided in this subsection if the commission of such felony or misdemeanor evidences prejudice based on a mental or physical disability of the victim:
  - A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.\textsuperscript{17}
  - A misdemeanor of the first degree is reclassified to a felony of the third degree.\textsuperscript{18}
  - A felony of the third degree is reclassified to a felony of the second degree.\textsuperscript{19}
  - A felony of the second degree is reclassified to a felony of the first degree.\textsuperscript{20}
  - A felony of the first degree is reclassified to a life felony.\textsuperscript{21}

Penalty enhancements refer to the authority of a judge to impose a \textit{more severe sentence} for a convicted offense when certain factual findings are made.\textsuperscript{22}

\begin{itemize}
  \item \textsuperscript{14} \textit{Id.}
  \item \textsuperscript{15} \textit{Cooper v. State}, 455 So.2d 588 (Fla. 1st DCA 1984); \textit{Jackson v. State}, 515 So.2d 394 (Fla. 1st DCA 1987).
  \item \textsuperscript{16} \textit{Cf. Spicer v. State}, 615 So.2d 725, 726 (Fla. 2d DCA 1993) (reversing reclassification of robbery with a mask conviction because “[p]enal statutes must be construed in terms of their literal meaning .... [I]f the legislature had intended section 775.0845 [Florida Statutes (1989)] to reclassify offenses, it would have so stated ....”).
  \item \textsuperscript{17} A second degree misdemeanor is punishable by up to 60 days in the county jail and a $500 fine. A first degree misdemeanor is punishable by up to 1 year in the county jail and a $1,000 fine. (Sections 775.082 and 775.083, F.S.).
  \item \textsuperscript{18} A first degree misdemeanor is punishable by up to 1 year in the county jail and a $1,000 fine. A third degree felony is punishable by up to 5 years imprisonment and a $5,000 fine. (Sections 775.082 and 775.083, F.S.).
  \item \textsuperscript{19} A third degree felony is punishable by up to 5 years imprisonment and a $5,000 fine. A second degree felony is punishable by up to 15 years imprisonment and a $10,000 fine. (Sections 775.082 and 775.083, F.S.).
  \item \textsuperscript{20} A second degree felony is punishable by up to 15 years imprisonment and a $10,000 fine. A first degree felony is punishable by up to 30 years to life imprisonment and a $10,000 fine. (Sections 775.082 and 775.083, F.S.).
  \item \textsuperscript{21} A first degree felony is punishable by up to 30 years or when specifically provided by statute, life imprisonment, and a $10,000 fine. A life felony is punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment. (Sections 775.082 and 775.083, F.S.).
  \item \textsuperscript{22} \textit{Cooper v. State}, 455 So.2d 588 (Fla. 1st DCA 1984); \textit{Jackson v. State}, 515 So.2d 394 (Fla. 1st DCA 1987).}
\end{itemize}
A good example of a penalty enhancement statute is the habitual felony offender law found in s. 775.084(1)(a), F.S. “Habitual felony offender” means a defendant for whom the court may impose an extended term of imprisonment if it finds that:

- The defendant has previously been convicted of any combination of two or more felonies in this state or other qualified offenses.
- The felony for which the defendant is to be sentenced was committed:
  - While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for a felony or other qualified offense; or
  - Within 5 years of the date of the conviction of the defendant’s last prior felony or other qualified offense, or within 5 years of the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for a felony or other qualified offense, whichever is later.
- The felony for which the defendant is to be sentenced, and one of the two prior felony convictions, is not a violation of s. 893.13, F.S., relating to the purchase or the possession of a controlled substance.
- The defendant has not received a pardon for any felony or other qualified offense that is necessary for the operation of this law.
- A conviction of a felony or other qualified offense necessary to the operation of this law has not been set aside in any postconviction proceeding.

In a separate proceeding, if the court finds that the defendant meets the criteria for imposing such sanction, the court must sentence the defendant as a habitual felony offender unless the court finds that it is not necessary for the protection of the public. The court may sentence the habitual felony offender as follows:

- In the case of a life felony or a felony of the first degree, for life.
- In the case of a felony of the second degree, for a term of years not exceeding 30.
- In the case of a felony of the third degree, for a term of years not exceeding 10.  \(^{23}\)

II. Effect of Proposed Changes:

The bill creates two new sections of law relating to the reclassification of criminal penalties under certain circumstances.

The bill creates s. 775.0848, F.S., which provides that a person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or who has departed the United States while such an order of deportation or removal is outstanding, and has unlawfully reentered the United States and while remaining unlawfully present has committed a new felony, must have the penalty for committing the new felony reclassified as follows:

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\(^{23}\) Sections 775.084(1)(a), (3)(a), and (4)(a), F.S.
The bill defines the term “removal” as any agreement in which a person stipulates to removal during a criminal proceeding under federal or state law.

The bill also creates s. 908.12, F.S., providing similar reclassifications of criminal penalties applicable to a defendant who the factfinder finds beyond a reasonable doubt committed a crime for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization. The penalty for any felony or misdemeanor, or for any delinquent act or violation of law which would be a felony or misdemeanor if committed by an adult, may be reclassified as follows:

- A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.
- A misdemeanor of the first degree is reclassified to a felony of the third degree.
- A felony of the third degree is reclassified to a felony of the second degree.
- A felony of the second degree is reclassified to a felony of the first degree.
- A felony of the first degree is reclassified to a life felony.

The bill provides that the penalty reclassification affects only the applicable statutory maximum sentence.

“Transnational crime organization” is defined as an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.

The bill becomes effective October 1, 2024.
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 Legislature’s Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has not yet reviewed the bill.

      However, based upon a preliminary analysis, the bill may have a positive indeterminate fiscal impact on the Department of Corrections. The bill reclassifies penalties to the next higher degree which may result in more individuals sentenced to prison for longer periods of time.\footnote{EDR, Preliminary Estimate for SB 1036 (on file with the Senate Committee on Criminal Justice).}

      The term “positive indeterminate” means that while there is a chance that the bill will result in an increase in prison beds, the available data from which to draw a conclusion is uncertain at this time.
VI. Technical Deficiencies:

The definition of the term “removal” beginning on line 29 of the bill is: any agreement in which a person stipulates to removal during a criminal proceeding under federal or state law.

The definition of “removal” provided by the Office of Immigrations Statistics is: The compulsory and confirmed movement of an inadmissible or removable noncitizen out of the United States based on an order of removal.\textsuperscript{33}

Although accurate as to circumstances that may result in a removable alien \textit{stipulating to removal}, the definition in the bill may not include \textit{all} circumstances that lead to removal. Therefore, it is suggested that the more broadly worded definition, or some combination of the two may be preferable.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 775.0848 and 908.12.

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.

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

Senate Amendment (with title amendment)

Delete lines 29 - 62

and insert:

(1) As used in this section, the term “removal” includes any agreement in which a person stipulates to removal during a criminal proceeding under federal or state law.

(2) A person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or has departed the United States while
such an order of deportation or removal is outstanding, shall have the penalty for committing a new felony after unlawfully reentering the United States and while remaining unlawfully present reclassified in the following manner:

(a) A felony of the third degree is reclassified to a felony of the second degree.
(b) A felony of the second degree is reclassified to a felony of the first degree.
(c) A felony of the first degree is reclassified to a life felony.

Section 2. Section 908.12, Florida Statutes, is created to read:

908.12 Transnational crime organizations; reclassification.—
(1) As used in this section, the term “transnational crime organization” means an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.
(2) The penalty for any misdemeanor or felony may be reclassified if the commission of such misdemeanor or felony was for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization. The reclassification is as follows:

And the title is amended as follows:

Delete lines 15 - 20 and insert:
misdemeanor offenses if the commission of such offense was for specified purposes; providing
A bill to be entitled
An act relating to reclassification of criminal penalties; creating s. 775.0848, F.S.; defining the term “removal”; requiring reclassification of the penalty for the commission of a new felony committed by a person who unlawfully reenters the United States and while remaining unlawfully present after having been deported or removed from the United States under federal immigration proceedings for committing a felony, or who has departed the United States while such an order of deportation or removal is outstanding; creating s. 908.12, F.S.; defining the term “transnational crime organization”; authorizing reclassification of the penalty for any felony or misdemeanor offenses or certain other acts or violations upon a specified finding by the factfinder; specifying that the penalty enhancement affects only the applicable statutory maximum sentence; requiring that each of the findings required as a basis for such sentence be found beyond a reasonable doubt; providing an effective date.

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

Section 1. Section 775.0848, Florida Statutes, is created to read:
775.0848 Commission of a felony after unlawful reentry into the United States; reclassification.—
(1) As used in this section, the term “removal” means any agreement in which a person stipulates to removal during a criminal proceeding under federal or state law.

(2) A person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or has departed the United States while such an order of deportation or removal is outstanding, shall have the penalty for committing a new felony after unlawfully reentering the United States and while remaining unlawfully present reclassified in the following manner:

(a) A felony of the third degree is reclassified to a felony of the second degree.
(b) A felony of the second degree is reclassified to a felony of the first degree.
(c) A felony of the first degree is reclassified to a life felony.

Section 2. Section 908.12, Florida Statutes, is created to read:
908.12 Transnational crime organizations; reclassification.—
(1) As used in this section, the term “transnational crime organization” means an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.

(2) Upon a finding by the factfinder that a defendant committed the charged offense for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization, the penalty for any felony or misdemeanor, or for any delinquent act or violation of law which would be a felony or misdemeanor if committed by an adult, may be reclassified.
under this subsection. A penalty enhancement affects only the applicable statutory maximum sentence, and each of the findings required as a basis for such sentence must be found beyond a reasonable doubt. The reclassification is as follows:

   (a) A misdemeanor of the second degree is reclassified to a misdemeanor of the first degree.
   
   (b) A misdemeanor of the first degree is reclassified to a felony of the third degree.
   
   (c) A felony of the third degree is reclassified to a felony of the second degree.
   
   (d) A felony of the second degree is reclassified to a felony of the first degree.
   
   (e) A felony of the first degree is reclassified to a life felony.

Section 3. This act shall take effect October 1, 2024.
SB 1036 – Reclassification of Criminal Penalties (Identical HB 1449)

This bill creates multiple statutes. First, it creates s. 775.0848, F.S., reclassifying all felonies for when “a person who has been deported or removed from the United States under federal immigration proceedings for committing a felony, or has departed the United States while such an order of deportation or removal is outstanding” has committed a new felony “after unlawfully reentering the United States and while remaining unlawfully present” as follows:

- 3rd degree felony increased to 2nd degree felony
- 2nd degree felony increased to 1st degree felony
- 1st degree felony increased to life felony

It also creates s. 908.12, F.S., defining “transnational crime organization” as “an organization that routinely facilitates the international trafficking of drugs, humans, or weapons or the international smuggling of humans.” It then states that “upon a finding by the factfinder that a defendant committed the charged offense for the purpose of benefiting, promoting, or furthering the interests of a transnational crime organization, the penalty for any felony or misdemeanor, or for any delinquent act or violation of law which would be a felony or misdemeanor if committed by an adult, may be reclassified under this subsection. A penalty enhancement affects only the applicable statutory maximum sentence, and each of the findings required as a basis for such sentence must be found beyond a reasonable doubt.” They are reclassified as follows:

- 2nd degree misdemeanor increased to 1st degree misdemeanor
- 1st degree misdemeanor increased to Level 2, 3rd degree felony
- 3rd degree felony increased to 2nd degree felony
- 2nd degree felony increased to 1st degree felony
- 1st degree felony increased to life felony

Per DOC, in FY 22-23, 1,131 offenders designated as aliens were admitted to prison. Furthermore, 363 of these aliens were born in Cuba. However, aliens in the DOC database include suspected and confirmed aliens, and are also made up of inmates who were legal and illegal immigrants at the time of their offenses. It is not known how many of these inmates would fit this bill’s criteria. Furthermore, it is not known how many misdemeanor or felony offenders committed their crimes to benefit, promote, or further the interests of a transnational crime organization.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate
I. Summary:

SB 1238 amends s. 800.04, F.S., to provide that a person who engages in the process of preparing or encouraging a child to engage in sexual activity through over sexually themed communication with the child or in conduct with or observed by the child without permission from the child’s parent or legal guardian commits lewd or lascivious grooming.

The bill provides that a person 18 years of age or older who commits lewd or lascivious grooming commits a second degree felony.¹

The bill may have a positive indeterminate fiscal impact due to an increase in prison beds. See Section V. Fiscal Impact Statement.

The bill becomes effective October 1, 2024.

II. Present Situation:

Grooming Children for Sexual Abuse

Child sexual abuse is often effectuated following a period of ‘grooming’ and the sexualization of the relationship.² “Grooming” refers to deliberate actions taken by a defendant to expose a child to sexual material; the ultimate goal of grooming is the formation of an emotional connection with the child and a reduction of the child’s inhibitions in order to prepare the child for sexual activity.³

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¹ A second degree felony is punishable by a term of imprisonment not exceeding 15 years pursuant to s. 775.082, s. 775.083, and s. 775.084, F.S.
² State v. Brown, 299 So.3d 561 (5th DCA 2020).
³ United States v. Chambers, 642 F.3d 588, 593 (7th Cir. 2011).
During the desensitization phase the perpetrator typically introduces sexual content disguised as jokes or discussions, or through exposure to pornography or other explicit material, and utilizes frequent non-sexual touch to desensitize the victim to physical contact. Post-abuse, the offender may engage in maintenance strategies in order to facilitate future sexual abuse and to prevent disclosure.

While there are several offenses in current law which prohibit a person from encouraging, enticing, soliciting, or inducing a minor to engage in sexual activity, lewd or lascivious behavior, or a sexual performance, current law does not specifically criminalize the preparation of a child to engage in sexual activity, sexual conduct, or a sexual performance through a pattern of inappropriate communication or conduct directed toward the child.

**Transmission of Material Harmful to Minors**

Section 847.0138, F.S., prohibits a person, in this state or in any jurisdiction other than this state, from knowingly transmitting or believing that he or she is transmitting an image, information, or data that is harmful to minors to a specific individual known by the defendant to be a minor, as a third-degree felony.

Section 847.001(7), F.S., defines “harmful to minors” as any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:

- Predominantly appeals to a prurient, shameful, or morbid interest;
- Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
- Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

**Prohibited Computer Usage**

Any person who knowingly uses a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:

- Seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in ch. 794, ch. 800, or ch. 827, F.S., or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child; or
- Solicit, lure, or entice, or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in ch. 794, ch. 800, or

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6 Section 847.001(20), F.S., defines “sexual excitement” as the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

7 Section 847.0135(3)(a), F.S.
ch. 827, F.S., or to otherwise engage in any sexual conduct, commits a felony of the third degree.8

**Traveling to Meet a Minor**

Any person who travels any distance either within this state, to this state, or from this state by any means, who attempts to do so, or who causes another to do so or to attempt to do so for the purpose of engaging in any illegal act described in ch. 794, ch. 800, or ch. 827, F.S., or to otherwise engage in other unlawful sexual conduct with a child or with another person believed by the person to be a child after using a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:

- Seduce, solicit, lure, or entice or attempt to seduce, solicit, lure, or entice a child or another person believed by the person to be a child, to engage in any illegal act described in ch. 794, ch. 800, or ch. 827, F.S., or to otherwise engage in other unlawful sexual conduct with a child; or
- Solicit, lure, or entice or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in ch. 794, ch. 800, or ch. 827, F.S., or to otherwise engage in any sexual conduct, commits a felony of the second degree.10

**Lewd and Lascivious Offenses**

The Florida Supreme Court has held that the terms “lewd” and “lascivious” mean a wicked, lustful, unchaste, licentious, or sensual intent on the part of the person doing an act.11,12

Neither the victim’s lack of chastity nor the victim’s consent is a defense to lewd or lascivious offenses. Additionally, the perpetrator’s ignorance of the victim’s age, the victim’s misrepresentation of his or her age, or the perpetrator’s bona fide belief of the victim’s age cannot be raised as a defense.13,14

**Lewd or Lascivious Offenses Targeting Persons Under 16 Years of Age**

Section 800.04, F.S., criminalizes various acts targeting persons under 16 years of age, including: lewd or lascivious battery;15 lewd or lascivious molestation;16 lewd or lascivious

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8 Section 847.0135(3)(b), F.S.
9 Section 847.0135(4)(a), F.S.
10 Section 847.0135(4)(b), F.S.
11 Chesebough v. State, 255 So.2d 675, 677 (Fla. 1971).
12 Whether an act or conduct is lewd or lascivious is a factual issue to be decided on a case-by-case basis. Andrews v. State, 130 So. 3d 788, 790 (Fla. 1st DCA 2014).
13 Section 800.04(2), F.S.
14 Section 800.04(3), F.S.
15 Section 800.04(4), F.S., defines lewd or lascivious battery as engaging in sexual activity with a person 12 years or older but less than 16 years of age; or encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity. An offender who commits lewd or lascivious battery commits a felony of the second degree.
16 Section 800.04(5), F.S., defines lewd or lascivious molestation as a person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years.
conduct; and lewd or lascivious exhibition. An individual convicted of violating section 800.04, F.S., is required to register as a sex offender.

**Lewd or Lascivious Conduct**

A person who intentionally touches a person under 16 years of age in a lewd or lascivious manner or solicits a person under 16 years of age to commit a lewd or lascivious act commits lewd or lascivious conduct.

An offender who is:
- Eighteen years of age or older who commits lewd or lascivious conduct commits a second degree felony.
- Less than 18 years of age who commits lewd or lascivious conduct commits a third degree felony.

The Florida Standard Jury Instructions for soliciting a person under 16 years of age to commit a lewd or lascivious act provides that to “solicit” means to command, encourage, hire, or request another person to engage in specific conduct.
Lewd or Lascivious Battery

A person commits lewd or lascivious battery by:

- Engaging in sexual activity with a person 12 years of age or older but less than 16 years of age;\(^{25}\)
or
- Encouraging, forcing, or enticing any person less than 16 years of age to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity.\(^{26}\)

An offender who commits Lewd or Lascivious Battery commits a second degree felony.

Lewd or Lascivious Molestation

A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.\(^{27}\)

A person who commits Lewd or Lascivious Molestation commits a second degree felony if the person is 18 years of age or older against a victim 12 years of age or older but less than 16 years of age.\(^{28}\)

An offender who is 18 years of age or older who commits lewd or lascivious molestation against a victim less than 12 year of age commits a life felony.

Lewd or Lascivious Exhibition

A person commits lewd or lascivious exhibition by performing any of the following acts in the presence of a person under 16:

- Intentionally masturbating;
- Intentionally exposing the genitals in a lewd or lascivious manner; or
- Intentionally committing any other sexual act that does not involve actual physical or sexual contact with the victim, including, but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity.\(^{29}\)

An offender 18 years of age or older who commits lewd or lascivious conduct commits a second degree felony.

An offender less than 18 years of age who commits lewd or lascivious conduct commits a third degree felony.

\(^{25}\) Section 800.04(4)(a)1., F.S.
\(^{26}\) Section 800.04(4)(a)2., F.S.
\(^{27}\) Section 800.04(5)(a), F.S.
\(^{28}\) A felony of the first degree is punishable by a term of imprisonment not exceeding 30 years, pursuant to s. 775.082, s. 775.083, or s. 775.084, F.S.
\(^{29}\) Section 800.04(7)(a), F.S.
Lewd or Lascivious Written Solicitation of Certain Minors

A person 24 years of age or older who solicits a person who is 16 or 17 years of age in writing to commit a lewd or lascivious act commits a third degree felony.  

III. Effect of Proposed Changes:

The bill amends s. 800.04, F.S., to provide that a person who engages in the process of preparing or encouraging a child to engage in sexual activity through over sexually themed communication with the child or in conduct with or observed by the child without permission from the child’s parent or legal guardian commits lewd or lascivious grooming.

The bill provides that a person 18 years of age or older who commits lewd or lascivious grooming commits a second degree felony. A person who commits the offense of Lewd or Lascivious grooming would be required to register as a sex offender.

The bill becomes effective October 1, 2024.

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:

The First Amendment of the U.S. Constitution prevents the government from creating laws that restrict the speech of citizens. “Congress shall make no law ... abridging the freedom of speech.” The rights guaranteed by the First Amendment apply with equal force to state governments through the due process clause of the Fourteenth Amendment.

The state has a compelling interest in protecting the physical and psychological well-being of children. Courts have recognized that speech used to further the sexual

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30 Section 794.053, F.S.
31 U.S. Const., amend I.
32 U.S. Const. amend XIV. See also Art. I, Fla. Const.
exploitation of children does not enjoy constitutional protection. The state also has a compelling interest in protecting minors from being seduced to perform sexual actions, and no legitimate commerce is burdened by penalizing the transmission of harmful sexual material to known minors in order to seduce them.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have a positive indeterminate impact on jail and prison beds by expanding the scope of prohibited conduct under s. 800.04, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 800.04 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.

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

33 Cashatt v. State, 873 So.3d 430, (1st DCA 2004).
The Committee on Criminal Justice (Martin) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 800.045, Florida Statutes, is created to read:

800.045 Lewd or lascivious grooming.—

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

(a) “Inappropriate communication or conduct” means any verbal, written, or electronic communication or any conduct in
which a person describes, depicts, or demonstrates sexual conduct or sexual excitement.

(b) “Sexual activity” has the same meaning as in s. 800.04(1).

(c) “Sexual conduct” and the term “sexual excitement” have the same meanings as in s. 847.001.

(d) “Sexual performance” has the same meaning as in s. 827.071(1).

(2) A person 18 years of age or older who engages in a pattern of inappropriate communication or conduct directed toward a person less than 16 years of age for the purpose of preparing, encouraging, or enticing such person to engage in any unlawful sexual activity, sexual conduct, or sexual performance commits lewd or lascivious grooming, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Paragraph (c) of subsection (3) of section 921.0022, Florida Statutes, is amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(c) LEVEL 3

<table>
<thead>
<tr>
<th>Florida Statute</th>
<th>Felony Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>119.10(2)(b)</td>
<td>3rd</td>
<td>Unlawful use of confidential information from police</td>
</tr>
<tr>
<td>Code</td>
<td>Degree</td>
<td>Description</td>
</tr>
<tr>
<td>------------</td>
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</tr>
<tr>
<td>316.066</td>
<td>3rd</td>
<td>Unlawfully obtaining or using confidential crash reports.</td>
</tr>
<tr>
<td>316.066(3)(b)-(d)</td>
<td>3rd</td>
<td>Unlawfully obtaining or using confidential crash reports.</td>
</tr>
<tr>
<td>316.193(2)(b)</td>
<td>3rd</td>
<td>Felony DUI, 3rd conviction.</td>
</tr>
<tr>
<td>316.1935(2)</td>
<td>3rd</td>
<td>Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.</td>
</tr>
<tr>
<td>319.30(4)</td>
<td>3rd</td>
<td>Possession by junkyard of motor vehicle with identification number plate removed.</td>
</tr>
<tr>
<td>319.33(1)(a)</td>
<td>3rd</td>
<td>Alter or forge any certificate of title to a motor vehicle or mobile home.</td>
</tr>
<tr>
<td>319.33(1)(c)</td>
<td>3rd</td>
<td>Procure or pass title on stolen vehicle.</td>
</tr>
<tr>
<td>319.33(4)</td>
<td>3rd</td>
<td>With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.</td>
</tr>
<tr>
<td>327.35(2)(b)</td>
<td>3rd</td>
<td>Felony BUI.</td>
</tr>
<tr>
<td>Statute</td>
<td>Section</td>
<td>Offense Description</td>
</tr>
<tr>
<td>-----------------</td>
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<td>-----------------------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>328.05(2)</td>
<td>3rd</td>
<td>Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.</td>
</tr>
<tr>
<td>328.07(4)</td>
<td>3rd</td>
<td>Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.</td>
</tr>
<tr>
<td>376.302(5)</td>
<td>3rd</td>
<td>Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.</td>
</tr>
<tr>
<td>379.2431(1)(e)5</td>
<td>3rd</td>
<td>Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.</td>
</tr>
<tr>
<td>379.2431(1)(e)6</td>
<td>3rd</td>
<td>Possessing any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species described in the Marine Turtle Protection Act.</td>
</tr>
<tr>
<td>Statute</td>
<td>Degree</td>
<td>Description</td>
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<tr>
<td>379.2431(1)(e)7</td>
<td>3rd</td>
<td>Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.</td>
</tr>
<tr>
<td>400.9935(4)(a) or (b)</td>
<td>3rd</td>
<td>Operating a clinic, or offering services requiring licensure, without a license.</td>
</tr>
<tr>
<td>400.9935(4)(e)</td>
<td>3rd</td>
<td>Filing a false license application or other required information or failing to report information.</td>
</tr>
<tr>
<td>440.1051(3)</td>
<td>3rd</td>
<td>False report of workers’ compensation fraud or retaliation for making such a report.</td>
</tr>
<tr>
<td>501.001(2)(b)</td>
<td>2nd</td>
<td>Tampers with a consumer product or the container using materially false/misleading information.</td>
</tr>
<tr>
<td>624.401(4)(a)</td>
<td>3rd</td>
<td>Transacting insurance without a certificate of authority.</td>
</tr>
</tbody>
</table>
624.401(4)(b)1.  3rd  Transacting insurance without a certificate of authority; premium collected less than $20,000.

626.902(1)(a) & (b)  3rd  Representing an unauthorized insurer.

697.08  3rd  Equity skimming.

790.15(3)  3rd  Person directs another to discharge firearm from a vehicle.

794.053  3rd  Lewd or lascivious written solicitation of a person 16 or 17 years of age by a person 24 years of age or older.

800.045(2)  3rd  Lewd or lascivious grooming.

806.10(1)  3rd  Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.

806.10(2)  3rd  Interferes with or assaults firefighter in performance of duty.
<table>
<thead>
<tr>
<th>Florida Senate - 2024 COMMITTEE AMENDMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bill No. SB 1238</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Code</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>810.09(2)(c)</td>
<td>3rd</td>
<td>Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.</td>
</tr>
<tr>
<td>812.014(2)(c)</td>
<td>3rd</td>
<td>Grand theft; $5,000 or more but less than $10,000.</td>
</tr>
<tr>
<td>812.0145(2)(c)</td>
<td>3rd</td>
<td>Theft from person 65 years of age or older; $300 or more but less than $10,000.</td>
</tr>
<tr>
<td>812.015(8)(b)</td>
<td>3rd</td>
<td>Retail theft with intent to sell; conspires with others.</td>
</tr>
<tr>
<td>812.081(2)</td>
<td>3rd</td>
<td>Theft of a trade secret.</td>
</tr>
<tr>
<td>815.04(4)(b)</td>
<td>2nd</td>
<td>Computer offense devised to defraud or obtain property.</td>
</tr>
<tr>
<td>817.034(4)(a)</td>
<td>3rd</td>
<td>Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than $20,000.</td>
</tr>
<tr>
<td>817.233</td>
<td>3rd</td>
<td>Burning to defraud insurer.</td>
</tr>
<tr>
<td>817.234</td>
<td>3rd</td>
<td>Unlawful solicitation of persons involved in motor</td>
</tr>
</tbody>
</table>
vehicle accidents.

817.234(11)(a)  3rd  Insurance fraud; property value less than $20,000.

817.236  3rd  Filing a false motor vehicle insurance application.

817.2361  3rd  Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.

817.413(2)  3rd  Sale of used goods of $1,000 or more as new.

817.49(2)(b)1.  3rd  Willful making of a false report of a crime causing great bodily harm, permanent disfigurement, or permanent disability.

831.28(2)(a)  3rd  Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument with intent to defraud.

831.29  2nd  Possession of instruments for
counterfeiting driver licenses or identification cards.

<table>
<thead>
<tr>
<th>Statute</th>
<th>Section</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>836.13(2)</td>
<td>3rd</td>
<td>Person who promotes an altered sexual depiction of an identifiable person without consent.</td>
<td></td>
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<tr>
<td>838.021(3)(b)</td>
<td>3rd</td>
<td>Threatens unlawful harm to public servant.</td>
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<tr>
<td>860.15(3)</td>
<td>3rd</td>
<td>Overcharging for repairs and parts.</td>
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<tr>
<td>870.01(2)</td>
<td>3rd</td>
<td>Riot.</td>
<td></td>
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<tr>
<td>870.01(4)</td>
<td>3rd</td>
<td>Inciting a riot.</td>
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</tr>
<tr>
<td>893.13(1)(a)2.</td>
<td>3rd</td>
<td>Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs).</td>
<td></td>
</tr>
<tr>
<td>893.13(1)(d)2.</td>
<td>2nd</td>
<td>Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).</td>
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</tr>
<tr>
<td>Section</td>
<td>Type</td>
<td>Description</td>
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<tr>
<td>893.13(1)(f)2.</td>
<td>2nd</td>
<td>Sell, manufacture, or deliver 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs within 1,000 feet of university.</td>
<td></td>
</tr>
<tr>
<td>893.13(4)(c)</td>
<td>3rd</td>
<td>Use or hire of minor; deliver to minor other controlled substances.</td>
<td></td>
</tr>
<tr>
<td>893.13(6)(a)</td>
<td>3rd</td>
<td>Possession of any controlled substance other than felony possession of cannabis.</td>
<td></td>
</tr>
<tr>
<td>893.13(7)(a)8.</td>
<td>3rd</td>
<td>Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.</td>
<td></td>
</tr>
<tr>
<td>893.13(7)(a)9.</td>
<td>3rd</td>
<td>Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.</td>
<td></td>
</tr>
</tbody>
</table>
893.13(7)(a)10.  3rd  Affix false or forged label to package of controlled substance.

893.13(7)(a)11.  3rd  Furnish false or fraudulent material information on any document or record required by chapter 893.

893.13(8)(a)1.  3rd  Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner’s practice.

893.13(8)(a)2.  3rd  Employ a trick or scheme in the practitioner’s practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.

893.13(8)(a)3.  3rd  Knowingly write a prescription for a controlled substance for a fictitious person.
893.13(8)(a)4. 3rd Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

918.13(1) 3rd Tampering with or fabricating physical evidence.

944.47 3rd Introduce contraband to correctional facility.

944.47(1)(c) 2nd Possess contraband while upon the grounds of a correctional institution.

985.721 3rd Escapes from a juvenile facility (secure detention or residential commitment facility).

And the title is amended as follows:
Delete everything before the enacting clause and insert:

A bill to be entitled
An act relating to lewd or lascivious grooming;
creating s. 800.045, F.S.; providing definitions;
creating the offense of lewd or lascivious grooming;
providing criminal penalties; amending s. 921.0022,
F.S.; ranking the offense on the offense severity
ranking chart of the Criminal Punishment Code;
providing an effective date.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Present subsection (8) of section 800.04, Florida Statutes, is renumbered as subsection (9), and a new subsection (8) is added to that section, to read:

800.04 Lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.—
(8) LEWD OR LASCIVIOUS GROOMING.—
(a) A person who engages in the process of preparing or encouraging a child to engage in sexual activity through overtly sexually themed communication with the child or in conduct with or observed by the child without permission from the child’s parent or legal guardian commits lewd or lascivious grooming.
(b) A person 18 years of age or older who commits lewd or lascivious grooming commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect October 1, 2024.
I. **Summary:**

SB 1274 amends multiple sections throughout ch. 985, F.S., to remove post commitment probation. Under the bill, a child must be placed on conditional release following commitment to a Department of Juvenile Justice (DJJ) program, or may be directly released from such program.

The bill amends s. 985.25, F.S., requiring that youths arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release shall be placed in secure detention until a detention hearing.

The bill also provides that a child on probation for an underlying felony firearm offense who is taken into custody under s. 985.101, F.S., for violating conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation. If within 21 days, the state attorney notifies the court that commitment will be sought, then the child shall remain in secure detention pending proceedings under s. 985.439, F.S., until the initial 21-day period of secure detention has expired. Upon motion of the state attorney, the child may be held for an additional 21-day period if the court finds that the totality of the circumstances, including the preservation of public safety, warrants such extension.

The bill amends s. 790.115, F.S., to remove a provision requiring secure detention for any minor under 18 years of age who is charged with possessing or discharging a firearm on school property unless the state attorney authorizes the release of the minor. Provisions requiring youth to be held for firearm offenses are provided in ch. 985, F.S.

The bill amends s. 790.22, F.S., to provide increased penalties for minors committing firearm violations.

The bill amends s. 985.12, F.S., to redesignate civil citation programs as prearrest delinquency citation programs, and revise program requirements to prohibit offenses involving the use or
possession of a firearm. Additionally, s. 985.125, F.S., is amended to provide that school districts are prohibited from operating a postarrest diversion program.

The bill amends s. 985.126, F.S., to provide reporting requirements on the use of delinquency citations by law enforcement agencies and the DJJ.

The bill amends s. 985.255, F.S., to provide that the court has the authority to depart from the detention risk assessment instrument and order a placement more or less restrictive than what the risk assessment recommends. When the court finds probable cause at the detention hearing that the child committed one or more specified offenses then there is a presumption that the child is at risk to public safety and a danger to the community and such child must be held in secure detention prior to an adjudicatory hearing.

The bill provides requirements for release of a child from secure detention based upon clear and convincing evidence of why the child does not present a risk to public safety or a danger to the community, and provides that the child shall be placed on supervised release detention care with electronic monitoring until the child’s adjudicatory hearing.

The bill amends s. 985.26, F.S., to provide that the court may order a minor to be held in secure detention beyond 21 days upon certain circumstances. The court may release a child from secure detention based on clear and convincing evidence that the child does not present a risk to public safety or a danger to the community. If the court releases the child to supervised release detention care, the court must provide a copy of the written notice to the victim, and law enforcement agency.

The bill amends s. 985.433, F.S., requiring any youth committed for any offense or attempted offense involving a firearm be placed on conditional release for at least 1 year after release from the residential commitment program, with terms of conditional release including electronic monitoring for the initial six months under terms and conditions set by the DJJ.

The bill provides that for a firearm offense, other than minor possession under s. 790.22(3), F.S., if the court decides not to commit the youth to a residential program then the court must order specified punishments.

The bill provides that a child who has previously had adjudication withheld for a specified offense shall not be eligible for a second or subsequent withhold of adjudication and must be committed to a residential program.

The bill amends s. 985.46, F.S., revising legislative intent concerning conditional release and requires conditional release after commitment unless the youth is directly released.

The bill provides that a youth who violates the terms of his or her conditional release shall be assessed using the graduated response matrix as described in s. 985.438, F.S. A youth who fails to move into compliance shall be recommitted to a residential facility.

The bill creates s. 985.438, F.S., requiring the DJJ to create and administer a statewide graduated response matrix to hold youths accountable to the term of their court ordered probation and the
terms of their conditional release. Section 985.435, F.S., is amended to provide that an alternative consequence component must be aligned with the DJJ’s graduated response matrix as described in s. 985.438, F.S.

The bill amends s. 985.439, F.S., to provide that upon receiving notice of a violation of probation from the DJJ, the state attorney must file the violation within 5 days or provide in writing to the DJJ and the court a reason as to why he or she is not filing. The DJJ may place a youth on electronic monitoring for a violation of probation if it determines doing so will preserve and protect public safety.

The bill amends s. 985.455, F.S., providing that if the court orders revocation or suspension of a child’s driver license as part of a disposition, the court may upon finding a compelling circumstance direct the DHSMV to make an exception to issue the minor a license for driving privileges restricted to business or employment purposes only.

The bill amends s. 985.601, F.S., providing that the DJJ shall establish a class focused on the risk and consequences of youthful firearm offending which shall be provided by the DJJ to any youth adjudicated or who had adjudication withheld for any offense involving the use or possession of a firearm.

The bill amends s. 985.711, F.S., revising provisions concerning introduction of contraband into DJJ facilities by adding to the list of contraband. Introducing contraband into DJJ facilities is a second degree felony.

The bill amends s. 1002.221, F.S., revising provisions concerning educational records for certain purposes.

The bill is effective on July 1, 2024.

II. **Present Situation:**

**Civil Citation/Pre-arrest Diversion**

The Florida Department of Juvenile Justice (DJJ) civil citation or similar prearrest diversion initiative addresses a youth’s behavior at his or her first encounter with the juvenile justice system and provides an alternative to arrest for that child.¹

A civil citation or similar prearrest diversion program for misdemeanor offenses shall be established in each judicial circuit in the state. The state attorney and public defender of each circuit, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit shall create a civil citation or similar prearrest diversion program and develop its policies and procedures. In developing the program’s policies and procedures, input from other interested stakeholders may be solicited. The DJJ shall annually

¹ Department of Juvenile Justice, Florida Civil Citation or Similar Prearrest Diversion Overview, available at [https://www.djj.state.fl.us/partners-providers-staff/our-approach/florida-civil-citation-or-similar-prearrest-diversion](https://www.djj.state.fl.us/partners-providers-staff/our-approach/florida-civil-citation-or-similar-prearrest-diversion) last visited on January 16, 2024).
develop and provide guidelines on best practice models for civil citation or similar prearrest diversion programs to the judicial circuits as a resource.\(^2\)

Each judicial circuit’s civil citation or similar prearrest diversion program must specify:

- The misdemeanor offenses that qualify a juvenile for participation in the program;
- The eligibility criteria for the program;
- The program’s implementation and operation;
- The program’s requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, and intervention services indicated by a needs assessment of the juvenile, approved by the DJJ, such as family counseling, urinalysis monitoring, and substance abuse and mental health treatment services; and
- A program fee, if any, to be paid by a juvenile participating in the program. If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.\(^3\)

The state attorney of each circuit shall operate a civil citation or similar prearrest diversion program in each circuit. A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may continue to operate an independent civil citation or similar prearrest diversion program that is in operation as of October 1, 2018, if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the civil citation or similar prearrest diversion program developed by the circuit. If the state attorney determines that the independent program is not substantially similar to the civil citation or similar prearrest diversion program developed by the circuit, the operator of the independent diversion program may revise the program and the state attorney may conduct an additional review of the independent program.\(^4\)

Pursuant to s. 985.126, F.S., citation entities submit demographic data and indicate the law violation. Law enforcement agencies report data to the DJJ that identifies each minor who was eligible for a diversion program but was instead referred to the DJJ, given a notice to appear, or arrested. Within 7 days of the admission into a citation program, the citation entity enters data into the Juvenile Justice Information System Prevention Web. De-identified data collected through the state’s civil citation programs is published and continually updated on the DJJ’s website, and helps inform the department-produced, civil citation best practice report disseminated to judicial circuits.\(^5\)

**Detention of Children in Florida – Intake and Assessment**

Every child under the age of 18 charged with a crime in Florida is referred to the DJJ.\(^6\) The DJJ serves as the primary case manager responsible for managing, coordinating, and monitoring

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\(^2\) Section 985.12(2)(a), F.S.
\(^3\) Section 985.12(2)(b), F.S.
\(^4\) Section 985.12(2)(c), F.S.
\(^5\) Section 985.126(2), F.S.
\(^6\) A referral is similar to an arrest in the adult criminal justice system. See Probation and Community Intervention, Overview, Department of Juvenile Justice, available at [http://www.djj.state.fl.us/services/probation](http://www.djj.state.fl.us/services/probation) (last visited January 16, 2024).
services provided to the child. Intake and screening services for a child referred to the DJJ are performed at a Juvenile Assessment Center. The purpose of the intake process is to assess the child’s needs and risks and to determine the most appropriate treatment plan and setting for the child’s programmatic need and risks. Once a child is in the custody of the DJJ, the DJJ determines whether detention care is appropriate.

The DJJ makes an initial decision regarding detention care placement using the “Detention Risk Assessment Instrument.” This instrument takes into consideration, but need not be limited to, the following:

- Pending felony and misdemeanor offenses;
- Offenses committed pending adjudication;
- Prior offenses;
- Unlawful possession of a firearm;
- Prior history of failure to appear;
- Supervision violations;
- Supervision status at the time the child is taken into custody;
- All statutory mandates for detention care; and
- Any information on the child’s history of abuse and neglect.

Secure Detention Care

The DJJ shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate. A child may not be held in secure detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced in good faith by the court.

All determinations and court orders regarding the use of detention care shall be based primarily upon findings that the child:

- Presents a substantial risk of not appearing at a subsequent hearing;
- Presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior, including the illegal possession or use of a firearm.

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7 Section 985.145(1), F.S.  
8 Section 985.135(4), F.S.  
9 Section 985.14(2), F.S. The intake process consists of a preliminary screening and may be followed by a comprehensive assessment, consisting of a full mental health, cognitive impairment, substance abuse, or psychosexual evaluation.  
10 Section 985.25(1), F.S.  
11 Sections 985.25(1) and 985.245, F.S. Section 985.245, F.S., outlines with whom the Detention Risk Assessment Instrument must be developed, when and how it must be updated, and what factors the assessment instrument should identify when evaluating a child to determine whether detention placement is appropriate.  
12 Section 985.245(2)(b), F.S.  
13 Section 985.25(1), F.S.  
14 Section 985.26(2)(a)2., F.S.  
15 Section 985.24(1)(a), F.S.  
16 Section 985.24(1)(b), F.S.
• Presents a history of committing a property offense prior to adjudication, disposition, or placement;\(^ {17}\)
• Has committed contempt of court by:
  o Intentionally disrupting the administration of the court;
  o Intentionally disobeying a court order; or
  o Engaging in a punishable act or speech in the court’s presence which shows disrespect for the authority and dignity of the court;\(^ {18}\) or
• Requests protection from imminent bodily harm.\(^ {19}\)

**Alternative Consequence Component for Violations of Probation**

A probation program may also include an alternative consequence component to address instances in which a child is noncompliant with technical conditions of his or her probation but has not committed any new violations of law. Each judicial circuit shall develop, in consultation with judges, the state attorney, the public defender, the regional counsel, relevant law enforcement agencies, and the DJJ, a written plan specifying the alternative consequence component which must be based upon the principle that sanctions must reflect the seriousness of the violation, the assessed criminogenic needs and risks of the child, the child’s age and maturity level, and how effective the sanction or incentive will be in moving the child to compliant behavior. The alternative consequence component is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of probation. If the probation program includes this component, specific consequences that apply to noncompliance with specific technical conditions of probation, as well as incentives used to move the child toward compliant behavior, must be detailed in the disposition order.\(^ {20}\)

If a youth is noncompliant with technical conditions of his or her probation, but has not committed any new violations of law the court may specify in the disposition order that the Juvenile Probation Officer may access a local alternative consequence program for youth with technical conditions of probation.\(^ {21}\)

**Post Commitment Probation/Conditional Release**

After release from a residential commitment program, a youth can be placed on post-commitment probation (PCP), conditional release (CR), or be directly released.

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\(^ {17}\) Section 985.24(1)(c), F.S.
\(^ {18}\) Section 985.24(1)(d), F.S.
\(^ {19}\) Section 985.24(1)(e), F.S.
\(^ {20}\) Section 985.435(4), F.S.
\(^ {21}\) Id.
\(^ {22}\) Florida Administrative Code 63T.1.002 - Post-Commitment Probation (PCP) – Assessment and intervention services provided to youth who are released from residential commitment programs. Under the legal status of post-commitment probation, the youth is legally transferred from commitment status to probation status, and is subject to court-ordered sanctions.
\(^ {23}\) Section 985.439, F.S.
\(^ {24}\) Section 985.46(1)(a), F.S., “Conditional Release” is the care, treatment, help, supervision, and provision of transition-to-adulthood services to juveniles released from residential commitment programs to promote rehabilitation and prevent recidivism.
Conditional Release is designed to provide monitoring and services to those youth who are transitioning back to the community after being in a residential program. These youth have court-ordered sanctions and services that they must complete. Youth on Probation or Conditional Release may be ordered by the Court (or referred by the DJJ) to attend a Day Treatment program while they are being supervised. Day Treatment programs provide additional monitoring of youth and typically offer an alternative educational setting. They also provide additional services, such as anger management classes, social skills building, and substance abuse education.25

**Minor in Possession of a Firearm**

The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor’s parent.26 A minor who violates subsection (3) commits a misdemeanor of the first degree;27 for a first offense, may serve a period of detention of up to 5 days in a secure detention facility; and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service;28 and:
- If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the DHSMV to revoke or to withhold issuance of the minor’s driver license or driving privilege for up to 1 year.29
- If the minor’s driver license or driving privilege is under suspension or revocation for any reason, the court may direct the DHSMV to extend the period of suspension or revocation by an additional period of up to 1 year.30
- If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the DHSMV to withhold issuance of the minor’s driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible.31

**Contraband**

Except as authorized through program policy or operating procedure or as authorized by the facility superintendent, program director, or manager, a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be contraband under this section:32
- Any unauthorized article of food or clothing.
- Any intoxicating beverage or any beverage that causes or may cause an intoxicating effect.

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26 Section 790.22(1), F.S.
27 Section 790.22 (3), F.S.
28 Section 790.22(5)(a), F.S.
29 Section 790.22(5)(a)1., F.S.
30 Section 790.22(5)(a)2., F.S.
31 Section 790.22(5)(a)3., F.S.
32 Section 985.711(1)(a), F.S.
• Any controlled substance as defined in s. 893.02(4), F.S., marijuana as defined in s. 381.986, F.S., hemp as defined in s. 581.217, F.S., industrial hemp as defined in s. 1004.4473, F.S., or any prescription or nonprescription drug that has a hypnotic, stimulating, or depressing effect.
• Any firearm or weapon of any kind or any explosive substance.
• Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6., F.S., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program. As used in this subparagraph, the term “portable communication device” does not include any device that has communication capabilities which has been approved or issued by the facility superintendent, program director, or manager.
• Any vapor-generating electronic device as defined in s. 386.203, F.S., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program.

A person may not transmit contraband to, cause contraband to be transmitted to or received by, attempt to transmit contraband to, or attempt to cause contraband to be transmitted to or received by, a juvenile offender into or upon the grounds of a juvenile detention facility or commitment program, except as authorized through program policy or operating procedures or as authorized by the facility superintendent, program director, or manager.  

III. Effect of Proposed Changes:

The bill amends multiple sections throughout ch. 985, F.S., to remove post commitment probation. Under the bill, a child must be placed on conditional release following commitment to a DJJ program, or may be directly released from such program.

The bill amends s. 790.115, F.S., to remove a provision requiring secure detention for any minor under 18 years of age who is charged with possessing or discharging a firearm on school property unless the state attorney authorizes the release of the minor.

The bill amends s. 790.22, F.S., to:
• Increase penalties for minors committing specified firearms violations from a first-degree misdemeanor to a third-degree felony. Penalties for a first offense include that the minor shall serve 5 days in secure detention.
• The bill permits a minor to perform 100 hours of paid work in lieu of 100 hours of community service, if such work is approved by the DJJ.
• Provide that for a second violation a minor shall serve 21 days in a secure detention facility.
• Provide that for a third or subsequent violation, a minor shall be adjudicated delinquent and admitted to a residential program.
• Permit the court to direct the DHSMV to revoke or withhold issuance of the minor’s driver license or driving privilege for up to 1 year for a first offense and up to 2 years for a second or subsequent offense.

33 Section 985.711(1)(b), F.S.
• Permit the court to direct the DHSMV to extend the period of suspension or revocation if a minor’s driver’s license is under suspension for a first offense and up to 2 years for a second or subsequent offense.

• Permit the court to direct the DHSMV to withhold issuance of the minor’s driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible for a first offense and up to 2 years for a second or subsequent offense.

• Remove provisions requiring secure detention for minors charged with or convicted of certain firearm offenses.

The bill amends s. 985.101, F.S., to remove a provision that a child may be taken into custody by a law enforcement officer who has probable cause to believe the child is in violation of the conditions of the child’s postcommitment probation.

The bill amends s. 985.12, F.S., to:

• Redesignate civil citation programs as prearrest delinquency citation programs.

• Prohibit delinquency citations from being issued for firearm-related offenses.

• Provide that each judicial circuit much specify classes established by the DJJ or delinquency citation entity.

• Provide that a civil citation or similar prearrest diversion program existing before July 1, 2024, must be deemed a delinquency citation program authorized by s. 985.101, F.S., if the civil citation or similar prearrest diversion program has been approved by the state attorney of the circuit and it complies with the statutory requirements.

The bill amends s. 985.125, F.S., removing references to prearrest diversion programs. The bill provides that school districts are prohibited from operating a postarrest diversion program.

The bill amends s. 985.126, F.S., to:

• Require each law enforcement agency shall submit to the DJJ data for every youth charged for the first time, who is charged with a misdemeanor.

• Require that the DJJ shall provide a quarterly report to be published on its website and distributed to the Governor, President of the Senate, and Speaker of the House of Representatives listing the entities that use delinquency citations for less than 70 percent of first-time misdemeanor offenses.

The bill amends s. 985.245, F.S., to make conforming changes to provisions by removing reference to the post-commitment.

The bill amends s. 985.25, F.S., requiring that youths arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release shall be placed in secure detention until a detention hearing.

The bill also provides that a child on probation for an underlying felony firearm offense who is taken into custody under s. 985.101, F.S., for violating conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation. If within 21 days, the state attorney notifies the court that commitment will be sought, then the child shall remain in secure detention pending proceedings under s. 985.439, F.S., until
the initial 21-day period of secure detention has expired. Upon motion of the state attorney, the child may be held for an additional 21-day period if the court finds that the totality of the circumstances, including the preservation of public safety, warrants such extension.

The bill amends s. 985.255, F.S., to:
- Provide that the court has the authority to depart from the detention risk assessment instrument and order a placement more or less restrictive than what the risk assessment recommends.
- Provide that when the court finds probable cause at the detention hearing that the child committed one or more specified offenses then there is a presumption that the child is at risk to public safety and a danger to the community and such child must be held in secure detention prior to an adjudicatory hearing. Specific offenses include:
  - Murder (1st degree and 2nd degree).
  - Armed robbery involving the use/possession of a firearm.
  - Armed carjacking involving the use/possession of a firearm.
  - Having a firearm while committing a felony.
  - Armed burglary involving the use/possession of a firearm.
  - Delinquent in possession of a firearm.
  - Attempt to commit any of the above-listed offenses.
- Provide requirements for release of a child from secure detention based upon clear and convincing evidence of why the child does not present a risk to public safety or a danger to the community, and provide that the child shall be placed on supervised release detention care with electronic monitoring until the child’s adjudicatory hearing.
- Provide that the court must provide a copy of the written notice to the victim, the arresting agency, and the law enforcement agency with primary jurisdiction over the youth’s residence for any youth released on supervised release under these circumstances.

The bill amends s. 985.26, F.S., to:
- Provide that the court may order a minor to be held in secure detention beyond 21 days based on the nature of the charge under specified circumstances, including if the child is held for offenses listed in s. 985.255(1)(g), F.S. There is a presumption that the child is a risk to public safety and a danger to the community if he or she were place on supervised release detention care.
- Provide that the court may release a child from secure detention based on clear and convincing evidence that the child does not present a risk to public safety or a danger to the community. If the court releases the child to supervised release detention care, the court must provide a copy of the written notice to the victim, and law enforcement agency.

The bill amends s. 985.433, F.S., requiring any youth committed for any offense or attempted offense involving a firearm be placed on conditional release for at least 1 year after release from the residential commitment program, with terms of conditional release including electronic monitoring for the initial six months under terms and conditions set by the DJJ.

The bill provides that for a firearm offense, other than minor possession under s. 790.22(3), F.S., if the court decides not to commit the youth to a residential program then the court must order specified punishments, including in part, 30 days secure detention, 100 hours community service, and 1 year probation.
The bill provides that a child who has previously had adjudication withheld for a specified offense shall not be eligible for a second or subsequent withhold of adjudication, and must be committed to a residential program. Specified offenses include:

- Armed robbery involving a firearm.
- Armed carjacking involving the use or possession of a firearm.
- Having a firearm while committing a felony.
- Armed burglary involving the use or possession of a firearm.
- Delinquent in possession of a firearm.
- Any attempt to commit the above listed offenses.

The bill amends s. 985.435, F.S., providing that a probation program must include an alternative consequences component and such an alternative consequence component must be aligned with the DJJ’s graduated response matrix as described in s. 985.438, F.S.

The bill creates s. 985.438, F.S., requiring the DJJ to create and administer a statewide graduated response matrix to hold youths accountable to the term of their court ordered probation and the terms of their conditional release.

The graduated response matrix shall outline sanctions for youth based on their risk to reoffend and shall include, but not be limited to:

- Increased contacts.
- Increased drug tests.
- Curfew reductions.
- Increased community service.
- Additional evaluations.
- Addition of electronic monitoring.

The bill amends s. 985.439, F.S., to:

- Provide that upon receiving notice of a violation of probation from the DJJ, the state attorney must file the violation within 5 days or provide in writing to the DJJ and the court a reason as to why he or she is not filing.
- Permit that the DJJ place a youth on electronic monitoring for a violation of probation if it determines doing so will preserve and protect public safety.

The bill amends s. 985.455, F.S., providing that if the court orders revocation or suspension of a child’s driver license as part of a disposition, the court may upon finding a compelling circumstance direct the DHSMV to make an exception to issue the minor a license for driving privileges restricted to business or employment purposes only.

The bill amends s. 985.46, F.S., revising legislative intent concerning conditional release to require conditional release after commitment unless the youth is directly released, and include at a minimum the following conditions:

- Participation in the educational program by students of compulsory school attendance age pursuant to s. 1003.21(1), F.S.
- A curfew.
A prohibition on contact with victims, co-defendants, or known gang members.
A prohibition on use of controlled substances.
A prohibition on possession of firearms.

The bill provides that a youth who violates the terms of his or her conditional release shall be assessed using the graduated response matrix as described in s. 985.438, F.S. A youth who fails to move into compliance shall be recommitted to a residential facility.

The bill amends s. 985.601, F.S., providing that the DJJ shall establish a class focused on the risk and consequences of youthful firearm offending which shall be provided by the DJJ to any youth adjudicated or who had adjudication withheld for any offense involving the use or possession of a firearm.

The bill amends s. 985.711, F.S., revising provisions concerning introduction of contraband into DJJ facilities providing that a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program any of the following articles which are declared to be contraband as follows:

- Food or clothing given or transmitted, or intended to be given or transmitted, to any youth in a juvenile detention facility or commitment program.
- Any currency or coin given or transmitted, to any youth of any juvenile detention facility or commitment program.
- Any cigarettes, or tobacco products, given or intended to be given, to any youth in a juvenile detention facility or commitment program.

The bill provides that introducing contraband into DJJ facilities is a second degree felony.

The bill amends s. 1002.221, F.S., revising provisions concerning educational records for certain purposes.

The bill is effective on July 1, 2024.

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 will have an indeterminate fiscal impact at this time. However, since the bill could result in additional youth in secure detention, operating costs for non-fiscally constrained counties could increase in relation to their portion of the annual Detention Cost Share billings. The impact on expenditures is indeterminate at this time. However, several provisions within the bill could result in increased operating costs for the department. While the full fiscal impact would be based on the increased number of youth served by department program areas due to the statutory changes within the bill, the current secure detention cost per day for the department is $460.16/youth, and the average per diem for contracted residential programs is $276/youth for nonsecure programs and $307/youth for secure programs.\(^\text{34}\)

VI. Technical Deficiencies:
None.

VII. Related Issues:
None.

VIII. Statutes Affected:


\(^{34}\) Department of Juvenile Justice, 2024 Agency Legislative Bill Analysis, (January 12, 2024), at 9 (on file with the Senate Committee on Criminal Justice).
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.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
The Committee on Criminal Justice (Martin) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (4) of section 790.115, Florida Statutes, is amended to read:

790.115 Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited; penalties; exceptions.—

(4) Notwithstanding s. 985.24, s. 985.245, or s. 985.25(1),
any minor under 18 years of age who is charged under this section with possessing or discharging a firearm on school property shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations pursuant to s. 985.18, and a written report shall be completed.

Section 2. Subsections (1), (5), (8), (9), and (10) of section 790.22, Florida Statutes, are amended, and subsection (3) of that section is republished, to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.—

(1) The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices, by any minor under the age of 16 years is prohibited unless such use is under the supervision and in the presence of an adult who is acting with the consent of the minor’s parent or guardian.

(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless:

(a) The minor is engaged in a lawful hunting activity and is:

1. At least 16 years of age; or
2. Under 16 years of age and supervised by an adult.

(b) The minor is engaged in a lawful marksmanship...
competition or practice or other lawful recreational shooting activity and is:

   1. At least 16 years of age; or
   2. Under 16 years of age and supervised by an adult who is acting with the consent of the minor’s parent or guardian.

   (c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).

   (5)(a) A minor who violates subsection (3) commits a felony or misdemeanor of the third degree; for a first offense, shall may serve a period of detention of up to 5 days in a secure detention facility, with credit for time served in secure detention prior to disposition; and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service or paid work as determined by the department. For a second violation of subsection (3), a minor shall serve 21 days in a secure detention facility, with credit for time served in secure detention prior to disposition; and shall be required to perform not less than 100 nor more than 250 hours of community service or paid work as determined by the department. For a third or subsequent violation of subsection (3), a minor shall be adjudicated delinquent and committed to a residential program. In addition to the penalties for a first offense and a second or subsequent offense under subsection (3), and:

   (a) If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor’s driver license or driving
privilege for up to 1 year for a first offense and up to 2 years for a second or subsequent offense.

(b) If the minor’s driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 1 year for a first offense and up to 2 years for a second or subsequent offense.

(c) If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor’s driver license or driving privilege for up to 1 year after the date on which the minor would otherwise have become eligible for a first offense and up to 2 years for a second or subsequent offense.

(b) For a second or subsequent offense, a minor who violates subsection (3) commits a felony of the third degree and shall serve a period of detention of up to 21 days in a secure detention facility and shall be required to perform not less than 100 nor more than 250 hours of community service, and:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor’s driver license or driving privilege for up to 2 years.

2. If the minor’s driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional
period of up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor’s driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor is charged with an offense that involves the use or possession of a firearm, including a violation of subsection (3), or is charged for any offense during the commission of which the minor possessed a firearm, the minor shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention in accordance with the applicable time periods specified in s. 985.26(1)-(5), if the court finds that the minor meets the criteria specified in s. 985.255, or if the court finds by clear and convincing evidence that the minor is a clear and present danger to himself or herself or the community. The Department of Juvenile Justice shall prepare a form for all minors charged under this subsection which states the period of detention and the relevant demographic information, including, but not limited
to, the gender, age, and race of the minor; whether or not the
minor was represented by private counsel or a public defender;
the current offense; and the minor’s complete prior record,
including any pending cases. The form shall be provided to the
judge for determining whether the minor should be continued in
secure detention under this subsection. An order placing a minor
in secure detention because the minor is a clear and present
danger to himself or herself or the community must be in
writing, must specify the need for detention and the benefits
derived by the minor or the community by placing the minor in
secure detention, and must include a copy of the form provided
by the department.

(9) Notwithstanding s. 985.245, if the minor is found to
have committed an offense that involves the use or possession of
a firearm, as defined in s. 790.001, other than a violation of
subsection (3), or an offense during the commission of which the
minor possessed a firearm, and the minor is not committed to a
residential commitment program of the Department of Juvenile
Justice, in addition to any other punishment provided by law,
the court shall order:

(a) For a first offense, that the minor shall serve a
minimum period of detention of 15 days in a secure detention
facility; and

1. Perform 100 hours of community service; and may
2. Be placed on community control or in a nonresidential
   commitment program.

(b) For a second or subsequent offense, that the minor
shall serve a mandatory period of detention of at least 21 days
in a secure detention facility; and
1. Perform not less than 100 nor more than 250 hours of community service; and may
2. Be placed on community control or in a nonresidential commitment program.

The minor shall not receive credit for time served before adjudication. For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(10) If a minor is found to have committed an offense under subsection (9), the court shall impose the following penalties in addition to any penalty imposed under paragraph (9)(a) or paragraph (9)(b):

(a) For a first offense:
   1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor’s driver license or driving privilege for up to 1 year.
   2. If the minor’s driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.
   3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor’s driver license or driving privilege for
up to 1 year after the date on which the minor would otherwise have become eligible.

(b) For a second or subsequent offense:

1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor’s driver license or driving privilege for up to 2 years.

2. If the minor’s driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor’s driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

Section 3. Paragraph (d) of subsection (1) of section 985.101, Florida Statutes, is amended to read:

985.101 Taking a child into custody.—

(1) A child may be taken into custody under the following circumstances:

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child’s probation, supervised release detention, postcommitment probation, or conditional release supervision; has absconded from nonresidential commitment; or has escaped from residential
Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in part V.

Section 4. Section 985.12, Florida Statutes, is amended to read:

985.12 Prearrest delinquency Civil citation or similar prearrest diversion programs.—
(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that the creation and implementation of any prearrest delinquency civil citation or similar prearrest diversion programs at the judicial circuit level promotes public safety, aids interagency cooperation, and provides the greatest chance of success for prearrest delinquency civil citation and similar prearrest diversion programs. The Legislature further finds that the widespread use of prearrest delinquency civil citation and similar prearrest diversion programs has a positive effect on the criminal justice system by immediately holding youth accountable for their actions and contributes to an overall reduction in the crime rate and recidivism in the state. The Legislature encourages but does not mandate that counties, municipalities, and public or private educational institutions participate in a prearrest delinquency civil citation or similar prearrest diversion program created by their judicial circuit under this section.

(2) JUDICIAL CIRCUIT DELINQUENCY CIVIL CITATION OR SIMILAR PREARREST DIVERSION PROGRAM DEVELOPMENT, IMPLEMENTATION, AND OPERATION.—
(a) A prearrest delinquency civil citation or similar prearrest diversion program for misdemeanor offenses shall be established in each judicial circuit in the state. The state attorney and public defender of each circuit, the clerk of the court for each county in the circuit, and representatives of participating law enforcement agencies in the circuit shall create a prearrest delinquency civil citation or similar prearrest diversion program and develop its policies and procedures. In developing the program’s policies and procedures, input from other interested stakeholders may be solicited. The department shall annually develop and provide guidelines on best practice models for prearrest delinquency civil citation or similar prearrest diversion programs to the judicial circuits as a resource.

(b) Each judicial circuit’s prearrest delinquency civil citation or similar prearrest diversion program must specify all of the following:

1. The misdemeanor offenses that qualify a juvenile for participation in the program. Offenses involving the use or possession of a firearm do not qualify for a prearrest delinquency citation program.†

2. The eligibility criteria for the program.†

3. The program’s implementation and operation.†

4. The program’s requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, classes established by the department or the prearrest delinquency citation program, and intervention services indicated by a needs assessment of the juvenile, approved by the department, such as family counseling,
urinalysis monitoring, and substance abuse and mental health treatment services.

5. A program fee, if any, to be paid by a juvenile participating in the program. If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.

(c) The state attorney of each circuit shall operate a prearrest delinquency civil citation or similar prearrest diversion program in each circuit. A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may continue to operate an independent prearrest delinquency civil citation or similar prearrest diversion program that is in operation as of October 1, 2018, if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the prearrest delinquency civil citation or similar prearrest diversion program developed by the circuit. If the state attorney determines that the independent program is not substantially similar to the prearrest delinquency civil citation or similar prearrest diversion program developed by the circuit, the operator of the independent diversion program may revise the program and the state attorney may conduct an additional review of the independent program. A civil citation or similar prearrest diversion program existing before July 1, 2024, shall be deemed a delinquency citation program authorized by this section if the civil citation or similar prearrest diversion program has been approved by the state attorney of the circuit in which it operates and it complies with the
requirements in paragraph (2)(b).

(d) A judicial circuit may model an existing sheriff’s, police department’s, county’s, municipality’s, locally authorized entity’s, or public or private educational institution’s independent civil citation or similar prearrest diversion program in developing the civil citation or similar prearrest diversion program for the circuit.

(d)(e) If a juvenile does not successfully complete the prearrest delinquency civil citation or similar prearrest diversion program, the arresting law enforcement officer shall determine if there is good cause to arrest the juvenile for the original misdemeanor offense and refer the case to the state attorney to determine if prosecution is appropriate or allow the juvenile to continue in the program.

(e)(f) Each prearrest delinquency civil citation or similar prearrest diversion program shall enter the appropriate youth data into the Juvenile Justice Information System Prevention Web within 7 days after the admission of the youth into the program.

(f)(g) At the conclusion of a juvenile’s prearrest delinquency civil citation or similar prearrest diversion program, the state attorney or operator of the independent program shall report the outcome to the department. The issuance of a prearrest delinquency civil citation or similar prearrest diversion program notice is not considered a referral to the department.

(g)(h) Upon issuing a prearrest delinquency civil citation or similar prearrest diversion program notice, the law enforcement officer shall send a copy of the prearrest delinquency civil citation or similar prearrest diversion program notice to...
program notice to the parent or guardian of the child and to the victim.

Section 5. Section 985.125, Florida Statutes, is amended to read:

985.125 Prearrest or Postarrest diversion programs.—
(1) A law enforcement agency or school district, in cooperation with the state attorney, may establish a prearrest or postarrest diversion program.

(2) As part of the prearrest or postarrest diversion program, a child who is alleged to have committed a delinquent act may be required to surrender his or her driver license, or refrain from applying for a driver license, for not more than 90 days. If the child fails to comply with the requirements of the program, the state attorney may notify the Department of Highway Safety and Motor Vehicles in writing to suspend the child’s driver license for a period that may not exceed 90 days.

Section 6. Subsections (5) and (6) of section 985.126, Florida Statutes, are renumbered as subsections (6) and (7), respectively, subsections (3) and (4) of that section are amended, and a new subsection (5) is added to that section, to read:

985.126 Prearrest and postarrest diversion programs; data collection; denial of participation or expunged record.—
(3)(a) Beginning October 1, 2018, Each diversion program shall submit data to the department which identifies for each minor participating in the diversion program:

1. The race, ethnicity, gender, and age of that minor.
2. The offense committed, including the specific law establishing the offense.
3. The judicial circuit and county in which the offense was committed and the law enforcement agency that had contact with the minor for the offense.

4. Other demographic information necessary to properly register a case into the Juvenile Justice Information System Prevention Web, as specified by the department.

   (b) Beginning October 1, 2018, Each law enforcement agency shall submit to the department data for every minor charged for the first-time, who is charged with a misdemeanor, and who was that identifies for each minor who was eligible for a diversion program, but was instead referred to the department, provided a notice to appear, or arrested:

      1. The data required pursuant to paragraph (a).

      2. Whether the minor was offered the opportunity to participate in a diversion program. If the minor was:

         a. Not offered such opportunity, the reason such offer was not made.

         b. Offered such opportunity, whether the minor or his or her parent or legal guardian declined to participate in the diversion program.

   (c) The data required pursuant to paragraph (a) shall be entered into the Juvenile Justice Information System Prevention Web within 7 days after the youth’s admission into the program.

   (d) The data required pursuant to paragraph (b) shall be submitted on or with the arrest affidavit or notice to appear.

   (4) Beginning January 1, 2019, The department shall compile and semiannually publish the data required by subsection (3) on the department’s website in a format that is, at a minimum, sortable by judicial circuit, county, law enforcement agency,
race, ethnicity, gender, age, and offense committed.

(5) The department shall provide a quarterly report to be published on its website and distributed to the Governor, President of the Senate, and Speaker of the House of Representatives listing the entities that use prearrest delinquency citations for less than 70 percent of first-time misdemeanor offenses.

Section 7. Subsection (4) of section 985.245, Florida Statutes, is amended to read:

985.245 Risk assessment instrument.—

(4) For a child who is under the supervision of the department through probation, supervised release detention, conditional release, postcommitment probation, or commitment and who is charged with committing a new offense, the risk assessment instrument may be completed and scored based on the underlying charge for which the child was placed under the supervision of the department.

Section 8. Subsection (1) of section 985.25, Florida Statutes, is amended to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.

(a) During the period of time from the taking of the child into custody to the date of the detention hearing, the initial decision as to the child’s placement into detention care shall be made by the department under ss. 985.24 and 985.245(1).
(b) The department shall base the decision whether to place the child into detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the department under s. 985.245, except that a child shall be placed in secure detention care until the child’s detention hearing if the child meets the criteria specified in s. 985.255(1)(f), is charged with possessing or discharging a firearm on school property in violation of s. 790.115, or is charged with any other offense involving the possession or use of a firearm.

(c) If the final score on the child’s risk assessment instrument indicates detention care is appropriate, but the department otherwise determines the child should be released, the department shall contact the state attorney, who may authorize release.

(d) If the final score on the risk assessment instrument indicates detention is not appropriate, the child may be released by the department in accordance with ss. 985.115 and 985.13.

(e) Notwithstanding any other provision of law, a child who is arrested for violating the terms of his or her electronic monitoring supervision or his or her supervised release shall be placed in secure detention until his or her detention hearing.

(f) Notwithstanding any other provision of law, a child on probation for an underlying felony firearm offense in chapter 790 and who is taken into custody under s. 985.101 for violating conditions of probation not involving a new law violation shall be held in secure detention to allow the state attorney to review the violation. If, within 21 days, the state attorney
notifies the court that commitment will be sought, then the
child shall remain in secure detention pending proceedings under
s. 985.439 until the initial 21-day period of secure detention
has expired. Upon motion of the state attorney, the child may be
held for an additional 21-day period if the court finds that the
totality of the circumstances, including the preservation of
public safety, warrants such extension. Any release from secure
detention shall result in the child being held on supervised
release with electronic monitoring pending proceedings under s.
985.439.

Under no circumstances shall the department or the state
attorney or law enforcement officer authorize the detention of
any child in a jail or other facility intended or used for the
detention of adults, without an order of the court.

Section 9. Paragraph (a) of subsection (1) and subsection
(3) of section 985.255, Florida Statutes, are amended, and
paragraphs (g) and (h) are added to subsection (1) of that
section, to read:

985.255 Detention criteria; detention hearing.—
(1) Subject to s. 985.25(1), a child taken into custody and
placed into detention care shall be given a hearing within 24
hours after being taken into custody. At the hearing, the court
may order a continued detention status if:

(a) The result of the risk assessment instrument pursuant
to s. 985.245 indicates secure or supervised release detention
or the court makes the findings required under paragraph (3)(b).

(g) The court finds probable cause at the detention hearing
that the child committed one or more of the following offenses:
1. Murder in the first degree under s. 782.04(1)(a).
2. Murder in the second degree under s. 782.04(2).
3. Armed robbery under s. 812.13(2)(a) that involves the use or possession of a firearm as defined in s. 790.001.
4. Armed carjacking under s. 812.133(2)(a) that involves the use or possession of a firearm as defined in s. 790.001.
5. Having a firearm while committing a felony under s. 790.07(2).
6. Armed burglary under s. 810.02(2)(b) that involves the use or possession of a firearm as defined in s. 790.001.
7. Delinquent in possession of a firearm under s. 790.23(1)(b).
8. An attempt to commit any offense listed in this paragraph under s. 777.04.

(h) For a child who meets the criteria in paragraph (g):
1. There is a presumption that the child presents a risk to public safety and danger to the community and such child must be held in secure detention prior to an adjudicatory hearing, unless the court enters a written order that the child would not present a risk to public safety or a danger to the community if he or she were placed on supervised release detention care.
2. The written order releasing a child from secure detention must be based on clear and convincing evidence why the child does not present a risk to public safety or a danger to the community and must list the child’s prior adjudications, dispositions, and prior violations of pretrial release orders. A court releasing a child from secure detention under this subparagraph shall place the child on supervised release detention care with electronic monitoring until the child’s
adjudicatory hearing.

3. If an adjudicatory hearing has not taken place after 60 days of secure detention for a child held in secure detention under this paragraph, the court must prioritize the efficient disposition of cases and hold a review hearing within each successive 7-day review period until the adjudicatory hearing or until the child is placed on supervised release with electronic monitoring under subparagraph 2.

4. If the court, under this section, releases a child to supervised release detention care, the court must provide a copy of the written order to the victim, to the law enforcement agency that arrested the child, and to the law enforcement agency with primary jurisdiction over the child’s primary residence.

(3)(a) The purpose of the detention hearing required under subsection (1) is to determine the existence of probable cause that the child has committed the delinquent act or violation of law that he or she is charged with and the need for continued detention. The court shall consider use the results of the risk assessment performed by the department and, based on the criteria in subsection (1), shall determine the need for continued detention. If the child is a prolific juvenile offender who is detained under s. 985.26(2)(c), the court shall consider use the results of the risk assessment performed by the department and the criteria in subsection (1) or subsection (2) only to determine whether the prolific juvenile offender should be held in secure detention.

(b) If The court may order orders a placement more or less restrictive than indicated by the results of the risk assessment.
instrument, and, if the court does so, shall state, in writing, clear and convincing reasons for such placement.

(c) Except as provided in s. 790.22(8) or s. 985.27, when a child is placed into detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in s. 985.26 or s. 985.27, whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted under s. 985.26(4). If the court order does not include a release date, the release date shall be requested from the court on the same date that the child is placed in detention care. If a subsequent hearing is needed to provide additional information to the court for safety planning, the initial order placing the child in detention care shall reflect the next detention review hearing, which shall be held within 3 calendar days after the child’s initial detention placement.

Section 10. Paragraph (b) of subsection (2) of section 985.26, Florida Statutes, is amended to read:

985.26 Length of detention.—

(2) (b) The court may order the child to be held in secure detention beyond 21 days under the following circumstances:

1. Upon good cause being shown that the nature of the charge requires additional time for the prosecution or defense of the case or that the totality of the circumstances, including the preservation of public safety, warrants an extension, the
court may extend the length of secure detention care for up to an additional 21 days if the child is charged with an offense which, if committed by an adult, would be a capital felony, a life felony, a felony of the first degree or the second degree, a felony of the third degree involving violence against any individual, or any other offense involving the possession or use of a firearm. Except as otherwise provided in subparagraph 2., the court may continue to extend the period of secure detention care in increments of up to 21 days each by conducting a hearing before the expiration of the current period to determine the need for continued secure detention of the child. At the hearing, the court must make the required findings in writing to extend the period of secure detention. If the court extends the time period for secure detention care, it shall ensure an adjudicatory hearing for the case commences as soon as is reasonably possible considering the totality of the circumstances. The court shall prioritize the efficient disposition of cases in which the child has served 60 or more days in secure detention care.

2. When the child is being held in secure detention under s. 985.255(1)(g), and subject to s. 985.255(1)(h).

Section 11. Paragraph (d) is added to subsection (7) of section 985.433, Florida Statutes, and subsections (8) and (9) of that section are amended, to read:

985.433 Disposition hearings in delinquency cases.—When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(7) If the court determines that the child should be
adjudicated as having committed a delinquent act and should be committed to the department, such determination shall be in writing or on the record of the hearing. The determination shall include a specific finding of the reasons for the decision to adjudicate and to commit the child to the department, including any determination that the child was a member of a criminal gang.

(d) Any child adjudicated by the court and committed to the department under a restrictiveness level described in s. 985.03(44)(a)–(d), for any offense or attempted offense involving a firearm must be placed on conditional release, as defined in s. 985.03, for a period of 1 year following his or her release from a commitment program. Such term of conditional release shall include electronic monitoring of the child by the department for the initial 6 months following his or her release and at times and under terms and conditions set by the department.

(8) If the court determines not to adjudicate and commit to the department, then the court shall determine what community-based sanctions it will impose in a probation program for the child. Community-based sanctions may include, but are not limited to, participation in substance abuse treatment, a day-treatment probation program, restitution in money or in kind, a curfew, revocation or suspension of the driver license of the child, community service, and appropriate educational programs as determined by the district school board.

(a)1. Where a child is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of s. 790.22(3), or is found
to have committed an offense during the commission of which the child possessed a firearm, and the court has decided not to commit the child to a residential program, the court shall order the child, in addition to any other punishment provided by law, to:

a. Serve a period of detention of 30 days in a secure detention facility, with credit for time served in secure detention prior to disposition.

b. Perform 100 hours of community service or paid work as determined by the department.

c. Be placed on probation for a period of at least 1 year.

Such term of probation shall include electronic monitoring of the child by the department at times and under terms and conditions set by the department.

2. In addition to the penalties in subparagraph 1., the court may impose the following restrictions upon the child’s driving privileges:

a. If the child is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the child’s driver license or driving privilege for up to 1 year.

b. If the child’s driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.

c. If the child is ineligible by reason of age for a driver license or driving privilege, the court may direct the
Department of Highway Safety and Motor Vehicles to withhold issuance of the minor’s driver license or driving privilege for up to 1 year after the date on which the child would otherwise have become eligible.

For the purposes of this paragraph, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(b) A child who has previously had adjudication withheld for any of the following offenses shall not be eligible for a second or subsequent withhold of adjudication if he or she is subsequently found to have committed any of the following offenses, and must be adjudicated delinquent and committed to a residential program:

1. Armed robbery involving a firearm under s. 812.13(2)(a).
2. Armed carjacking under s. 812.133(2)(a) involving the use or possession of a firearm as defined in s. 790.001.
3. Having a firearm while committing a felony under s. 790.07(2).
4. Armed burglary under s. 810.02(2)(b) involving the use or possession of a firearm as defined in s. 790.001.
5. Delinquent in possession of a firearm under s. 790.23(1)(b).
6. An attempt to commit any offense listed in this paragraph under s. 777.04.

(9) After appropriate sanctions for the offense are determined, including any minimum sanctions required by this section, the court shall develop, approve, and order a plan of
probation that will contain rules, requirements, conditions, and rehabilitative programs, including the option of a day-treatment probation program, that are designed to encourage responsible and acceptable behavior and to promote both the rehabilitation of the child and the protection of the community.

Section 12. Subsections (1), (3), and (4) of section 985.435, Florida Statutes, are amended to read:

985.435 Probation and postcommitment probation; community service.—

(1) The court that has jurisdiction over an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing, place the child in a probation program or a postcommitment probation program. Such placement must be under the supervision of an authorized agent of the department or of any other person or agency specifically authorized and appointed by the court, whether in the child’s own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct.

(3) A probation program must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in a school or career and technical education program. The nonconsent of the child to treatment in a substance abuse treatment program in no way precludes the court from ordering such treatment. Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child’s conditions of postcommitment probation,
the court may order the child to submit to random testing for
the purpose of detecting and monitoring the use of alcohol or
controlled substances.

(4) A probation program must may also include an
alternative consequence component to address instances in which
a child is noncompliant with technical conditions of his or her
probation but has not committed any new violations of law. The
alternative consequence component must be aligned with the
department’s graduated response matrix as described in s.
985.438 Each judicial circuit shall develop, in consultation
with judges, the state attorney, the public defender, the
regional counsel, relevant law enforcement agencies, and the
department, a written plan specifying the alternative
consequence component which must be based upon the principle
that sanctions must reflect the seriousness of the violation,
the assessed criminogenic needs and risks of the child, the
child’s age and maturity level, and how effective the sanction
or incentive will be in moving the child to compliant behavior.
The alternative consequence component is designed to provide
swift and appropriate consequences or incentives to a child who
is alleged to be noncompliant with or in violation of probation.
If the probation program includes this component, specific
consequences that apply to noncompliance with specific technical
conditions of probation, as well as incentives used to move the
child toward compliant behavior, must be detailed in the
disposition order.

Section 13. Section 985.438, Florida Statutes, is created
to read:

985.438 Graduated response matrix.—
(1) The department shall create and administer a statewide plan to hold youths accountable to the terms of their court ordered probation and the terms of their conditional release. The plan must be based upon the principle that sanctions must reflect the seriousness of the violation, provide immediate accountability for violations, the assessed criminogenic needs and risks of the child, and the child’s age and maturity level. The plan is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of his or her probation.

(2) The graduated response matrix shall outline sanctions for youth based on their risk to reoffend and shall include, but not be limited to:

(a) Increased contacts.
(b) Increased drug tests.
(c) Curfew reductions.
(d) Increased community service.
(e) Additional evaluations.
(f) Addition of electronic monitoring.

(3) The graduated response matrix shall be adopted in rule by the department.

Section 14. Section 985.439, Florida Statutes, is amended to read:

985.439 Violation of probation or postcommitment probation.—
(1)(a) This section is applicable when the court has jurisdiction over a child on probation or postcommitment probation, regardless of adjudication.

(b) If the conditions of the probation program or the
postcommitment probation program are violated, the department or
the state attorney may bring the child before the court on a
petition alleging a violation of the program. A child who
violates the conditions of probation or postcommitment probation
must be brought before the court if sanctions are sought.

(c) Upon receiving notice of a violation of probation from
the department, the state attorney must file the violation
within 5 days or provide in writing to the department and the
court the reason as to why he or she is not filing.

(2) A child taken into custody under s. 985.101 for
violating the conditions of probation shall be screened and
detained or released based on his or her risk assessment
instrument score.

(3) If the child denies violating the conditions of
probation or postcommitment probation, the court shall, upon the
child’s request, appoint counsel to represent the child.

(4) Upon the child’s admission, or if the court finds after
a hearing that the child has violated the conditions of
probation or postcommitment probation, the court shall enter an
order revoking, modifying, or continuing probation or
postcommitment probation. In each such case, the court shall
enter a new disposition order and, in addition to the sanctions
set forth in this section, may impose any sanction the court
could have imposed at the original disposition hearing. If the
child is found to have violated the conditions of probation or
postcommitment probation, the court may:

(a) Place the child in supervised release detention with
electronic monitoring.

(b) If the violation of probation is technical in nature
and not a new violation of law, place the child in an
alternative consequence program designed to provide swift and
appropriate consequences to any further violations of probation.

1. Alternative consequence programs shall be established,
within existing resources, at the local level in coordination
with law enforcement agencies, the chief judge of the circuit,
the state attorney, and the public defender.

2. Alternative consequence programs may be operated by an
entity such as a law enforcement agency, the department, a
juvenile assessment center, a county or municipality, or another
entity selected by the department.

3. Upon placing a child in an alternative consequence
program, the court must approve specific consequences for
specific violations of the conditions of probation.

   (c) Modify or continue the child’s probation program or
   postcommitment probation program.

   (d) Revoke probation or postcommitment probation and commit
   the child to the department.

   (e) Allow the department to place a child on electronic
   monitoring for a violation of probation if it determines doing
   so will preserve and protect public safety.

(5) Upon the recommendation of the department at the time
of disposition, or subsequent to disposition pursuant to the
filing of a petition alleging a violation of the child’s
conditions of postcommitment probation, the court may order the
child to submit to random testing for the purpose of detecting
and monitoring the use of alcohol or controlled substances.

Section 15. Subsection (5) is added to section 985.455,
Florida Statutes, to read:
985.455 Other dispositional issues.—

(5) If the court orders revocation or suspension of a child’s driver license as part of a disposition, the court may, upon finding a compelling circumstance to warrant an exception, direct the Department of Highway Safety and Motor Vehicles to issue a license for driving privileges restricted to business or employment purposes only, as defined in s. 322.271.

Section 16. Subsections (2), (3), and (5) of section 985.46, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

985.46 Conditional release.—

(2) It is the intent of the Legislature that:

(a) Commitment programs include rehabilitative efforts on preparing committed juveniles for a successful release to the community.

(b) Conditional release transition planning begins as early in the commitment process as possible.

(c) Each juvenile committed to a residential commitment program receive conditional release services be assessed to determine the need for conditional release services upon release from the commitment program unless the juvenile is directly released by the court.

(3) For juveniles referred or committed to the department, the function of the department may include, but shall not be limited to, supervising each juvenile on conditional release when assessing each juvenile placed in a residential commitment program to determine the need for conditional release services upon release from the program, supervising the juvenile when released into the community from a residential commitment.
facility of the department, providing such counseling and other services as may be necessary for the families and assisting their preparations for the return of the child. Subject to specific appropriation, the department shall provide for outpatient sexual offender counseling for any juvenile sexual offender released from a residential commitment program as a component of conditional release.

(5) Conditional release supervision shall contain, at a minimum, the following conditions:

(a) Participation in the educational program by students of compulsory school attendance age pursuant to s. 1003.21(1) and (2)(a) is mandatory for juvenile justice youth on conditional release or postcommitment probation status. A student of noncompulsory school-attendance age who has not received a high school diploma or its equivalent must participate in an educational program or career and technical education course of study. A youth who has received a high school diploma or its equivalent and is not employed must participate in workforce development or other career or technical education or attend a community college or a university while in the program, subject to available funding.

(b) A curfew.

(c) A prohibition on contact with victims, co-defendants, or known gang members.

(d) A prohibition on use of controlled substances.

(e) A prohibition on possession of firearms.

(6) A youth who violates the terms of his or her conditional release shall be assessed using the graduated response matrix as described in s. 985.438. A youth who fails to
move into compliance shall be recommitted to a residential facility.

Section 17. Paragraph (c) of subsection (1) of section 985.48, Florida Statutes, is amended to read:

985.48 Juvenile sexual offender commitment programs; sexual abuse intervention networks.—

(1) In order to provide intensive treatment and psychological services to a juvenile sexual offender committed to the department, it is the intent of the Legislature to establish programs and strategies to effectively respond to juvenile sexual offenders. In designing programs for juvenile sexual offenders, it is the further intent of the Legislature to implement strategies that include:

(c) Providing intensive postcommitment supervision of juvenile sexual offenders who are released into the community with terms and conditions which may include electronic monitoring of a juvenile sexual offender for the purpose of enhancing public safety.

Section 18. Paragraph (a) of subsection (6) of section 985.4815, Florida Statutes, is amended 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 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 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 19. Subsection (11) of section 985.601, Florida Statutes, is renumbered as subsection (12), and a new subsection (11) is added to that section, to read:

985.601 Administering the juvenile justice continuum.—
(11) The department shall establish a class focused on the risk and consequences of youthful firearm offending which shall be provided by the department to any youth who has been adjudicated or had adjudication withheld for any offense involving the use or possession of a firearm.

Section 20. Section 985.711, Florida Statutes, is amended to read:

985.711 Introduction, removal, or possession of certain articles unlawful; penalty.—
(1)(a) Except as authorized through program policy or operating procedure or as authorized by the facility superintendent, program director, or manager, a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be
contraband under this section:

1. Any unauthorized article of food or clothing given or transmitted, or intended to be given or transmitted, to any youth in a juvenile detention facility or commitment program.

2. Any intoxicating beverage or any beverage that causes or may cause an intoxicating effect.

3. Any controlled substance as defined in s. 893.02(4), marijuana as defined in s. 381.986, hemp as defined in s. 581.217, industrial hemp as defined in s. 1004.4473, or any prescription or nonprescription drug that has a hypnotic, stimulating, or depressing effect.

4. Any firearm or weapon of any kind or any explosive substance.

5. Any cellular telephone or other portable communication device as described in s. 944.47(1)(a)6., intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program. As used in this subparagraph, the term “portable communication device” does not include any device that has communication capabilities which has been approved or issued by the facility superintendent, program director, or manager.

6. Any vapor-generating electronic device as defined in s. 386.203, intentionally and unlawfully introduced inside the secure perimeter of any juvenile detention facility or commitment program.

7. Any currency or coin given or transmitted, or intended to be given or transmitted, to any youth in any juvenile detention facility or commitment program.

8. Any cigarettes, as defined in s. 210.01(1) or tobacco
products, as defined in s. 210.25, given, or intended to be given, to any youth in a juvenile detention facility or commitment program.

(b) A person may not transmit contraband to, cause contraband to be transmitted to or received by, attempt to transmit contraband to, or attempt to cause contraband to be transmitted to or received by, a juvenile offender into or upon the grounds of a juvenile detention facility or commitment program, except as authorized through program policy or operating procedures or as authorized by the facility superintendent, program director, or manager.

(c) A juvenile offender or any person, while upon the grounds of a juvenile detention facility or commitment program, may not be in actual or constructive possession of any article or thing declared to be contraband under this section, except as authorized through program policy or operating procedures or as authorized by the facility superintendent, program director, or manager.

(2) (a) Any person who violates this section as it pertains to an article of contraband described in subparagraph (1)(a)1. commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who violates this section as it pertains to an article of contraband described in subparagraph (1)(a)5. or subparagraph (1)(a)6. commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) In all other cases, A person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
Section 21. Paragraph (c) of subsection (2) of section 1002.221, Florida Statutes, is amended to read:

1002.221 K-12 education records; public records exemption.—

(2)
(c) In accordance with the FERPA and the federal regulations issued pursuant to the FERPA, an agency or institution, as defined in s. 1002.22, may release a student’s education records without written consent of the student or parent to parties to an interagency agreement among the Department of Juvenile Justice, the school, law enforcement authorities, and other signatory agencies. Information provided pursuant to an interagency agreement may be used for proceedings initiated under chapter 984 or chapter 985 in furtherance of an interagency agreement is intended solely for use in determining the appropriate programs and services for each juvenile or the juvenile’s family, or for coordinating the delivery of the programs and services, and as such is inadmissible in any court proceeding before a dispositional hearing unless written consent is provided by a parent or other responsible adult on behalf of the juvenile.

Section 22. Paragraph (b) of subsection (3) of section 943.051, Florida Statutes, is amended to read:

943.051 Criminal justice information; collection and storage; fingerprinting.—

(3)
(b) A minor who is charged with or found to have committed the following offenses shall be fingerprinted and the fingerprints shall be submitted electronically to the department, unless the minor is issued a prearrest delinquency

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COMMITTEE AMENDMENT

Bill No. SB 1274

1. Assault, as defined in s. 784.011.
2. Battery, as defined in s. 784.03.
3. Carrying a concealed weapon, as defined in s. 790.01(2).
4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).
5. Neglect of a child, as defined in s. 827.03(1)(e).
6. Assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b).
7. Open carrying of a weapon, as defined in s. 790.053.
8. Exposure of sexual organs, as defined in s. 800.03.
9. Unlawful possession of a firearm, as defined in s. 790.22(5).
10. Petit theft, as defined in s. 812.014(3).
11. Cruelty to animals, as defined in s. 828.12(1).
12. Arson, as defined in s. 806.031(1).
13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property, as provided in s. 790.115.

Section 23. Paragraph (b) of subsection (1) of section 985.11, Florida Statutes, is amended to read:

985.11 Fingerprinting and photographing.—
(1)
(b) Unless the child is issued a prearrest delinquency civil citation or is participating in a similar diversion program pursuant to s. 985.12, a child who is charged with or found to have committed one of the following offenses shall be fingerprinted, and the fingerprints shall be submitted to the...
Department of Law Enforcement as provided in s. 943.051(3)(b):

1. Assault, as defined in s. 784.011.
2. Battery, as defined in s. 784.03.
3. Carrying a concealed weapon, as defined in s. 790.01(2).
4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).
5. Neglect of a child, as defined in s. 827.03(1)(e).
6. Assault on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a).
7. Open carrying of a weapon, as defined in s. 790.053.
8. Exposure of sexual organs, as defined in s. 800.03.
9. Unlawful possession of a firearm, as defined in s. 790.22(5).
10. Petit theft, as defined in s. 812.014.
11. Cruelty to animals, as defined in s. 828.12(1).
12. Arson, resulting in bodily harm to a firefighter, as defined in s. 806.031(1).
13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115.

A law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed any other violation of law, as the agency deems appropriate. Such fingerprint records and photographs shall be retained by the law enforcement agency in a separate file, and these records and all copies thereof must be marked “Juvenile Confidential.” These records are not available for public disclosure and inspection under s. 119.07(1) except as provided...
in ss. 943.053 and 985.04(2), but shall be available to other
law enforcement agencies, criminal justice agencies, state
attorneys, the courts, the child, the parents or legal
custodians of the child, their attorneys, and any other person
authorized by the court to have access to such records. In
addition, such records may be submitted to the Department of Law
Enforcement for inclusion in the state criminal history records
and used by criminal justice agencies for criminal justice
purposes. These records may, in the discretion of the court, be
open to inspection by anyone upon a showing of cause. The
fingerprint and photograph records shall be produced in the
court whenever directed by the court. Any photograph taken
pursuant to this section may be shown by a law enforcement
officer to any victim or witness of a crime for the purpose of
identifying the person who committed such crime.

Section 24. Paragraph (n) of subsection (2) of section
1006.07, Florida Statutes, is amended to read:

1006.07 District school board duties relating to student
discipline and school safety.—The district school board shall
provide for the proper accounting for all students, for the
attendance and control of students at school, and for proper
attention to health, safety, and other matters relating to the
welfare of students, including:

(2) CODE OF STUDENT CONDUCT.—Adopt a code of student
conduct for elementary schools and a code of student conduct for
middle and high schools and distribute the appropriate code to
all teachers, school personnel, students, and parents, at the
beginning of every school year. Each code shall be organized and
written in language that is understandable to students and
parents and shall be discussed at the beginning of every school year in student classes, school advisory council meetings, and parent and teacher association or organization meetings. Each code shall be based on the rules governing student conduct and discipline adopted by the district school board and shall be made available in the student handbook or similar publication. Each code shall include, but is not limited to:

(n) Criteria for recommending to law enforcement that a student who commits a criminal offense be allowed to participate in a prearrest delinquency citation civil citation or similar prearrest diversion program as an alternative to expulsion or arrest. All prearrest delinquency citation civil citation or similar prearrest diversion programs must comply with s. 985.12.

Section 25. This act shall take effect July 1, 2024.

And the title is amended as follows:
Delete everything before the enacting clause and insert:

A bill to be entitled An act relating to juvenile justice; amending s. 790.115, F.S.; removing a provision requiring specified treatment of minors charged with possessing or discharging a firearm on school property; amending s. 790.22, F.S.; revising penalties for minors committing specified firearms violations; removing provisions concerning minors charged with or convicted of certain firearms offenses; amending s. 985.101, F.S.; conforming provisions to changes made by the
act; amending s. 985.12, F.S.; redesignating civil
citation programs as prearrest delinquency citation
programs; revising program requirements; providing
that certain existing programs meeting certain
requirements shall be deemed authorized; amending s.
985.125, F.S.; conforming provisions to changes made
by the act; amending s. 985.126, F.S.; requiring the
Department of Juvenile Justice to publish a quarterly
report concerning entities using delinquency citations
for less than a specified amount of eligible offenses;
amending s. 985.245, F.S.; conforming provisions to
changes made by the act; amending s. 985.25, F.S.;
requiring that youths who are arrested for certain
electronic monitoring violations be placed in secure
detention until a detention hearing; requiring that a
child on probation for an underlying felony firearm
offense who is taken into custody be placed in secure
detention; providing for renewal of secure detention
periods in certain circumstances; amending s. 985.255,
F.S.; providing that when there is probable cause that
a child committed one of a specified list of offenses
that he or she is presumed to be a risk to public
safety and danger to the community and must be held in
secure a detention before an adjudicatory hearing;
providing requirements for release of such a child
despite the presumption; revising language concerning
the use of risk assessments; amending s. 985.26, F.S.;
revising requirements for holding a child in secure
detention for more than 21 days; amending s. 985.433,
F.S.; requiring conditional release conditions for children released after confinement for specified firearms offenses; requiring specified sanctions for certain children adjudicated for certain firearms offenses who are not committed to a residential program; providing that children who previously have had adjudication withheld for certain offenses may not have adjudication withheld for specified offenses; amending s. 985.435, F.S.; conforming provisions to changes made by the act; creating s. 985.438, F.S.; requiring the Department of Juvenile Justice to create and administer a graduated response matrix to hold youths accountable to the terms of their court ordered probation and the terms of their conditional release; providing requirements for the matrix; amending s. 985.439, F.S.; requiring a state attorney to file a probation violation within a specified period or inform the court and the Department of Juvenile Justice why such violation is not filed; removing provisions concerning an alternative consequence program; allowing placement of electronic monitoring for probation violations in certain circumstances; amending s. 985.455, F.S.; authorizing a court to make an exception to an order of revocation or suspension of driving privileges in certain circumstances; amending s. 985.46, F.S.; revising legislative intent concerning conditional release; revising the conditions of conditional release; providing for assessment of conditional release violations and
possible recommitment of violators; amending ss. 985.48 and 985.4815, F.S.; conforming provisions to changes made by the act; amending s. 985.601, F.S.; requiring the Department of Juvenile justice to establish a specified class for firearms offenders; amending s. 985.711, F.S.; revising provisions concerning introduction of contraband into department facilities; revising criminal penalties for violations; amending s. 1002.221, F.S.; revising provisions concerning educational records for certain purposes; amending ss. 943.051, 985.11, and 1006.07, F.S.; conforming provisions to changes made by the act; providing an effective date.
A bill to be entitled
An act relating to juvenile justice; amending s.
790.115, F.S.; removing a provision requiring
specified treatment of minors charged with possessing
or discharging a firearm on school property; amending
s. 790.22, F.S.; revising penalties for minors
committing specified firearms violations; removing
provisions concerning minors charged with or convicted
of certain firearms offenses; amending s. 985.101,
F.S.; conforming provisions to changes made by the
act; amending s. 985.12, F.S.; redesignating civil
citation programs as prearrest delinquency citation
programs; revising program requirements; providing
that certain existing programs meeting certain
requirements shall be deemed authorized; amending s.
985.125, F.S.; conforming provisions to changes made
by the act; amending s. 985.126, F.S.; requiring the
Department of Juvenile Justice to publish a quarterly
report concerning entities using delinquency citations
for less than a specified amount of eligible offenses;
amending s. 985.245, F.S.; conforming provisions to
changes made by the act; amending s. 985.25, F.S.;
requiring that youths who are arrested for certain
electronic monitoring or supervised release violations
be placed in secure detention until a detention
hearing; requiring that a child on probation for an
underlying felony firearm offense who is taken into
custody be placed in secure detention; providing for
renewal of secure detention periods in certain
circumstances; amending s. 985.255, F.S.; providing
that when there is probable cause that a child
committed one of a specified list of offenses that he
or she is presumed to be a risk to public safety and
danger to the community and must be held in secure a
detention before an adjudicatory hearing; providing
requirements for release of such a child despite the
presumption; revising provisions concerning the use of
risk assessments; amending s. 985.26, F.S.; revising
requirements for holding a child in secure detention
for more than 21 days; amending s. 985.433, F.S.;
requiring conditional release conditions for children
released after confinement for specified firearms
offenses; requiring specified sanctions for certain
children adjudicated for certain firearms offenses who
are not committed to a residential program; providing
that children who previously have had adjudication
withheld for certain offenses my not have adjudication
withheld for specified offenses; amending s. 985.435,
F.S.; conforming provisions to changes made by the
act; creating s. 985.438, F.S.; requiring the
Department of Juvenile Justice to create and
administer a graduated response matrix to hold youths
accountable to the terms of their court ordered
probation and the terms of their conditional release;
providing requirements for the matrix; requiring that
the matrix be adopted in rule by the department;
amending s. 985.439, F.S.; requiring a state attorney
to file a probation violation within a specified
period or inform the court and the Department of Juvenile Justice why such violation is not filed; removing provisions concerning an alternative consequence program; allowing placement of electronic monitoring for probation violations in certain circumstances; amending s. 985.455, F.S.; authorizing a court to make an exception to an order of revocation or suspension of driving privileges in certain circumstances; amending s. 985.46, F.S.; revising legislative intent concerning conditional release; revising the conditions of conditional release; providing for assessment of conditional release violations and possible recommitment of violators; amending ss. 985.48 and 985.4815, F.S.; conforming provisions to changes made by the act; amending s. 985.601, F.S.; requiring the Department of Juvenile Justice to establish a specified class for firearms offenders; amending s. 985.711, F.S.; revising provisions concerning introduction of contraband into department facilities; revising criminal penalties for violations; amending s. 1002.221, F.S.; revising provisions concerning educational records for certain purposes; amending ss. 943.051, 985.11, and 1006.07, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (4) of section 790.115, Florida Statutes, is amended to read:

790.115 Possessing or discharging weapons or firearms at a school-sponsored event or on school property prohibited; penalties; exceptions.—(4) Notwithstanding s. 985.24, s. 985.245, or s. 985.25(1), any minor under 18 years of age who is charged under this section with possessing or discharging a firearm on school property shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a probable cause hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention for a period of 21 days, during which time the minor shall receive medical, psychiatric, psychological, or substance abuse examinations pursuant to s. 985.18, and a written report shall be completed.

Section 2. Subsections (1), (5), (8), (9), and (10) of section 790.22, Florida Statutes, are amended, and subsection (3) of that section is republished, to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; possession of firearms by minor under 18 prohibited; penalties.—(1) The use for any purpose whatsoever of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; limitation; possession of firearms by minor under 18 prohibited; penalties.—(3) A minor under 18 years of age may not possess a firearm, other than an unloaded firearm at his or her home, unless:
(a) The minor is engaged in a lawful hunting activity and is:
1. At least 16 years of age; or
2. Under 16 years of age and supervised by an adult.
(b) The minor is engaged in a lawful marksmanship competition or practice or other lawful recreational shooting activity and is:
1. At least 16 years of age; or
2. Under 16 years of age and supervised by an adult who is acting with the consent of the minor’s parent or guardian.
(c) The firearm is unloaded and is being transported by the minor directly to or from an event authorized in paragraph (a) or paragraph (b).

(5) A minor who violates subsection (3) commits a felony of the third degree; for a first offense, shall may serve a period of detention of up to 5 days in a secure detention facility, with credit for time served in secure detention prior to dispositional determination, and, in addition to any other penalty provided by law, shall be required to perform 100 hours of community service or paid work as determined by the Department. For a second violation of subsection (3), a minor shall serve 21 days in a secure detention facility, with credit for time served in secure detention before disposition; and shall be required to perform not less than 100 nor more than 250 hours of community service or paid work as determined by the Department. For a third or subsequent violation of subsection (3), a minor shall be adjudicated delinquent and committed to a residential program. In addition to the penalties for a first offense and a second or subsequent offense under subsection (3),
2. If the minor's driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period of up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor's driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(8) Notwithstanding s. 985.24 or s. 985.25(1), if a minor is charged with an offense that involves the use or possession of a firearm, including a violation of subsection (3), or is charged for any offense during the commission of which the minor possessed a firearm, the minor shall be detained in secure detention, unless the state attorney authorizes the release of the minor, and shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order that the minor continue to be held in secure detention in accordance with the applicable time periods specified in s. 985.26(1)–(5), if the court finds that the minor meets the criteria specified in s. 985.355, or if the court finds by clear and convincing evidence that the minor is a clear and present danger to himself or herself or the community. The Department of Juvenile Justice shall prepare a form for all minors charged under this subsection which states the period of detention and the relevant demographic information, including, but not limited to, the gender, age, and race of the minor, whether or not the minor was represented by private counsel or a public defender, the current offense, and the minor's complete prior record, including any pending cases. The form shall be provided to the judge for determining whether the minor should be continued in secure detention under this subsection. An order placing a minor in secure detention because the minor is a clear and present danger to himself or herself or the community must be in writing, must specify the need for detention and the benefits derived by the minor or the community by placing the minor in secure detention, and must include a copy of the form provided by the department.

(9) Notwithstanding s. 985.245, if the minor is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of subsection (3), or an offense during the commission of which the minor possessed a firearm, and the minor is not committed to a residential commitment program of the Department of Juvenile Justice, in addition to any other punishment provided by law, the court shall order:

(a) For a first offense, that the minor shall serve a minimum period of detention of 15 days in a secure detention facility; and

1. Perform 100 hours of community service; and may...
2. Be placed on community control or in a nonresidential commitment program.

(b) For a second or subsequent offense, that the minor shall serve a mandatory period of detention of at least 21 days in a secure detention facility and:

1. Perform not less than 100 nor more than 250 hours of community service; and may
2. Be placed on community control or in a nonresidential commitment program.

The minor shall not receive credit for time served before adjudication. For the purposes of this subsection, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(10) If a minor is found to have committed an offense under subsection (9), the court shall impose the following penalties in addition to any penalty imposed under paragraph (9)(a) or paragraph (9)(b):

(a) For a first offense:
1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor’s driver license or driving privilege for up to 1 year.
2. If the minor’s driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.

(b) For a second or subsequent offense:
1. If the minor is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor’s driver license or driving privilege for up to 2 years.
2. If the minor’s driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 2 years.

3. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor’s driver license or driving privilege for up to 2 years.

1. If the minor is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the minor’s driver license or driving privilege for up to 2 years after the date on which the minor would otherwise have become eligible.

Section 3. Paragraph (d) of subsection (1) of section 985.101, Florida Statutes, is amended to read:

(1) A child may be taken into custody under the following circumstances:

CODING: Words struck are deletions; words underlined are additions.
Section 4. Section 985.12, Florida Statutes, is amended to read:

985.12 Prearrest delinquency civil citation or similar prearrest diversion programs.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that the creation and implementation of delinquency civil citation or similar prearrest diversion programs at the judicial circuit level promotes public safety, aids interagency cooperation, and provides the greatest chance of success for delinquency civil citation and similar prearrest diversion programs. The Legislature further finds that the widespread use of delinquency civil citation and similar prearrest diversion programs has a positive effect on the criminal justice system by immediately holding youth accountable for their actions and contributes to an overall reduction in the crime rate and recidivism in the state. The Legislature encourages but does not mandate that counties, municipalities, and public or private educational institutions participate in a delinquency civil citation or similar prearrest diversion program created by their county in the circuit, and representatives of participating law enforcement agencies in the circuit shall create a delinquency civil citation or similar prearrest diversion program and develop its policies and procedures. In developing the program’s policies and procedures, input from other interested stakeholders may be solicited. The department shall annually develop and provide guidelines on best practice models for delinquency civil citation or similar prearrest diversion programs to the judicial circuits as a resource.

(b) Each judicial circuit’s delinquency civil citation or similar prearrest diversion program must specify all of the following:

1. The misdemeanor offenses that qualify a juvenile for participation in the program. Offenses involving the use or possession of a firearm are not eligible for delinquency civil citation.

2. The eligibility criteria for the program.

3. The program’s implementation and operation.

4. The program’s requirements, including, but not limited to, the completion of community service hours, payment of restitution, if applicable, classes established by the

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5. A program fee, if any, to be paid by a juvenile participating in the program. If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.

(c) The state attorney of each circuit shall operate a delinquency civil citation or similar prearrest diversion program in each circuit. A sheriff, police department, county, municipality, locally authorized entity, or public or private educational institution may continue to operate an independent delinquency civil citation or similar prearrest diversion program that is in operation as of October 1, 2018, if the independent program is reviewed by the state attorney of the applicable circuit and he or she determines that the independent program is substantially similar to the delinquency civil citation or similar prearrest diversion program developed by the circuit. If the state attorney determines that the independent program is not substantially similar to the delinquency civil citation or similar prearrest diversion program developed by the circuit, the operator of the independent diversion program may revise the program and the state attorney may conduct an additional review of the independent program. A civil citation or similar prearrest diversion program existing before July 1, 2024, shall be deemed a delinquency citation program authorized by this section if the civil citation or similar prearrest diversion program has been approved by the state attorney of the circuit in which it operates and it complies with the requirements in paragraph (2)(b).

(d) If a juvenile does not successfully complete the delinquency civil citation or similar prearrest diversion program, the arresting law enforcement officer shall determine if there is good cause to arrest the juvenile for the original misdemeanor offense and refer the case to the state attorney to determine if prosecution is appropriate or allow the juvenile to continue in the program.

(e) Each delinquency civil citation or similar prearrest diversion program shall enter the appropriate youth data into the Juvenile Justice Information System Prevention Web within 7 days after the admission of the youth into the program.

(f) At the conclusion of a juvenile’s delinquency civil citation or similar prearrest diversion program, the state attorney or operator of the independent program shall report the outcome to the department. The issuance of a delinquency civil citation or similar prearrest diversion program notice is not considered a referral to the department.

(g) Upon issuing a delinquency civil citation or similar prearrest diversion program notice, the law enforcement officer shall send a copy of the delinquency civil citation or similar prearrest diversion program notice, the law enforcement officer shall send a copy of the delinquency civil citation or similar prearrest diversion program notice to the juvenile. If the program imposes a fee, the clerk of the court of the applicable county must receive a reasonable portion of the fee.
Section 5. Section 985.125, Florida Statutes, is amended to read:

985.125 Postarrest diversion programs.—
(1) A law enforcement agency or school district, in cooperation with the state attorney, may establish a prearrest or postarrest diversion program.
(2) As part of the prearrest or postarrest diversion program, a child who is alleged to have committed a delinquent act may be required to surrender his or her driver license, or refrain from applying for a driver license, for not more than 90 days. If the child fails to comply with the requirements of the program, the state attorney may notify the Department of Highway Safety and Motor Vehicles in writing to suspend the child’s driver license for a period that may not exceed 90 days.

Section 6. Subsections (5) and (6) of section 985.126, Florida Statutes, are renumbered as subsections (6) and (7), respectively, subsections (3) and (4) of that section are amended, and a new subsection (5) is added to that section, to read:

985.126 Diversion programs; data collection; denial of participation or expunged record.—
(3)(a) Beginning October 1, 2018, each diversion program shall submit data to the department which identifies for each minor participating in the diversion program:
1. The race, ethnicity, gender, and age of that minor.
2. The offense committed, including the specific law establishing the offense.
3. The judicial circuit and county in which the offense was committed and the law enforcement agency that had contact with the minor for the offense.
4. Other demographic information necessary to properly register a case into the Juvenile Justice Information System Prevention Web, as specified by the department.

(b) Beginning October 1, 2018, each law enforcement agency shall submit to the department data for every youth charged for the first time, who is charged with a misdemeanor, and who was not offered such opportunity, the reason such offer was not made.

Offered such opportunity, whether the minor or his or her parent or legal guardian declined to participate in the diversion program.

(c) The data required pursuant to paragraph (a) shall be entered into the Juvenile Justice Information System Prevention Web within 7 days after the youth’s admission into the program.

(d) The data required pursuant to paragraph (b) shall be submitted on or with the arrest affidavit or notice to appear.

(4) Beginning January 1, 2019, the department shall compile and semiannually publish the data required by subsection (3) on the department’s website in a format that is, at a minimum, sortable by judicial circuit, county, law enforcement agency,
(2) The department shall provide a quarterly report to be published on its website and distributed to the Governor, President of the Senate, and Speaker of the House of Representatives listing the entities that use delinquency citations for less than 70 percent of first-time misdemeanor offenses. Section 7. Subsection (4) of section 985.245, Florida Statutes, is amended to read:

985.245 Risk assessment instrument.—

(4) For a child who is under the supervision of the department through probation, supervised release detention, conditional release, postcommitment probation, or commitment and who is charged with committing a new offense, the risk assessment instrument may be completed and scored based on the underlying charge for which the child was placed under the supervision of the department.

Section 8. Subsection (1) of section 985.25, Florida Statutes, is amended to read:

985.25 Detention intake.—

(1) The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is appropriate.

(a) During the period of time from the taking of the child into custody to the date of the detention hearing, the initial decision as to the child’s placement into detention care shall be made by the department under ss. 985.24 and 985.245(1).
Under no circumstances shall the department or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court. Section 9. Paragraph (a) of subsection (1) and subsection (3) of section 985.255, Florida Statutes, are amended, and paragraphs (g) and (h) are added to subsection (1) of that section, to read:

985.255 Detention criteria; detention hearing.—
(1) Subject to s. 985.25(1), a child taken into custody and placed into detention care shall be given a hearing within 24 hours after being taken into custody. At the hearing, the court may order a continued detention status if:
   (a) The result of the risk assessment instrument pursuant to s. 985.245 indicates secure or supervised release detention or the court makes the findings required under paragraph (3)(b).
   (g) The court finds probable cause at the detention hearing that the child committed one or more of the following offenses:

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adjudicatory hearing.

3. If an adjudicatory hearing has not taken place after 60 days of secure detention for a child held in secure detention under this paragraph, the court must prioritize the efficient disposition of cases and hold a review hearing within each successive 7-day review period until the adjudicatory hearing or the child is placed on supervised release with electronic monitoring under subparagraph 2.

4. If the court, under this section, releases a child to supervised release detention care, the court must provide a copy of the written notice to the victim, to the law enforcement agency that arrested the child, and to the law enforcement agency with primary jurisdiction over the child’s primary residence.

(3)(a) The purpose of the detention hearing required under subsection (1) is to determine the existence of probable cause that the child has committed the delinquent act or violation of law that he or she is charged with and the need for continued detention. The court shall consider the results of the risk assessment performed by the department and, based on the criteria in subsection (1), shall determine the need for continued detention. If the child is a prolific juvenile offender who is detained under s. 985.26(2)(c), the court shall consider the results of the risk assessment performed by the department and the criteria in subsection (1) or subsection (2) only to determine whether the prolific juvenile offender should be held in secure detention.

(b) The court may order a placement more or less restrictive than indicated by the results of the risk assessment.

Length of detention.

4. The court may order the child to be held in secure detention beyond 21 days based on the nature of the charge under the following circumstances:

1. Upon good cause being shown that the nature of the charge requires additional time for the prosecution or defense of the case or that the totality of the circumstances, including

The court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in s. 985.26 or s. 985.27, whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted under s. 985.26(4). If the court order does not include a release date, the release date shall be requested from the court on the same date that the child is placed in detention care. If a subsequent hearing is needed to provide additional information to the court for safety planning, the initial order placing the child in detention care shall reflect the next detention review hearing, which shall be held within 3 calendar days after the child’s initial detention placement.

Section 10. Paragraph (b) of subsection (2) of section 985.26, Florida Statutes, is amended to read:

985.26 Length of detention.—

(2) The court may order the child to be held in secure detention beyond 21 days based on the nature of the charge under the following circumstances:

1. Upon good cause being shown that the nature of the charge requires additional time for the prosecution or defense of the case or that the totality of the circumstances, including
b. The written order releasing a child from secure detention care with electronic monitoring until the child’s adjudicatory hearing.

c. If an adjudicatory hearing has not taken place after 60 days of secure detention for a child held in secure detention under this paragraph, the court must hold a review hearing within each successive 7-day review period until the adjudicatory hearing or the child is placed on supervised release with electronic monitoring under sub-subparagraph b.

d. If the court, under this subparagraph, releases a child to supervised release detention care, the court must provide a copy of the written notice to the victim, the law enforcement agency that arrested the child, and the law enforcement agency with primary jurisdiction over the child’s primary residence.

Section 11. Paragraph (d) is added to subsection (7) of section 985.433, Florida Statutes, and subsections (8) and (9) of that section are amended, to read:

985.433 Disposition hearings in delinquency cases.—When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(7) If the court determines that the child should be adjudicated as having committed a delinquent act and should be committed to the department, such determination shall be in
writing or on the record of the hearing. The determination shall include a specific finding of the reasons for the decision to adjudicate and to commit the child to the department, including any determination that the child was a member of a criminal gang.

(d) Any child adjudicated by the court and committed to the department under a restrictiveness level defined in s. 985.03(44) for any offense or attempted offense involving a firearm must be placed on conditional release, as defined in s. 985.03, for a period of 1 year after release from the commitment program. Such term of conditional release shall include electronic monitoring of the child by the department for the initial 6 months at times and under terms and conditions set by the department.

(8) If the court determines not to adjudicate and commit to the department, then the court shall determine what community-based sanctions it will impose in a probation program for the child. Community-based sanctions may include, but are not limited to, participation in substance abuse treatment, a day-treatment probation program, restitution in money or in kind, a curfew, revocation or suspension of the driver license of the child, community service, and appropriate educational programs as determined by the district school board.

(a) Where a child is found to have committed an offense that involves the use or possession of a firearm, as defined in s. 790.001, other than a violation of s. 790.22(3), or is found to have committed an offense during the commission of which the child possessed a firearm, and the court has decided not to commit the child to a residential program, the court shall order, in addition to any other punishment provided by law:

1. For a first offense, a child shall:
   a. Serve a period of detention of 30 days in a secure detention facility, with credit for time served in secure detention prior to disposition.
   b. Perform 100 hours of community service or paid work as determined by the department.
   c. Be placed on probation for a period of at least 1 year.

2. In addition to these penalties, the court may impose the following restrictions upon the child’s driving privileges:
   a. If the child is eligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to revoke or to withhold issuance of the child’s driver license or driving privilege for up to 1 year.
   b. If the child’s driver license or driving privilege is under suspension or revocation for any reason, the court may direct the Department of Highway Safety and Motor Vehicles to extend the period of suspension or revocation by an additional period for up to 1 year.
   c. If the child is ineligible by reason of age for a driver license or driving privilege, the court may direct the Department of Highway Safety and Motor Vehicles to withhold issuance of the minor’s driver license or driving privilege for up to 1 year after the date on which the child would otherwise have become eligible.
For the purposes of this paragraph, community service shall be performed, if possible, in a manner involving a hospital emergency room or other medical environment that deals on a regular basis with trauma patients and gunshot wounds.

(b) A child who has previously had adjudication withheld for any of the following offenses shall not be eligible for a second or subsequent withhold of adjudication on a listed offense, and must be adjudicated delinquent and committed to a residential program:

1. Armed robbery involving a firearm under s. 812.13(2)(a).
2. Armed carjacking under s. 812.133(2)(a) involving the use or possession of a firearm as defined in s. 790.001.
3. Having a firearm while committing a felony under s. 790.07(2).
4. Armed burglary under s. 810.02(2)(b) involving the use or possession of a firearm as defined in s. 790.001.
5. Delinquent in possession of a firearm under s. 790.23(1)(b).
6. An attempt to commit any offense listed in this paragraph under s. 777.04.

(9) After appropriate sanctions for the offense are determined, including any minimum sanctions required by this section, the court shall develop, approve, and order a plan of probation that will contain rules, requirements, conditions, and rehabilitative programs, including the option of a day-treatment probation program, that are designed to encourage responsible and acceptable behavior and to promote both the rehabilitation of the child and the protection of the community.
a child is noncompliant with technical conditions of his or her probation but has not committed any new violations of law. The alternative consequence component must be aligned with the department’s graduated response matrix as described in s. 985.438. Each judicial circuit shall develop, in consultation with judges, the state attorney, the public defender, the regional counsel, relevant law enforcement agencies, and the department, a written plan specifying the alternative consequence component which must be based upon the principle that sanctions must reflect the seriousness of the violation, the assessed criminogenic needs and risks of the child, the child’s age and maturity level, and how effective the sanction or incentive will be in moving the child to compliant behavior. The alternative consequence component is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of probation. If the conditions of the probation program are violated, the department or its regional counsel may bring the child before the court on a petition alleging a violation of the program. A child who is alleged to be noncompliant with technical conditions of his or her probation but has not committed any new violations of law is alleged to be noncompliant with or in violation of probation.

(2) The graduated response matrix shall outline sanctions for youth based on their risk to reoffend and shall include, but not be limited to:

(a) Increased contacts.
(b) Increased drug tests.
(c) Curfew reductions.
(d) Increased community service.
(e) Additional evaluations.
(f) Addition of electronic monitoring.

(3) The graduated response matrix shall be adopted in rule by the department.

Section 13. Section 985.438, Florida Statutes, is created to read:

985.438 Graduated response matrix.—
(1) The department shall create and administer a statewide plan to hold youths accountable to the terms of their court-ordered probation and the terms of their conditional release. The plan must be based upon the principle that sanctions must reflect the seriousness of the violation, provide immediate accountability for violations, the assessed criminogenic needs and risks of the child, and the child’s age and maturity level. The plan is designed to provide swift and appropriate consequences or incentives to a child who is alleged to be noncompliant with or in violation of probation.

(a) Graduated response matrix.
(b) Violation of probation or postcommitment probation.

(1)(a) This section is applicable when the court has jurisdiction over a child on probation or postcommitment probation, regardless of adjudication.

(b) If the conditions of the probation program or the postcommitment probation program are violated, the department or the state attorney may bring the child before the court on a petition alleging a violation of the program. A child who violates the conditions of probation or postcommitment probation must be brought before the court if sanctions are sought.
Alternative consequence programs may be operated by an entity such as a law enforcement agency, the department, a juvenile assessment center, a county or municipality, or another entity selected by the department.

1. Upon placing a child in an alternative consequence program, the court must approve specific consequences for specific violations of the conditions of probation.

(c) Modify or continue the child’s probation program as postcommitment probation program.

(d) Revoke probation or postcommitment probation and commit the child to the department.

(e) Allow the department to place a youth on electronic monitoring for a violation of probation if it determines doing so will preserve and protect public safety.

(5) Upon the recommendation of the department at the time of disposition, or subsequent to disposition pursuant to the filing of a petition alleging a violation of the child’s conditions of postcommitment probation, the court may order the child to submit to random testing for the purpose of detecting and monitoring the use of alcohol or controlled substances.

Section 15. Subsection (5) is added to section 985.455, Florida Statutes, to read:

985.455 Other dispositional issues.—

(5) If the court orders revocation or suspension of a child’s driver license as part of a disposition, the court may, upon finding a compelling circumstance to warrant an exception, direct the Department of Highway Safety and Motor Vehicles to
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Section 16. Subsections (2), (3), and (5) of section 985.46, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

985.46 Conditional release.-
(2) It is the intent of the Legislature that:
(a) Commitment programs include rehabilitative efforts on preparing committed juveniles for a successful release to the community.
(b) Conditional release transition planning begins as early in the commitment process as possible.
(c) Each juvenile committed to a residential commitment program shall receive conditional release services upon release from the commitment program unless the youth is directly released by the court.
(3) For juveniles referred or committed to the department, the function of the department may include, but shall not be limited to, supervising each juvenile on conditional release when assessing each juvenile placed in a residential commitment program to determine the need for conditional release services upon release from the program, supervising the juvenile when released into the community from a residential commitment facility of the department, providing such counseling and other services as may be necessary for the families and assisting their preparations for the return of the child. Subject to specific appropriation, the department shall provide for outpatient sexual offender counseling for any juvenile sexual

CODING: Words [deletions] are deletions; words [underlined] are additions.
(c) Providing intensive postcommitment supervision of juvenile sexual offenders who are released into the community with terms and conditions which may include electronic monitoring of a juvenile sexual offender for the purpose of enhancing public safety.

Section 18. Paragraph (a) of subsection (6) of section 985.4815, Florida Statutes, is amended 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 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 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 19. Subsection (11) of section 985.601, Florida Statutes, is renumbered as subsection (12), and a new subsection (11) is added to that section, to read:

1. Any unauthorized article of food or clothing given or transmitted, or intended to be given or transmitted, to any youth in a juvenile detention facility or commitment program.

2. Any intoxicating beverage or any beverage that causes or stimulates, or depressing effect.

A person may not transmit contraband to, cause contraband to be transmitted to or received by, attempt to introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be unlawful; penalty.—

(1)(a) Except as authorized through program policy or operating procedure or as authorized by the facility superintendent, program director, or manager, a person may not introduce into or upon the grounds of a juvenile detention facility or commitment program, or take or send, or attempt to take or send, from a juvenile detention facility or commitment program, any of the following articles, which are declared to be contraband under this section:

1. Any unauthorized article of food or clothing given or transmitted, or intended to be given or transmitted, to any youth in a juvenile detention facility or commitment program.

2. Any intoxicating beverage or any beverage that causes or
(c) A juvenile offender or any person, while upon the
grounds of a juvenile detention facility or commitment
program, except as authorized through program policy or
operating procedures or as authorized by the facility
superintendent, program director, or manager.

(2) Any person who violates this section as it pertains
to an article of contraband described in subparagraph (1)(a)
commits a felony of the third degree, punishable as provided in
s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who violates this section as it pertains to
an article of contraband described in subparagraph (1)(a)5. or
subparagraph (1)(c)6. commits a misdemeanor of the first degree,
punishable as provided in s. 775.082 or s. 775.083.

(c) In all other cases, a person who violates this section
commits a felony of the second degree, punishable as provided in
s. 775.082, s. 775.083, or s. 775.084.

Section 21. Paragraph (c) of subsection (2) of section
1002.221, Florida Statutes, is amended to read:

1002.221 K-12 education records; public records exemption.—

(2)

(c) In accordance with the FERPA and the federal
regulations issued pursuant to the FERPA, an agency or
institution, as defined in s. 1002.22, may release a student’s
education records without written consent of the student or
parent to parties to an interagency agreement among the
Department of Juvenile Justice, the school, law enforcement
authorities, and other signatory agencies. Information provided
pursuant to an interagency agreement may be used for proceedings
initiated under chapter 984 or chapter 985 in furtherance of an
interagency agreement is intended solely for use in determining
the appropriate programs and services for each juvenile or the
juvenile’s family, or for coordinating the delivery of the
programs and services, and as such is inadmissible in any court
proceeding before a dispositional hearing unless written consent
is provided by a parent or other responsible adult on behalf of
the juvenile.

Section 22. Paragraph (b) of subsection (3) of section
943.051, Florida Statutes, is amended to read:

943.051 Criminal justice information; collection and
storage; fingerprinting.—

(3)

(b) A minor who is charged with or found to have committed
the following offenses shall be fingerprinted and the
fingerprints shall be submitted electronically to the
department, unless the minor is issued a delinquency civil
citation pursuant to s. 985.12:

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(2).

4. Unlawful use of destructive devices or bombs, as defined
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5. Neglect of a child, as defined in s. 827.03(1)(e).
6. Assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b).
7. Open carrying of a weapon, as defined in s. 790.053.
8. Exposure of sexual organs, as defined in s. 800.03.
9. Unlawful possession of a firearm, as defined in s. 790.22(5).
10. Petit theft, as defined in s. 812.014(3).
11. Cruelty to animals, as defined in s. 828.12(1).
12. Arson, as defined in s. 806.031(1).
13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property, as provided in s. 790.115.

Section 23. Paragraph (b) of subsection (1) of section 985.11, Florida Statutes, is amended to read:

985.11 Fingerprinting and photographing.—

(b) Unless the child is issued a delinquency arrest citation or is participating in a similar diversion program pursuant to s. 985.12, a child who is charged with or found to have committed one of the following offenses shall be fingerprinted, and the fingerprints shall be submitted to the Department of Law Enforcement as provided in s. 943.051(3)(b):

1. Assault, as defined in s. 784.011.
2. Battery, as defined in s. 784.03.
3. Carrying a concealed weapon, as defined in s. 790.01(2).
4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

A law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed any other violation of law, as the agency deems appropriate. Such fingerprint records and photographs shall be retained by the law enforcement agency in a separate file, and these records and all copies thereof must be marked "Juvenile Confidential." These records are not available for public disclosure and inspection under s. 119.07(1) except as provided in ss. 943.053 and 985.04(2), but shall be available to other law enforcement agencies, criminal justice agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, and any other person authorized by the court to have access to such records. In

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addition, such records may be submitted to the Department of Law
Enforcement for inclusion in the state criminal history records
and used by criminal justice agencies for criminal justice
purposes. These records may, in the discretion of the court, be
open to inspection by anyone upon a showing of cause. The
fingerprint and photograph records shall be produced in the
court whenever directed by the court. Any photograph taken
pursuant to this section may be shown by a law enforcement
officer to any victim or witness of a crime for the purpose of
identifying the person who committed such crime.

Section 24. Paragraph (n) of subsection (2) of section
1006.07, Florida Statutes, is amended to read:
1006.07 District school board duties relating to student
discipline and school safety.—The district school board shall
provide for the proper accounting for all students, for the
attendance and control of students at school, and for proper
attention to health, safety, and other matters relating to the
welfare of students, including:
(2) CODE OF STUDENT CONDUCT.—Adopt a code of student
code for elementary schools and a code of student conduct for
middle and high schools and distribute the appropriate code to
all teachers, school personnel, students, and parents, at the
beginning of every school year. Each code shall be organized and
written in language that is understandable to students and
parents and shall be discussed at the beginning of every school
year in student classes, school advisory council meetings, and
parent and teacher association or organization meetings. Each
code shall be based on the rules governing student conduct and
discipline adopted by the district school board and shall be

Section 25. This act shall take effect July 1, 2024.
# 2024 AGENCY LEGISLATIVE BILL ANALYSIS

## AGENCY: Department of Juvenile Justice

### BILL INFORMATION

<table>
<thead>
<tr>
<th>BILL NUMBER:</th>
<th>SB 1274</th>
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<tr>
<td>BILL TITLE:</td>
<td>Juvenile Justice</td>
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<tr>
<td>BILL SPONSOR:</td>
<td>Senator Martin</td>
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<td>EFFECTIVE DATE:</td>
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### COMMITTEES OF REFERENCE

1) Criminal Justice
2) Appropriations Committee on Criminal and Civil Justice
3) Fiscal Policy

### CURRENT COMMITTEE

Criminal Justice

### SIMILAR BILLS

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### IDENTICAL BILLS

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Is this bill part of an agency package? Yes

### BILL ANALYSIS INFORMATION

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<tr>
<td>LEAD AGENCY ANALYST:</td>
<td>Chancer Teel, Director of Legislative Affairs, 850-717-2716</td>
</tr>
<tr>
<td>ADDITIONAL ANALYST(S):</td>
<td></td>
</tr>
<tr>
<td>LEGAL ANALYST:</td>
<td>John Milla, General Counsel</td>
</tr>
<tr>
<td>FISCAL ANALYST:</td>
<td>Christian Griffin, Budget Chief</td>
</tr>
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1. **EXECUTIVE SUMMARY**

The bill makes numerous substantive changes to further enhance public safety by providing accountability for youth who commit firearm offenses, who refuse to comply with the terms and conditions of court orders, and who continue to show a pattern of delinquent behavior to the detriment of public safety. The bill addresses public safety issues throughout the continuum of services.

The use and possession of firearms by youth is addressed through several avenues, including increasing penalties for certain firearm offenses, using secure detention until an adjudicatory hearing as a public safety measure in cases where certain firearm offenses are involved, and setting minimum consequences for cases involving certain firearm offenses where an adjudication is withheld. The Florida Department of Juvenile Justice is also granted authority to develop a youthful firearm offending class to use in programming to educate youth on the risks, dangers, and consequences of illegal use or possession of firearms. Community supervision standards are set statewide around violations of probation and the use of conditional release is prioritized to provide the department with an enhanced ability to ensure compliance with the terms and conditions of their court-ordered supervision. Additionally, pre-arrest citations are emphasized as an evidenced-based tool shown to be effective in preventing deeper involvement in the juvenile justice system by offering immediate accountability for delinquent behavior.

The bill also makes several additional changes including allowing the use of educational records in court proceedings and increasing penalties for introducing potentially dangerous contraband to juvenile facilities that may threaten the health, safety, and welfare of youth, staff, and visitors in department facilities.

2. **SUBSTANTIVE BILL ANALYSIS**

1. **PRESENT SITUATION:**

**Civil Citation/Post-arrest diversion:**

- Civil citations are an alternative to arrest that offer an opportunity to curb delinquent behavior without creating a juvenile record.
- Under s. 985.12, F.S., civil citation or similar prearrest diversion programs are permitted to operate in each judicial circuit. Civil citations are issued at the discretion of law enforcement to offer immediate accountability to youth, and citation programs may include consequences such as community service, drug testing, substance abuse counseling or anger management counseling, teen court, or other services provided by the citation entity. The state attorney’s office for each circuit has a civil citation program established, and the counties and municipalities throughout the circuit may utilize the program developed by the state attorney. Some counties or municipalities choose to operate independent civil citation programs. In all such cases, Florida Statutes requires the independent program to be reviewed by the state attorney to ensure it is substantially similar to the circuit’s program. Following the issuance of a citation, the law enforcement officer sends a copy of the citation to the parent or guardian of the youth as well as the victim. The state attorney reviews the citation, and the youth is referred to the local entity that administers the citation program consequences. A needs assessment is conducted to determine the appropriate intervention services for the youth to participate in an attempt to prevent further delinquent behavior. If the youth does not successfully complete the program, the law enforcement entity that issued the citation may determine good cause exists to arrest the youth for the original offense and refer the case to the state attorney to determine whether prosecution or continuing in the program is appropriate.
- Post-arrest diversion programs differ because an arrest was made, fingerprints were taken, and a juvenile record is created.
• Data is collected on civil citation issuance. Pursuant to s. 985.126, F.S., citation entities submit demographic data and indicate the law violation. Law enforcement agencies report data to the Florida Department of Juvenile Justice that identifies each minor who was eligible for a diversion program but was instead referred to the department, given a notice to appear, or arrested. Within 7 days of the admission into a citation program, the citation entity enters data into the Juvenile Justice Information System Prevention Web. De-identified data collected through the state's civil citation programs is published and continually updated on the department's website, and helps inform the department-produced, civil citation best practice report disseminated to judicial circuits.

Post Commitment Probation/Conditional Release:
• After release from a residential commitment program, a youth can be placed on post-commitment probation (PCP), conditional release (CR), or be directly released. The use of PCP/CR varies by judicial circuit, and a circuit generally utilizes one more than the other. Currently, 15 of Florida's 20 judicial circuits either strictly or mostly utilize PCP, and 4 circuits strictly or mostly utilize CR. There are key differences between PCP and CR. While they are similar in the fact that the terms of release may include receiving services in the community, performing community service, or periodic drug testing, supervision on CR may continue until the age of 21, whereas supervision on PCP ends at age 19. The process for transferring a youth back to a residential program differs as well. In PCP, a youth who is in violation of their terms of probation or commits a new law violation may be recommitted back to a residential program by motion of the state attorney and resort to the formal revocation proceedings in court under s. 985.439, F.S. CR is a faster and more efficient way to hold youth accountable in a timelier manner than PCP. Youth are still committed to the department under CR and if the terms of a youth's conditional release are not being met, a transfer staffing may be held where the state attorney, department staff, and public defender's office collaborate to determine if the youth should be transferred back to a residential program to receive services in a secured setting. A transfer staffing is conducted outside of a court setting because the youth's commitment status had not changed since the court ordered the youth to be committed to a residential program. Alternatively, a youth may be directly released from a residential program back into the community without further departmental supervision.

Minor in Possession of a Firearm:
• A minor in possession of a firearm is currently a 1st degree misdemeanor under s. 790.22, F.S. Under current law, the penalties for a first offense include 100 hours of community service, and the court may order a period of secure detention of up to five days. For a second or subsequent offense, the charge is a third-degree felony with penalties consisting of 100-250 hours of community service, and the court may order a period of secure detention of up to 21 days. The court has authority to issue penalties on driving privileges, including withholding issuance, extending an existing suspension or revocation, or, in cases where the minor is not eligible for driving privileges yet, withholding issuance after the date they would become eligible. If exercised by the court, these penalties are for 1 year for a first offense, and up to 2 years for a second or subsequent offense.

Secure Detention Care:
• The use of secure detention care is a public safety measure to provide secure care for youth who score for detention on the Detention Risk Assessment Instrument (DRAI), are ordered to detention by the court, are awaiting placement for a residential commitment program, or are in detention as part of consequences stipulated in statute. The DRAI is used at a Juvenile Assessment Center following a violation of law that resulted in the youth being brought to the department's custody, and factors in the severity of the offense and offense history are used to determine if there is a public safety need for secure detention care. The DRAI was developed through collaboration of law enforcement, state attorneys, public defenders, the Florida Department of Juvenile Justice, and judicial representatives. The results of the DRAI are recommendations to the court at a detention hearing. The court may decide to depart from the DRAI to order secure detention care when the
youth did not score for it, or to allow the youth to be out in the community when the youth did score for detention.

- The length of secure detention care is dynamic and varies based on an individual’s case and circumstances. The average length of stay in a detention facility is approximately 14 days; however, the stay may be longer if a youth is awaiting placement in a residential facility. For some serious offenses, the court may exercise statutory authority to impose 21-day detention stays on a rolling basis while the case is being brought to an adjudicatory hearing or placement in a residential program is secured.

**Alternative Consequence Component for Violations of Probation:**

- Each judicial circuit has an alternative consequence component developed with input from judges, the state attorney, public defender, regional counsel, relevant law enforcement agencies and the department. A violation of probation may elicit various accountability measures wholly dependent upon the circuit where the violation occurred. The alternative consequence component in each circuit is structured in a way so that violations of probation are assessed based on the criminogenic needs and risks of the youth, the seriousness of the violation, age and maturity level, and effectiveness of a sanction/incentive to encourage compliant behavior.

**Contraband:**

- Department of Juvenile Justice facilities are secure locations where certain items are prohibited from being introduced to the grounds of the facility or transferred to a youth in the department’s care. A list of prohibited items is posted at the entrance of every facility in clear sight before progressing to a security screening performed by facility staff. Preventing the introduction of prohibited items protects both youth and staff from dangerous items or substances that threaten the health, safety, and welfare of all individuals within the location and have the very real potential of inhibiting successful rehabilitative strides a youth may make during their time in the department’s care. Enforcing contraband measures also works to prevent special privileges for individual youth over others and unnecessary competition that can foster jealousy and/or altercations between youth. Section 985.711, F.S. details which items are prohibited in statute, and includes: intoxicating beverages, controlled substances, firearms or weapons, cell phones or portable communication devices, unauthorized food or clothing, and vapor generating devices.

- Criminal charges for introducing/transferring contraband vary according to the prohibited item. For instance, introducing unauthorized food or clothing carries a third-degree felony charge, vapor devices and cell phones carry a first-degree misdemeanor charge, and introducing or transferring any of the other prohibited items is a second-degree felony.

**Educational Records in Court:**

- Florida law is more restrictive than Federal law outlined in the Family Educational Rights and Privacy Act (FERPA). Terms and conditions of court-ordered probation often include educational requirements a youth must meet. However, the use of various educational records in court proceedings, such as attendance records, is not permitted under Florida law, thus inhibiting the department’s ability to ensure a youth on probation is enrolled, attending, and behaving in school and satisfying the terms and conditions of their court-ordered probation.

2. **EFFECT OF THE BILL:**

**Section 1:**

The bill amends s. 790.115, F.S., by striking language that is now superseded by language found in s. 985.25, F.S.
Section 2:

Amends and reorganizes parts of s. 790.22, F.S., to increase the penalty for a minor in possession of a firearm from a first-degree misdemeanor to a third-degree felony. Penalties for a first offense include 5 days in secure detention and 100 hours of community service or paid work as determined by the department. Penalties for a second offense include 21 days in secure detention and between 100 and 250 hours of community service or paid work as determined by the department. Penalties for a third offense include an adjudication of delinquency and commitment to a residential program. The bill also allows the option of a judge to revoke a youth’s driving privileges for up to 2 years for a second or subsequent offense of minor in possession of a firearm.

The bill deletes subsections (8-10), relocates subsection (8) to 985.255, and relocates subsections (9-10) to s. 985.433(8), F.S.

Section 3:

Amends s. 985.101, F.S., to remove a reference to “postcommitment probation”.

Section 4:

Amends s. 985.12, F.S., to rename the section “Prearrest delinquency citation” and renames “civil citation” to “delinquency citation”. The bill prohibits delinquency citations from being issued for firearm-related offenses and authorizes the use of courses developed by the department or delinquency citation entity to be used in delinquency citation programs. Existing civil citation or similar prearrest diversion programs become delinquency citation programs as long as they are currently approved by the State Attorney for the circuit, and they do not permit civil citations for firearm offenses. Additionally, other technical and non-substantive changes are made to the delinquency citation program.

Section 5:

Amends s. 985.125, F.S., to rename the section “Postarrest diversion programs” and removes references to prearrest diversion programs. School districts are prohibited from operating a postarrest diversion program.

Section 6:

Amends s. 985.126, F.S., to require the department to submit quarterly a report to presiding officers listing the entities with low utilization of delinquency citation using data submitted by law enforcement to the department for every first-time misdemeanor youth.

Section 7:

Amends s. 985.245, F.S., to remove reference to “postcommitment probation”.

Section 8:

Amends s. 985.25, F.S., to require any youth charged with violating the terms of their electronic monitoring supervision or supervised release to be held in secure detention until their detention hearing.

Further, the bill amends statute to require a youth on probation for an underlying felony firearm offense and who is taken into custody for a violation of probation terms, not including a new law violation, to be held in secure detention to allow the state attorney and court to review the violation. If the state attorney notifies
the court within 21 days of their intent to recommend residential commitment, the youth will remain in secure detention until the 21-day period is up. Upon motion of the state attorney, the court may find that the totality of the circumstances and preservation of public safety warrants an additional 21-day period in secure detention. Any release from secure detention under these circumstances would be supervised release with electronic monitoring following a detention review hearing.

Section 9:

Amends s. 985.255, F.S., to emphasize the courts authority to depart from the DRAI by stating the court may order a placement more or less restrictive than what the DRAI recommends.

The bill specifies a list of serious and dangerous offenses where, upon a finding of probable cause at the detention hearing, the court must order secure detention until the adjudicatory hearing unless the court makes written findings based on clear and convincing evidence the child does not pose a threat to public safety if placed on supervised release. If an adjudicatory hearing is not held within 60 days, detention review hearings will occur at each successive 7-day interval until the adjudicatory hearing takes place, or the youth is placed on supervised release with electronic monitoring.

The specified list of offenses include:
- Murder (1st degree and 2nd degree)
- Armed robbery involving the use/possession of a firearm
- Armed carjacking involving the use/possession of a firearm
- Having a firearm while committing a felony
- Armed burglary involving the use/possession of a firearm
- Delinquent in possession of a firearm
- Attempt to commit any of the above-listed offenses

For any youth released on supervised release under these circumstances, the bill requires the court to provide a copy of the written notice to the victim, the arresting agency, and the law enforcement agency with primary jurisdiction over the youth’s residence.

Section 10:

Amends s. 985.26, F.S., to include language specified in s. 985.255, F.S., regarding the length of detention for specified offenses. Please see Section 9 for more information.

Section 11:

Amends s. 985.433, F.S., to require any youth committed for any offense or attempted offense involving a firearm be placed on conditional release for at least one year after release from the residential commitment program, with terms of conditional release including electronic monitoring for the initial six months under terms and conditions set by the department.

The bill requires that for firearm offenses, other than minor in possession under s. 790.22(3), F.S., if the court decides not to commit the youth to a residential program, then the court will order certain punishments. For a first offense, this includes a period 30 days in detention, with credit for time served in detention prior to disposition of the case, 100 hours of community service or paid work as determined by the department, and placement on probation with electronic monitoring for at least one year under terms and conditions set by the department. The court may also impose driving privilege restrictions for up to one year. If the youth’s driving privileges are already suspended or revoked, the court may extend the period up
to one year. If the youth is not at the age where they are eligible to get a drivers license or learner’s permit, the court may withhold issuance for up to one year after the date they would have become eligible.

The bill requires that adjudication cannot be withheld a second time for a specified list of firearm offenses, including:

- Armed robbery involving a firearm
- Armed carjacking involving the use or possession of a firearm
- Having a firearm while committing a felony
- Armed Burglary involving the use or possession of a firearm
- Delinquent in possession of a firearm
- Any attempt to commit the aforementioned offenses

Section 12:

Amends s. 985.435, F.S., to remove reference to “postcommitment probation” and to specify that alternative consequence programs must comply with the department’s graduated response matrix defined in Section 13.

Section 13:

Creates s. 985.438, F.S., to provide the department with rulemaking authority to create a statewide graduated response matrix to address technical violations of probation and provide immediate accountability for patterns of noncompliance with terms and conditions of probation.

The sanctions in the graduated response matrix would include, at minimum, increased contacts, increased drug tests, curfew restrictions, increased community service, additional evaluations, and placement on electronic monitoring.

Section 14:

Amends s. 985.439, F.S., to remove reference to “postcommitment probation”.

The bill requires that upon receiving an affidavit from the department alleging a violation of probation, the state attorney must file the proper paperwork within 5 days or provide in writing to the court and department the reason for not filing. Provisions in statute allowing the development of alternative consequence programs for violations of probation are removed to accommodate the development of a statewide graduated response matrix.

The bill also allows for the department, at its discretion, to put a youth on electronic monitoring as a sanction for not complying with the terms and conditions of their probation.

Section 15:

Amends s. 985.455, F.S., to authorize the court to direct the Florida Department of Highway Safety and Motor Vehicles to issue a license for driving privileges restricted to business or employment purposes only (as defined in s. 322.271 F.S.) when the court finds that the youth’s circumstances warrant an exception to a full suspension of driving privileges.
Section 16:
Amends s. 985.46, F.S., to put minimum standards around the terms of conditional release and to state that a youth who fails to comply with such terms while on conditional release shall be recommitted to a residential commitment program. Minimum standards include participation in an education program, curfew, prohibitions on use of controlled substances, possession of firearms, and contact with victims, co-defendants, or known gang members.

Section 17:
Amends s. 985.48, F.S., to remove reference to “postcommitment probation”.

Section 18:
Amends s. 985.4815, F.S., to remove reference to “postcommitment probation”.

Section 19:
Amends s. 985.601, F.S., to give the department the authority to create a class that focuses on the risks and consequences of youthful firearm offending. The class may be provided to youth who are adjudicated or had adjudication withheld for any offenses involving the use or possession of a firearm.

Section 20:
Amends s. 985.711, F.S., to standardize the penalty for introducing or transmitting (including attempts to do so) any contraband to a youth in a secure detention or commitment facility to a second-degree felony and adds currency and traditional tobacco products to the list of contraband items.

Section 21:
Amends s. 1002.221, F.S., to allow the educational records of a youth to be admissible in court proceedings under Chapter 984 and 985 to ensure the youth complies with the terms and conditions of a court order.

Section 22:
Amends s. 943.051, F.S., to rename “civil citation” as “delinquency citation”.

Section 23:
Amends s. 985.11, F.S., to rename “civil citation” as “delinquency citation”.

Section 24:
Amends s. 1006.07, F.S., to remove reference to civil citations or similar prearrest diversion programs and replaces with “delinquency citation”.

Section 25:
Provides an effective date of July 1, 2024.
3. **DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?**  

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<thead>
<tr>
<th>Y ☒</th>
<th>N ☐</th>
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</table>

**If yes, explain:**  
The department is granted rulemaking authority to develop a statewide graduated response matrix. This would standardize responses to violations of probation across the state and increase accountability to youth who show a pattern of noncompliance with court ordered terms of probation.

**Is the change consistent with the agency’s core mission?**  
Y ☒  
N ☐

**Rule(s) impacted (provide references to F.A.C., etc.):**  
63D - Probation

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

<table>
<thead>
<tr>
<th>Proponents and summary of position:</th>
<th>Unknown.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opponents and summary of position:</td>
<td>Unknown.</td>
</tr>
</tbody>
</table>

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

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<tr>
<th>Y ☒</th>
<th>N ☐</th>
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</table>

**If yes, provide a description:**  
The department is required to submit a quarterly report to the Senate President, Speaker of the House, and the Governor detailing the utilization of delinquency citation for first-time misdemeanor offenses.

**Date Due:**  
Quarterly

**Bill Section Number(s):**  
Section 7, Subsection 5.

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

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<tr>
<th>Y ☐</th>
<th>N ☒</th>
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**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.

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**FISCAL ANALYSIS**

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

<table>
<thead>
<tr>
<th>Y ☒</th>
<th>N ☐</th>
</tr>
</thead>
</table>

**Revenues:**  
N/A

**Expenditures:**  
Indeterminate at this time. However, since the bill could result in additional youth in secure detention, operating costs for non-fiscally
<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>Does the legislation increase local taxes or fees? If yes, explain.</td>
<td>No.</td>
</tr>
<tr>
<td>If yes, does the legislation provide for a local referendum or local</td>
<td>N/A</td>
</tr>
<tr>
<td>governing body public vote prior to implementation of the tax or fee</td>
<td></td>
</tr>
<tr>
<td>increase?</td>
<td></td>
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<tr>
<td>constrained counties could increase in relation to their portion of the</td>
<td></td>
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<tr>
<td>annual Detention Cost Share billings.</td>
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</tr>
</tbody>
</table>

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

   - **Revenues:** Click or tap here to enter text.
   - **Expenditures:** Indeterminate at his time. However, several provision within the bill could result in increased operating costs for the department. While the full fiscal impact would be based on the increased number of youth served by department program areas due to the statutory changes within the bill, the current secure detention cost per day for the department is $460.16/youth, and the average per diem for contracted residential programs is $276/youth for nonsecure programs and $307/youth for secure programs.

   - **Does the legislation contain a State Government appropriation?** No.
   - **If yes, was this appropriated last year?** N/A

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

   - **Revenues:**
   - **Expenditures:**
   - **Other:**

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

   - **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.)?**

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

### 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.

### ADDITIONAL COMMENTS

Click or tap here to enter text.

### LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

<table>
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<tr>
<th>Issues/concerns/comments:</th>
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</table>
I. Summary:

SB 1352 amends s. 381.887, F.S., adding personnel of the Department of Juvenile Justice (DJJ) and of any contracted provider with direct contact with youth to the list of personnel that are offered immunity from civil and criminal liability as a result of administering an emergency opioid antagonist (EOA).

The bill amends s. 985.664, F.S., requiring that each judicial circuit in this state shall have a juvenile justice circuit advisory board, and specifies requirements of such board. The bill removes reference to the juvenile justice circuit advisory board in ss. 938.17 and 948.51, F.S.

The bill amends s. 790.22, F.S., removing the provision requiring the juvenile justice circuit advisory board to establish certain community service programs. The bill designates the responsibility of establishing appropriate community service programs available to the alternative sanctions coordinators of the circuit courts.

The bill amends s. 985.601, F.S., to authorize the department to use state or federal funds to purchase and distribute promotional and educational materials that are consistent with the dignity and integrity of the state for the following purposes:

- Educating children and families about the juvenile justice continuum, including local prevention programs or community services available for participation or enrollment.
- Staff recruitment at job fairs, career fairs, community events, the Institute for Commercialization of Florida Technology, community college campuses, or state university campuses.
- Educating children and families on children-specific public safety issues, including, but not limited to, safe storage of adult-owned firearms, consequences of child firearm offenses, human trafficking, or drug and alcohol abuse.
The bill amends s. 985.115, F.S., providing that a juvenile assessment center may not be considered a facility that can receive a child who is suffering from a serious physical condition that requires a medical diagnosis or treatment, is mentally ill as defined in s. 394.463(1), F.S., or the child is intoxicated and has threatened or attempted physical harm to him or herself or another.

The bill amends s. 985.03, F.S., revising definitions and removing “minimum-risk nonresidential” as a restrictiveness level for committed youth. The bill revises the term “nonsecure residential” programs to “moderate-risk.” The term “juvenile prison” and “juvenile correctional facilities” are removed to standardize the term “maximum risk residential.” Corresponding changes are made in ss. 985.27, 985.441, 985.465, 330.41, and 553.865, F.S.

The bill amends various statutes throughout ch. 985, F.S., to replace the terms gender and gender-specific, with sex and sex-specific respectively. These changes are made in ss. 985.02, 985.126, 985.17, and 985.601, F.S.

The bill amends s. 985.26, F.S., authorizing that transitions from secure detention care and supervised release detention care be initiated upon the court’s own motion, or upon a motion of the child or of the state, and after considering any information provided by the department regarding the child’s adjustment to detention supervision.

The bill amends s. 985.676, F.S., revising the required contents of a grant proposal applicants must submit to be considered for funding from an annual community juvenile justice partnership grant. The bill requires the department to consider the recommendations of community stakeholders, rather than the juvenile justice circuit advisor board, as to certain priorities. The bill removes the juvenile justice circuit advisory board from the entities to which each awarded grantee is required to submit an annual evaluation report.

The bill amends s. 1003.51, F.S., revising requirements for certain State Board of Education rules to establish policies and standards for certain education programs. The bill strikes accountability measures requiring a series of graduated sanctions for district school boards whose educational programs in the DJJ programs are considered to be unsatisfactory and for instances in which district school boards fail to meet standards prescribed by law, rule, or State Board of Education policy.

The bill amends s. 1003.52, F.S., revising the role of Coordinators for Juvenile Justice Education Programs in collecting certain information and developing protocols that provide guidance to district school boards and juvenile justice education providers in all aspects of educational programming, including records transfer and transition. The bill removes provisions relating to career and professional education (CAPE) and provisions related to requiring residential juvenile justice education programs to provide certain CAPE courses. The bill requires each

1 Section 1003.52(5), F.S., states, prevention and day treatment juvenile justice education programs, at a minimum, shall provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services. Residential juvenile justice education programs with a contracted minimum length of stay of 9 months shall provide CAPE courses that lead to preapprentice certifications and industry certifications. Programs with contracted lengths of stay of less than 9 months may provide career education courses that lead to preapprentice certifications and CAPE industry certifications.
district school board to make provisions for high school level students to earn credits towards high school graduation while in juvenile justice detention, prevention, or day programs.

The bill authorizes district school boards to contract with private providers for the provision of education programs to students placed in such programs. The bill requires each district school board to negotiate a cooperative agreement with the department on the delivery of education services to students in such programs. The bill removes provisions requiring the Department of Education, in consultation with the DJJ, to adopt rules and collect data and report on certain programs. The bill removes a provision requiring that specified entities jointly develop a multiagency plan for CAPE.

The bill is effective July 1, 2024.

II. **Present Situation:**

**The Department of Juvenile Justice Continuum**

Section 985.601, F.S., provides for administering the juvenile justice continuum. The DJJ is authorized to plan, develop, and coordinate comprehensive services and programs statewide for the prevention, early intervention, control, and rehabilitative treatment of delinquent behavior.²

The department is also authorized to develop and implement an appropriate continuum of care that provides individualized, multidisciplinary assessments, objective evaluations of relative risks, and the matching of needs with placements for all children under its care, and that uses a system of case management to facilitate each child being appropriately assessed, provided with services, and placed in a program that meets the child’s needs.³

**Circuit Advisory Boards**

Section 985.664, F.S., authorizes the establishment of Juvenile Justice Circuit Advisory Boards.⁴ The Circuit Advisory Boards serve as advisors to the DJJ according to their statutory responsibilities. Members of the boards work closely with Delinquency Prevention Specialists and DJJ staff to plan for services that meet the identified needs of juveniles and families within the local community. The Juvenile Justice Circuit Advisory Boards are vehicles for collaboration. Through the Circuit Advisory Boards, the department promotes community partnerships to increase public safety. Boards primarily focus on juvenile delinquency prevention programs and services such as mentoring, teen courts, civil citation, partnership programs, after school programs and public forums to increase communication between youth and law enforcement.⁵

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² Section 985.601(1), F.S.
³ Section 985.601(2), F.S.
⁴ Section 985.664, F.S.
Florida Scholars Academy

Section 985.619, F.S., creates the Florida Scholars Academy within the DJJ developing a single-uniform education system overseen by the DJJ to provide educational opportunities to students in the DJJ residential commitment programs. The Florida Scholars Academy serves as a national model with a focus on improving outcomes for youth through individualized educational pathways. The Florida Scholars Academy helps youth in DJJ care attain a high school or high school equivalency diploma, industry-recognized credentials, and enroll in a postsecondary program of study at a Florida college, university, or technical college.

Requirements for juvenile justice education are specified in s. 1003.52, F.S. Section 1003.52, F.S., designates the Florida Department of Education as the lead agency for juvenile justice education programs, curriculum, support services, and resources. Additionally, s. 1003.52, F.S., stipulates that the “district school board of the county in which the juvenile justice prevention, day treatment, residential, or detention program is located shall provide or contract for appropriate educational assessments and an appropriate program of instruction and special education services.”

Section 1003.52(5), F.S., states: Prevention and day treatment juvenile justice education programs, at a minimum, shall provide career readiness and exploration opportunities as well as truancy and dropout prevention intervention services. Residential juvenile justice education programs with a contracted minimum length of stay of 9 months shall provide Career and Professional Education (CAPE) courses that lead to preapprentice certifications and industry certifications.

County Delinquency Prevention

The sheriff’s office of the county must be a partner in a written agreement with the DJJ to participate in a juvenile assessment center or with the district school board to participate in a suspension program. A sheriff’s office that receives proceeds pursuant to s. 939.185, F.S., shall account for all funds annually by August 1 in a written report to the juvenile justice circuit advisory board if funds are used for assessment centers, and to the district school board if funds are used for suspension programs.

Community Corrections Assistance to Counties or County Consortiums

A county, or a consortium of two or more counties, may contract with the Department of Corrections for community corrections funds as provided in this section. In order to enter into a community corrections partnership contract, a county or county consortium must have a public

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6 Section 985.619(2), F.S.
8 Section 1003.52, F.S.
9 Section 1003.52(5), F.S.
10 Section 938.17(1), F.S.
11 Section 938.17(4), F.S.
safety coordinating council established under s. 951.26, F.S., and must designate a county officer or agency to be responsible for administering community corrections funds received from the state. The public safety coordinating council shall prepare, develop, and implement a comprehensive public safety plan for the county, or the geographic area represented by the county consortium, and shall submit an annual report to the Department of Corrections concerning the status of the program. In preparing the comprehensive public safety plan, the public safety coordinating council shall cooperate with the juvenile justice circuit advisory board established under s. 985.664, F.S., in order to include programs and services for juveniles in the plan.13

**Juvenile Assessment Centers**

Every child under the age of 18 charged with a crime in Florida is referred to the DJJ.14 The DJJ serves as the primary case manager responsible for managing, coordinating, and monitoring services provided to the child.15 Intake and screening services for a child referred to the DJJ are performed at a Juvenile Assessment Center (JAC).16 The purpose of the intake process is to assess the child’s needs and risks and to determine the most appropriate treatment plan and setting for the child’s programmatic need and risks.17 Once a child is in the custody of the DJJ, the DJJ determines whether detention care is appropriate.18

A Juvenile Assessment Center (JAC) is a facility where law enforcement may release a child taken into custody for them to be screened after arrest. Youth may not be released to a JAC:

- If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, to a law enforcement officer who shall deliver the child to a hospital for necessary evaluation and treatment.19
- If the child is believed to be mentally ill as defined in s. 394.463(1), F.S., to a law enforcement officer who shall take the child to a designated public receiving facility as defined in s. 394.455, F.S., for examination under s. 394.463, F.S.20
- If the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse, to a law enforcement officer who shall deliver the child to a hospital, additions receiving facility, or treatment resource.21

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12 Section 951.26(1), F.S., provides that each board of county commissioners shall establish a county public safety coordinating council for the county or shall join with a consortium of one or more other counties to establish a public safety coordinating council for the geographic area represented by the member counties.
13 Section 948.51(2), F.S.
14 A referral is similar to an arrest in the adult criminal justice system. See Probation and Community Intervention, Overview, Department of Juvenile Justice, available at [http://www.djj.state.fl.us/services/probation](http://www.djj.state.fl.us/services/probation) (last visited January 22, 2024).
15 Section 985.145(1), F.S.
16 Section 985.135(4), F.S.
17 Section 985.14(2), F.S. The intake process consists of a preliminary screening and may be followed by a comprehensive assessment, consisting of a full mental health, cognitive impairment, substance abuse, or psychosexual evaluation.
18 Section 985.25(1), F.S.
19 Section 985.115(2)(c), F.S.
20 Section 985.115(2)(d), F.S.
21 Section 985.115(2)(e), F.S.
Secure Detention Transfer

The court is not prohibited from transitioning a child to and from secure detention care and supervised release detention care, including electronic monitoring, when the court finds such a placement necessary, or no longer necessary, to preserve public safety or to ensure the child’s safety, appearance in court, or compliance with a court order.\(^\text{22}\)

Restrictiveness Levels

The Legislature finds that there is a need for a secure placement for certain children alleged to have committed a delinquent act. The Legislature finds that detention should be used only when less restrictive interim placement alternatives prior to adjudication and disposition are not appropriate.\(^\text{23}\)

According to the DJJ, “Minimum-risk nonresidential” is an option the court can utilize when they want to commit a youth but have them stay in the community and attend a program 5 days a week for services. This type of program is better accomplished through probation instead of commitment. Operationally, this definition causes issues because in all other areas of law a youth who is committed to the department is removed from the community and housed in a secure facility. This level of commitment blurs the lines between community probation and traditional commitment. There is other statutory language that allows for these programs and for a court to utilize them, but it instead keeps the youth on probation instead of commitment.\(^\text{24}\)

Chapter 985, F.S., and other sections of statute that reference juvenile justice residential restrictiveness levels use various out-of-date and misleading definitions. This includes the term “nonsecure residential” to describe a facility in which youth are securely housed with both staff and hardware security provided. Additionally, the term “maximum-risk residential” is used interchangeably with “juvenile prison” and “juvenile correctional facility” without proper cross references. In practice, the department and stakeholders refer to these programs as “maximum-risk.” Further, the department provides housing, treatment services, etc. for youth based on their sex, which is currently not a defined term.\(^\text{25}\)

Emergency Opioid Antagonists

Opioid receptor antagonists block one or more of the opioid receptors in the central or peripheral nervous system. The two most commonly used, centrally-acting opioid receptor antagonists are naloxone and naltrexone. Naloxone comes in intravenous, intramuscular, and intranasal formulations and is FDA-approved for the use in an opioid overdose and the reversal of respiratory depression associated with opioid use. Naltrexone is available in both oral and long acting injectable formulations and is FDA-approved for the treatment of opioid and/or alcohol maintenance treatment. The most commonly used peripheral opioid receptor antagonist is

\(^{22}\) Section 985.26(2)(a)3., F.S.
\(^{23}\) Section 985.02(4)(a), F.S.
\(^{24}\) Department of Juvenile Justice, 2024 Agency Legislative Bill Analysis on SB 1352, pg. 2 (on file with the Senate Committee on Criminal Justice).
\(^{25}\) Id.
methylnaltrexone, which is a potent competitive antagonist acting at the digestive tract and is also FDA-approved for the treatment of opioid-induced constipation.\textsuperscript{26}

Section 381.887, F.S., provides that the purpose of the section is to provide for the prescribing, ordering, and dispensing of EOAs to patients and caregivers and to encourage the prescribing, ordering, and dispensing of EOAs by authorized health care practitioners. The section states that: An authorized health care practitioner may prescribe and dispense an EOA to, and a pharmacist may order an EOA with an autoinjection delivery system or intranasal application delivery system for, a patient or caregiver for use in accordance with this section.

- A pharmacist may dispense an EOA pursuant to a prescription by an authorized health care practitioner. A pharmacist may dispense an EOA with an autoinjection delivery system or intranasal application delivery system, which must be appropriately labeled with instructions for use, pursuant to a pharmacist’s order or pursuant to a nonpatient-specific standing order.
- A patient or caregiver is authorized to store and possess approved EOAs and, in an emergency situation when a physician is not immediately available, administer the EOA to a person believed in good faith to be experiencing an opioid overdose, regardless of whether that person has a prescription for an EOA.

The section also authorizes emergency responders, crime laboratory personnel, and personnel of a law enforcement agency or another agency who, if they are likely to come in contact with a controlled substance or persons at risk of an overdose, to possess, store, and administer EOAs as clinically indicated and provides immunity for such persons as a result of administering an EOA.

Additionally, the section provides immunity to:

- A person, including, but not limited to, an authorized health care practitioner, a dispensing health care practitioner, or a pharmacist, who possesses, administers, prescribes, dispenses, or stores an approved EOA in compliance with this section and s. 768.13, F.S.\textsuperscript{27}
- An authorized health care practitioner, acting in good faith and exercising reasonable care, for prescribing an EOA in accordance with this section.
- A dispensing health care practitioner or pharmacist, acting in good faith and exercising reasonable care, for dispensing an EOA in accordance with this section.

\textbf{The Good Samaritan Act}

Section 768.13, F.S., establishes the Good Samaritan Act. The Act provides civil immunity to any person, including those licensed to practice medicine, who gratuitously and in good faith renders emergency care or treatment either in direct response to emergency situations related to and arising out of a declared public health emergency, a declared state of emergency, or at the scene of an emergency outside of a hospital, doctor’s office, or other place having proper medical equipment, without objection of the injured victim or victims thereof, for any damages

\textsuperscript{26} National Library of Medicine, \textit{Opioid Antagonists}, available at https://www.ncbi.nlm.nih.gov/books/NBK537079/#:%3A:text=3%5D%5B4%5D-The%20two%20most%20commonly%20used%20centrally%20acting%20opioid%20receptor%20antagonists.depression%20associated%20with%20opioid%20use (last visited on January 22, 2024).

\textsuperscript{27} Section 768.12, F.S., is the Good Samaritan Act. Section 381.887, F.S., specifies that this immunity is the immunity afforded under the Good Samaritan Act.
resulting from the treatment or as a result of any act or failure to act in providing or arranging treatment where the person acts as an ordinary reasonably prudent person would.  

The Good Samaritan Act also provides certain immunities to health care providers and health care practitioners providing emergency care in specified situations, to any person participating in emergency response activities under specified circumstances, and any person who renders emergency care or treatment to an injured animal in specified circumstances.

III. **Effect of Proposed Changes:**

This bill amends s. 381.887, F.S., adding personnel of the Department of Juvenile Justice (DJJ) and of any contracted provider with direct contact with youth to the list of personnel that are offered immunity from civil and criminal liability as a result of administering an emergency opioid antagonist.

The bill amends s. 790.22, F.S., removing the provision permitting the juvenile justice circuit advisory board to establish certain community service programs. The bill designates the responsibility of establishing appropriate community service programs available to the alternative sanctions coordinators of the circuit courts.

The bill amends s. 938.17, F.S., providing that the sheriff’s office that receives proceeds pursuant to s. 939.185, F.S., shall account for all funds annually in a written report to the DJJ if funds are used for assessment centers, and to the district school board if funds are used for suspension programs, rather than the juvenile justice circuit advisory board.

The bill amends s. 948.51, F.S., requiring the public safety coordinating council of a county (or a consortium of two or more counties) to collaborate with the DJJ, rather than the juvenile justice circuit advisory board when preparing a comprehensive safety plan.

The bill amends s. 985.02, F.S., revising the legislative intent for the general protections for children in DJJ from gender-specific to sex-specific. The terms “gender-specific” and “gender” are replaced with “sex-specific” and “sex,” respectively.

The bill amends s. 985.03, F.S., revising definitions and removing “minimum-risk nonresidential” as a restrictiveness level for committed youth. The bill revises the term “nonsecure residential” programs to “moderate-risk.” The term “juvenile prison” and “juvenile correctional facilities” are removed to standardize the term “maximum risk residential.”

The bill amends s. 985.115, F.S., providing that a juvenile assessment center may not be considered a facility that can receive a child who is suffering from a serious physical condition that requires a medical diagnosis or treatment, is mentally ill as defined in s. 394.463(1), F.S., or the child is intoxicated and has threatened or attempted physical harm to him or herself or another.

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28 Section 768.13(2)(a), F.S.
29 Section 768.13(b)1., F.S.
The bill amends s. 985.126, F.S., revising the information a diversion program is required to report about each minor to include sex rather than gender.

The bill amends s. 985.17, F.S., revising the programming focus for the department’s prevention services for youth at risk of becoming delinquent to include sex-specific services rather than gender-specific services.

The bill amends s. 985.26, F.S., authorizing that transitions from secure detention care and supervised release detention care be initiated upon the court’s own motion, or upon a motion of the child or of the state, and after considering any information provided by the department regarding the child’s adjustment to detention supervision.

The bill amends s. 985.27, F.S., revising the required court placement in secure detention for children who are adjudicated and awaiting placement in a moderate-risk, rather than nonsecure, residential commitment program.

The bill amends s. 985.441, F.S., authorizing a court to commit certain children to a moderate-risk, rather than nonsecure, residential placement under certain circumstances.

The bill amends s. 985.465, F.S., revising the physically secure residential commitment program to send specified children to maximum-risk residential facilities rather than juvenile correctional facilities or prisons.

The bill amends s. 985.601, F.S., revising certain required programs for rehabilitative treatment to include sex-specific programming rather than gender-specific programming. The bill also authorizes the department to use state or federal funds to purchase and distribute promotional and educational materials that are consistent with the dignity and integrity of the state for the following purposes:

• Educating children and families about the juvenile justice continuum, including local prevention programs or community services available for participation or enrollment.
• Staff recruitment at job fairs, career fairs, community events, the Institute for Commercialization of Florida Technology, community college campuses, or state university campuses.
• Educating children and families on children-specific public safety issues, including, but not limited to, safe storage of adult-owned firearms, consequences of child firearm offenses, human trafficking, or drug and alcohol abuse.

The bill amends s. 985.664, F.S., requiring that each judicial circuit in this state shall have a juvenile justice circuit advisory board. The bill requires the juvenile justice circuit advisory board shall work with the chief probation officer of the circuit to use data to inform policies and practices that better improve the juvenile justice continuum. The bill removes provisions relating to the juvenile justice circuit advisory board’s purpose, duties, and responsibilities and decreases the minimum number of members that each juvenile justice circuit advisory board is required to have. The bill requires that each member of the juvenile justice circuit advisory board be approved by the chief probation officer of the circuit, rather than the Secretary of Juvenile Justice. The bill requires the chief probation officer in each circuit to serve as the chair of the juvenile justice advisory board for that circuit. The bill removes provisions relating to board
membership and vacancies; deletes provisions relating to quorums and the passing of measures; and deletes provisions requiring the establishment of executive committees and having bylaws.

The bill amends s. 985.676, F.S., revising the required contents of a grant proposal applicants must submit to be considered for funding from an annual community juvenile justice partnership grant. The bill requires the department to consider the recommendations of community stakeholders, rather than the juvenile justice circuit advisor board, as to certain priorities. The bill removes the juvenile justice circuit advisory board from the entities to which each awarded grantee is required to submit an annual evaluation report.

The bill amends s. 1003.51, F.S., revising requirements for certain State Board of Education rules to establish policies and standards for certain education programs. The bill strikes accountability measures requiring a series of graduated sanctions for district school boards whose educational programs in the DJJ programs are considered to be unsatisfactory and for instances in which district school boards fail to meet standards prescribed by law, rule, or State Board of Education policy.

The bill amends s. 1003.52, F.S., revising the role of Coordinators for Juvenile Justice Education Programs in collecting certain information and developing protocols that provide guidance to district school boards and juvenile justice education providers in all aspects of educational programming, including records transfer and transition. The bill removes provisions relating to career and professional education (CAPE) and provisions related to requiring residential juvenile justice education programs to provide certain CAPE courses. The bill requires each district school board to make provisions for high school level students to earn credits towards high school graduation while in juvenile justice detention, prevention, or day programs.

The bill authorizes district school boards to contract with private providers for the provision of education programs to students placed in such programs. The bill requires each district school board to negotiate a cooperative agreement with the department on the delivery of education services to students in such programs. The bill removes provisions requiring the Department of Education, in consultation with the DJJ, to adopt rules and collect data and report on certain programs. The bill removes a provision requiring that specified entities jointly develop a multiagency plan for CAPE.

The bill amends s. 330.41, F.S., making conforming changes by replacing the term nonsecure residential facility with the term moderate-risk residential facility.

The bill amends s. 553.865, F.S., conforming a provision changing the term juvenile correctional facility or juvenile prison to maximum-risk residential facilities.

The bill amends s. 1001.42, F.S., making conforming changes.

The bill reenacts s. 985.721, s. 985.25(1), s. 985.255(3), s. 985.475(2)(h), and s. 985.565(4)(b), F.S.

The bill is effective July 1, 2024.
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:**

The bill removes accountability measures under s. 1003.51, F.S., and provides that data for accountability measuring for detention, prevention, and day programs will be captured in the Department of Education report for alternative schools in the Juvenile Justice Educational Annual Report for school improvement. Alternative schools have a separate rating system that is outlined in s. 1008.341, F.S. In that statute, it defines an alternative school as a school that provides dropout prevention and academic interventions as defined in s. 1003.53, F.S. Although there may be an overlap in services offered, the statute does not mention detention, prevention, and day treatment schools reference in s. 1003.52, F.S.

VII. **Related Issues:**

None.
VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 381.887, 790.22, 938.17, 948.51, 985.02, 985.03, 985.115, 985.126, 985.17, 985.26, 985.27, 985.441, 985.465, 985.601, 985.664, 985.676, 1003.51, 1003.52, 330.41, 553.865, 1001.42, 985.721, 985.25, 985.255, 985.475, 985.565, F.S.

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.

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

A bill to be entitled

An act relating to juvenile justice; amending s. 381.887, F.S.; authorizing personnel of the Department of Juvenile Justice and of certain contracted providers to possess, store, and administer emergency opioid antagonists and providing immunity from civil or criminal liability for such personnel; amending s. 790.22, F.S.; deleting a provision requiring the juvenile justice circuit advisory board to establish certain community service programs; amending s. 938.17, F.S.; requiring sheriffs’ offices to submit an annual report regarding certain received proceeds to the department, rather than the juvenile justice circuit advisory board; amending s. 948.51, F.S.; requiring the public safety coordinating council to cooperate with the department, rather than the juvenile justice circuit advisory board, to prepare a comprehensive public safety plan; amending s. 985.02, F.S.; revising the legislative intent for the juvenile justice system relating to general protections for children and sex-specific, rather than gender-specific, programming; amending s. 985.03, F.S.; revising definitions and defining the term “sex”; amending s. 985.115, F.S.; prohibiting juvenile assessment centers from being considered facilities that can receive children under specified circumstances; amending s. 985.126, F.S.; revising the information a diversion program is required to report about each minor from his or her gender to his or her

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the state for specified purposes; amending s. 985.664, F.S.; requiring, rather than authorizing, each judicial circuit to have a juvenile justice circuit advisory board; requiring the juvenile justice circuit advisory board to work with the chief probation officer of the circuit to use data to inform policy and practices that better improve the juvenile justice continuum; deleting provisions relating to the juvenile justice circuit advisory board’s purpose, duties, and responsibilities; decreasing the minimum number of members that each juvenile justice circuit advisory board is required to have; requiring that each member of the juvenile justice circuit advisory board be approved by the chief probation officer of the circuit, rather than the Secretary of Juvenile Justice; requiring the chief probation officer in each circuit to serve as the chair of the juvenile justice circuit advisory board for that circuit; deleting provisions relating to board membership and vacancies; deleting provisions relating to quorums and the passing of measures; deleting provisions requiring the establishment of executive committees and having bylaws; amending s. 985.676, F.S.; revising the required contents of a grant proposal applicants must submit to be considered for funding from an annual community juvenile justice partnership grant; requiring the department to consider the recommendations of community stakeholders, rather than the juvenile justice circuit advisory board, as to certain priorities; deleting the juvenile justice circuit advisory board from the entities to which each awarded grantee is required to submit an annual evaluation report; conforming a provision to changes made by the act; amending s. 1003.51, F.S.; revising requirements for certain State Board of Education rules to establish policies and standards for certain education programs; amending s. 1003.52, F.S.; revising the role of Coordinators for Juvenile Justice Education Programs in collecting certain information and developing certain protocols; deleting provisions relating to career and professional education (CAPE); deleting provisions related to requiring residential juvenile justice education programs to provide certain CAPE courses; requiring each district school board to make provisions for high school level students to earn credits towards high school graduation while in juvenile justice detention, prevention, or day treatment programs; authorizing district school boards to contract with private providers for the provision of education programs to students placed in such programs; requiring each district school board to negotiate a cooperative agreement with the department on the delivery of educational services to students in such programs; deleting provisions requiring the Department of Education, in consultation with the Department of Juvenile Justice, to adopt rules and collect data and report on certain programs; deleting a provision requiring that specified entities jointly...
Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (4) of section 381.887, Florida Statutes, is amended to read:

381.887 Emergency treatment for suspected opioid overdose.—

(4) The following persons are authorized to possess, store, and administer emergency opioid antagonists as clinically indicated and are immune from any civil liability or criminal liability as a result of administering an emergency opioid antagonist:

(a) Emergency responders, including, but not limited to, law enforcement officers, paramedics, and emergency medical technicians.

(b) Crime laboratory personnel for the statewide criminal analysis laboratory system as described in s. 943.32, including, but not limited to, analysts, evidence intake personnel, and their supervisors.

(c) Personnel of a law enforcement agency or an other agency, including, but not limited to, correctional probation officers and child protective investigators who, while acting within the scope or course of employment, come into contact with a controlled substance or persons at risk of experiencing an opioid overdose.

(d) Personnel of the Department of Juvenile Justice and of any contracted provider with direct contact with youth authorized under chapter 984 or chapter 985.

Section 2. Subsection (4) of section 790.22, Florida Statutes, is amended to read:

790.22 Use of BB guns, air or gas-operated guns, or electric weapons or devices by minor under 16; possession of firearms by minor under 18 prohibited; penalties.—

(4)(a) Any parent or guardian of a minor, or other adult responsible for the welfare of a minor, who knowingly and willfully permits the minor to possess a firearm in violation of subsection (3) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) Any natural parent or adoptive parent, whether custodial or noncustodial, or any legal guardian or legal custodian of a minor, if that minor possesses a firearm in violation of subsection (3) may, if the court finds it appropriate, be required to participate in classes on parenting education which are approved by the Department of Juvenile Justice, upon the first conviction of the minor. Upon any subsequent conviction of the minor, the court may, if the court finds it appropriate, require the parent to attend further parent education classes or render community service hours together with the child.

(c) The juvenile justice circuit advisory boards or the Department of Juvenile Justice shall establish appropriate community service programs to be available to the alternative sanctions coordinators of the circuit courts in implementing this subsection. The boards or department shall propose the implementation of a community service program in each circuit, and may submit a circuit plan, to be implemented upon approval of the circuit alternative sanctions coordinator.

(d) For the purposes of this section, community service may be provided on public property as well as on private property with the expressed permission of the property owner. Any community service provided on private property is limited to such things as removal of graffiti and restoration of vandalized property.

Section 3. Subsection (4) of section 938.17, Florida Statutes, is amended to read:

938.17 County delinquency prevention; juvenile assessment centers and school board suspension programs.—

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under the contract, the initial public safety plan must be
approved by the governing board of the county, or the governing
board of each county within the consortium, and the Secretary of
Corrections based on the requirements of this section. If one or
more counties develop a unified public safety plan, the
public safety coordinating council shall submit a single
application to the department for funding. Continued contract
funding shall be pursuant to subsection (5). The plan for a
county or county consortium must cover at least a 5-year period
and must include:

(a) A description of programs offered for the job placement
and treatment of offenders in the community.
(b) A specification of community-based intermediate
sentencing options to be offered and the types and number of
offenders to be included in each program.
(c) Specific goals and objectives for reducing the
projected percentage of commitments to the state prison system
of persons with low total sentencing scores pursuant to the
Criminal Punishment Code.
(d) Specific evidence of the population status of all
programs which are part of the plan, which evidence establishes
that such programs do not include offenders who otherwise would
have been on a less intensive form of community supervision.
(e) The assessment of population status by the public
safety coordinating council of all correctional facilities owned
or contracted for by the county or by each county within the
consortium.
(f) The assessment of bed space that is available for
substance abuse intervention and treatment programs and the
assessment of offenders in need of treatment who are committed
to each correctional facility owned or contracted for by the
county or by each county within the consortium.

(g) A description of program costs and sources of funds for
each community corrections program, including community
corrections funds, loans, state assistance, and other financial
assistance.

Section 5. Subsections (1) and (7) of section 985.02,
Florida Statutes, are amended to read:

985.02 Legislative intent for the juvenile justice system.—
(1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of
the Legislature that the children of this state be provided with
the following protections:

(a) Protection from abuse, neglect, and exploitation.
(b) A permanent and stable home.
(c) A safe and nurturing environment which will preserve a
sense of personal dignity and integrity.
(d) Adequate nutrition, shelter, and clothing.
(e) Effective treatment to address physical, social, and
emotional needs, regardless of geographical location.
(f) Equal opportunity and access to quality and effective
education, which will meet the individual needs of each child,
and to recreation and other community resources to develop
individual abilities.

(g) Access to prevention programs and services.
(h) Sex-specific gender-specific programming and sex-
specific gender-specific program models and services that
comprehensively address the needs of either sex-targeted
gender group.
Florida Senate - 2024 SB 1352

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

(7) **SEX-SPECIFIC GENDER-SPECIFIC PROGRAMMING.**—

(a) The Legislature finds that the needs of children served by the juvenile justice system are **sex-specific** and **gender-specific**. A **sex-specific** gender-specific approach is one in which programs, services, and treatments comprehensively address the unique developmental needs of **either sex** a targeted gender group under the care of the department. Young women and men have different pathways to delinquency, display different patterns of offending, and respond differently to interventions, treatment, and services.

(b) **Sex-specific gender-specific** interventions focus on the differences between young females’ and young males’ social roles and responsibilities, access to and use of resources, history of trauma, and reasons for interaction with the juvenile justice system. **Sex-specific gender-specific** programs increase the effectiveness of programs by making interventions more appropriate to the specific needs of young women and men and ensuring that these programs do not unknowingly create, maintain, or reinforce **sex gender** roles or relations that may be damaging.

Section 6. Present subsections (46) through (54) of section 985.03, Florida Statutes, are redesignated as subsections (47) through (55), respectively, a new subsection (46) is added to that section, and subsections (14) and (44) and present subsection (50) of that section are amended, to read:

985.03 Definitions.—As used in this chapter, the term:

(14) “Day treatment” means a nonresidential, community-based program designed to provide therapeutic intervention to youth who are served by the department or placed on probation or conditional release or committed to the minimum-risk nonresidential level. A day treatment program may provide educational and career and technical education services and shall provide case management services; individual, group, and family counseling; training designed to address delinquency risk factors; and monitoring of a youth’s compliance with, and facilitation of a youth’s completion of, sanctions if ordered by the court. Program types may include, but are not limited to, career programs, marine programs, juvenile justice alternative schools, training and rehabilitation programs, and **sex-specific gender-specific** programs.

(44) “Restrictiveness level” means the level of programming and security provided by programs that service the supervision, custody, care, and treatment needs of committed children. Sections 985.601(10) and 985.721 apply to children placed in programs at any residential commitment level. The restrictiveness levels of commitment are as follows:

(a) **Minimum-risk nonresidential.** Programs or program models at this commitment level work with youth who remain in the community and participate at least 5 days per week in a day treatment program. Youth assessed and classified for programs at this commitment level represent a minimum risk to themselves and public safety and do not require placement and services in residential settings. Youth in this level have full access to, and reside in, the community. Youth who have been found to have committed delinquent acts that involve firearms, that are sexual offenses, or that would be life felonies or first degree felonies if committed by an adult may not be committed to a program at this level.
Moderate-risk nonsecure residential.—Programs or program models at this commitment level are residential but may allow youth to have supervised access to the community. Facilities at this commitment level are either environmentally secure, staff secure, or are hardware-secure with walls, fencing, or locking doors. Residential facilities at this commitment level shall have no more than 90 beds each, including campus-style programs, unless those campus-style programs include more than one treatment program using different treatment protocols, and have facilities that coexist separately in distinct locations on the same property. Facilities at this commitment level shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for placement in programs at this commitment level represent a low or moderate risk to public safety and require close supervision. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary.

High-risk residential.—Programs or program models at this commitment level are residential and do not allow youth to have access to the community, except that temporary release providing community access for up to 72 continuous hours may be approved by a court for a youth who has made successful progress in his or her program in order for the youth to attend a family emergency or, during the final 60 days of his or her placement, to visit his or her home, enroll in school or a career and technical education program, complete a job interview, or participate in a community service project. High-risk residential facilities are hardware-secure with perimeter fencing and locking doors. Residential facilities at this commitment level shall have no more than 90 beds each, including campus-style programs, unless those campus-style programs include more than one treatment program using different treatment protocols, and have facilities that coexist separately in distinct locations on the same property. Facilities at this commitment level shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for this level of placement require close supervision in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower commitment levels. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility may provide for single cell occupancy, except that youth may be housed together during prerelease transition.

Maximum-risk residential.—Programs or program models at this commitment level include juvenile correctional facilities and juvenile prisons. The programs at this commitment level are long-term residential and do not allow youth to have access to the community. Facilities at this commitment level are maximum-custody, hardware-secure with perimeter security fencing and locking doors. Residential facilities at this commitment level shall have no more than 90 beds each, including campus-style programs, unless those campus-style programs include more than one treatment program using different treatment protocols, and have facilities that coexist separately in distinct locations on the same property. Facilities at this commitment level shall provide 24-hour awake supervision, custody, care, and treatment of residents. Youth assessed and classified for this level of placement require close supervision in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower commitment levels. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. The facility may provide for single cell occupancy, except that youth may be housed together during prerelease transition.
locations on the same property. Facilities at this commitment level shall provide 24-hour awake supervision, custody, care, and treatment of residents. The staff at a facility at this commitment level may seclude a child who is a physical threat to himself or herself or others. Mechanical restraint may also be used when necessary. Facilities at this commitment level shall provide for single cell occupancy, except that youth may be housed together during prerelease transition. Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting. Placement in a program at this level is prompted by a demonstrated need to protect the public.

(f) If available, to a juvenile assessment center equipped

If the child's parent, guardian, or legal custodian is

If the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse, to a law enforcement officer who shall deliver the child as follows:

(a) To the child's parent, guardian, or legal custodian or,

if the child's parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, to any responsible adult. Prior to releasing the child to a responsible adult, other than the parent, guardian, or legal custodian, the person taking the child into custody may conduct a criminal history background check of the person to whom the child is to be released. If the person has a prior felony conviction, or a conviction for child abuse, drug trafficking, or prostitution, that person is not a responsible adult for the purposes of this section. The person to whom the child is released shall agree to inform the department or the person releasing the child of the child's subsequent change of address and to produce the child in court at such time as the court may direct, and the child shall join in the agreement.

(b) Contingent upon specific appropriation, to a shelter approved by the department or to an authorized agent.

(c) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, to a law enforcement officer who shall deliver the child to a hospital for necessary evaluation and treatment.

(d) If the child is believed to be mentally ill as defined in s. 394.463(1), to a law enforcement officer who shall take the child to a designated public receiving facility as defined in s. 394.455 for examination under s. 394.463.

(e) If the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse, to a law enforcement officer who shall deliver the child to a hospital, addictions receiving facility, or treatment resource.

(f) If available, to a juvenile assessment center equipped
1. The data required pursuant to paragraph (a).
2. Whether the minor was offered the opportunity to participate in a diversion program. If the minor was:
   a. Not offered such opportunity, the reason such offer was not made.
   b. Offered such opportunity, whether the minor or his or her parent or legal guardian declined to participate in the diversion program.
   (c) The data required pursuant to paragraph (a) shall be entered into the Juvenile Justice Information System Prevention Web within 7 days after the youth’s admission into the program.
   (d) The data required pursuant to paragraph (b) shall be submitted on or with the arrest affidavit or notice to appear.

(4) Beginning January 1, 2019, the department shall compile and semiannually publish the data required by subsection (3) on the department’s website in a format that is, at a minimum, sortable by judicial circuit, county, law enforcement agency, race, ethnicity, sex, age, and offense committed.

Section 9. Subsection (3) of section 985.17, Florida Statutes, is amended to read:
985.17 Prevention services.—
(3) The department’s prevention services for youth at risk of becoming delinquent should:
(a) Focus on preventing initial or further involvement of such youth in the juvenile justice system by including services such as literacy services, sex-specific gender-specific programming, recreational services, and after-school services, and should include targeted services to troubled, truant, ungovernable, abused, trafficked, or runaway youth. To decrease the likelihood that a youth will commit a delinquent act, the department should use mentoring and may provide specialized
services addressing the strengthening of families, job training, and substance abuse.

(b) Address the multiple needs of such youth in order to decrease the prevalence of disproportionate minority representation in the juvenile justice system.

Section 10. Paragraph (a) of subsection (2) of section 985.26, Florida Statutes, is amended to read:

(2)(a) 1. A court may order a child to be placed on supervised release detention care for any time period until an adjudicatory hearing is completed. However, if a child has served 60 days on supervised release detention care, the court must conduct a hearing within 15 days after the 60th day, to determine the need for continued supervised release detention care. At the hearing, and upon good cause being shown that the nature of the charge requires additional time for the prosecution or defense of the case or that the totality of the circumstances, including the preservation of public safety, warrants an extension, the court may order the child to remain on supervised release detention care until the adjudicatory hearing is completed.

2. Except as provided in paragraph (b) or paragraph (c), a child may not be held in secure detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced in good faith by the court.

3. This section does not prohibit a court from transitioning a child to and from secure detention care and supervised release detention care, including electronic monitoring, when the court finds such a placement necessary, or no longer necessary, to preserve public safety or to ensure the child’s safety, appearance in court, or compliance with a court order. Such transition may be initiated upon the court’s own motion, or upon a motion of the child or of the state, and after considering any information provided by the department regarding the child’s adjustment to detention supervision. Each period of secure detention care or supervised release detention care counts toward the time limitations in this subsection whether served consecutively or nonconsecutively.

Section 11. Section 985.27, Florida Statutes, is amended to read:

985.27 Postdisposition detention while awaiting residential commitment placement.—The court must place all children who are adjudicated and awaiting placement in a moderate-risk measure, high-risk, or maximum-risk residential commitment program in secure detention care until the placement or commitment is accomplished.

Section 12. Subsection (2) of section 985.441, Florida Statutes, is amended, and paragraph (b) of subsection (1) and subsection (4) of that section are reenacted, to read:

985.441 Commitment.—

(1) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

(a) Commit the child to the department at a restrictiveness level defined in s. 985.03. Such commitment must be for the purpose of exercising active control over the child, including,
but not limited to, custody, care, training, monitoring for substance abuse, electronic monitoring, and treatment of the child and release of the child from residential commitment into the community in a postcommitment nonresidential conditional release program. If the child is not successful in the conditional release program, the department may use the transfer procedure under subsection (4).

(2) Notwithstanding subsection (1), the court having jurisdiction over an adjudicated delinquent child whose offense is a misdemeanor, or a child who is currently on probation for a misdemeanor, may not commit the child for any misdemeanor offense or any probation violation that is technical in nature and not a new violation of law at a restrictiveness level other than minimum-risk nonresidential. However, the court may commit such child to a moderate-risk nonresidential residential placement if:

(a) The child has previously been adjudicated or had adjudication withheld for a felony offense;
(b) The child has previously been adjudicated or had adjudication withheld for three or more misdemeanor offenses within the previous 18 months;
(c) The child is before the court for disposition for a violation of s. 800.03, s. 806.031, or s. 828.12; or
(d) The court finds by a preponderance of the evidence that the protection of the public requires such placement or that the particular needs of the child would be best served by such placement. Such finding must be in writing.

(4) The department may transfer a child, when necessary to appropriately administer the child’s commitment, from one facility or program to another facility or program operated, contracted, subcontracted, or designated by the department, including a postcommitment nonresidential conditional release program, except that the department may not transfer any child adjudicated solely for a misdemeanor to a residential program except as provided in subsection (2). The department shall notify the court that committed the child to the department and any attorney of record for the child, in writing, of its intent to transfer the child from a commitment facility or program to another facility or program of a higher or lower restrictiveness level. If the child is under the jurisdiction of a dependency court, the department shall also provide notice to the dependency court and the Department of Children and Families, and, if appointed, the Guardian Ad Litem Program and the child’s attorney ad litem. The court that committed the child may agree to the transfer or may set a hearing to review the transfer. If the court does not respond within 10 days after receipt of the notice, the transfer of the child shall be deemed granted.

Section 13. Section 985.465, Florida Statutes, is amended to read:

985.465 Maximum-risk residential juvenile correctional facilities or juvenile prison.—A maximum-risk juvenile correctional facility or juvenile prison is a physically secure residential commitment program with a designated length of stay from 18 months to 36 months, primarily serving children 13 years of age to 19 years of age or until the jurisdiction of the court expires. Each child committed to this level must meet one of the following criteria:

(i) The child is at least 13 years of age at the time of
the disposition for the current offense and has been adjudicated on the current offense for:

(a) Arson;
(b) Sexual battery;
(c) Robbery;
(d) Kidnapping;
(e) Aggravated child abuse;
(f) Aggravated assault;
(g) Aggravated stalking;
(h) Murder;
(i) Manslaughter;
(j) Unlawful throwing, placing, or discharging of a destructive device or bomb;
(k) Armed burglary;
(l) Aggravated battery;
(m) Carjacking;
(n) Home-invasion robbery;
(o) Burglary with an assault or battery;
(p) Any lewd or lascivious offense committed upon or in the presence of a person less than 16 years of age; or
(q) Carrying, displaying, using, threatening to use, or attempting to use a weapon or firearm during the commission of a felony.

(2) The child is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed three or more times to a delinquency commitment program.

(3) The child is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

(4) The child is at least 13 years of age at the time of the disposition for the current offense, the child is eligible for prosecution as an adult for the current offense, and the current offense is ranked at level 7 or higher on the Criminal Punishment Code offense severity ranking chart pursuant to s. 921.0022.

Section 14. Paragraph (a) of subsection (3) of section 985.601, Florida Statutes, is amended, and subsection (12) is added to that section, to read:

985.601 Administering the juvenile justice continuum.—
(3)(a) The department shall develop or contract for diversified and innovative programs to provide rehabilitative treatment, including early intervention and prevention, diversion, comprehensive intake, case management, diagnostic and classification assessments, trauma-informed care, individual and family counseling, family engagement resources and programs, sex-specific gender-specific programming, shelter care, diversified detention care emphasizing alternatives to secure detention, diversified probation, halfway houses, foster homes, community-based substance abuse treatment services, community-based mental health treatment services, community-based residential and nonresidential programs, mother-infant programs, and environmental programs. The department may pay expenses in support of innovative programs and activities that address identified needs and the well-being of children in the department’s care or under its supervision, subject to the requirements of chapters 215, 216, and 287. Each program shall place particular emphasis on reintegration and conditional
(1) Each judicial circuit in this state shall have a juvenile justice circuit advisory board to be established in each of the 20 judicial circuits. The county. The purpose of each juvenile justice circuit advisory board is to provide advice and direction to the department in the development and implementation of juvenile justice programs and to work collaboratively with the department in seeking program improvements and policy changes to address the emerging and changing needs of Florida’s youth who are at risk of delinquency.

(2) The duties and responsibilities of a juvenile justice circuit advisory board include, but are not limited to:

(a) Developing a comprehensive plan for the circuit. The initial circuit plan shall be submitted to the department no later than December 31, 2014, and no later than June 30 every 3 years thereafter. The department shall prescribe a format and content requirements for the submission of the comprehensive plan.

(b) Participating in the facilitation of interagency cooperation and information sharing.

(c) Providing recommendations for public or private grants to be administered by one of the community partners that support one or more components of the comprehensive circuit plan.

(d) Providing recommendations to the department in the evaluation of prevention and early intervention grant programs, including the Community Juvenile Justice Partnership Grant program established in s. 985.676 and proceeds from the Invest in Children license plate annual use fees.

(e) Providing an annual report to the department describing the board’s activities. The department shall prescribe a format and content requirements for submission of annual reports. The annual report must be submitted to the department no later than

...
Each juvenile justice circuit advisory board shall have a minimum of 11 members. The membership of each board must reflect:

(a) The circuit’s geography and population distribution.
(b) Diversity in the judicial circuit.
(c) Each member of the juvenile justice circuit advisory board must be approved by the chief probation officer of the circuit Secretary of Juvenile Justice, except those members listed in paragraphs (a), (b), (c), (e), (f), (g), and (h). The juvenile justice circuit advisory boards established under subsection (1) must include as members:

- The state attorney or his or her designee.
- The public defender or his or her designee.
- The chief judge or his or her designee.
- A representative of the corresponding circuit or regional entity of the Department of Children and Families.
- The sheriff or the sheriff’s designee from each county in the circuit.
- A police chief or his or her designee from each county in the circuit.
- A county commissioner or his or her designee from each county in the circuit.
- The superintendent of each school district in the circuit or his or her designee.
- A representative from the workforce organization of each county in the circuit.
- A representative of the business community.
- A youth representative who has had an experience with the juvenile justice system and is not older than 21 years of age.

- A representative of the faith community.
- A health services representative who specializes in mental health care, victim-service programs, or victims of crimes.
- A parent or family member of a youth who has been involved with the juvenile justice system.
- Up to three representatives from any of the community following who are not otherwise represented in this subsection.

1. Community leaders.
2. Youth-serving coalitions.

(4) The chief probation officer in each circuit shall serve as the chair of the juvenile justice circuit advisory board for that circuit. When a vacancy in the office of the chair occurs, the juvenile justice circuit advisory board shall appoint a new chair, who must meet the board membership requirements in subsection (4). The chair shall appoint members to vacant seats within 45 days after the vacancy and submit the appointments to the department for approval. The chair shall serve at the pleasure of the Secretary of Juvenile Justice.

(5) A member may not serve more than three consecutive 3-year terms, except those members listed in paragraphs (4)(a), (b), (c), (e), (f), (g), and (h). A former member who has not served on the juvenile justice circuit advisory board for 3 years is eligible to serve on the juvenile justice circuit advisory board again.

(7) At least half of the voting members of the juvenile
(b) In awarding these grants, the department shall consider

3. The number of community partners who will be actively involved in the operation of the grant program.

In order for a juvenile justice circuit advisory board to establish and duties of an executive committee.

1. The degree to which the program targets high-juvenile-crime neighborhoods and those public schools serving juveniles from high-crime neighborhoods;

2. The reduction of truancy and in-school and out-of-school suspensions and expulsions, the enhancement of school safety, and other delinquency early-intervention and diversion services;

3. The number of youths from 10 through 17 years of age within the geographic area to be served by the program, giving those geographic areas having the highest number of youths from 10 to 17 years of age priority for selection;

4. The extent to which the program targets high-juvenile-crime neighborhoods and those public schools serving juveniles from high-crime neighborhoods;

5. The validity and cost-effectiveness of the program; and

6. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods.

(c) In addition, the department may consider the following criteria in awarding grants:

1. The participation of the agencies and programs needed to implement the project or program for which the applicant is applying;

2. The diversity of community entities participating in the development of the circuit juvenile justice plan.

3. The number of community partners who will be actively involved in the operation of the grant program.
5. An evaluation component to measure the effectiveness of the program in accordance with s. 985.632.

6. A program budget, including the amount and sources of local cash and in-kind resources committed to the budget. The proposal must establish to the satisfaction of the department that the entity will make a cash or in-kind contribution to the program of a value that is at least equal to 20 percent of the amount of the grant.

7. The necessary program staff.

(b) The department shall consider the recommendations of community stakeholders, the juvenile justice circuit advisory board as to the priority that should be given to proposals submitted by entities within a circuit in awarding such grants.

(c) The department shall make available, to anyone wishing to apply for such a grant, information on all of the criteria to be used in the selection of the proposals for funding pursuant to the provisions of this subsection.

(d) The department shall review all program proposals submitted. Entities submitting proposals shall be notified of approval not later than June 30 of each year.

(e) Each entity that is awarded a grant as provided for in this section shall submit an annual evaluation report to the department and the circuit juvenile justice manager, and the juvenile justice circuit advisory board, by a date subsequent to the end of the contract period established by the department, documenting the extent to which the program objectives have been met, the effect of the program on the juvenile arrest rate, and any other information required by the department. The department shall coordinate and incorporate all such annual evaluation.
assessments, including, but not limited to, education programs in juvenile justice prevention, day treatment, residential, and detention programs.

The rules shall establish policies and standards for education programs for students in Department of Juvenile Justice programs and shall include the following:

(a) The interagency collaborative process needed to ensure effective programs with measurable results.
(b) The responsibilities of the Department of Education, the Department of Juvenile Justice, CareerSource Florida, Inc., district school boards, and providers of education services to students in Department of Juvenile Justice programs.
(c) Academic expectations.
(d) Career expectations.
(e) Education transition planning and services.
(f) Service delivery options available to district school boards, including direct service and contracting.
(g) Assessment procedures, which:
   1. For prevention and day treatment, residential, and detention programs, include appropriate academic and career assessments
   2. Provide for determination of the areas of academic need and strategies for appropriate intervention and instruction for each student in a detention facility within 5 school days after the student’s entry into the program and administer a research-based assessment that will assist the student in determining his or her educational and career options and goals within 22 school days after the student’s entry into the program.

The results of these assessments, together with a portfolio depicting the student’s academic and career accomplishments, shall be included in the discharge packet assembled for each student.

(h) Recommended instructional programs, including, but not limited to:
   1. Secondary education.
   2. High school equivalency examination preparation.
   3. Postsecondary education.
   4. Career and professional education (CAPE).
   6. Virtual education that:
      a. Provides competency-based instruction that addresses the unique academic needs of the student through delivery by an entity accredited by an accrediting body approved by the Department of Education in partnership with representatives from the Department of Juvenile Justice, district school boards, and education providers. Assessments must be completed within the first 10 school days after a student’s entry into the program.

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(k) Transition services, including the roles and responsibilities of appropriate personnel in the juvenile justice education program, the school district where the student will reenter, provider organizations, and the Department of Juvenile Justice.

(i) Procedures and timeframe for transfer of education records when a student enters and leaves a Department of Juvenile Justice education program.

(m) The requirement that each district school board maintain an academic transcript for each student enrolled in a juvenile justice education program that delineates each course completed by the student as provided by the State Course Code Directory.

(n) The requirement that each district school board make available and transmit a copy of a student’s transcript in the discharge packet when the student exits a juvenile justice education program.

(p) Performance expectations for providers and district school boards, including student performance measures by type of program, education program performance ratings, school improvement, and corrective action plans for low-performing programs.

(q) The role and responsibility of the district school board in securing workforce development funds.

(a) A series of graduated sanctions for district school boards whose educational programs in Department of Juvenile Justice programs are considered to be unsatisfactory and for instances in which district school boards fail to meet standards prescribed by law, rule, or State Board of Education policy.
These sanctions shall include the option of requiring a district school board to contract with a provider or another district school board if the educational program at the Department of Juvenile Justice program is performing below minimum standards and, after 6 months, is still performing below minimum standards.

(2) Curriculum, guidance counseling, transition, and education services expectations, including curriculum flexibility for detention centers operated by the Department of Juvenile Justice.

(3) Other aspects of program operations.

Section 18. Section 1003.52, Florida Statutes, is amended to read:

1003.52 Educational services in Department of Juvenile Justice programs.—

(1) The Department of Education shall serve as the lead agency for juvenile justice education programs, curriculum, support services, and resources. To this end, the Department of Education and the Department of Juvenile Justice shall each designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by district school boards and to provide each department’s participation in the following activities:

(a) Training, collaborating, and coordinating with district school boards, local workforce development boards, and local youth councils, educational contract providers, and juvenile justice providers, whether state operated or contracted.

(b) Collecting information on the academic, career and technical professional education (CAPE), and transition education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30. The plan shall include, at a minimum, each agency’s role regarding educational program accountability, technical assistance, training, and coordination of services.

(2) Students participating in Department of Juvenile Justice education programs pursuant to chapter 985 which are sponsored by a community-based agency or are operated or contracted for by the Department of Juvenile Justice shall receive education programs according to rules of the State Board of Education. These students shall be eligible for services afforded to students enrolled in programs pursuant to s. 1003.53 and all corresponding State Board of Education rules.

(3) The district school board of the county in which the juvenile justice education prevention, day treatment, residential, or detention program is located shall provide or report on the results.

(c) Developing academic and career and technical education protocols that provide guidance to district school boards and juvenile justice education providers in all aspects of education programming, including records transfer and transition.

(d) Implementing a joint accountability, program performance, and program improvement process.

Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30. The plan shall include, at a minimum, each agency’s role regarding educational program accountability, technical assistance, training, and coordination of services.
(a) All contracts between a district school board desiring to contract directly with juvenile justice education programs to provide academic instruction for students in such programs must be in writing. Unless both parties agree to an extension of time, the district school board and the juvenile justice education program shall negotiate and execute a new or renewal contract within 40 days after the district school board provides the proposal to the juvenile justice education program. The Department of Education shall provide mediation services for any disputes relating to this paragraph.

(b) District school boards shall satisfy invoices issued by juvenile justice education programs within 15 working days after receipt. If a district school board does not timely issue a warrant for payment, it must pay to the juvenile justice education program interest at a rate of 1 percent per month, calculated on a daily basis, on the unpaid balance until such time as a warrant is issued for the invoice and accrued interest amount. The district school board may not delay payment to a juvenile justice education program of any portion of funds owed pending the district’s receipt of local funds.

(c) The district school board shall make provisions for each student to participate in basic career and technical education, CTE, and exceptional student programs, as appropriate. Students served in Department of Juvenile Justice education programs shall have access to the appropriate courses and instruction to prepare them for the high school equivalency examination. Students participating in high school equivalency examination preparation programs shall be funded at the basic program cost factor for Department of Juvenile Justice programs in the Florida Education Finance Program. Each program shall be conducted according to applicable law providing for the operation of public schools and rules of the State Board of Education. School districts shall provide the high school equivalency examination exit option for all juvenile justice education programs.

(d) The Department of Education, with the assistance of the school districts and juvenile justice education providers, shall select a common student assessment instrument and protocol for measuring student learning gains and student progression while a student is in a juvenile justice education program. The Department of Education and the Department of Juvenile Justice shall jointly review the effectiveness of this assessment and implement changes as necessary.

(4) Educational services shall be provided at times of the day most appropriate for the juvenile justice program. School programming in juvenile justice detention, prevention, or day treatment and residential programs shall be made available by the local school district during the juvenile justice school year, as provided in s. 1003.01(14). In addition, students in juvenile justice education programs shall have access to courses offered pursuant to ss. 1002.37, 1002.45, and 1003.498. The Department of Education and the school districts shall adopt policies necessary to provide such access.

(5) The educational program shall provide instruction based on each student’s individualized transition plan, assessed...
Education programs. Provisions must be made for the transfer of credits and partial credits earned.

(6) Participation in the program by students of compulsory school attendance age as provided for in s. 1003.21 shall be mandatory. All students of noncompulsory school-attendance age who have not received a high school diploma or its equivalent shall participate in the educational program, unless the student files a formal declaration of his or her intent to terminate school enrollment as described in s. 1003.21 and is afforded the opportunity to take the high school equivalency examination and attain a Florida high school diploma before release from a juvenile justice education program. A student who has received a high school diploma or its equivalent and is not employed shall participate in workforce development or other CAPE education or Florida College System institution or university courses while in the program, subject to available funding.

(7) An individualized progress monitoring plan shall be developed for all students not classified as exceptional education students upon entry in a juvenile justice education program and upon reentry in the school district. These plans shall address academic, literacy, and career and technical skills and shall include provisions for intensive remedial instruction in the areas of weakness.

(8) Each district school board shall maintain an academic record for each student enrolled in a juvenile justice education program as prescribed by s. 1003.51. Such record shall delineate each course completed by the student according to procedures in the State Course Code Directory. The district school board shall include a copy of a student’s academic record in the discharge packet when the student exits the program.

(9) Each district school board shall make provisions for high school level students to earn credits toward high school graduation while in residential and nonresidential juvenile justice detention, prevention, or day treatment education programs. Provisions must be made for the transfer of credits and partial credits earned.
(10) School districts and juvenile justice education providers shall develop individualized transition plans during the course of a student’s stay in a juvenile justice education program to coordinate academic, career and technical, and secondary and postsecondary services that assist the student in successful community reintegration upon release. Development of the transition plan shall be a collaboration of the personnel in the juvenile justice education program, reentry personnel, personnel from the school district where the student will return, the student, the student’s family, and the Department of Juvenile Justice personnel for committed students.

(a) Transition planning must begin upon a student’s placement in the program. The transition plan must include, at a minimum:

1. Services and interventions that address the student’s assessed educational needs and postrelease education plans.

2. Services to be provided during the program stay and services to be implemented upon release, including, but not limited to, continuing education in secondary school, **CASE** program, postsecondary education, or employment, based on the student’s needs.

3. Specific monitoring responsibilities to determine whether the individualized transition plan is being implemented and the student is provided access to support services that will sustain the student’s success by individuals who are responsible for the reintegration and coordination of these activities.

(b) For the purpose of transition planning and reentry services, representatives from the school district and the one-stop center where the student will return shall participate as

**CODING:** Words **stricken** are deletions; words **underlined** are additions.
(d) FTE count periods shall be prescribed in rules of the State Board of Education and shall be the same for programs of the Department of Juvenile Justice as for other public school programs. The summer school period for students in Department of Juvenile Justice education programs shall begin on the day immediately following the end of the regular school year and end on the day immediately preceding the subsequent regular school year. Students shall be funded for no more than 25 hours per week of direct instruction.

(e) Each juvenile justice education program must receive all federal funds for which the program is eligible.

(14) Each district school board shall negotiate a cooperative agreement with the Department of Juvenile Justice on the delivery of educational services to students in juvenile justice detention, prevention, or day treatment programs under the jurisdiction of the Department of Juvenile Justice. Such agreement must include, but is not limited to:

(a) Roles and responsibilities of each agency, including the roles and responsibilities of contract providers.

(b) Administrative issues including procedures for sharing information.

(c) Allocation of resources including maximization of local, state, and federal funding.

(d) Procedures for educational evaluation for educational exceptionalities and special needs.

(e) Curriculum and delivery of instruction.

(f) Classroom management procedures and attendance policies.

(g) Procedures for provision of qualified instructional
(17) The department, in collaboration with the Department of Education, shall develop a comprehensive accountability and evaluation system for juvenile justice programs. The accountability and evaluation system shall provide for the identification and recognition of high-performing education programs. The accountability system shall include an evaluation component to be used by the Department of Education to evaluate the delivery of educational services within each of the juvenile justice programs. The accountability system shall be based on student performance as described in paragraph (a).

(a) The department, in consultation with the Department of Education, district school boards, and providers, shall adopt rules establishing:

(1) Provisions for ensuring the safety of education personnel and support for the agreed-upon education program.

(2) Procedures and timelines for the timely documentation of credits earned and transfer of student records.

(3) Methods and procedures for dispute resolution.

(4) Provisions for correcting any deficiencies found through the accountability and evaluation system and student performance measures.

(5) Nothing in this section or in a cooperative agreement requires the district school board to provide more services than can be supported by the funds generated by students in the juvenile justice programs.

(6) The Department of Education, in consultation with the Department of Juvenile Justice, district school boards, and providers, shall develop rules establishing:

(7) Objective and measurable student performance measures to evaluate a student’s educational progress while participating in a prevention, day treatment, or residential program. The student performance measures must be based on appropriate outcomes for all students in juvenile justice education programs, taking into consideration the student’s length of stay in the program. Performance measures shall include outcomes that relate to student achievement of career education goals.

(b) A performance rating system to be used by the Department of Education to evaluate the delivery of educational services within each of the juvenile justice programs. The performance rating shall be primarily based on data regarding student performance as described in paragraph (a).

(c) The timeframes, procedures, and resources to be used to improve a low-rated educational program or to terminate or reassign the program.

(d) The Department of Education, in partnership with the Department of Juvenile Justice, shall identify low-performing programs. Low-performing education programs shall receive an onsite program evaluation from the Department of Juvenile Justice. School improvement, technical assistance, or the realignment of the program shall be based, in part, on the results of the program evaluation. Through a corrective action process, low-performing programs must demonstrate improvement or the programs shall be reassigned.

(17) The department, in collaboration with the Department of Education, shall develop a comprehensive accountability and program improvement process. The accountability and program improvement process shall be based on student performance measures by type of program and shall rate education program performance. The accountability system shall include an evaluation component to be used by the Department of Education to evaluate the delivery of educational services within each of the juvenile justice programs. The accountability system shall include an evaluation component to be used by the Department of Education to evaluate the delivery of educational services within each of the juvenile justice programs. The accountability system shall include an evaluation component to be used by the Department of Education to evaluate the delivery of educational services within each of the juvenile justice programs.
The status of the development of cooperative agreements.

Recommendations for system improvement.
6-01053B-24

The State Board of Education shall adopt rules necessary to implement this section. Such rules must require the minimum amount of paperwork and reporting.

(22) The Department of Juvenile Justice and the Department of Education, in consultation with CareerSource Florida, Inc., the statewide Workforce Development Youth Council, district school boards, Florida College System institutions, providers, and others, shall jointly develop a multiagency plan for CAPE which describes the funding, curriculum, transfer of credits, goals, and outcome measures for career education programming in juvenile commitment facilities, pursuant to s. 985.622. The plan must be reviewed annually.

Section 19. Paragraph (a) of subsection (2) of section 330.41, Florida Statutes, is amended to read:

(2) DEFINITIONS.—As used in this act, the term:

(a) "Critical infrastructure facility" means any of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and which are posted on the property in a manner reasonably likely to come to the attention of intruders:

1. A power generation or transmission facility, substation, switching station, or electrical control center.
2. A chemical or rubber manufacturing or storage facility.
3. A water intake structure, water treatment facility, wastewater treatment plant, or pump station.
4. A mining facility.
5. A natural gas or compressed gas compressor station, or pump station.  

...
Section 20. Paragraphs (c) and (j) of subsection (3), paragraph (a) of subsection (10), and paragraph (f) of subsection (12) of section 553.865, Florida Statutes, are amended to read:

553.865 Private spaces.—

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

(c) "Covered entity" means any:

1. Correctional institution;

2. Detention facility;

3. Educational institution;

4. Maximum-risk residential facilities: Juvenile correctional facility or juvenile prison as described in s. 985.03(44), any detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), and any facility used for a residential program as described in s. 985.03(44) as s. 985.03(44)(b), (c), or (d); or

5. Public building.

(j) "Public building" means a building comfort-conditioned for occupancy and owned or leased by a state, a state agency, or a political subdivision. The term does not include a correctional institution, a detention facility, an educational institution, a maximum-risk residential juvenile correctional facility or juvenile prison as described in s. 985.465, a detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), or any facility used for a residential program as described in s. 985.03(44) or s. 985.03(44)(b), (c), or (d).

(10)(a) Each maximum-risk residential juvenile correctional facility or juvenile prison as described in s. 985.465, each detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), and each facility used for a residential program as described in s. 985.03(44) as s. 985.03(44)(b), (c), or (d) shall establish disciplinary procedures for any juvenile as defined in s. 985.03(7) who willfully enters, for a purpose other than those listed in subsection (6), a restroom or changing facility designated for the opposite sex in such juvenile correctional facility, juvenile prison, secure detention center or facility, or residential program facility and refuses to depart when asked to do so by delinquency program staff, detention staff, or residential program staff.

(12) A covered entity that is:

(f) A maximum-risk residential juvenile correctional facility or juvenile prison as described in s. 985.465, a detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), or a facility used for a residential program as described in s. 985.03(44) as s. 985.03(44)(b), (c), or (d) shall submit documentation to the Department of Juvenile Justice regarding compliance with subsections (4) and (5), as applicable, within 1 year after being established or, if such institution or facility was established before July 1, 2023, no
Section 21. Paragraph (c) of subsection (18) of section 1001.42, Florida Statutes, is amended to read:

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

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

(c) Public disclosure.—The district school board shall provide information regarding the performance of students and educational programs as required pursuant to ss. 1008.22 and 1008.385 and implement a system of school reports as required by statute and State Board of Education rule which shall include services to students in Department of Juvenile Justice programs, and for those schools, report on the elements specified in s. 1008.332(1). Annual public disclosure reports shall be in an easy-to-read report card format and shall include the school’s grade, high school graduation rate calculated without high school equivalency examinations, disaggregated by student ethnicity, and performance data as specified in state board rule.

Section 22. For the purpose of incorporating the amendment made by this act to section 985.03, Florida Statutes, in a reference thereto, section 985.721, Florida Statutes, is reenacted to read:

985.721 Escapes from secure detention or residential commitment facility.—An escape from:

1. Any secure detention facility maintained for the temporary detention of children, pending adjudication, disposition, or placement;

2. Any residential commitment facility described in s. 944.40, maintained for the custody, treatment, punishment, or rehabilitation of children found to have committed delinquent acts or violations of law; or

3. Lawful transportation to or from any such secure detention facility or residential commitment facility, constitutes escape within the intent and meaning of s. 944.40 and is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 23. For the purpose of incorporating the amendment made by this act to section 985.115, Florida Statutes, in a reference thereto, subsection (1) of section 985.25, Florida Statutes, is reenacted to read:

985.25 Detention intake.—

1. The department shall receive custody of a child who has been taken into custody from the law enforcement agency or court and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be
necessary to determine whether detention care is appropriate.

(a) During the period of time from the taking of the child
into custody to the date of the detention hearing, the initial
decision as to the child’s placement into detention care shall
be made by the department under ss. 985.24 and 985.245(1).

(b) The department shall base the decision whether to place
the child into detention care on an assessment of risk in
accordance with the risk assessment instrument and procedures
developed by the department under s. 985.245, except that a
child shall be placed in secure detention care until the child’s
detention hearing if the child meets the criteria specified in
s. 985.255(1)(f), is charged with possessing or discharging a
firearm on school property in violation of s. 790.115, or is
charged with any other offense involving the possession or use
of a firearm.

(c) If the final score on the child’s risk assessment
instrument indicates detention care is appropriate, but the
department otherwise determines the child should be released,
the department shall contact the state attorney, who may
authorize release.

(d) If the final score on the risk assessment instrument
indicates detention care is not appropriate, the child may be
released by the department in accordance with ss. 985.115 and
985.13.

Under no circumstances shall the department or the state
attorney or law enforcement officer authorize the detention of
any child in a jail or other facility intended or used for the
detention of adults, without an order of the court.
Florida Senate - 2024 SB 1352

Section 25. For the purpose of incorporating the amendment made by this act to section 985.441, Florida Statutes, in a reference thereto, paragraph (h) of subsection (2) of section 985.475, Florida Statutes, is reenacted to read:

985.475 Juvenile sexual offenders.—
(2) Following a delinquency adjudicatory hearing under s. 985.35, the court may, on its own or upon request by the state or the department and subject to specific appropriation, determine whether a juvenile sexual offender placement is required for the protection of the public and what would be the best approach to address the treatment needs of the juvenile sexual offender.

When the court determines that a juvenile has no history of a recent comprehensive assessment focused on sexually deviant behavior, the court may, subject to specific appropriation, order the department to conduct or arrange for an examination to determine whether the juvenile sexual offender is amenable to community-based treatment.

If the juvenile sexual offender violates any condition of the disposition or the court finds that the juvenile sexual offender is failing to make satisfactory progress in treatment, the court may revoke the community-based treatment alternative and order commitment to the department under s. 985.441.

Section 26. For the purpose of incorporating the amendment made by this act to section 985.441, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 985.565, Florida Statutes, is reenacted to read:

985.565 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—
(4) SENTENCING ALTERNATIVES.—
(b) Juvenile sanctions.—For juveniles transferred to adult court but who do not qualify for such transfer under s. 985.556(3), the court may impose juvenile sanctions under this paragraph. If juvenile sentences are imposed, the court shall, under this paragraph, adjudge the child to have committed a delinquent act. Adjudication of delinquency may not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily resulting from a conviction. The court shall impose an adult sanction or a juvenile sanction and may not sentence the child to a combination of adult and juvenile punishments. An adult sanction or a juvenile sanction may include enforcement of an order of restitution or probation previously ordered in any juvenile proceeding. However, if the court imposes a juvenile sanction and the department determines that the sanction is unsuitable for the child, the department shall return custody of the child to the sentencing court for further proceedings, including the imposition of adult sanctions. Upon adjudicating a child delinquent under subsection (1), the court may:
1. Place the child in a probation program under the supervision of the department for an indeterminate period of time until the child reaches the age of 19 years or sooner if discharged by order of the court.

2. Commit the child to the department for treatment in an appropriate program for children for an indeterminate period of time until the child is 21 or sooner if discharged by the department. The department shall notify the court of its intent to discharge no later than 14 days before discharge. Failure of the court to timely respond to the department’s notice shall be considered approval for discharge.

3. Order disposition under ss. 985.435, 985.437, 985.439, 985.441, 985.45, and 985.455 as an alternative to youthful offender or adult sentencing if the court determines not to impose youthful offender or adult sanctions.

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.534.

Section 27. This act shall take effect July 1, 2024.
# 2024 AGENCY LEGISLATIVE BILL ANALYSIS

## AGENCY: Department of Juvenile Justice

### BILL INFORMATION

<table>
<thead>
<tr>
<th>BILL NUMBER</th>
<th>SB 1352</th>
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<tbody>
<tr>
<td>BILL TITLE</td>
<td>Juvenile Justice</td>
</tr>
<tr>
<td>BILL SPONSOR</td>
<td>Senator Bradley</td>
</tr>
<tr>
<td>EFFECTIVE DATE</td>
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### COMMITTEES OF REFERENCE

1. Criminal Justice
2. Appropriations Committee on Criminal and Civil Justice
3. Fiscal Policy
4. 
5. 

### CURRENT COMMITTEE

Criminal Justice

### SIMILAR BILLS

<table>
<thead>
<tr>
<th>BILL NUMBER</th>
<th>HB 1425</th>
</tr>
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<tbody>
<tr>
<td>SPONSOR</td>
<td>Representative Yarkosky</td>
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### PREVIOUS LEGISLATION

| BILL NUMBER | |
|-------------| |
| SPONSOR     | |
| YEAR        | |
| LAST ACTION | |

### IDENTICAL BILLS

<table>
<thead>
<tr>
<th>BILL NUMBER</th>
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<tbody>
<tr>
<td>SPONSOR</td>
<td>N/A</td>
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**Is this bill part of an agency package?** Yes

### BILL ANALYSIS INFORMATION

<table>
<thead>
<tr>
<th>DATE OF ANALYSIS</th>
<th>1/12/24</th>
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<tbody>
<tr>
<td>LEAD AGENCY ANALYST</td>
<td>Chancer Teel, Legislative Affairs Director, 850-717-1716</td>
</tr>
<tr>
<td>ADDITIONAL ANALYST(S)</td>
<td></td>
</tr>
<tr>
<td>LEGAL ANALYST</td>
<td>John Milla, General Counsel</td>
</tr>
<tr>
<td>FISCAL ANALYST</td>
<td>Christian Griffin, Budget Chief</td>
</tr>
</tbody>
</table>
1. EXECUTIVE SUMMARY

The bill introduces changes throughout chapter 985, Florida Statutes (F.S.), to better align statute with operational practice. Changes include enhancing definitions for different levels of residential commitment, updating references from “gender” to “sex,” ensuring staff are immune from being held civilly or criminally liable for administering an emergency opioid antagonist, clarifying procedures for transferring a youth to a Juvenile Assessment Center (JAC), and adding a procedural mechanism to transfer a youth to and from secure detention and supervised release. Additionally, conforming changes are made following the creation of the Florida Scholars Academy (FSA) for residential programs. Circuit Advisory Board duties and powers are adjusted to align with original statutory intent as an advisory body. The department receives authorization to purchase and distribute promotional materials.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Emergency Opioid Antagonists

- Emergency opioid antagonists, such as naloxone, block the effects of opioid drugs and prevent overdose deaths from occurring. S. 381.887(4), F.S., details a list of persons authorized to possess, store, and administer emergency opioid antagonists, and who are immune from criminal and civil liability as a result of administering an emergency opioid antagonist. This list includes correctional officers and DCF child protective investigators, among others, but does not include DJJ direct-care staff and providers who may need to administer this to youth in their care.

Restrictiveness Levels and Definitions

- “Minimum-risk nonresidential” is an option the court can utilize when they want to commit a youth but have them stay in the community and attend a program 5 days a week for services. This type of program is better accomplished through probation instead of commitment. Operationally, this definition causes issues because in all other areas of law a youth who is committed to the department is removed from the community and housed in a secure facility. This level of commitment blurs the lines between community probation and traditional commitment. There is other statutory language that allows for these programs and for a court to utilize them, but it instead keeps the youth on probation instead of commitment.

- Chapter 985 and other sections of statute that reference juvenile justice residential restrictiveness levels use various out-of-date and misleading definitions. This includes the term “nonsecure residential” to describe a facility in which youth are securely housed with both staff and hardware security provided. Additionally, the term “maximum-risk residential” is used interchangeably with “juvenile prison” and “juvenile correctional facility” without proper cross references. In practice, the department and stakeholders refer to these programs as “maximum-risk”. Further, the department provides housing, treatment services, etc. for youth based on their sex, which is currently not a defined term.

Juvenile Assessment Centers

- A Juvenile Assessment Center (JAC) is a facility where law enforcement may release a child taken into custody for them to be screened after arrest. Under s. 985.115, F.S., youth released to a JAC should not be suffering from intoxication, pose a threat to him or herself, or exhibit any
other types of signs requiring medical attention. Under current practice, it is the responsibility of law enforcement to have them medically cleared if a youth presents with these signs. In some jurisdictions, law enforcement has attempted to release a medically vulnerable youth to a JAC who is not equipped to handle the situation, due to the vagueness of the statute.

Transfer To and From Secure Detention

- HB 7029 (2022) amended s. 985.26, F.S., to provide the court with the flexibility needed to transition a child to supervised release and secure detention, as necessary. However, the statute omitted language delineating the procedural mechanism for a court to utilize this transfer process.

Promotional Materials

- State agencies need authorization in statute to purchase and distribute promotional materials. As part of its recruiting efforts, the department attends job and career fairs where informative publications would be valuable staff recruiting tools. The department also addresses public safety issues affecting youth and families through an educational and prevention approach.

Circuit Advisory Boards

- Circuit advisory boards were originally statutorily conceived to serve as local advisors to the department. Each circuit is required to have representation of the state attorney’s office, public defender’s office, chief judge, DCF, law enforcement, county commission, and district school superintendent, among other appointees. In practice, some boards struggle to meet all statutory requirements and do not exercise some of the authority granted to them in statute.

Florida Scholars Academy

- SB 7014 (2023) was signed into law establishing the Florida Scholars Academy (FSA). The FSA will enhance education in residential commitment programs. Through the department’s contracted provider for in-person instruction, Florida Virtual School, the FSA will offer more career and technical education opportunities and needed flexibility to accommodate instruction for varying grade levels. Educational services for the FSA will begin July 1, 2024. Following the creation of this school within DJJ, alignments with education statutes are necessary to conform the FSA to current education policy ahead of the 2024 school year.

2. EFFECT OF THE BILL:

Section 1:

Amends s. 381.887, F.S., to add employees of the department and its contracted providers to the list of personnel that are offered immunity from civil and criminal liability as a result of administering an emergency opioid antagonist.

Section 2:

Amends s. 790.22, F.S., to designate the responsibility of establishing appropriate community service programs available to the alternative sanctions coordinators of the circuit courts from the circuit advisory boards to the department.
Section 3:

Amends s. 938.17, F.S., to replace circuit advisory boards with the department as being the recipient of a written financial report furnished by a sheriff’s office that receives funds pursuant to s. 939.185 F.S., to operate a juvenile assessment center.

Section 4:

Amends s. 948.51, F.S., to require the public safety coordinating councils of a county (or a consortium of two or more counties) to collaborate with the Florida Department of Juvenile Justice rather than the circuit advisory boards when developing their comprehensive public safety plan.

Section 5-6:

Amends ss. 985.02 and 985.03, F.S., to make the following changes:

- “Gender-specific” and “gender” are replaced with “sex-specific” and “sex”, respectively, as it is defined in s. 553.865, F.S.
- “Minimum-risk nonresidential” is removed as a restrictiveness level for committed youth.
- “Nonsecure residential” is replaced with “moderate-risk”.
- References to “juvenile prison” and “juvenile correctional facilities” are removed to standardize the name for this type of commitment program as “maximum-risk residential”.

Section 7:

Amends s. 985.115 F.S., to directly label a juvenile assessment center as not being a facility where a youth may be released to if the youth is suffering from a serious physical condition that requires a medical diagnosis or treatment, is mentally ill as defined in 394.463 (1), F.S., or the child is intoxicated and has threatened or attempted physical harm to themself or others.

Section 8-9:

Amends ss. 985.126 and 985.17, F.S., to strike an obsolete reporting date and replace “gender” and “gender-specific” with “sex” and “sex specific,” respectively.

Section 10:

Amends s. 985.26 F.S., to state what mechanism is used by a court to transfer a child to or from secure detention care and supervised release, including electronic monitoring.

Section 11-13:

Amends ss. 985.27, F.S., 985.441, F.S., and 985.465, F.S., to make the following changes:

- “Nonsecure residential” is replaced with “moderate-risk”.
- References to “juvenile prison” and “juvenile correctional facilities” are removed to standardize the name for this type of commitment program as “maximum-risk residential”.
Section 14:

Amends s. 985.601, F.S., to replace “gender-specific” with “sex-specific. Authorization is provided to the department to use state or federal funds to purchase and distribute promotional and educational materials for youth and family education, awareness of community services available for youth, and for staff recruitment in public settings such as job fairs or community events.

Section 15:

Amends s. 985.664 F.S., to simplify the role of circuit advisory boards to be one focused on utilizing data to inform policy and practice that improves the juvenile justice continuum. The membership of these boards is shrunk by removing two members of the community. Additionally, the Chief Probation Officer will serve as chair and be responsible for managing meeting schedules, agenda, and memberships.

Section 16:

Amends s. 985.676 F.S., to remove requirements for circuit advisory boards to review applications for community juvenile justice partnership grants and to send a letter to the department confirming review and conformity to the goals of the board’s juvenile justice plan. The recommendations of community stakeholders are considered for the priority of the proposals from the circuit’s entities seeking grants.

Section 17-18, 21:

Amends ss. 1001.42, 1003.51 and 1003.52, F.S., to enact conforming and deregulation changes to align statute with the creation of the (FSA) during the 2023 Regular Session. These changes remove outdated statutory references to education being provided by school districts in DJJ residential programs. Recommended instructional programs provided for competency-based instruction through entities accredited by the Florida Department of Education rather than AdvanceED and the Southern Association of Colleges and Schools. References to CAPE are replaced with “career and technical education.” Academic assessments will no longer be required within 10 days of entry into a DJJ program, and the DJJ accountability system will be eliminated as detention, prevention, or day treatment programs will follow the same accountability process as alternative schools. Residential program educational accountability will be provided through the FSA’s accountability measures developed by the FSA Board of Trustees pursuant to s. 985.619 (4)(b) F.S. The juvenile justice education annual report is removed as a requirement as non-residential DJJ schools can be included in the dropout prevention and academic intervention programs annual report, pursuant to s. 1003.53, F.S.

Section 19:

Amends s. 330.41, F.S., to remove reference to “nonsecure” residential facilities and replaces with “moderate-risk.”

Section 20:

Amends s. 553.865, F.S., to update references to definitions of juvenile facilities. “Juvenile prison” and “juvenile correctional facilities” are removed to standardize the name for this type of commitment program as “maximum-risk residential.”

Section 22-26:

Section 27:

Provides an effective date of July 1, 2024.

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

<table>
<thead>
<tr>
<th>If yes, explain:</th>
<th></th>
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<tbody>
<tr>
<td>Is the change consistent with the agency’s core mission?</td>
<td>Y ☐ N ☐</td>
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<td>Rule(s) impacted (provide references to F.A.C., etc.):</td>
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4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

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<tr>
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<tr>
<td>Opponents and summary of position:</td>
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5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? [Y ☐ N ☒]

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<th>If yes, provide a description:</th>
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<tr>
<td>Bill Section Number(s):</td>
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6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? [Y ☒ N ☐]

<table>
<thead>
<tr>
<th>Board:</th>
<th>Juvenile Justice Circuit Advisory Boards</th>
</tr>
</thead>
<tbody>
<tr>
<td>Board Purpose:</td>
<td>To provide advice and direction to the department in the development and implementation of juvenile justice programs and to work collaboratively with the department in seeking program improvements and policy changes to address the emerging and changing needs of Florida’s youth who are at risk of delinquency.</td>
</tr>
<tr>
<td>Who Appoints:</td>
<td>Other than members or their designees who are required to be on the board under s. 985.664, F.S., bylaws approved by each board address the filling of vacancies. All non-statutorily required members are approved by the Secretary of the Department of Juvenile Justice.</td>
</tr>
<tr>
<td>Changes:</td>
<td>• Amends s. 790.22, F.S., to designate the responsibility of establishing appropriate community service programs available to the alternative sanctions coordinators of the circuit courts from the circuit advisory boards to the department.</td>
</tr>
<tr>
<td></td>
<td>• Amends s. 938.17, F.S., to replace circuit advisory boards with the department as being the recipient of a written financial report furnished by a sheriff’s office that receives funds pursuant to s. 939.185 F.S., to operate a juvenile assessment center.</td>
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</tbody>
</table>
- Amends s. 948.51, F.S., to require the public safety coordinating councils of a county (or a consortium of two or more counties) to collaborate with the Florida Department of Juvenile Justice rather than the circuit advisory boards when developing their comprehensive public safety plan.
- Amends s. 985.664 F.S., to simplify the role of circuit advisory boards to be one focused on utilizing data to inform policy and practice that improves the juvenile justice continuum. The membership of these boards is shrunk by removing two members of the community. Additionally, the Chief Probation Officer will serve as chair and be responsible for managing meeting schedules, agenda, and memberships.
- Amends s. 985.676 F.S., to remove requirements for circuit advisory boards to review applications for community juvenile justice partnership grants and to send a letter to the department confirming review and conformity to the goals of the board’s juvenile justice plan. The recommendations of community stakeholders are considered for the priority of the proposals from the circuit’s entities seeking grants.

| Bill Section Number(s): | Sections 2-4; 15-16 |

**FISCAL ANALYSIS**

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

| Revenues: | Click or tap here to enter text. |
| Expenditures: | Click or tap here to enter text. |
| Does the legislation increase local taxes or fees? If yes, explain. | Click or tap here to enter text. |
| 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?**

| Revenues: | Click or tap here to enter text. |
| Expenditures: | Click or tap here to enter text. |
| Does the legislation contain a State Government appropriation? | Click or tap here to enter text. |
| If yes, was this appropriated last year? | 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.

### 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.

### ADDITIONAL COMMENTS

Click or tap here to enter text.

### LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

Issues/concerns/comments:
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 1512
INTRODUCER: Senator Brodeur
SUBJECT: Controlled Substances
DATE: January 29, 2024

I. Summary:

SB 1512 amends s. 893.13, F.S., to add tianeptine to the list of Schedule I controlled substances.

“Tianeptine” is an antidepressant agent with a novel neurochemical profile. It increases serotonin (5-hydroxytryptamine; 5-HT) uptake in the brain (in contrast with most antidepressant agents) and reduces stress-induced atrophy of neuronal dendrites.¹

The bill may have a positive indeterminate impact on prison admissions. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2024.

II. Present Situation:

Tianeptine or “gas station heroin” is an opioid, like heroin and morphine.² Currently, tianeptine is not listed as a controlled substance on the Florida Controlled Substance Schedules. Tianeptine is used as a prescription drug in some European, Asian, and Latin American countries, but it is not approved as a drug in the United States.³

On September 20, 2023, Florida’s Attorney General issued Emergency Rule ER23-1, immediately placing tianeptine as a Schedule I Substance in order to curtail its abuse by Florida’s children, young adults, and others.

The rule is as follows:

(1) Under the authority of Section 893.035, F.S., the following substance is hereby added to Schedule I, subsection 893.03(1)(a), F.S.: TIANEPTINE (7-((3-chloro-6-methyl-5,5-dioxido-6,11-dihydrodibenzo[c,f][1,2]thiazepin-11-yl)amino)heptanoic acid.

(2) All provisions of Chapter 893, F.S., applicable to controlled substances listed in Schedule I shall be applicable to the substances listed in subsection (1) above.

These circumstances presented an immediate and imminent hazard to the public health, safety, and welfare which requires emergency action. In addition, the Attorney General has found that the above-mentioned compound meets the statutory criteria for placement as a controlled substance in Schedule I, s. 893.03(1)(a), F.S. The emergency rule and the temporary scheduling of tianeptine will expire on June 30, 2024.4

**Florida Controlled Substance Schedules**

Section 893.03, F.S., classifies controlled substances into five categories or classifications, known as schedules. The schedules regulate the manufacture, distribution, preparation, and dispensing of substances listed in the schedules. The most important factors in determining which schedule may apply to a substance are the “potential for abuse”5 of the substance and whether there is a currently accepted medical use for the substance. The controlled substance schedules are described as follows:

- **Schedule I** substances (s. 893.03(1), F.S.) have a high potential for abuse and no currently accepted medical use in treatment in the United States. Use of these substances under medical supervision does not meet accepted safety standards.
- **Schedule II** substances (s. 893.03(2), F.S.) have a high potential for abuse and a currently accepted but severely restricted medical use in treatment in the United States. Abuse of these substances may lead to severe psychological or physical dependence.
- **Schedule III** substances (s. 893.03(3), F.S.) have a potential for abuse less than the Schedule I and Schedule II substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of anabolic steroids may lead to physical damage.
- **Schedule IV** substances (s. 893.03(4), F.S.) have a low potential for abuse relative to Schedule III substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule III substances.
- **Schedule V** substances (s. 893.03(5), F.S.) have a low potential for abuse relative to Schedule IV substances and a currently accepted medical use in treatment in the United States. Abuse

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5 Section 893.035(3)(a), F.S., defines “potential for abuse” as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: used in amounts that create a hazard to the user’s health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user’s own initiative rather than on the basis of professional medical advice.
of these substances may lead to limited physical or psychological dependence relative to Schedule IV substances.

**Controlled Substance Analog**

A “controlled substance analog” is defined in s. 893.0356(2)(a), F.S., as a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

- The substance is substantially similar to that of a controlled substance listed in Schedule I; or
- Schedule II of s. 893.03, F.S.; and
- The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.

**Controlled Substance Offenses Under ss. 893.13 and 893.135, F.S.**

Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, and delivery of a controlled substance. The penalty for violating s. 893.13, F.S., generally depends on the act committed, the substance and quantity of the substance involved, and the location in which the violation occurred.

Section 893.13(1), F.S., prohibits a person from selling, manufacturing, or delivering, or possessing with the intent to sell, manufacture, or deliver a controlled substance. The penalty for selling a controlled substance varies depending on several factors, including the type and amount of the substance sold, and the location where the sale takes place. Generally, sale of a controlled substance is punishable as either a second degree felony or third degree felony.

Drug trafficking, which is punished in s. 893.135, F.S., consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state (importation), or knowingly being in actual or constructive possession of, certain Schedule I or Schedule II controlled substances in a statutorily-specified quantity. The statute only applies to a limited number of such controlled substances, and the controlled substances involved in the trafficking must meet a specified weight or quantity threshold.

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6 See e.g., s. 893.13(1)(a) and (b) and (6), F.S.
7 “Manufacture” means the production, preparation, propagation, compounding, cultivating, growing, conversion, or processing of a controlled substance, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation, compounding, packaging, or labeling of a controlled substance by:
- A practitioner or pharmacist as an incident to his or her administering or delivering of a controlled substance in the course of his or her professional practice.
- A practitioner, or his or her authorized agent under the practitioner’s supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis, and not for sale. Section 893.02(15)(a), F.S.
8 “Deliver” or “delivery” means the actual, constructive, or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship. Section 893.02(6), F.S.
9 A second degree felony is punishable by up to 15 years imprisonment and a $10,000 fine. Sections 775.082 and 775.083, F.S.
10 Section 893.13(1), F.S. A third degree felony is punishable by up to five years imprisonment and a $5,000 fine. Sections 775.082 and 775.083, F.S.
Drug trafficking occurs when a person knowingly sells, purchases, manufactures, delivers, or brings into the state, or is in actual or constructive possession of, a specified quantity of a controlled substance.\(^{11}\) Generally, a drug trafficking offense is punishable as a first degree felony.\(^{12,13}\) Section 893.135, F.S., outlines threshold amounts of the applicable controlled substance for each trafficking offense. All drug trafficking offenses are subject to mandatory minimum sentences and heightened fines, which are determined by the threshold amounts.

### III. Effect of Proposed Changes:

The bill amends s. 893.13, F.S., to add tianeptine to the list of Schedule I controlled substances.

“Tianeptine” is an antidepressant agent with a novel neurochemical profile. It increases serotonin (5-hydroxytryptamine; 5-HT) uptake in the brain (in contrast with most antidepressant agents) and reduces stress-induced atrophy of neuronal dendrites.\(^{14}\)

The bill amends ss. 893.131 and 893.135, F.S., to make conforming changes.

The bill takes effect July 1, 2024.

### 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.

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\(^{11}\) Florida law criminalizes trafficking in cannabis; cocaine; illegal drugs, which include morphine, opium, hydromorphone, or any salt derivative, isomer, or salt of an isomer thereof, including heroin; hydrocodone, oxycodone; fentanyl; phencyclidine; methaqualone; amphetamine; flunitrazepam; gamma-hydroxybutyric (GHB); gamma-butyrolactone (GBL); 1,4-Butanediol; phenethylamines; lysergic acid diethylamide (LSD); synthetic cannabinoids; and n-benzyl phenethylamines. Section 893.135, F.S.

\(^{12}\) A first degree felony is punishable by up to 30 years imprisonment and a $10,000 fine. Sections 775.082 and 775.083, F.S

\(^{13}\) Trafficking in certain controlled substances can be a capital offense under specified circumstances. See, e.g., s. 893.135(1)(h)2., F.S. (Any person who knowingly manufactures or brings into this state 400 grams or more of amphetamine . . . who knows that the probable result of such manufacture or importation would be the death of any person commits capital manufacture or importation of amphetamine, a capital felony).

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 may have a positive indeterminate fiscal impact on the Department of Corrections due to the bill having the potential to expand the number of offenders going to prison for drug offenses given its impact on multiple felonies under s. 893.13, F.S. 15

VI. Related Issues:

None.

VII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 893.03, 893.13, 893.131, and 893.135.

VIII. 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.

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

15 Office of Economic and Demographic Research SB 1512 Preliminary Estimate, (on file with the Senate Committee on Criminal Justice).
A bill to be entitled
An act relating to controlled substances; amending s. 893.03, F.S.; adding tianeptine to the list of Schedule I controlled substances; amending ss. 893.13, 893.131, and 893.135, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 893.03, Florida Statutes, is amended to read:

893.03 Standards and schedules.—The substances enumerated in this section are controlled by this chapter. The controlled substances listed or to be listed in Schedules I, II, III, IV, and V are included by whatever official, common, usual, chemical, trade name, or class designated. The provisions of this section shall not be construed to include within any of the schedules contained in this section any excluded drugs listed within the purview of 21 C.F.R. s. 1308.22, styled "Excluded Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt Anabolic Steroid Products."

(1) SCHEDULE I.—A substance in Schedule I has a high potential for abuse and has no currently accepted medical use in treatment in the United States and in its use under medical supervision does not meet accepted safety standards. The following substances are controlled in Schedule I:

(a) Unless specifically excepted or unless listed in another schedule, any of the following substances, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of such isomers, esters, ethers, and salts is possible within the specific chemical designation:

1. Acetyl-alpha-methylfentanyl.
2. Acetylmethadol.
3. Allylpromine.
4. Alphacetylmethadol (except levoalphaacetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM).
5. Alphamethadol.
7. Alpha-methylthiofentanyl.
8. Alphameprodine.
15. Betamethadol.
17. Clonazitene.
18. Dextromoramide.
19. Diampromide.
20. Diethylthiambutene.
22. Dimenoxadol.
23. Dimephespanol.
24. Dimethylthiambutene.
25. Dioxaphetyl butyrate.
27. Ethylmethylthiambutene.
28. Etonitazene.
29. Etoxeridine.
30. Flunitrazepam.
31. Furethidine.
32. Hydroxypethidine.
33. Ketobemidone.
34. Levomoramide.
35. Levophenacylmorphan.
36. Desmethylprodine (1-Methyl-4-Phenyl-4-
Propionoxypiperidine).
37. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
piperidyl]-N-phenylpropanamide).
38. 3-Methylthiofentanyl.
40. Noracymethadol.
41. Norlevorphanol.
42. Normethadone.
43. Norpipanone.
44. Para-Fluorofentanyl.
45. Phenadoxone.
46. Phenampromide.
47. Phenomorphan.
48. Phenoperidine.
49. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-
Acetyloxypiperidine).
50. Piroridiane.
51. Proheptazine.
52. Properidine.
53. Propiram.
54. Racemoramide.
55. Thalidofentanyl.
56. Thiofentanyl.
57. Tianeptine.
58. Tilidine.
59. Trimeperidine.
60. Acetylfentanyl.
61. Butyrylfentanyl.
63. Pentany derivatives. Unless specifically excepted,
listed in another schedule, or contained within a pharmaceutical
product approved by the United States Food and Drug
Administration, any material, compound, mixture, or preparation,
including its salts, isomers, esters, or ethers, and salts of
isomers, esters, or ethers, whenever the existence of such salts
is possible within any of the following specific chemical
designations containing a 4-anilidopiperidine structure:
a. With or without substitution at the carbonyl of the
aniline moiety with alkyl, alkenyl, carboxalkoxy, cycloalkyl,
methoxyalkyl, cyanoalkyl, or aryl groups, or furanyl,
dihydrofuranyl, benzyl moiety, or rings containing heteroatoms
sulfur, oxygen, or nitrogen;
b. With or without substitution at the piperidine amino
moiety with a phenethyl, benzyl, alkylaryl (including
heteroaromatics), alkyltetrazolyl ring, or an alkyl or
carbomethoxy group, whether or not further substituted in the
ring or group;
c. With or without substitution or addition to the
piperidine ring to any extent with one or more methyl,
carbomethoxy, methoxy, methoxymethyl, aryl, allyl, or ester
groups;
d. With or without substitution of one or more hydrogen
atoms for halogens, or methyl, alkyl, or methoxy groups, in the
aromatic ring of the anilide moiety;
e. With or without substitution at the alpha or beta
position of the piperidine ring with alkyl, hydroxyl, or methoxy
groups;
f. With or without substitution of the benzene ring of the
anilide moiety for an aromatic heterocycle; and
g. With or without substitution of the piperidine ring for
a pyrrolidine ring, perhydroazepine ring, or azepine ring;

excluding, Alfentanil, Carfentanil, Pentany, and Sufentanil;
including, but not limited to:
  (I) Acetyl-alpha-methylfentanyl.
  (II) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta phenyl)]
ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-
(N-propanilido) piperidine).
  (III) Alpha-methylthiofentanyl.
  (IV) Benzylfentanyl.
  (V) Beta-hydroxyfentanyl.

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Section 2. Paragraph (i) of subsection (1) of section 893.13, Florida Statutes, is amended to read:

893.13 Prohibited acts; penalties.—

(i) Except as authorized by this chapter, a person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and must be sentenced to a mandatory minimum term of imprisonment of 3 years, if:

1. The person sells, manufactures, or delivers, or possesses with intent to sell, manufacture, or deliver, any of the following:
   a. Alfentanil, as described in s. 893.03(2)(b)1.;
   b. Carfentanil, as described in s. 893.03(2)(b)6.;
   c. Fentanyl, as described in s. 893.03(2)(b)9.;
   d. Sufentanil, as described in s. 893.03(2)(b)30.;
   e. A fentanyl derivative, as described in s. 893.03(1)(a)63.;
   f. A controlled substance analog, as described in s. 893.0356, of any substance described in subparagraphs a.-e.; or
g. A mixture containing any substance described in subparagraphs a.-f.; and

2. The substance or mixture listed in subparagraph 1. is in a form that resembles, or is mixed, granulated, absorbed, spray-dried, or aerosolized as or onto, coated on, in whole or in part, or solubilized with or into, a product, when such product or its packaging further has at least one of the following attributes:
   a. Resembles the trade dress of a branded food product, consumer food product, or logo food product;
   b. Incorporates an actual or fake registered copyright, service mark, or trademark;
Florida Senate - 2024 SB 1512

893.135, Florida Statutes, is amended to read:

Section 4. Paragraph (c) of subsection (1) of section 893.135, Florida Statutes, is amended to read:

893.135 Trafficking; mandatory sentences; suspension or

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Page 9 of 15 CODING: Words struck are deletions; words underlined are additions.
A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of:

- A fentanyl derivative, as described in s. 893.03(2)(b)6.,
- Alfentanil, as described in s. 893.03(2)(b)1.;
- Carfentanil, as described in s. 893.03(2)(b)6.;
- Fentanyl, as described in s. 893.03(2)(b)9.;
- Sufentanil, as described in s. 893.03(2)(b)30.;
- A fentanyl derivative, as described in s. 893.03(1)(a)63.;
- A controlled substance analog, as described in s. 893.0356, of any substance described in sub-subparagraphs (I)-(VI); or
- A mixture containing any substance described in sub-subparagraphs (I)-(VI),

shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $750,000.

- Is 7 grams or more, but less than 14 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of $50,000.
- Is 14 grams or more, but less than 25 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 7 years and shall be ordered to pay a fine of $100,000.
- Is 25 grams or more, but less than 100 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $500,000.
- Is 100 grams or more, but less than 300 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 years and shall be ordered to pay a fine of $500,000.
- Is 300 grams or more, but less than 3 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 years and shall be ordered to pay a fine of $750,000.

3. A person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 7 grams or more of oxycodone, as described in s. 893.03(2)(a)1.g., or any salt thereof, or 7 grams or more of any mixture containing any such substance, commits a felony of the first degree, which felony shall be known as “trafficking in oxycodone,” punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If the quantity involved:
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349 commits a felony of the first degree, which felony shall be
350 known as “trafficking in dangerous fentanyl or fentanyl
351 analogues,” punishable as provided in s. 775.082, s. 775.083, or
352 s. 775.084.
353 b. If the quantity involved under sub-subparagraph a.:  
354 (I) Is 4 grams or more, but less than 14 grams, such person
355 shall be sentenced to a mandatory minimum term of imprisonment
356 of 7 years, and shall be ordered to pay a fine of $50,000.
357 (II) Is 14 grams or more, but less than 28 grams, such
358 person shall be sentenced to a mandatory minimum term of
359 imprisonment of 20 years, and shall be ordered to pay a fine of
360 $100,000.
361 (III) Is 28 grams or more, such person shall be sentenced
362 to a mandatory minimum term of imprisonment of 25 years, and
363 shall be ordered to pay a fine of $500,000.
364 c. A person 18 years of age or older who violates sub-
365 subparagraph a. by knowingly selling or delivering to a minor at
366 least 4 grams of a substance or mixture listed in sub-
367 subparagraph a. shall be sentenced to a mandatory minimum term
368 of not less than 25 years and not exceeding life imprisonment,
369 and shall be ordered to pay a fine of $1 million if the
370 substance or mixture listed in sub-subparagraph a. is in a form
371 that resembles, or is mixed, granulated, absorbed, spray-dried,
372 or aerosolized as or onto, coated on, in whole or in part, or
373 solubilized with or into, a product, when such product or its
374 packaging further has at least one of the following attributes:
375 (I) Resembles the trade dress of a branded food product,
376 consumer food product, or logo food product;
377 (II) Incorporates an actual or fake registered copyright,
378 service mark, or trademark;
379 (III) Resembles candy, cereal, a gummy, a vitamin, or a
380 chewable product, such as a gum or gelatin-based product; or
381 (IV) Contains a cartoon character imprint.
382 5. A person who knowingly sells, purchases, manufactures,
383 delivers, or brings into this state, or who is knowingly in
384 actual or constructive possession of, 30 kilograms or more of
385 any morphine, opium, oxycodone, hydrocodone, codeine,
386 hydromorphone, or any salt, derivative, isomer, or salt of an
387 isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)(3), or (3)(c)(4), or 30 kilograms or
388 more of any mixture containing any such substance, commits the
389 first degree felony of trafficking in illegal drugs. A person
390 who has been convicted of the first degree felony of trafficking
391 in illegal drugs under this subparagraph shall be punished by
392 life imprisonment and is ineligible for any form of
393 discretionary early release except pardon or executive clemency
394 or conditional medical release under s. 947.149. However, if the
395 court determines that, in addition to committing any act
396 specified in this paragraph:
397 a. The person intentionally killed an individual or
398 counselled, commanded, induced, procured, or caused the
399 intentional killing of an individual and such killing was the
400 result; or
401 b. The person’s conduct in committing that act led to a
402 natural, though not inevitable, lethal result,
403 such person commits the capital felony of trafficking in illegal
404 drugs, punishable as provided in ss. 775.082 and 921.142. A

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person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

6. A person who knowingly brings into this state 60 kilograms or more of any morphine, opium, oxycodone, hydrocodone, codeine, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or more of any mixture containing any such substance, and who knows that the probable result of such importation would be the death of a person, commits capital importation of illegal drugs, a capital felony punishable as provided in ss. 775.082 and 921.142. A person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

Section 5. This act shall take effect July 1, 2024.
SB 1512 – Controlled Substances (Identical HB 1595)

This bill amends s. 893.03, F.S., adding Tianeptine to the list of Schedule I controlled substances, which has the potential to expand the number of offenders going to prison for drug offenses given its impact on multiple felonies under s. 893.13, F.S.

Per DOC, in FY 22-23, there were 524 new commitments to prison for the Schedule I drug offense category where Tianeptine will be included. This drug offense category contains various kinds of drugs, so it is not possible to see how each drug contributes to the total number of new commitments. It is also not known how the addition of Tianeptine will impact the prison population.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate
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 1590
INTRODUCER: Senator Grall
SUBJECT: Prostitution and Related Acts
DATE: January 29, 2024

ANALYST STAFF DIRECTOR REFERENCE ACTION
1. Wyant Stokes CJ Pre-meeting
2. ______________________ ______________________ ACJ
3. ______________________ ______________________ FP

I. Summary:

SB 1590 creates s. 796.011, F.S., to provide or redefine the following terms: adult, assignation, commercial sex, female genitals, lewdness, prostitution, and sexual activity.

The bill creates s. 796.031, F.S., to prohibit prostitution, lewdness, and assignation and provide criminal penalties for such offenses.

The bill repeals s. 796.04, F.S., relating to forcing, compelling, or coercing another person to become a prostitute.

The bill amends s. 796.06, F.S., relating to maintaining space to be used for commercial sex. It is unlawful to:
  • Own, establish, maintain, operate, or use a building or residence or structure in whole or in part with knowledge or reckless disregard that it will be used for commercial sex.
  • Receive, offer to or agree to receive, or allow a person to remain in these structures for the purpose of commercial sexual activity.

The bill reclassifies an offense to the next higher degree if the offense occurs at a place owned, established, maintained, or operating as a massage establishment that is or should be licensed under s. 480.043, F.S.

Additionally the bill authorizes testimony concerning the reputation of any such place, person operating, frequenting, or residing in such place, or the reputation of the defendant to be admissible in evidence in support of the charge.

The bill amends s. 796.07, F.S., to remove definitions for this section. The bill specifies it is unlawful for a person to provide, or offer to provide, something of value in exchange for sexual activity.
The bill reclassifies offenses under this section and requires certain punishments are imposed.

The bill amends ss. 60.05, 322.28, 397.4073, 397.417, 435.07, 456.074, 480.041, 480.043, 480.046, 772.102, 787.01, 787.02, 794.056, 796.08, 796.09, 893.138, 895.02, 938.085, 943.0433 F.S., to provide conforming provisions.

The bill may have an indeterminate fiscal impact on the Department of Corrections (DOC). See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2024.

II. Present Situation:

In Florida, police often run elaborate undercover sting operations to catch those engaged in prostitution. This is usually done through a number of tactics such as: posing as a prostitute to meet up with “johns,” using officers to pose as “bait” to receive offers, and sending undercover officers into massage parlors and adult entertainment.

Chapter 796, F.S., provides for the criminalization of various acts relating to prostitution and establishes penalties for violations. As currently defined, “prostitution” means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses. Current law provides that it is unlawful:

- For anyone to force, compel, or coerce another to become a prostitute and those in violation will be guilty of third degree felony.1
- For any person with reasonable belief or knowing another person is engaged in prostitution to live or derive support or maintenance in whole or in part from what is believed to be earnings or proceeds of such person’s prostitution. A person who violates such law commits a second degree felony, a first degree felony for a second offense, and a first degree felony for a third offense with a mandatory minimum term of imprisonment of 10 years.6
- To let or rent any place, structure, or part thereof, trailer or other conveyance, with the knowledge that it will be used for the purpose of lewdness, assignation, or prostitution. A person who violates such commits a first degree misdemeanor or a third degree felony for a second or subsequent violation.8

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1 Section 796.04, F.S.
2 A third degree felony is generally punishable by no more than 5 years in state prison and a fine not exceeding $5,000, as provided in s. 775.082 and s. 775.083, F.S.
3 Section 796.05(1), F.S.
4 A second degree felony is generally punishable by no more than 15 years in state prison and a fine not exceeding $10,000, as provided in s. 775.082 and s. 775.083, F.S.
5 A first degree felony is generally punishable by no more than 30 years in state prison and a fine not exceeding $10,000, as provided in s. 775.082 and s. 775.083, F.S.
6 Section 796.05(2), F.S.
7 A first degree misdemeanor is punishable by a definite term of imprisonment not exceeding 1 year and a $1,000 fine, as provided in s. 775.082 and s. 775.083, F.S.
8 Section 796.06, F.S.
Section 796.07, F.S. defines assignation, female genitals, lewdness, prostitution, and sexual activity. This section provides it is unlawful:

- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution.
- To offer, or to offer to agree to secure, another for the purpose of prostitution or for any other lewd or indecent act.
- To receive, or offer to agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose.
- To direct, take, transport, or offer or agree to direct, take, or transport any person to any place, structure, or building, or to any other person with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.
- For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.
- To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation.
- To aid, abet, or participate in any of the acts or things in this section.
- To purchase the services of any person engaged in prostitution.

A person who violates any of these offenses commits:

- A second degree misdemeanor for a first violation.
- A first degree misdemeanor for a second violation.
- A third degree felony for a third or subsequent violation.

A person with a third or subsequent violation must be offered admission to a pretrial intervention program or a substance abuse treatment program.

9 “Assignation” means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. Section 796.07(1)(a), F.S.
10 “Female genitals” includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina. Section 796.07(1)(b), F.S.
11 “Lewdness” means any indecent or obscene act. Section 796.07(1)(c), F.S.
12 “Prostitution” means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses. Section 796.07(1)(d), F.S.
13 “Sexual activity” means oral, anal, or female genital penetration by, or union with, the sexual organ of another; anal or female genital penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes. Section 796.07(1)(e), F.S.
14 Section 796.07(2)(a), F.S.
15 Section 796.07(2)(b), F.S.
16 Section 796.07(2)(c), F.S.
17 Section 796.07(2)(d), F.S.
18 Section 796.07(2)(e), F.S.
19 Section 796.07(2)(g), F.S.
20 Section 796.07(2)(h), F.S.
21 Section 796.07(2)(i), F.S.
22 A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and $500 fine, as provided in s. 775.082 and s. 775.083, F.S.
23 Section 796.07(4)(a), F.S.
24 Section 796.07(4)(b), F.S.
It is also unlawful to solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation.\textsuperscript{25} A person who violates such commits:

- A first degree misdemeanor for a first violation.
- A third degree felony for a second violation.
- A second degree felony for a third or subsequent violation.\textsuperscript{26}

Such person must be given a $5,000 civil penalty if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds, the first $500 is paid to the circuit court administrator for administrative costs of treatment-based drug court programs. The remainder is deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the purpose of funding safe houses and safe foster homes.\textsuperscript{27} In addition to any penalty imposed, a person convicted of this offense must perform 100 hours of community service, pay for and attend an educational program\textsuperscript{28} if such program exists in the circuit.\textsuperscript{29} A person convicted of a second or subsequent violation must also be subject to a minimum mandatory period of incarceration of 10 days.\textsuperscript{30}

If the offender uses a vehicle in the course of committing the offense, the judge may, upon conviction, order for the impoundment or immobilization of the vehicle for up to 60 days.\textsuperscript{31} The owner may request the court to dismiss the order and the court must dismiss the order and costs if:

- The owner’s family has no other private or public means of transportation;\textsuperscript{32}
- The vehicle was stolen at the time of the offense;\textsuperscript{33}
- The owner purchased the vehicle after the offense was committed, and the sale was not made to circumvent the order and allow the defendant continued access to the vehicle;\textsuperscript{34} or
- The vehicle is owned by the defendant but is operated solely by employees of the defendant or employees of a business owned by the defendant.\textsuperscript{35}

If the court denies the request to dismiss, the petitioner may request an evidentiary hearing.\textsuperscript{36}

The testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge, any person residing in, operating, or frequenting such place, and

\textsuperscript{25} Section 796.07(2)(f), F.S.
\textsuperscript{26} Section 796.07(5)(a), F.S.
\textsuperscript{27} Section 796.07(6), F.S.
\textsuperscript{28} A judicial circuit may establish an educational program to include education on: the relationship between demand for commercial sex and human trafficking; the impact of human trafficking on victims; coercion, consent, and sexual violence; the health and legal consequences of commercial sex; the negative impact of commercial sex on prostituted persons and the community; and the reasons and motivations for engaging in prostitution. Section 796.07(8)(a), F.S.
\textsuperscript{29} Section 796.07(5)(b), F.S.
\textsuperscript{30} Section 796.07(5)(c), F.S.
\textsuperscript{31} Section 796.07(5)(d)1., F.S.
\textsuperscript{32} Section 796.07(5)(d)2.a., F.S.
\textsuperscript{33} Section 796.07(5)(d)2.b., F.S.
\textsuperscript{34} Section 796.07(5)(d)2.c., F.S.
\textsuperscript{35} Section 796.07(5)(d)2.d., F.S.
\textsuperscript{36} Section 796.07(5)(d)3., F.S.
testimony concerning the reputation of the defendant is admissible in evidence in support of the charge. 37 A police officer may testify as an offended party in an action regarding charges. 38

As of January 1, 2024, the Soliciting for Prostitution Public Database was repealed. The database was created to include the criminal history record of any person who was found guilty or entered a plea, regardless of adjudication, for soliciting, inducing, enticing, or procuring another to commit prostitution if there is evidence that such person provided a form of payment or arranged for the payment of such services. 39

If the place, structure, building, or conveyance is owned, established, maintained, or operated in violation is a massage establishment that is or should be licensed under s. 480.043, F.S., an offense is reclassified to the next higher degree as follows:

- A second degree misdemeanor for a first violation is reclassified as a first degree misdemeanor. 40
- A first degree misdemeanor for a second violation is reclassified as a third degree felony. 41
- A third degree felony for a third or subsequent violation is reclassified as a second degree felony. 42

III. Effect of Proposed Changes:

The bill creates s. 796.011, F.S., to provide definitions relating to prostitution. The bill redefines “prostitution” as voluntarily engaging in, agreeing to engage in, or offering to engage in commercial sex. The bill defines “commercial sex” as engaging in sexual activity in exchange for something of value, including prostitution and human trafficking. The bill also redefines “sexual activity” to include the performance of sexual acts for the purpose of masturbation, regardless of whether contact is made.

The bill creates s. 796.031, F.S., to prohibit prostitution, lewdness, and assignation and provide a person charged with this violation commits a second degree misdemeanor. In addition, the offender must attend an educational program about the negative effects of commercial sex which may be offered by a secular or faith-based provider.

The bill repeals s. 796.04, F.S., relating to forcing, compelling, or coercing another person to become a prostitute. Language pertaining to forcing, compelling, or coercing is embodied under s. 787.06, F.S., as it relates to human trafficking. 43

The bill amends s. 796.06, F.S., regarding maintaining space to be used for commercial sex. The bill replaces lewdness, assignation, or prostitution with commercial sex. The bill includes owning, establishing, maintaining, operating, or using a building or residence or structure in

37 Section 796.07(3)(a), F.S.
38 Section 796.07(3)(b), F.S.
39 Section 796.07(5)(e), F.S.
40 Section 796.07(7)(a), F.S.
41 Section 796.07(7)(b), F.S.
42 Section 796.07(7)(c), F.S.
43 The Legislature finds that victims of human trafficking are subjected to force, fraud, or coercion for the purpose of sexual exploitation or forced labor. Section 787.06(1)(a), F.S.
whole or in part with knowledge or reckless disregard that it will be used for commercial sex, as unlawful.

The bill specifies it is unlawful to receive, offer to or agree to receive, or allow a person to remain in these structures for the purpose of commercial sexual activity and provides it is a third degree felony for the first violation and a second degree felony for a second or subsequent violation. If an offense occurs at a place owned, established, maintained, or operating as a massage establishment that is or should be licensed under s. 480.043, F.S., the offense must be reclassified to the next higher degree as follows:

- A third degree felony to a second degree felony.
- A second degree felony to a first degree felony.
- A first degree felony to a first degree felony punishable by life in prison.  

The bill authorizes testimony concerning the reputation of any such place, person operating, frequenting, or residing in such place, or the reputation of the defendant to be admissible in evidence in support of the charge.

The bill amends s. 796.07, F.S., to remove definitions for this chapter. The bill specifies it is unlawful for a person to provide, or offer to provide, something of value in exchange for sexual activity. The bill removes language pertaining to owning or maintaining a place for the purpose of prostitution, and removes language relating to prohibited acts of prostitution.

The bill removes a provision that an officer may testify as an offended party in an action regarding charges filed pursuant to this section, and removes language pertaining to a third or subsequent offense requiring pretrial intervention or a substance abuse treatment program.

The bill reclassifies offenses under this section as follows:

- A second degree misdemeanor to a third degree felony for a first violation.
- A first degree misdemeanor to a second degree felony for a second violation.
- A third degree felony to a first degree felony for a third or subsequent violation.

The bill clarifies for any disposition other than acquittal or dismissal for any offense under this section, the offender must perform 100 hours of community service, pay for and attend an educational program, receive sexually transmitted disease testing at a recognized medical facility, and pay a civil penalty of $5,000. Of the proceeds, the first $500 must be paid to the court administrator and the remainder be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families.

The bill amends ss. 60.05, 322.28, 397.4073, 397.417, 435.07, 456.074, 480.041, 480.043, 480.046, 772.102, 787.01, 787.02, 794.056, 796.08, 796.09, 893.138, 895.02, 938.085, 943.043 F.S., to provide conforming provisions.

The bill is effective October 1, 2024.

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44 A first degree felony punishable by a term of imprisonment for life or by a term of imprisonment not exceeding 40 years and a fine not exceeding $15,000, as punishable by s. 775.082 and s. 775.083, 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:
      The bill may have a positive indeterminate prison bed impact due to reclassifying misdemeanor offenses as felony offenses.

VI. Technical Deficiencies:

   As of January 1, 2024, the Soliciting for Prostitution Public Database was repealed.

VII. Related Issues:

   None.

VIII. Statutes Affected:

   This bill amends the following sections of the Florida Statutes: 796.06, 796.07, 60.05, 322.28, 397.4073, 397.417, 435.07, 456.074, 480.041, 480.043, 480.046, 772.102, 787.01, 787.02, 794.056, 796.08, 796.09, 893.138, 895.02, 938.085, and 943.0433.
This bill creates the following sections of the Florida Statutes: 796.011 and 796.031.

This bill repeals section 796.04 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.
The Committee on Criminal Justice (Grall) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Section 796.011, Florida Statutes, is created to read:

796.011 Definitions.—As used in this chapter, the term:

1. “Adult” means an individual 18 years of age or older.
2. “Assignation” means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.
(3) “Commercial sex” means engaging in sexual activity in exchange for something of value. The term includes prostitution and human trafficking.

(4) “Female genitals” includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

(5) “Lewdness” means any indecent or obscene act.

(6) “Prostitution” means voluntarily engaging in, agreeing to engage in, or offering to engage in commercial sex.

(7) “Sexual activity” means oral, anal, or female genital penetration by, or union with, the sexual organ of another; anal or female genital penetration of another by any other object; the handling or fondling of the sexual organ of another for the purpose of masturbation. The term does not include acts done for bona fide medical purposes.

Section 2. Section 796.031, Florida Statutes, is created to read:

796.031 Prostitution, lewdness, and assignation prohibited; penalties.—

(1) It is unlawful for an adult to offer to commit, to commit, or to engage in prostitution, lewdness, or assignation.

(2) In the trial of a person charged with a violation of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge; testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building or conveyance; and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.

(3)(a) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s.
775.082 or s. 775.083.

(b) In addition to any other penalty imposed, the court shall order a person sentenced for a violation of this section to attend an educational program about the negative effects of commercial sex. The educational program may be offered by a secular or faith-based provider.

(c) A judicial circuit may establish an educational program for persons convicted of or charged with a violation of this section, to include education on:

1. The relationship between demand for commercial sex and human trafficking;
2. The impact of human trafficking on victims;
3. Coercion, consent, and sexual violence;
4. The health and legal consequences of commercial sex;
5. The negative impact of commercial sex on prostituted persons and the community; and
6. The reasons and motivations for engaging in prostitution.

Section 3. Section 796.04, Florida Statutes, is repealed.

Section 4. Section 796.06, Florida Statutes, is amended to read:

796.06 Maintaining Renting space to be used for commercial sex lewdness, assignation, or prostitution.

(1) It is unlawful to:

(a) Own, establish, maintain, operate, use, let, or rent a building, residence, any place, or structure, in whole or in part thereof, or a trailer or any other conveyance, with the knowledge or reckless disregard that it will be used for the purpose of commercial sex lewdness, assignation, or
prostitution.

(b) Receive, or to offer or agree to receive, a person into a building, residence, place, or structure, or a trailer or any other conveyance, for the purpose of commercial sexual activity or to allow a person to remain there for such purpose.

(2) A person who violates this section commits:

(a) A felony of the third degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

(b) A felony of the second degree for a second or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) In the trial of a person charged with a violation of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge; testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building, or conveyance; and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.

(4) If such building, residence, place, structure, or trailer or any other conveyance that is owned, established, maintained, or operated is a massage establishment that is or should be licensed under s. 480.043, the offense must be reclassified to the next higher degree as follows:

(a) A felony of the third degree is reclassified as a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A felony of the second degree is reclassified as a felony of the first degree, punishable as provided in s.
Section 5. Section 796.07, Florida Statutes, is amended to read:

796.07 Prohibiting prostitution and related acts.—

(1) As used in this section:

(a) “Assignation” means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

(b) “Female genitals” includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

(c) “Lewdness” means any indecent or obscene act.

(d) “Prostitution” means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses.

(e) “Sexual activity” means oral, anal, or female genital penetration by, or union with, the sexual organ of another; anal or female genital penetration of another by any other object; or the handling or fondling of the sexual organ of another for the purpose of masturbation; however, the term does not include acts done for bona fide medical purposes.

(2) It is unlawful for a person:

(a) to provide, or offer to provide, something of value in exchange for sexual activity own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness, assignation, or prostitution.

(b) To offer, or to offer or agree to secure, another for
the purpose of prostitution or for any other lewd or indecent
act.

(c) To receive, or to offer or agree to receive, any person
into any place, structure, building, or conveyance for the
purpose of prostitution, lewdness, or assignation, or to permit
any person to remain there for such purpose.

(d) To direct, take, or transport, or to offer or agree to
direct, take, or transport, any person to any place, structure,
or building, or to any other person, with knowledge or
reasonable cause to believe that the purpose of such directing,
taking, or transporting is prostitution, lewdness, or
assignation.

(e) For a person 18 years of age or older to offer to
commit, or to commit, or to engage in, prostitution, lewdness,
or assignation.

(f) To solicit, induce, entice, or procure another to
commit prostitution, lewdness, or assignation.

(g) To reside in, enter, or remain in, any place,
structure, or building, or to enter or remain in any conveyance,
for the purpose of prostitution, lewdness, or assignation.

(h) To aid, abet, or participate in any of the acts or
things enumerated in this subsection.

(i) To purchase the services of any person engaged in
prostitution.

(2)(3)(a) In the trial of a person charged with a violation
of this section, testimony concerning the reputation of any
place, structure, building, or conveyance involved in the
charge, testimony concerning the reputation of any person
residing in, operating, or frequenting such place, structure,
building, or conveyance, and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.

(b) Notwithstanding any other provision of law, a police officer may testify as an offended party in an action regarding charges filed pursuant to this section.

(3)(a) A person who violates any provision of this section, other than paragraph (2)(f), commits:

1. A felony misdemeanor of the third degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

2. A felony misdemeanor of the second degree for a second violation, punishable as provided in s. 775.082 or s. 775.083.

3. A felony of the first degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who is charged with a third or subsequent violation of this section, other than paragraph (2)(f), shall be offered admission to a pretrial intervention program or a substance abuse treatment program as provided in s. 948.08.

(5)(a) A person who violates paragraph (2)(f) commits:

1. A misdemeanor of the first degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

2. A felony of the third degree for a second violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3. A felony of the second degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) In addition to any other penalty imposed, if a violation of this section results in any judicial disposition other than acquittal or dismissal, the court must order the defendant a person convicted of a violation of paragraph (2)(f) to:

1. Perform 100 hours of community service;
2. Pay for and attend an educational program, which may be offered by a secular or faith-based provider, on the negative effects of commercial sexual activity; as described in subsection (8), if such a program exists in the judicial circuit in which the offender is sentenced.
3. Pay a civil penalty of $5,000. Of the proceeds from each penalty assessed under this subparagraph, the first $500 must be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed must be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the sole purpose of funding safe houses and safe foster homes as provided in s. 409.1678; and
4. Receive sexually transmitted disease testing at a recognized medical facility.

(c) A judicial circuit may establish an educational program for persons convicted of or charged with a violation of this section, to include education on:

1. The relationship between demand for commercial sex and human trafficking;
2. The impact of human trafficking on victims;
3. Coercion, consent, and sexual violence;
4. The health and legal consequences of commercial sex;
5. The negative impact of commercial sex on prostituted persons and the community; and
6. The reasons and motivations for engaging in prostitution

In addition to any other penalty imposed, the court shall sentence a person convicted of a second or subsequent violation of paragraph (2)(f) to a minimum mandatory period of incarceration of 10 days.

(d)1. If a person who violates this section paragraph (2)(f) uses a vehicle in the course of the violation, the judge, upon the person’s conviction, may issue an order for the impoundment or immobilization of the vehicle for a period of up to 60 days. The order of impoundment or immobilization must include the names and telephone numbers of all immobilization agencies meeting all of the conditions of s. 316.193(13). Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of the vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vehicle.

2. The owner of the vehicle may request the court to dismiss the order. The court must dismiss the order, and the owner of the vehicle will incur no costs, if the owner of the vehicle alleges and the court finds to be true any of the following:
   a. The owner’s family has no other private or public means of transportation;
   b. The vehicle was stolen at the time of the offense;
c. The owner purchased the vehicle after the offense was committed, and the sale was not made to circumvent the order and allow the defendant continued access to the vehicle; or
d. The vehicle is owned by the defendant but is operated solely by employees of the defendant or employees of a business owned by the defendant.

3. If the court denies the request to dismiss the order, the petitioner may request an evidentiary hearing. If, at the evidentiary hearing, the court finds to be true any of the circumstances described in sub-subparagraphs 2.a.-d. sub-subparagraphs (d)2.a.-d., the court must dismiss the order and the owner of the vehicle will incur no costs.

(6) A person who violates paragraph (2)(f) shall be assessed a civil penalty of $5,000 if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds from each penalty assessed under this subsection, the first $500 shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed shall be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the sole purpose of funding safe houses and safe foster homes as provided in s. 409.1678.

(7) If the place, structure, building, or conveyance that is owned, established, maintained, or operated in violation of paragraph (2)(a) is a massage establishment that is or should be licensed under s. 480.043, the offense shall be reclassified to the next higher degree as follows:

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

(b) A misdemeanor of the first degree for a second violation is reclassified as a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

(8)(a) A judicial circuit may establish an educational program for persons convicted of or charged with a violation of paragraph (2)(f), to include education on:

1. The relationship between demand for commercial sex and human trafficking.

2. The impact of human trafficking on victims.


4. The health and legal consequences of commercial sex.

5. The negative impact of commercial sex on prostituted persons and the community.

6. The reasons and motivations for engaging in prostitution.

(b) An educational program may include a program offered by a faith-based provider.

Section 6. Subsection (5) of section 60.05, Florida Statutes, is amended to read:

60.05 Abatement of nuisances.—

(5) On trial if the existence of a nuisance is shown, the court shall issue a permanent injunction and order the costs to be paid by the persons establishing or maintaining the nuisance and shall adjudge that the costs are a lien on all personal
property found in the place of the nuisance and on the failure of the property to bring enough to pay the costs, then on the real estate occupied by the nuisance. A lien may not attach to the real estate of any other than such persons unless a second written notice has been given in accordance with paragraph (3)(a) to the owner or his or her agent who fails to begin to abate the nuisance within the time specified therein. In a proceeding abating a nuisance pursuant to s. 823.10 or s. 823.05, if a tenant has been convicted of an offense under chapter 893, s. 796.06, or s. 796.07, the court may order the tenant to vacate the property within 72 hours if the tenant and owner of the premises are parties to the nuisance abatement action and the order will lead to the abatement of the nuisance.

Section 7. Subsection (7) of section 322.28, Florida Statutes, is amended to read:

322.28 Period of suspension or revocation.—
(7) Following a second or subsequent violation of s. 796.07(1) or s. 796.07(2)(f), which involves a motor vehicle and which results in any judicial disposition other than acquittal or dismissal, in addition to any other sentence imposed, the court shall revoke the person’s driver license or driving privilege, effective upon the date of the disposition, for a period of at least 1 year. A person sentenced under this subsection may request a hearing under s. 322.271.

Section 8. Paragraph (b) of subsection (4) of section 397.4073, Florida Statutes, is amended to read:

397.4073 Background checks of service provider personnel.—
(4) EXEMPTIONS FROM DISQUALIFICATION.—
(b) For service providers that treat adolescents 13 years
of age and older, service provider personnel whose background checks indicate crimes under ss. 796.07(1), 796.07(2)(e), s. 810.02(4), s. 812.014(2)(c), s. 817.563, s. 831.01, s. 831.02, s. 893.13, or s. 893.147, and any related criminal attempt, solicitation, or conspiracy under s. 777.04:

1. Shall be exempted from disqualification from employment for such offenses pursuant to this paragraph if:
   a. At least 5 years, or at least 3 years in the case of an individual seeking certification as a peer specialist under s. 397.417, have elapsed since the applicant requesting an exemption has completed or has been lawfully released from any confinement, supervision, or nonmonetary condition imposed by a court for the applicant’s most recent disqualifying offense under this paragraph.
   b. The applicant for an exemption has not been arrested for any offense during the 5 years, or 3 years in the case of a peer specialist, before the request for exemption.

2. May be exempted from disqualification from employment for such offenses without a waiting period as provided under s. 435.07(2).

Section 9. Paragraph (e) of subsection (4) of section 397.417, Florida Statutes, is amended to read:

397.417 Peer specialists.—

(4) BACKGROUND SCREENING.—

(e) The background screening conducted under this subsection must ensure that a peer specialist has not been arrested for and is awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the
record has not been sealed or expunged for, any offense prohibited under any of the following state laws or similar laws of another jurisdiction:

1. Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.

2. Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.

3. Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.

4. Section 415.111, relating to abuse, neglect, or exploitation of vulnerable adults.

5. Any offense that constitutes domestic violence as defined in s. 741.28.

6. Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.

7. Section 782.04, relating to murder.

8. Section 782.07, relating to manslaughter; aggravated manslaughter of an elderly person or a disabled adult; aggravated manslaughter of a child; or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.

9. Section 782.071, relating to vehicular homicide.

10. Section 782.09, relating to killing an unborn child by injury to the mother.

11. Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.

12. Section 787.01, relating to kidnapping.
13. Section 787.02, relating to false imprisonment.

14. Section 787.025, relating to luring or enticing a child.

15. Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.

16. Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse or neglect of a minor.

17. Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.

18. Section 790.115(2)(b), relating to possessing an electric weapon or device, a destructive device, or any other weapon on school property.

19. Section 794.011, relating to sexual battery.

20. Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.

21. Section 794.05, relating to unlawful sexual activity with certain minors.

22. Section 794.08, relating to female genital mutilation.

23. Section 796.07, relating to providing, or offering to provide, something of value in exchange for sexual activity procuring another to commit prostitution, except for those offenses expunged pursuant to s. 943.0583.

24. Section 798.02, relating to lewd and lascivious behavior.
25. Chapter 800, relating to lewdness and indecent exposure.
   26. Section 806.01, relating to arson.
   27. Section 810.02, relating to burglary, if the offense was a felony of the first degree.
   28. Section 810.14, relating to voyeurism, if the offense was a felony.
   29. Section 810.145, relating to video voyeurism, if the offense was a felony.
   30. Section 812.13, relating to robbery.
   31. Section 812.131, relating to robbery by sudden snatching.
   32. Section 812.133, relating to carjacking.
   33. Section 812.135, relating to home-invasion robbery.
   34. Section 817.034, relating to communications fraud, if the offense was a felony of the first degree.
   35. Section 817.234, relating to false and fraudulent insurance claims, if the offense was a felony of the first or second degree.
   36. Section 817.50, relating to fraudulently obtaining goods or services from a health care provider and false reports of a communicable disease.
   37. Section 817.505, relating to patient brokering.
   38. Section 817.568, relating to fraudulent use of personal identification, if the offense was a felony of the first or second degree.
   39. Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or a disabled adult.
   40. Section 825.1025, relating to lewd or lascivious
offenses committed upon or in the presence of an elderly person or a disabled person.

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

42. Section 826.04, relating to incest.

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

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

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

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

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

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

49. Section 843.01, relating to resisting arrest with violence.

50. Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer of the means of protection or communication.

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

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

53. Chapter 847, relating to obscenity.

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

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

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

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

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

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

60. Section 944.40, relating to escape.

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

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

63. Section 985.701, relating to sexual misconduct in juvenile justice programs.

64. Section 985.711, relating to introduction of contraband into a detention facility.

Section 10. Subsection (2) of section 435.07, Florida Statutes, is amended to read:

435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this chapter, regardless of whether those disqualifying offenses are
listed in this chapter or other laws.

(2) Persons employed, or applicants for employment, by
treatment providers who treat adolescents 13 years of age and
older who are disqualified from employment solely because of
crimes under s. 796.07(1) s. 796.07(2)(e), s. 810.02(4), s.
812.014(2)(c), s. 817.563, s. 831.01, s. 831.02, s. 893.13, or
s. 893.147, or any related criminal attempt, solicitation, or
conspiracy under s. 777.04, may be exempted from
disqualification from employment pursuant to this chapter
without application of the waiting period in subparagraph
(1)(a)1.

Section 11. Subsection (4) and paragraphs (o) and (q) of
subsection (5) of section 456.074, Florida Statutes, are amended
to read:

456.074 Certain health care practitioners; immediate
suspension of license.—

(4) The department shall issue an emergency order
suspending the license of a massage therapist or establishment
as defined in chapter 480 upon receipt of information that the
massage therapist, a person with an ownership interest in the
establishment, or, for a corporation that has more than $250,000
of business assets in this state, the owner, officer, or
individual directly involved in the management of the
establishment has been convicted or found guilty of, or has
entered a plea of guilty or nolo contendere to, regardless of
adjudication, a violation of s. 796.06(1) that s. 796.07(2)(a)
which is reclassified under s. 796.06(4) s. 796.07(7) or a
felony offense under any of the following provisions of state
law or a similar provision in another jurisdiction:
(a) Section 787.01, relating to kidnapping.
(b) Section 787.02, relating to false imprisonment.
(c) Section 787.025, relating to luring or enticing a child.
(d) Section 787.06, relating to human trafficking.
(e) Section 787.07, relating to human smuggling.
(f) Section 794.011, relating to sexual battery.
(g) Section 794.08, relating to female genital mutilation.
(h) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.
(i) Former s. 796.035, relating to the selling or buying of minors into prostitution.
(j) Former section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.
(k) Section 796.05, relating to deriving support from the proceeds of prostitution.
(l) Section 796.07(3)(a)3. Section 796.07(4)(a)3., relating to a felony of the first third degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.
(m) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
(n) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
(o) Section 827.071, relating to sexual performance by a child.
(p) Section 847.0133, relating to the protection of minors.
(q) Section 847.0135, relating to computer pornography.

(r) Section 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or equipment.

(s) Section 847.0145, relating to the selling or buying of minors.

(5) The department shall issue an emergency order suspending the license of any health care practitioner who is arrested for committing or attempting, soliciting, or conspiring to commit any act that would constitute a violation of any of the following criminal offenses in this state or similar offenses in another jurisdiction:

(o) Former section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.

(q) Section 796.07(3)(a)3. Section 796.07(4)(a)3., relating to a felony of the first third degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.

Section 12. Subsection (7) of section 480.041, Florida Statutes, is amended to read:

480.041 Massage therapists; qualifications; licensure; endorsement.—

(7) The board shall deny an application for a new or renewal license if an applicant has been convicted or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of adjudication, a violation of s. 796.06(1) or 796.07(2)(a) which is reclassified under s. 796.06(4) or 796.07(7) or a felony offense under any of the following provisions of state law or a similar provision in another
jurisdiction:

(a) Section 787.01, relating to kidnapping.
(b) Section 787.02, relating to false imprisonment.
(c) Section 787.025, relating to luring or enticing a child.
(d) Section 787.06, relating to human trafficking.
(e) Section 787.07, relating to human smuggling.
(f) Section 794.011, relating to sexual battery.
(g) Section 794.08, relating to female genital mutilation.
(h) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.
(i) Former s. 796.035, relating to the selling or buying of minors into prostitution.
(j) Former section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.
(k) Section 796.05, relating to deriving support from the proceeds of prostitution.
(l) Section 796.07(3)(a)3. Section 796.07(4)(a)3., relating to a felony of the first degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.
(m) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
(n) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
(o) Section 827.071, relating to sexual performance by a child.
(p) Section 847.0133, relating to the protection of minors.
(q) Section 847.0135, relating to computer pornography.
(r) Section 847.0138, relating to the transmission of
material harmful to minors to a minor by electronic device or
equipment.
(s) Section 847.0145, relating to the selling or buying of
minors.

Section 13. Subsection (8) of section 480.043, Florida
Statutes, is amended to read:

480.043 Massage establishments; requisites; licensure;
inspection; human trafficking awareness training and policies.—
(8) The department shall deny an application for a new or
renewal license if an establishment owner or a designated
establishment manager or, for a corporation that has more than
$250,000 of business assets in this state, an establishment
owner, a designated establishment manager, or any individual
directly involved in the management of the establishment has
been convicted of or entered a plea of guilty or nolo contendere
to any misdemeanor or felony crime, regardless of adjudication,
related to prostitution or related acts as described in s.
796.06 or s. 796.07 or a felony offense under any of the
following provisions of state law or a similar provision in
another jurisdiction:

(a) Section 787.01, relating to kidnapping.
(b) Section 787.02, relating to false imprisonment.
(c) Section 787.025, relating to luring or enticing a
child.
(d) Section 787.06, relating to human trafficking.
(e) Section 787.07, relating to human smuggling.
(f) Section 794.011, relating to sexual battery.
(g) Section 794.08, relating to female genital mutilation.
(h) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.
(i) Former s. 796.035, relating to selling or buying of minors into prostitution.
(j) Former section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.
(k) Section 796.05, relating to deriving support from the proceeds of prostitution.
(l) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
(m) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
(n) Section 827.071, relating to sexual performance by a child.
(o) Section 847.0133, relating to the protection of minors.
(p) Section 847.0135, relating to computer pornography.
(q) Section 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or equipment.
(r) Section 847.0145, relating to the selling or buying of minors.

Section 14. Paragraph (c) of subsection (3) of section 480.046, Florida Statutes, is amended to read:
480.046 Grounds for disciplinary action by the board.—
(3) The board shall revoke or suspend the license of a
massage establishment licensed under this act, or deny subsequent licensure of such an establishment, if any of the following occurs:

(c) The establishment owner, the designated establishment manager, or any individual providing massage therapy services for the establishment has had the entry in any jurisdiction of:

1. A final order or other disciplinary action taken for sexual misconduct involving prostitution;

2. A final order or other disciplinary action taken for crimes related to the practice of massage therapy involving prostitution; or

3. A conviction or a plea of guilty or nolo contendere to any misdemeanor or felony crime, regardless of adjudication, related to prostitution or related acts as described in s. 796.06 or s. 796.07.

Section 15. Paragraph (a) of subsection (1) of section 772.102, Florida Statutes, is amended to read:

772.102 Definitions.—As used in this chapter, the term:

(1) “Criminal activity” means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by indictment or information under the following provisions:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 414.39, relating to public assistance fraud.

3. Section 440.105 or s. 440.106, relating to workers’ compensation.

4. Part IV of chapter 501, relating to telemarketing.
5. Chapter 517, relating to securities transactions.
6. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.
7. Chapter 550, relating to jai alai frontons.
8. Chapter 552, relating to the manufacture, distribution, and use of explosives.
9. Chapter 562, relating to beverage law enforcement.
10. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.
11. Chapter 687, relating to interest and usurious practices.
12. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.
13. Chapter 782, relating to homicide.
14. Chapter 784, relating to assault and battery.
15. Chapter 787, relating to kidnapping or human trafficking.
16. Chapter 790, relating to weapons and firearms.
17. Former s. 796.03, former s. 796.04, s. 796.05, 796.06, or s. 796.07, relating to prostitution.
18. Chapter 806, relating to arson.
19. Section 810.02(2)(c), relating to specified burglary of a dwelling or structure.
20. Chapter 812, relating to theft, robbery, and related crimes.
21. Chapter 815, relating to computer-related crimes.
22. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.

23. Section 827.071, relating to commercial sexual exploitation of children.

24. Chapter 831, relating to forgery and counterfeiting.

25. Chapter 832, relating to issuance of worthless checks and drafts.

26. Section 836.05, relating to extortion.

27. Chapter 837, relating to perjury.

28. Chapter 838, relating to bribery and misuse of public office.

29. Chapter 843, relating to obstruction of justice.

30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.

32. Chapter 893, relating to drug abuse prevention and control.

33. Section 914.22 or s. 914.23, relating to witnesses, victims, or informants.

34. Section 918.12 or s. 918.13, relating to tampering with jurors and evidence.

Section 16. Paragraph (a) of subsection (3) of section 787.01, Florida Statutes, is amended to read:

787.01 Kidnapping; kidnapping of child under age 13, aggravating circumstances.—

(3)(a) A person who commits the offense of kidnapping upon a child under the age of 13 and who, in the course of committing the offense, commits one or more of the following:
1. Aggravated child abuse, as defined in s. 827.03;
2. Sexual battery, as defined in chapter 794, against the child;
3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. 800.04 or s. 847.0135(5);
4. A violation of former s. 796.03 or former s. 796.04, relating to prostitution, upon the child;
5. Exploitation of the child or allowing the child to be exploited, in violation of s. 450.151; or
6. A violation of s. 787.06(3)(g), relating to human trafficking,

commits a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 17. Paragraph (a) of subsection (3) of section 787.02, Florida Statutes, is amended to read:

787.02 False imprisonment; false imprisonment of child under age 13, aggravating circumstances.—
(3)(a) A person who commits the offense of false imprisonment upon a child under the age of 13 and who, in the course of committing the offense, commits any offense enumerated in subparagraphs 1.–6. subparagraphs 1.–5., commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

1. Aggravated child abuse, as defined in s. 827.03;
2. Sexual battery, as defined in chapter 794, against the child;
3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. 800.04 or s. 847.0135(5); 
4. A violation of former s. 796.03 or former s. 796.04, relating to prostitution, upon the child; 
5. Exploitation of the child or allowing the child to be exploited, in violation of s. 450.151; or 
6. A violation of s. 787.06(3)(g) relating to human trafficking.

Section 18. Subsection (1) of section 794.056, Florida Statutes, is amended to read:

794.056 Rape Crisis Program Trust Fund.—
(1) The Rape Crisis Program Trust Fund is created within the Department of Health for the purpose of providing funds for rape crisis centers in this state. Trust fund moneys shall be used exclusively for the purpose of providing services for victims of sexual assault. Funds credited to the trust fund consist of those funds collected as an additional court assessment in each case in which a defendant pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, an offense provided in s. 775.21(6) and (10)(a), (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s. 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s. 796.03; former s. 796.035; former s. 796.04; s. 796.05; s. 796.06; s. 796.07(1) s. 796.07(2)(a)–(d) and (i); s. 800.03; s. 800.04; s. 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s. 827.071; s. 836.10; s.
Section 19. Subsection (3) of section 796.08, Florida Statutes, is amended to read:

796.08 Screening for HIV and sexually transmissible diseases; providing penalties.—

(3) A person convicted under s. 796.07 of providing, or offering to provide, something of value in exchange for sexual activity, prostitution or procuring another to commit prostitution must undergo screening for a sexually transmissible disease, including, but not limited to, screening to detect exposure to the human immunodeficiency virus, under direction of the Department of Health. If the person is infected, he or she must submit to treatment and counseling prior to release from probation, community control, or incarceration. Notwithstanding the provisions of s. 384.29, the results of tests conducted pursuant to this subsection shall be made available by the Department of Health to the offender, medical personnel, appropriate state agencies, state attorneys, and courts of appropriate jurisdiction in need of such information in order to enforce the provisions of this chapter.

Section 20. Subsection (2) of section 796.09, Florida Statutes, is amended to read:

796.09 Coercion; civil cause of action; evidence; defenses; attorney’s fees.—

(2) As used in this section, the term “prostitution” has
the same meaning as in s. 796.011 and s. 796.07.

Section 21. Subsection (2) of section 893.138, Florida Statutes, is amended to read:

893.138 Local administrative action to abate certain activities declared public nuisances.—

(2) Any place or premises that has been used:

(a) On more than two occasions within a 6-month period, as the site of a violation of s. 796.06 or s. 796.07;

(b) On more than two occasions within a 6-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(c) On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(d) By a criminal gang for the purpose of conducting criminal gang activity as defined by s. 874.03;

(e) On more than two occasions within a 6-month period, as the site of a violation of s. 812.019 relating to dealing in stolen property;

(f) On two or more occasions within a 6-month period, as the site of a violation of chapter 499; or

(g) On more than two occasions within a 6-month period, as the site of a violation of any combination of the following:

1. Section 782.04, relating to murder;

2. Section 782.051, relating to attempted felony murder;

3. Section 784.045(1)(a)2., relating to aggravated battery with a deadly weapon; or
4. Section 784.021(1)(a), relating to aggravated assault with a deadly weapon without intent to kill, may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section.

Section 22. Paragraph (a) of subsection (8) of section 895.02, Florida Statutes, is amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(8) “Racketeering activity” means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 316.1935, relating to fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding.

3. Chapter 379, relating to the illegal sale, purchase, collection, harvest, capture, or possession of wild animal life, freshwater aquatic life, or marine life, and related crimes.

4. Section 403.727(3)(b), relating to environmental control.

5. Section 409.920 or s. 409.9201, relating to Medicaid fraud.

6. Section 414.39, relating to public assistance fraud.

7. Section 440.105 or s. 440.106, relating to workers’ compensation.
8. Section 443.071(4), relating to creation of a fictitious employer scheme to commit reemployment assistance fraud.

9. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.

10. Section 499.0051, relating to crimes involving contraband, adulterated, or misbranded drugs.

11. Part IV of chapter 501, relating to telemarketing.

12. Chapter 517, relating to sale of securities and investor protection.

13. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.


15. Section 551.109, relating to slot machine gaming.

16. Chapter 552, relating to the manufacture, distribution, and use of explosives.

17. Chapter 560, relating to money transmitters, if the violation is punishable as a felony.

18. Chapter 562, relating to beverage law enforcement.

19. Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

20. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

21. Chapter 687, relating to interest and usurious practices.

22. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.
23. Section 775.13(5)(b), relating to registration of persons found to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

24. Section 777.03, relating to commission of crimes by accessories after the fact.

   25. Chapter 782, relating to homicide.

   26. Chapter 784, relating to assault and battery.

   27. Chapter 787, relating to kidnapping, human smuggling, or human trafficking.

   28. Chapter 790, relating to weapons and firearms.

   29. Chapter 794, relating to sexual battery, but only if such crime was committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purpose of increasing a criminal gang member’s own standing or position within a criminal gang.

30. Former s. 796.03, former s. 796.035, former s. 796.04, s. 796.05, s. 796.06, or s. 796.07, relating to prostitution.

31. Chapter 806, relating to arson and criminal mischief.

32. Chapter 810, relating to burglary and trespass.

33. Chapter 812, relating to theft, robbery, and related crimes.

34. Chapter 815, relating to computer-related crimes.

35. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, credit card crimes, and patient brokering.

36. Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.

37. Section 827.071, relating to commercial sexual
exploitation of children.

38. Section 828.122, relating to fighting or baiting animals.

39. Chapter 831, relating to forgery and counterfeiting.

40. Chapter 832, relating to issuance of worthless checks and drafts.

41. Section 836.05, relating to extortion.

42. Chapter 837, relating to perjury.

43. Chapter 838, relating to bribery and misuse of public office.

44. Chapter 843, relating to obstruction of justice.

45. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

46. Chapter 849, relating to gambling, lottery, gambling or gaming devices, slot machines, or any of the provisions within that chapter.

47. Chapter 874, relating to criminal gangs.

48. Chapter 893, relating to drug abuse prevention and control.

49. Chapter 896, relating to offenses related to financial transactions.

50. Sections 914.22 and 914.23, relating to tampering with or harassing a witness, victim, or informant, and retaliation against a witness, victim, or informant.

51. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

Section 23. Section 938.085, Florida Statutes, is amended to read:

938.085 Additional cost to fund rape crisis centers.—In
addition to any sanction imposed when a person pleads guilty or
nolo contendere to, or is found guilty of, regardless of
adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
(g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s. 787.025; s.
787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.
796.03; former s. 796.035; former s. 796.04; s. 796.05; s.
796.06; s. 796.07(1) s. 796.07(2)(a) (d) and (i); s. 800.03; s.
800.04; s. 810.14; s. 810.145; s. 812.135; s. 817.025; s.
825.102; s. 825.1025; s. 827.071; s. 836.10; s. 847.0133; s.
847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c), (7),
(8), (9)(a), (13), and (14)(c); or s. 985.701(1), the court
shall impose a surcharge of $151. Payment of the surcharge shall
be a condition of probation, community control, or any other
court-ordered supervision. The sum of $150 of the surcharge
shall be deposited into the Rape Crisis Program Trust Fund
established within the Department of Health by chapter 2003-140,
Laws of Florida. The clerk of the court shall retain $1 of each
surcharge that the clerk of the court collects as a service
charge of the clerk’s office.

Section 24. This act shall take effect October 1, 2024.

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to prostitution and related acts;
creating s. 796.011, F.S.; defining and redefining terms; creating s. 796.031, F.S.; prohibiting adults from offering to commit, committing, or engaging in prostitution, lewdness, or assignation; providing criminal penalties; providing that specified testimony concerning reputation is admissible in evidence in the trial of persons charged with certain offenses; requiring a court to order that a person sentenced for certain violations attend an educational program; authorizing judicial circuits to establish certain educational programs; repealing s. 796.04, F.S., relating to forcing, compelling, or coercing another to become a prostitute; amending s. 796.06, F.S.; prohibiting the owning, establishing, maintaining, operating, using, letting, or renting of a building, residence, place, or structure, in whole or in part, or a trailer or any other conveyance, with knowledge or reckless disregard that it will be used for the purpose of commercial sex; prohibiting the receiving, or offering or agreeing to receive, a person into a building, residence, place, or structure, or a trailer or any other conveyance, for the purpose of commercial sexual activity or to allow a person to remain there for such purpose; providing criminal penalties; providing enhanced criminal penalties for second or subsequent violations; providing that specified testimony concerning reputation is admissible in evidence in the trial of persons charged with certain offenses; requiring the reclassification of offenses
under specified circumstances; amending s. 796.07, F.S.; deleting definitions; prohibiting a person from providing, or offering to provide, something of value in exchange for sexual activity; deleting prohibited acts relating to prostitution and related acts; deleting a provision authorizing a police officer to testify under certain circumstances; providing criminal penalties; providing enhanced criminal penalties for second or subsequent violations; deleting a provision requiring the offering of admission into certain programs; requiring a court to order that certain defendants perform community service, pay for and attend an educational program, pay a civil penalty, and receive sexually transmitted disease testing; providing requirements for the proceeds of the civil penalty; deleting a minimum mandatory period of incarceration for the commission of a certain offense; conforming provisions to changes made by the act; amending ss. 60.05, 322.28, 397.4073, 397.417, 435.07, 456.074, 480.041, 480.043, 480.046, 772.102, 787.01, 787.02, 794.056, 796.08, 796.09, 893.138, 895.02, 938.085, and 943.0433, F.S.; conforming provisions to changes made by the act; conforming cross-references; providing an effective date.
A bill to be entitled
An act relating to prostitution and related acts;
creating s. 796.011, F.S.; defining and redefining
terms; creating s. 796.031, F.S.; prohibiting adults
from offering to commit, committing, or engaging in
prostitution, lewdness, or assignation; providing
criminal penalties; providing that specified testimony
concerning reputation is admissible in evidence in the
trial of persons charged with certain offenses;
requiring a court to order that a person sentenced for
certain violations attend an educational program;
authorizing judicial circuits to establish certain
educational programs; repealing s. 796.04, F.S.,
relating to forcing, compelling, or coercing another
to become a prostitute; amending s. 796.06, F.S.;
prohibiting the owning, establishing, maintaining,
operating, using, letting, or renting of a building,
residence, place, or structure, in whole or in part,
or a trailer or any other conveyance, with knowledge
or reckless disregard that it will be used for the
purpose of commercial sex; prohibiting the receiving,
or offering or agreeing to receive, a person into a
building, residence, place, or structure, or a trailer
or any other conveyance, for the purpose of commercial
sexual activity or to allow a person to remain there
for such purpose; providing criminal penalties;
providing enhanced criminal penalties for second or
subsequent violations; providing that specified
testimony concerning reputation is admissible in
evidence in the trial of persons charged with certain
offenses; requiring the reclassification of offenses
under specified circumstances; amending s. 796.07,
F.S.; deleting definitions; prohibiting a person from
providing, or offering to provide, something of value
in exchange for sexual activity; deleting prohibited
acts relating to prostitution and related acts;
deleting a provision authorizing a police officer to
testify under certain circumstances; providing
criminal penalties; providing enhanced criminal
penalties for second or subsequent violations;
deleting a provision requiring the offering of
admission into certain programs; requiring a court to
order that certain defendants perform community
service, pay for and attend an educational program,
pay a civil penalty, and receive sexually transmitted
disease testing; providing requirements for the
proceeds of the civil penalty; deleting a minimum
mandatory period of incarceration for the commission
of a certain offense; revising the criminal history
records that must be included in the Soliciting for
Prostitution Public Database; conforming provisions to
changes made by the act; amending ss. 60.05, 322.28,
397.4073, 397.417, 435.07, 456.074, 480.041, 480.043,
480.046, 772.102, 787.01, 787.02, 794.056, 796.08,
796.09, 893.138, 895.02, 938.085, and 943.0433, F.S.;
conforming provisions to changes made by the act;
conforming cross-references; providing an effective
date.
Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 796.011, Florida Statutes, is created to read:

796.011 Definitions.—As used in this chapter, the term:

(1) "Adult" means an individual 18 years of age or older.

(2) "Assignation" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

(3) "Commercial sex" means engaging in sexual activity in exchange for something of value. The term includes prostitution and human trafficking.

(4) "Female genitals" includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

(5) "Lewdness" means any indecent or obscene act.

(6) "Prostitution" means voluntarily engaging in, agreeing to engage in, or offering to engage in commercial sex.

(7) "Sexual activity" means oral, anal, or female genital penetration by, or union with, the sexual organ of another; anal or female genital penetration of another by any other object; the handling or fondling of the sexual organ of another for the purpose of masturbation; or the performance of sexual acts for the purpose of masturbation, regardless of whether contact is made. The term does not include acts done for bona fide medical purposes.

Section 2. Section 796.031, Florida Statutes, is created to read:

796.031 Prostitution, lewdness, and assignation prohibited; penalties.—

(1) It is unlawful for an adult to offer to commit, to commit, or to engage in prostitution, lewdness, or assignation.

(2) In the trial of a person charged with a violation of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge; testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building or conveyance; and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.

(3)(a) A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) In addition to any other penalty imposed, the court shall order a person sentenced for a violation of this section to attend an educational program about the negative effects of commercial sex. The educational program may be offered by a secular or faith-based provider.

(c) A judicial circuit may establish an educational program for persons convicted of or charged with a violation of this section, to include education on:

1. The relationship between demand for commercial sex and human trafficking;

2. The impact of human trafficking on victims;

3. Coercion, consent, and sexual violence;

4. The health and legal consequences of commercial sex;

5. The negative impact of commercial sex on prostituted persons and the community; and

6. The reasons and motivations for engaging in commercial sex.
Section 3. Section 796.04, Florida Statutes, is repealed.

Section 4. Section 796.06, Florida Statutes, is amended to read:

796.06 Maintaining Renting space to be used for commercial sex lewdness, assignation, or prostitution.—

(1) It is unlawful to:

(a) Own, establish, operate, use, let, or rent a building, residence, any place, or structure, in whole or in part thereof, or a trailer or any other conveyance, with the knowledge or reckless disregard that it will be used for the purpose of commercial sex lewdness, assignation, or prostitution.

(b) Receive, or to offer or agree to receive, a person into a building, residence, place, or structure, or a trailer or any other conveyance, for the purpose of commercial sexual activity or to allow a person to remain there for such purpose.

(2) A person who violates this section commits:

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

(b) A felony of the second degree for a second or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) In the trial of a person charged with a violation of this section, testimony concerning the reputation of any place, structure, building, or conveyance involved in the charge; testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building, or conveyance; and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.

(4) If such building, residence, place, structure, or trailer or any other conveyance that is owned, established, maintained, or operated is a massage establishment that is or should be licensed under s. 480.043, the offense must be reclassified to the next higher degree as follows:

(a) A felony of the third degree is reclassified as a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A felony of the second degree is reclassified as a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A felony of the first degree is reclassified as a felony of the first degree punishable by life in prison, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 5. Section 796.07, Florida Statutes, is amended to read:

796.07 Prohibiting prostitution and related acts.—

(1) As used in this section:

(a) "Assignation" means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement.

(b) "Female genitals" includes the labia minora, labia majora, clitoris, vulva, hymen, and vagina.

(c) "Lewdness" means any indecent or obscene act.

(d) "Prostitution" means the giving or receiving of the body for sexual activity for hire but excludes sexual activity between spouses.
(f) To solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation.

(2) It is unlawful for a person to provide, or offer to provide, something of value in exchange for sexual activity or to establish, maintain, or operate any place, structure, building, or conveyance for the purpose of prostitution or for any other lewd or indecent act.

(a) To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose.

(b) To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation.

(a) For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation.

(f) To solicit, induce, entice, or procure another to commit prostitution, lewdness, or assignation.

(2) In the trial of a person charged with a violation of this section, testimony concerning the reputation of any person residing in, operating, or frequenting such place, structure, building, or conveyance, and testimony concerning the reputation of the defendant is admissible in evidence in support of the charge.

Notwithstanding any other provision of law, a police officer may testify as an offended party in an action regarding charges filed pursuant to this section.

(3) (a) A person who violates any provision of this section, other than paragraph (2)(f), commits:

1. A felony misdemeanor of the third degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.

2. A felony misdemeanor of the second degree for a second violation, punishable as provided in s. 775.082 or s. 775.083.

3. A felony of the first degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
(b) A person who is charged with a third or subsequent violation of this section, other than paragraph (2)(f), shall be offered admission to a pretrial intervention program or a substance abuse treatment program as provided in s. 948.08.

(2)(a) A person who violates paragraph (2)(f) commits:
1. A misdemeanor of the first degree for a first violation, punishable as provided in s. 775.082 or s. 775.083.
2. A felony of the third degree for a second violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
3. A felony of the second degree for a third or subsequent violation, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) In addition to any other penalty imposed, if a violation of this section results in any judicial disposition other than acquittal or dismissal, the court shall order the defendant a person convicted of a violation of paragraph (2)(f) to:
1. Perform 100 hours of community service;
2. Pay for and attend an educational program, which may be offered by a secular or faith-based provider, on the negative effects of commercial sexual activity; as described in subsection (8); if such a program exists in the judicial circuit in which the offender is sentenced
3. Pay a civil penalty of $5,000. Of the proceeds from each penalty assessed under this subparagraph, the first $500 must be paid to the circuit court administrator for the sole purpose of paying the administrative costs of treatment-based drug court programs provided under s. 397.334. The remainder of the penalty assessed must be deposited in the Operations and Maintenance Trust Fund of the Department of Children and Families for the sole purpose of funding safe houses and safe foster homes as provided in s. 409.1678; and
4. Receive sexually transmitted disease testing at a recognized medical facility.

(c) A judicial circuit may establish an educational program for persons convicted of or charged with a violation of this section, to include education on:
1. The relationship between demand for commercial sex and human trafficking;
2. The impact of human trafficking on victims;
3. Coercion, consent, and sexual violence;
4. The health and legal consequences of commercial sex;
5. The negative impact of commercial sex on prostituted persons and the community; and
6. The reasons and motivations for engaging in prostitution.

In addition to any other penalty imposed, the court shall sentence a person convicted of a second or subsequent violation of paragraph (2)(f) to a minimum mandatory period of incarceration of 10 days.

(d1) If a person who violates this section paragraph (2)(f) uses a vehicle in the course of the violation, the judge, upon the person’s conviction, may issue an order for the impoundment or immobilization of the vehicle for a period of up to 60 days. The order of impoundment or immobilization must include the names and telephone numbers of all immobilization agencies meeting all of the conditions of s. 316.193(13). Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court must
send notice by certified mail, return receipt requested, to the registered owner of the vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the vehicle.

2. The owner of the vehicle may request the court to dismiss the order. The court must dismiss the order, and the owner of the vehicle will incur no costs, if the owner of the vehicle alleges and the court finds to be true any of the following:

a. The owner’s family has no other private or public means of transportation;

b. The vehicle was stolen at the time of the offense;

c. The owner purchased the vehicle after the offense was committed, and the sale was not made to circumvent the order and allow the defendant continued access to the vehicle; or

d. The vehicle is owned by the defendant but is operated solely by employees of the defendant or employees of a business owned by the defendant.

3. If the court denies the request to dismiss the order, the petitioner may request an evidentiary hearing. If, at the evidentiary hearing, the court finds to be true any of the circumstances described in sub-subparagraphs 2.a. - d. subsubparagraphs (4)(a) - (d), the court must dismiss the order and the owner of the vehicle will incur no costs.

(e) The Soliciting for Prostitution Public Database created pursuant to s. 943.0433 must include the criminal history record of the person to whom the vehicle is sold if the vehicle owner or operator is found guilty as a result of a trial or who enters a plea of guilty or nolo contendere, regardless of whether adjudication is withheld, of paragraph (2)(f), and there is evidence that such person provided a form of payment or arranged for the payment of such services. Upon sentencing conviction, the clerk of the court shall forward the criminal history record of the person to the Department of Law Enforcement, pursuant to s. 943.052(2), for inclusion in the database. This paragraph shall stand repealed on January 1, 2024, unless reviewed and saved from repeal by the Legislature.

(4) A person who violates paragraph (2)(e) shall be assessed a civil penalty of $5,000 if the violation results in any judicial disposition other than acquittal or dismissal. Of the proceeds from each penalty assessed under this subsection, the first $500 shall be paid to the circuit court administrator for the sole purpose of paying the administrative costs of criminal history record checks conducted pursuant to s. 943.0433. The remainder of the penalty assessed shall be deposited in the Operations and Maintenance Trust Fund of the Department of Health and Children and Families for the sole purpose of funding safe houses and safe foster homes as provided in s. 409.1678.

(7) If the place, structure, building, or conveyance that is owned, established, maintained, or operated in violation of paragraph (2)(a) is a massage establishment that is or should be licensed under s. 480.043, the offenses shall be reclassified to the next higher degree as follows:

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

(b) A misdemeanor of the first degree for a second violation is reclassified as a felony of the third degree.
punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(a) A felony of the third degree for a third or subsequent
violation is reclassified as a felony of the second degree.

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

(b) A judicial circuit may establish an educational
program for persons convicted of or charged with a violation of
paragraph (2)(c), to include education on:

1. The relationship between demand for commercial sex and
human trafficking.

2. The impact of human trafficking on victims.

3. Consent, consent, and sexual violence.

4. The health and legal consequences of commercial sex.

5. The negative impact of commercial sex on prostituted
persons and the community.

6. The reasons and motivations for engaging in
prostitution.

(b) An educational program may include a program offered by
a faith-based provider.

Section 6. Subsection (5) of section 60.05, Florida
Statutes, is amended to read:

60.05 Abatement of nuisances.—

(5) On trial if the existence of a nuisance is shown, the
court shall issue a permanent injunction and order the costs to
be paid by the persons establishing or maintaining the nuisance
and shall adjudge that the costs are a lien on all personal
property found in the place of the nuisance and on the failure
of the property to bring enough to pay the costs, then on the
real estate occupied by the nuisance. A lien may not attach to
the real estate of any other than such persons unless a second
written notice has been given in accordance with paragraph
380 (3)(a) to the owner or his or her agent who fails to begin to
abate the nuisance within the time specified therein. In a
proceeding abating a nuisance pursuant to s. 823.10 or s.
823.05, if a tenant has been convicted of an offense under
chapter 893, s. 796.06, or s. 796.07, the court may order the
tenant to vacate the property within 72 hours if the tenant and
owner of the premises are parties to the nuisance abatement
action and the order will lead to the abatement of the nuisance.

Section 7. Subsection (7) of section 322.28, Florida
Statutes, is amended to read:

322.28 Period of suspension or revocation.—

(7) Following a second or subsequent violation of s.
796.07(1) — 796.07(2)(c) which involves a motor vehicle and
which results in any judicial disposition other than acquittal
or dismissal, in addition to any other sentence imposed, the
court shall revoke the person’s driver license or driving
privilege, effective upon the date of the disposition, for a
period of at least 1 year. A person sentenced under this
subsection may request a hearing under s. 322.271.

Section 8. Paragraph (b) of subsection (4) of section
397.4073, Florida Statutes, is amended to read:

397.4073 Background checks of service provider personnel.—

(4) EXEMPTIONS FROM DISQUALIFICATION.—

(b) For service providers that treat adolescents 13 years
of age and older, service provider personnel whose background
checks indicate crimes under s. 796.07(1) — 796.07(2)(c), s.
810.02(4), s. 812.014(2)(c), s. 817.563, s. 831.01, s. 831.02,
831.03, s. 893.13, or s. 893.147, and any related criminal attempt,
solicitation, or conspiracy under s. 777.04:

1. Shall be exempted from disqualification from employment for such offenses pursuant to this paragraph if:
   a. At least 5 years, or at least 3 years in the case of an individual seeking certification as a peer specialist under s. 397.417, have elapsed since the applicant requesting an exemption has completed or has been lawfully released from any confinement, supervision, or nonmonetary condition imposed by a court for the applicant's most recent disqualifying offense under this paragraph.
   b. The applicant for an exemption has not been arrested for any offense during the 5 years, or 3 years in the case of a peer specialist, before the request for exemption.

2. May be exempted from disqualification from employment for such offenses without a waiting period as provided under s. 435.07(2).

Section 9. Paragraph (e) of subsection (4) of section 397.417, Florida Statutes, is amended to read:

397.417 Peer specialists.—
(4) BACKGROUND SCREENING.—
(e) The background screening conducted under this subsection must ensure that a peer specialist has not been arrested for and is awaiting final disposition of, found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following state laws or similar laws of another jurisdiction:
1. Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
2. Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
3. Section 409.920, relating to Medicaid provider fraud, if the offense was a felony of the first or second degree.
4. Section 415.111, relating to abuse, neglect, or exploitation of vulnerable adults.
5. Any offense that constitutes domestic violence as defined in s. 741.28.
6. Section 777.04, relating to attempts, solicitation, and conspiracy to commit an offense listed in this paragraph.
7. Section 782.04, relating to murder.
8. Section 782.07, relating to manslaughter; aggravated manslaughter of an elderly person or a disabled adult; aggravated manslaughter of a child; or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.
9. Section 782.071, relating to vehicular homicide.
10. Section 782.09, relating to killing an unborn child by injury to the mother.
11. Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.
12. Section 787.01, relating to kidnapping.
13. Section 787.02, relating to false imprisonment.
14. Section 787.025, relating to luring or enticing a child.
15. Section 787.04(2), relating to leading, taking,
enticing, or removing a minor beyond state limits, or concealing
the location of a minor, with criminal intent pending custody
proceedings.

16. Section 787.04(3), relating to leading, taking,
enticing, or removing a minor beyond state limits, or concealing
the location of a minor, with criminal intent pending dependency
proceedings or proceedings concerning alleged abuse or neglect
of a minor.

17. Section 790.115(1), relating to exhibiting firearms or
weapons within 1,000 feet of a school.

18. Section 790.115(2)(b), relating to possessing an
electric weapon or device, a destructive device, or any other
weapon on school property.

19. Section 794.011, relating to sexual battery.

20. Former s. 794.041, relating to prohibited acts of
persons in familial or custodial authority.

21. Section 794.05, relating to unlawful sexual activity
with certain minors.

22. Section 794.08, relating to female genital mutilation.

23. Section 796.07, relating to providing, or offering to
provide, something of value in exchange for sexual activity
procuring another to commit prostitution, except for those
offenses expunged pursuant to s. 943.0583.

24. Section 798.02, relating to lewd and lascivious
behavior.

25. Chapter 800, relating to lewdness and indecent
exposure.

26. Section 806.01, relating to arson.

27. Section 810.02, relating to burglary, if the offense
was a felony of the first degree.

28. Section 810.14, relating to voyeurism, if the offense
was a felony.

29. Section 810.145, relating to video voyeurism, if the
offense was a felony.

30. Section 812.13, relating to robbery.

31. Section 812.131, relating to robbery by sudden
snatching.

32. Section 812.133, relating to carjacking.

33. Section 812.135, relating to home-invasion robbery.

34. Section 817.034, relating to communications fraud, if
the offense was a felony of the first degree.

35. Section 817.234, relating to false and fraudulent
insurance claims, if the offense was a felony of the first or
second degree.

36. Section 817.50, relating to fraudulently obtaining
goods or services from a health care provider and false reports
of a communicable disease.

37. Section 817.505, relating to patient brokering.

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

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

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

41. Section 825.103, relating to exploitation of an elderly
person or a disabled adult, if the offense was a felony.
40. Section 827.04, relating to contributing to the delinquency or dependency of a child.
41. Former s. 827.05, relating to negligent treatment of children.
42. Section 827.071, relating to sexual performance by a child.
43. Section 831.30, relating to fraud in obtaining medicinal drugs.
44. Section 831.31, relating to the sale; manufacture; delivery; or possession with intent to sell, manufacture, or deliver of any counterfeit controlled substance, if the offense was a felony.
45. Section 843.01, relating to resisting arrest with violence.
46. Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer of the means of protection or communication.
47. Section 843.12, relating to aiding in an escape.
48. Section 843.13, relating to aiding in the escape of juvenile inmates of correctional institutions.
49. Chapter 847, relating to obscenity.
50. Section 874.05, relating to encouraging or recruiting another to join a criminal gang.
51. Chapter 893, relating to drug abuse prevention and control, if the offense was a felony of the second degree or greater severity.

52. Section 895.03, relating to racketeering and collection of unlawful debts.
53. Section 896.101, relating to the Florida Money Laundering Act.
54. Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.
55. Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.
56. Section 944.40, relating to escape.
57. Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.
58. Section 944.47, relating to introduction of contraband into a correctional institution.
59. Section 985.701, relating to sexual misconduct in juvenile justice programs.
60. Section 985.711, relating to introduction of contraband into a detention facility.

Section 10. Subsection (2) of section 435.07, Florida Statutes, is amended to read:
435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this chapter, regardless of whether those disqualifying offenses are listed in this chapter or other laws.

(2) Persons employed, or applicants for employment, by treatment providers who treat adolescents 13 years of age and older who are disqualified from employment solely because of
Section 11. Subsection (4) and paragraphs (o) and (q) of subsection (5) of section 456.074, Florida Statutes, are amended to read:

456.074 Certain health care practitioners; immediate suspension of license.—

(4) The department shall issue an emergency order suspending the license of a massage therapist or establishment as defined in chapter 480 upon receipt of information that the massage therapist, a person with an ownership interest in the establishment, or, for a corporation that has more than $250,000 of business assets in this state, the owner, officer, or individual directly involved in the management of the establishment has been convicted or found guilty of, or has entered a plea of guilty or nolo contendere to, regardless of adjudication, a violation of s. 796.06(1) that is reclassified under s. 796.06(4) or a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(a) Section 787.01, relating to kidnapping.
(b) Section 787.02, relating to false imprisonment.
(c) Section 787.025, relating to luring or enticing a child.
(d) Section 787.06, relating to human trafficking.
(e) Section 787.07, relating to human smuggling.
(f) Section 794.011, relating to sexual battery.
(g) Section 794.08, relating to female genital mutilation.
(h) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.
(i) Former s. 796.035, relating to the selling or buying of minors into prostitution.
(j) Former section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.
(k) Section 796.05, relating to deriving support from the proceeds of prostitution.
(l) Former s. 796.07(3)(g)3., Section 796.07(4)(a)3., relating to a felony of the first degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.
(m) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
(n) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
(o) Section 827.071, relating to sexual performance by a child.
(p) Section 847.0133, relating to the protection of minors.
(q) Section 847.0135, relating to computer pornography.
(r) Section 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or equipment.
(a) Section 847.0145, relating to the selling or buying of minors.

(b) The department shall issue an emergency order suspending the license of any health care practitioner who is arrested for committing or attempting, soliciting, or conspiring to commit any act that would constitute a violation of any of the following criminal offenses in this state or similar offenses in another jurisdiction:

(c) Former section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.

(d) Section 796.07(3)(a)3. Section 796.07(4)(a)3., relating to a felony of the first degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.

Section 72. Subsection (7) of section 480.041, Florida Statutes, is amended to read:

480.041 Massage therapists; qualifications; licensure;
endorsement.—

7 The board shall deny an application for a new or renewal license if an applicant has been convicted or found guilty of, or enters a plea of guilty or nolo contendere to, regardless of adjudication, a violation of s. 796.06(1) — 796.07(2)(a) which is reclassified under s. 796.06(4) — 797.04(1) or a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(a) Section 787.01, relating to kidnapping.
(b) Section 787.02, relating to false imprisonment.
(c) Former section 796.04, relating to luring or enticing a child.
(d) Section 787.06, relating to human trafficking.
(e) Section 787.07, relating to human smuggling.
(f) Section 794.011, relating to sexual battery.
(g) Section 794.08, relating to female genital mutilation.
(h) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.
(i) Former s. 796.035, relating to the selling or buying of minors into prostitution.
(j) Former section 796.04, relating to forcing, compelling, or coercing another to become a prostitute.
(k) Section 796.05, relating to deriving support from the proceeds of prostitution.
(l) Section 796.07(3)(a)3. Section 796.07(4)(a)3., relating to a felony of the first degree for a third or subsequent violation of s. 796.07, relating to prohibiting prostitution and related acts.
(m) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
(n) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
(o) Section 827.071, relating to sexual performance by a child.
(p) Former s. 847.0133, relating to the protection of minors.
(q) Former s. 847.0135, relating to computer pornography.
(r) Former s. 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or
Section 847.0145, relating to the selling or buying of minors.

Section 13. Subsection (8) of section 480.043, Florida Statutes, is amended to read:

(8) The department shall deny an application for a new or renewal license if an establishment owner or a designated establishment manager or, for a corporation that has more than $250,000 of business assets in this state, an establishment owner, a designated establishment manager, or any individual directly involved in the management of the establishment has been convicted of or entered a plea of guilty or nolo contendere to any misdemeanor or felony crime, regardless of adjudication, related to prostitution or related acts as described in § 796.06 or § 796.07 or a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(a) Section 787.01, relating to kidnapping.
(b) Section 787.02, relating to false imprisonment.
(c) Section 787.025, relating to luring or enticing a child.
(d) Section 787.06, relating to human trafficking.
(e) Section 787.07, relating to human smuggling.
(f) Section 794.011, relating to sexual battery.
(g) Section 794.08, relating to female genital mutilation.
(h) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.

(i) Former s. 796.035, relating to selling or buying of minors into prostitution.
(j) Former s. 796.04, relating to forcing, compelling, or coercing another to become a prostitute.
(k) Section 796.05, relating to deriving support from the proceeds of prostitution.
(l) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
(m) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
(n) Section 827.071, relating to sexual performance by a child.
(o) Section 847.0133, relating to the protection of minors.
(p) Section 847.0135, relating to computer pornography.
(q) Section 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or equipment.
(r) Section 847.0145, relating to the selling or buying of minors.

Section 14. Paragraph (c) of subsection (3) of section 480.046, Florida Statutes, is amended to read:

(3) The board shall revoke or suspend the license of a massage establishment licensed under this act, or deny subsequent licensure of such an establishment, if any of the following occurs:

(c) The establishment owner, the designated establishment owner, a designated establishment manager, or any individual directly involved in the management of the establishment has been convicted of or entered a plea of guilty or nolo contendere to any misdemeanor or felony crime, regardless of adjudication, related to prostitution or related acts as described in § 796.06 or § 796.07 or a felony offense under any of the following provisions of state law or a similar provision in another jurisdiction:

(a) Section 787.01, relating to kidnapping.
(b) Section 787.02, relating to false imprisonment.
(c) Section 787.025, relating to luring or enticing a child.
(d) Section 787.06, relating to human trafficking.
(e) Section 787.07, relating to human smuggling.
(f) Section 794.011, relating to sexual battery.
(g) Section 794.08, relating to female genital mutilation.
(h) Former s. 796.03, relating to procuring a person under the age of 18 for prostitution.

(i) Former s. 796.035, relating to selling or buying of minors into prostitution.
(j) Former s. 796.04, relating to forcing, compelling, or coercing another to become a prostitute.
(k) Section 796.05, relating to deriving support from the proceeds of prostitution.
(l) Section 800.04, relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age.
(m) Section 825.1025(2)(b), relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person.
(n) Section 827.071, relating to sexual performance by a child.
(o) Section 847.0133, relating to the protection of minors.
(p) Section 847.0135, relating to computer pornography.
(q) Section 847.0138, relating to the transmission of material harmful to minors to a minor by electronic device or equipment.
(r) Section 847.0145, relating to the selling or buying of minors.
manager, or any individual providing massage therapy services
for the establishment has had the entry in any jurisdiction of:

1. A final order or other disciplinary action taken for
sexual misconduct involving prostitution;

2. A final order or other disciplinary action taken for
crimes related to the practice of massage therapy involving
prostitution; or

3. A conviction or a plea of guilty or nolo contendere to
any misdemeanor or felony crime, regardless of adjudication,
related to prostitution or related acts as described in s.
796.06 or s. 796.07.

Section 15. Paragraph (a) of subsection (1) of section
772.102, Florida Statutes, is amended to read:

(1) "Criminal activity" means to commit, to attempt to
commit, to conspire to commit, or to solicit, coerce, or
intimidate another person to commit:

(a) Any crime that is chargeable by indictment or
information under the following provisions:
1. Section 210.18, relating to evasion of payment of
cigarette taxes.
2. Section 414.39, relating to public assistance fraud.
3. Section 440.105 or s. 440.106, relating to workers’
compensation.
4. Part IV of chapter 501, relating to telemarketing.
5. Chapter 517, relating to securities transactions.
6. Section 550.235 or s. 550.3551, relating to dogracing
and horseracing.
7. Chapter 550, relating to jai alai frontons.

8. Chapter 552, relating to the manufacture, distribution,
and use of explosives.
9. Chapter 562, relating to beverage law enforcement.
10. Section 624.401, relating to transacting insurance
without a certificate of authority, s. 624.437(4)(c)1., relating
to operating an unauthorized multiple-employer welfare
arrangement, or s. 626.902(1)(b), relating to representing or
aiding an unauthorized insurer.
11. Chapter 687, relating to interest and usurious
practices.
12. Section 721.08, s. 721.09, or s. 721.13, relating to
real estate timeshare plans.
13. Chapter 782, relating to homicide.
14. Chapter 784, relating to assault and battery.
15. Chapter 787, relating to kidnapping or human
trafficking.
16. Chapter 790, relating to weapons and firearms.
17. Former s. 796.03, former s. 796.04, s. 796.05, 796.06,
or s. 796.07, relating to prostitution.
18. Chapter 806, relating to arson.
19. Section 810.02(2)(c), relating to specified burglary of
a dwelling or structure.
20. Chapter 812, relating to theft, robbery, and related
crimes.
21. Chapter 815, relating to computer-related crimes.
22. Chapter 817, relating to fraudulent practices, false
pretenses, fraud generally, and credit card crimes.
23. Section 827.071, relating to commercial sexual
exploitation of children.
24. Chapter 831, relating to forgery and counterfeiting.
25. Chapter 832, relating to issuance of worthless checks and drafts.
26. Section 836.05, relating to extortion.
27. Chapter 837, relating to perjury.
28. Chapter 838, relating to bribery and misuse of public office.
29. Chapter 843, relating to obstruction of justice.
30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 849.25, relating to gambling.
31. Section 914.22 or s. 914.23, relating to witnesses, victims, or informants.
32. Section 918.12 or s. 918.13, relating to tampering with jurors and evidence.
33. Section 787.01, Florida Statutes, is amended to read: 787.01 Kidnapping; kidnapping of child under age 13, aggravating circumstances.—
(3)(a) A person who commits the offense of kidnapping upon a child under the age of 13 and who, in the course of committing the offense, commits one or more of the following:
1. Aggravated child abuse, as defined in s. 827.03;
2. Sexual battery, as defined in chapter 794, against the child;
3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. 800.04 or s. 847.0135(5);
4. A violation of former s. 796.03 or former s. 796.04, relating to prostitution, upon the child;
5. Exploitation of the child or allowing the child to be exploited, in violation of s. 450.151; or
6. A violation of s. 787.06(3)(g), relating to human trafficking,
comits a life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 17. Paragraph (a) of subsection (3) of section 787.02, Florida Statutes, is amended to read:
787.02 False imprisonment; false imprisonment of child under age 13, aggravating circumstances.—
(3)(a) A person who commits the offense of false imprisonment upon a child under the age of 13 and who, in the course of committing the offense, commits any offense enumerated in subparagraphs 1.-6. subparagraphs 1.-5., commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.
1. Aggravated child abuse, as defined in s. 827.03;
2. Sexual battery, as defined in chapter 794, against the child;
3. Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, in violation of s. 800.04 or s. 847.0135(5);
4. A violation of former s. 796.03 or former s. 796.04,
relating to prostitution, upon the child;
5. Exploitation of the child or allowing the child to be
exploited, in violation of s. 450.151; or
6. A violation of s. 787.06(3)(g) relating to human
trafficking.
Section 18. Subsection (1) of section 794.056, Florida
Statutes, is amended to read:
794.056 Rape Crisis Program Trust Fund.—
(1) The Rape Crisis Program Trust Fund is created within
the Department of Health for the purpose of providing funds for
rape crisis centers in this state. Trust fund moneys shall be
used exclusively for the purpose of providing services for
victims of sexual assault. Funds credited to the trust fund
consist of those funds collected as an additional court
assessment in each case in which a defendant pleads guilty or
nolo contendere to, or is found guilty of, regardless of
adjudication, an offense provided in s. 775.21(6) and (10)(a),
(b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
784.082; s. 784.083; s. 784.085; s. 787.013(3); s. 787.023(3); s.
787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
former s. 796.03; former s. 796.035; former s. 796.04; s.
796.05; s. 796.06; s. 796.07(1) s. 796.07(2)(a), (d) and (i); s.
796.07(3); s. 796.08; s. 796.09; s. 796.10; s. 796.11; s. 796.12;
s. 796.13; s. 796.14; s. 800.03; s. 800.04; s. 810.14; s. 810.145; s.
810.15; s. 812.135; s.
817.025; s. 825.102; s. 825.1025; s. 827.071; s. 836.10; s.
847.0133; s. 847.01352; s. 847.0137; s. 847.0145; s.
943.0435(4)(c), (7), (8), (9)(a), (13), and (14)(c); or s.
985.701(1). Funds credited to the trust fund also shall include
revenues provided by law, moneys appropriated by the
activities declared public nuisances.—

(2) Any place or premises that has been used:

(a) On more than two occasions within a 6-month period, as the site of a violation of s. 796.06 or s. 796.07;

(b) On more than two occasions within a 6-month period, as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(c) On one occasion as the site of the unlawful possession of a controlled substance, where such possession constitutes a felony and that has been previously used on more than one occasion as the site of the unlawful sale, delivery, manufacture, or cultivation of any controlled substance;

(d) By a criminal gang for the purpose of conducting criminal gang activity as defined by s. 874.03;

(e) On more than two occasions within a 6-month period, as the site of a violation of s. 812.019 relating to dealing in stolen property;

(f) On two or more occasions within a 6-month period, as the site of a violation of chapter 499; or

(g) On more than two occasions within a 6-month period, as the site of a violation of any combination of the following:

1. Section 782.04, relating to murder;

2. Section 782.051, relating to attempted felony murder;

3. Section 784.045(1)(a)2., relating to aggravated battery with a deadly weapon; or

4. Section 784.021(1)(a), relating to aggravated assault with a deadly weapon without intent to kill,

may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section.

Section 22. Paragraph (a) of subsection (8) of section 895.02, Florida Statutes, is amended to read:

(8) "Racketeering activity" means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 316.1935, relating to fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding.

3. Chapter 379, relating to the illegal sale, purchase, collection, harvest, capture, or possession of wild animal life, freshwater aquatic life, or marine life, and related crimes.

4. Section 403.727(3)(b), relating to environmental control.

5. Section 409.920 or s. 409.9201, relating to Medicaid fraud.

6. Section 414.39, relating to public assistance fraud.

7. Section 440.105 or s. 440.106, relating to workers’ compensation.

8. Section 443.071(4), relating to creation of a fictitious employer scheme to commit reemployment assistance fraud.

9. Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.
10. Section 499.0051, relating to crimes involving contraband, adulterated, or misbranded drugs.

11. Part IV of chapter 501, relating to telemarketing.

12. Chapter 517, relating to sale of securities and investor protection.

13. Section 550.235 or s. 550.3551, relating to dogracing and horseracing.


15. Section 551.109, relating to slot machine gaming.

16. Chapter 552, relating to the manufacture, distribution, and use of explosives.

17. Chapter 560, relating to money transmitters, if the violation is punishable as a felony.

18. Chapter 562, relating to beverage law enforcement.

19. Sections 566.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.

20. Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.

21. Chapter 687, relating to interest and usurious practices.

22. Section 721.08, s. 721.09, or s. 721.13, relating to real estate timeshare plans.

23. Section 775.13(5)(b), relating to registration of persons found to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

24. Section 777.03, relating to commission of crimes by accessories after the fact.

25. Chapter 782, relating to homicide.

26. Chapter 784, relating to assault and battery.

27. Chapter 787, relating to kidnapping, human smuggling, or human trafficking.

28. Chapter 790, relating to weapons and firearms.

29. Chapter 791, relating to sexual battery, but only if such crime was committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purpose of increasing a criminal gang member’s own standing or position within a criminal gang.

30. Former s. 796.03, former s. 796.035, former s. 796.04, s. 796.05, s. 796.06, or s. 796.07, relating to prostitution.

31. Chapter 806, relating to arson and criminal mischief.

32. Chapter 810, relating to burglary and trespass.

33. Chapter 811, relating to theft, robbery, and related crimes.

34. Chapter 815, relating to computer-related crimes.

35. Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, credit card crimes, and patient brokering.

36. Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.

37. Section 827.071, relating to commercial sexual exploitation of children.

38. Section 828.122, relating to fighting or baiting animals.

39. Chapter 831, relating to forgery and counterfeiting.
40. Chapter 832, relating to issuance of worthless checks and drafts.

41. Section 836.05, relating to extortion.

42. Chapter 837, relating to perjury.

43. Chapter 838, relating to bribery and misuse of public office.

44. Chapter 843, relating to obstruction of justice.

45. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.

46. Chapter 849, relating to gambling, lottery, gambling or gaming devices, slot machines, or any of the provisions within that chapter.

47. Chapter 874, relating to criminal gangs.

48. Chapter 893, relating to drug abuse prevention and control.

49. Chapter 896, relating to offenses related to financial transactions.

50. Sections 914.22 and 914.23, relating to tampering with or harassing a witness, victim, or informant, and retaliation against a witness, victim, or informant.

51. Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

Section 23. Section 938.085, Florida Statutes, is amended to read:

938.085 Additional cost to fund rape crisis centers.—In addition to any sanction imposed when a person pleads guilty or no contest, adjudicated, a violation of s. 775.21(6) and (10)(a), (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s. 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s. 794.08; s. 794.09; form s. 796.03; former s. 796.04; s. 796.05; s. 796.06; s. 796.07(1); s. 796.07(2); s. 796.08; s. 800.03; s. 800.04; s. 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s. 827.071; s. 835.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and (14)(c); or s. 985.701(1), the court shall impose a surcharge of $151. Payment of the surcharge shall be a condition of probation, community control, or any other court-ordered supervision. The sum of $150 of the surcharge shall be deposited into the Rape Crisis Program Trust Fund established within the Department of Health by chapter 2003-140, Laws of Florida. The clerk of the court shall retain $1 of each surcharge that the clerk of the court collects as a service charge of the clerk’s office.

Section 24. Subsection (1) and paragraphs (a) and (b) of subsection (2) of section 943.0433, Florida Statutes, are amended to read:

943.0433 Soliciting for Prostitution Public Database.—

(1) The department shall create and administer the Soliciting for Prostitution Public Database. The clerk of the court shall forward to the department the criminal history record of a person in accordance with s. 796.07(3)(e) — s. 796.07(4)(a), and the department shall add the criminal history record to the database.

(2)(a) The department shall automatically remove the criminal history record of a person from the database if, after
5 years following the commission of an offense that meets the criteria set forth in s. 796.07(3)(e), such person has not subsequently committed a violation that meets such criteria or any other offense within that time that would constitute a sexual offense, including, but not limited to, human trafficking, or an offense that would require registration as a sexual offender.

(b) The department may not remove a criminal history record from the database if a person commits a violation that meets the criteria set forth in s. 796.07(3)(e) a second or subsequent time.

Section 25. This act shall take effect October 1, 2024.
I. Summary:

SB 1618 creates a new exception to the prohibition located in s. 934.03(1), F.S., against a person intentionally intercepting, endeavoring to intercept, or procuring any other person to intercept or endeavor to intercept any wire, oral, or electronic communication.

The exception created by the bill will allow a parent or legal guardian of a child under the age of 18 to intercept and record an oral communication if the child is a party to the communication and:

- The parent or legal guardian has reasonable grounds to believe that recording the communication
- Will capture a statement by another party to the communication that
- The other party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the child.

The bill requires that a recording authorized by the bill which captures a statement by a party that the party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against a child:

- Must be provided to a law enforcement agency and
- May be used for the purpose of evidencing the intent to commit or the commission of a crime specified in the bill against a child.

Additionally, the bill requires that a recording authorized under the bill may not be otherwise disseminated or shared.

The bill is effective upon becoming a law.
II. Present Situation:

Privacy in One’s Oral Communication - Statutory Law

Chapter 934, F.S., governs the security of electronic and telephonic communications. Although most provisions in the chapter relate to law enforcement officers’ and communication professionals’ actions and limitations, some apply just as well to average citizens.

One such provision is s. 934.03(4), F.S., which contains criminal offenses and corresponding penalties for intercepting another’s oral communication unless the chapter contains an exception.¹

An exception is set forth in s. 934.03(2)(k), F.S., which provides that it is lawful:
- For a child under 18 years of age to intercept and record an oral communication;
- If the child is a party to the communication and has reasonable grounds to believe that;
- Recording the communication will capture a statement by another party to the communication that;
- The other party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the child.²

The admissibility in evidence of an intercepted and recorded oral communication of another is not guaranteed. Section 934.06, F.S., provides: “Whenever any wire or oral communication has been intercepted, no part of the contents of such communication and no evidence derived therefrom may be received in evidence in any trial, hearing, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee, or other authority of the state, or a political subdivision thereof, if the disclosure of that information would be in violation of this chapter.”

“Oral communication” is defined as an oral communication uttered by a person exhibiting an expectation that such communication is not subject to interception under circumstances justifying such expectation and does not mean any public oral communication uttered at a public meeting or any electronic communication.³ Not all oral communication under s. 934.02(2), F.S., is spoken by a person who has a reasonable expectation of privacy in his or her communication. That question largely depends on the facts and circumstances of the utterance.

A person’s expectation of privacy when the communication occurs in an open, public area does not necessarily amount to a reasonable expectation of privacy.⁴ However, if the communication occurs in a private location and the interception and recording is done in a surreptitious manner,

¹ The prohibition located in s. 934.03(1), F.S., against intentionally intercepting, endeavoring to intercept, or procuring any other person to intercept or endeavor to intercept any wire, oral, or electronic communication, is punishable as a third degree felony. Section 934.03(4), F.S. A third degree felony is punishable by up to 5 years imprisonment and a $5,000 fine. Sections 775.082 and 775.083, F.S. Note that s. 934.41, F.S., contains an alternative fine under limited circumstances.
² See also, s. 934.03(2)(l), F.S., for a similar exception for “a person who is protected under an active temporary or final injunction for repeat violence, sexual violence, or dating violence under s. 784.046; stalking under s. 784.0485; domestic violence under s. 741.30; or any other court-imposed prohibition of conduct toward the person to intercept and record a wire, oral, or electronic communication received in violation of such injunction or court order.”
³ Section 934.02(2), F.S.
⁴ State v. Garcia, 252 So. 3d 783 (Fla. 3d DCA 2018); State v. Caraballo, 198 So.3d 819 (Fla. 2d 2018).
the communication may be more likely to be protected from interception by the provisions in ch. 934, F.S.

Case Law, Legislative Creation of Exception

In *McDade v. State*, a 2014 case before the Florida Supreme Court, the court decided that it was an error to receive in evidence at McDade’s criminal trial recordings that his stepdaughter surreptitiously made when she was 16 years-old.

The recordings, which contained conversations between McDade and his stepdaughter in McDade’s bedroom, were introduced at McDade’s trial for various crimes involving sexual abuse of his stepdaughter. The recorded conversations included statements by McDade that supported his stepdaughter’s testimony at trial that McDade had sexually abused her. McDade had objected to their introduction.

The question before the court in *McDade v. State* was whether a recording of solicitation and confirmation of child sexual abuse *surreptitiously made by the child victim in the accused’s bedroom* falls within the oral communication protections of ch. 934, F.S.

In late 2014, the court found that none of the exceptions to the prohibitions against the recording applied. The court further concluded that the facts surrounding the conversations and the recording of those conversations indicated the recordings were prohibited and inadmissible under ch. 934, F.S.

Soon after the *McDade* decision, in 2015, the Legislature passed the exception now found in s. 934.03(2)(k), F.S. It is lawful:
- For a child under 18 years of age to intercept and record an oral communication;
- If the child is a party to the communication and has reasonable grounds to believe that;
- Recording the communication will capture a statement by another party to the communication that;
- The other party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the child.

III. Effect of Proposed Changes:

The bill creates a new exception to the prohibition located in s. 934.03(1), F.S., against a person intentionally intercepting, endeavoring to intercept, or procuring any other person to intercept or endeavor to intercept any wire, oral, or electronic communication.

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5 154 So.3d 292(Fla. 2014).
6 *Id.*
7 McDade did not consent to the conversations being recorded, and none of the other exceptions listed in s. 934.03(2), F.S., apply. *Id.* at 298.
8 “The facts related to the recorded conversations support the conclusion that McDade’s statements were ‘uttered by a person exhibiting an expectation that [his] communication [was] not subject to interception’ and that McDade made those statements ‘under circumstances justifying’ his expectation that his statements would not be recorded. § 934.02(2), Fla. Stat. (2010). The recordings were made surreptitiously. McDade did not consent to the conversations being recorded ...The recordings, therefore, were prohibited. Because the recordings impermissibly intercepted oral communications, the recordings are inadmissible under section 934.06, Florida Statutes (2010).” *Id.* at 298.
The exception created by the bill will allow a parent or legal guardian of a child under the age of 18 to intercept and record an oral communication if the child is a party to the communication and:

- The parent or legal guardian has reasonable grounds to believe that recording the communication
- Will capture a statement by another party to the communication that
- The other party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against the child.

This exception differs from the similar exception in current law. The bill does not require the party who is recording the oral communication (a parent or legal guardian) to be a party to the communication being intercepted and recorded.

The bill requires that a recording authorized by the bill which captures a statement by a party that the party intends to commit, is committing, or has committed an unlawful sexual act or an unlawful act of physical force or violence against a child:

- Must be provided to a law enforcement agency and
- May be used for the purpose of evidencing the intent to commit or the commission of a crime specified in the bill against a child.

Additionally, the bill requires that a recording authorized under the bill may not be otherwise disseminated or shared.

The bill is effective upon becoming a law.

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.

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9 Section 934.03(2)(k), F.S. See also s. 934.03(2)(l), F.S.
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 creates section 934.03 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.
A bill to be entitled
An act relating to interception and disclosure of oral
communications; amending s. 934.03, F.S.; authorizing
the interception and recording of an oral
communication by the parent or legal guardian of a
child under a specified age under certain
circumstances; requiring that the recording be
provided to a law enforcement agency; prohibiting any
further dissemination or sharing of the recording;
providing an effective date.

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

Section 1. Present paragraph (l) of subsection (2) of
section 934.03, Florida Statutes, is redesignated as paragraph
(m), and a new paragraph (l) is added to that subsection, to
read:

934.03 Interception and disclosure of wire, oral, or
electronic communications prohibited.—
(2)

(l1). It is lawful under this section and ss. 934.04-934.09
for a parent or legal guardian of a child under 18 years of age
to intercept and record an oral communication if the child is a
party to the communication and the parent or legal guardian has
reasonable grounds to believe that recording the communication
will capture a statement by another party to the communication
that the other party intends to commit, is committing, or has
committed an unlawful sexual act or an unlawful act of physical
force or violence against the child.

Section 2. This act shall take effect upon becoming a law.
I. Summary:

SB 1656 amends ss. 847.0135 and 847.0137, F.S., enhancing penalties for specific crimes relating to the exploitation of children.

The bill amends s. 921.0022, F.S., ranking offenses and revising ranking levels of certain offenses on the offense severity ranking chart (OSRC) of the Criminal Punishment Code.

This bill may have a positive indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2024.

II. Present Situation:

Child Exploitation Offense

Using a Child in Sexual Performance

Section 827.071(2), F.S., prohibits a person from, knowing the character and content thereof, employing, authorizing, or inducing a child to engage in a sexual performance; or being a parent, legal guardian, or custodian of such child, consenting to the participation by such child in a sexual performance. A violation for using a child in a sexual performance is a second degree felony¹ and the offense is ranked as a Level 6 offense on the OSRC.

¹ A second degree felony is punishable by up to 15 years imprisonment and a $10,000 fine. Sections 775.082, 775.083, or 775.084, F.S
Promoting a Sexual Performance by a Child

Under s. 827.071(3), F.S., a person commits a second degree felony if, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child. The offense is ranked as a Level 6 offense on the OSRC.

Possessing Child Pornography with Intent to Promote

Under s. 827.071(4), F.S., a person commits a second degree felony if he or she possesses with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes child pornography. The possession of three or more copies of such photograph, motion picture, representation, or presentation is prima facie evidence of an intent to promote. The offense is ranked as a Level 5 offense on the OSRC.

Possessing or Intentionally Viewing Child Pornography

Section 827.071(5), F.S., prohibits a person from knowingly possessing, controlling, or intentionally viewing a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include child pornography. A violation of the prohibition is a third degree felony and the offense is ranked as a Level 5 offense on the OSRC.

Additionally, s. 827.071(5), F.S., specifies that the possession, control, or intentional viewing of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense, and if such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation includes child pornography depicting more than one child, then each such child in each such photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation that is knowingly possessed, controlled, or intentionally viewed is a separate offense.²

Section 827.071, F.S., defines the following relevant terms:

- “Child pornography” means any image depicting a minor engaged in sexual conduct, or any image that has been created, altered, adapted, or modified by electronic, mechanical, or other means, to portray an identifiable minor engaged in sexual conduct.³
- “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual or simulated 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.⁴

² This does not apply to any material possessed, controlled, or intentionally viewed as part of a law enforcement investigation. Section 827.071(5)(b), F.S.
³ Section 827.071(1)(b), F.S.
⁴ A mother’s breastfeeding of her baby does not under any circumstance constitute “sexual conduct.” Section 827.071(1)(l), F.S.
• “Sexual performance” means any performance or part thereof which includes sexual conduct by a child.5

Criminal Punishment Code and Offense Severity Ranking

• The Criminal Punishment Code6 is Florida’s primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (levels 1-10). Points are assigned and accrue based upon the severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates.
• Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S. Currently, a felony of the third degree is ranked as a level 1 offense, and a second degree felony is ranked as a level 4 offense.7

Reclassification of Specified Child Exploitation Offenses
Under s. 775.0847, F.S., a violation of s. 827.071, F.S., must be reclassified to the next higher degree if the offender possesses 10 or more images of any form of child pornography regardless of content, and the content of at least one image contains one or more of the following:
• A child who is younger than the age of five;
• Sadomasochistic abuse involving a child;
• Sexual battery involving a child;
• Sexual bestiality involving a child; or
• Any motion picture, film, video, or computer-generated motion picture, film, or video involving a child, regardless of length and regardless of whether the motion picture, film, video, or computer-generated motion picture, film, or video contains sound.

III. Effect of Proposed Changes:
The bill amends s. 847.0135, F.S., prohibiting the use of computer services or devices that are capable of electronic data storage or transmission to “[s]educe, solicit, lure, or entice, or attempt to solicit, lure, or entice, a child or another person believed by the person to be a child” to engage in unlawful sexual conduct, and providing that a person who violates this provision commits a felony of the second degree.8

The bill also revises penalties for certain uses of computer services or devices, providing that any person who knowingly uses a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:

5 “Performance” means any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience. Section 827.071(1)(m) and (g), F.S.
7 Section 921.0023(1) and (2), F.S.
8 A second degree felony is punishable by a term of imprisonment not exceeding 15 years as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.
• Seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in ch. 794, ch. 800, or ch 827, F.S., or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child; or

• Solicit, lure, or entice, or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in ch. 794, ch 800, or ch. 827, F.S., or to otherwise engage in any sexual conduct, commits a felony of the second degree.

The bill amends s. 847.0137, F.S., providing that any person in this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, F.S., to another person in this state or in another jurisdiction commits a felony of the second degree.

The bill also provides that any person in any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, F.S., to any person in this state commits a second degree felony.

The bill amends s. 921.0022, F.S., to increase the OSRC rankings for specified child exploitation offenses as follows:

<table>
<thead>
<tr>
<th>Violation</th>
<th>Current OSRC Ranking</th>
<th>New OSRC Ranking</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lewd or lascivious exhibition using computer; offender less than 18 years</td>
<td>Level 4</td>
<td>Unranked third degree</td>
</tr>
<tr>
<td>Possessing child pornography with intent to promote under s. 827.071(4), F.S.</td>
<td>Level 5</td>
<td>Level 7</td>
</tr>
<tr>
<td>Lewd or lascivious exhibition using computer; offender 18 years or older</td>
<td>Level 5</td>
<td>Level 6</td>
</tr>
<tr>
<td>Transmission of pornography by electronic device or equipment under s. 847.0137(2) or (3), F.S.</td>
<td>Level 5</td>
<td>Level 6</td>
</tr>
<tr>
<td>Transmission of material harmful to minors to a minor by electronic device or equipment under s. 847.0138(2) or (3), F.S.</td>
<td>Level 5</td>
<td>Level 7</td>
</tr>
<tr>
<td>Facilitates sexual conduct with a minor or the visual depiction of such conduct under, s. 847.0135(2), F.S.</td>
<td>Level 6</td>
<td>Level 7</td>
</tr>
<tr>
<td>Using a child in or promoting a child sexual performance under s. 827.071(2) or (3), F.S.</td>
<td>Level 6</td>
<td>Level 7</td>
</tr>
</tbody>
</table>

By increasing the offense severity ranking of specified child exploitation offenses, the bill may increase the minimum sentence to which a person convicted of such an offense may be sentenced and may increase a term of incarceration required to be imposed as part of that sentence.

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9 Section 847.0135(3)(a), F.S.
10 Section 847.0135(3)(b), F.S.
11 The bill retains the current felony levels for ss. 827.071(2), (3), (4), and (5), F.S.
The bill is effective October 1, 2024.

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 bill may have a positive indeterminate impact on the jail and prison bed population by increasing the OSRC ranking for specified child exploitation offenses, which may result in sentences including longer terms of incarceration for persons convicted of such offenses.

VI. **Technical Deficiencies:**

   None.

VII. **Related Issues:**

   None.
VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 847.0135, 847.0137, and 921.0022.

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.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
A bill to be entitled An act relating to child exploitation offenses; amending ss. 847.0135 and 847.0137, F.S.; revising penalties for specified offenses involving children; amending s. 921.0022, F.S.; ranking offenses and revising offense ranking levels for purposes of the offense severity ranking chart of the Criminal Punishment Code; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsections (2) and (3) of section 847.0135, Florida Statutes, are amended to read:

847.0135 Computer pornography; prohibited computer usage; traveling to meet minor; penalties.—
(2) COMPUTER PORNOGRAPHY.—A person who:
(a) Knowingly compiles, enters into, or transmits by use of computer;
(b) Makes, prints, publishes, or reproduces by other computerized means;
(c) Knowingly causes or allows to be entered into or transmitted by use of computer; or
(d) Buys, sells, receives, exchanges, or disseminates, any notice, statement, or advertisement of any minor’s name, telephone number, place of residence, physical characteristics, or other descriptive or identifying information for purposes of facilitating, encouraging, offering, or soliciting sexual conduct of or with any minor, or the visual depiction of such conduct, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084, or s. 775.0847. The fact that an undercover operative or law enforcement officer was involved in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.

(3) CERTAIN USES OF COMPUTER SERVICES OR DEVICES PROHIBITED.—Any person who knowingly uses a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission to:
(a) Seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child or another person believed by the person to be a child, to commit any illegal act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child; or
(b) Solicit, lure, or entice, or attempt to solicit, lure, or entice a parent, legal guardian, or custodian of a child or a person believed to be a parent, legal guardian, or custodian of a child to consent to the participation of such child in any act described in chapter 794, chapter 800, or chapter 827, or to otherwise engage in any sexual conduct, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or s. 775.0847. Any person who, in violating this subsection, misrepresents his or her age, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or s. 775.0847.
degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or s. 775.0847. Each separate use of a computer online service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission wherein an offense described in this section is committed may be charged as a separate offense.

Section 2. Subsections (2) and (3) of section 847.0137, Florida Statutes, are amended to read:

847.0137 Transmission of pornography by electronic device or equipment prohibited; penalties. —
(2) Notwithstanding ss. 847.012 and 847.0133, any person in this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, to another person in this state or in another jurisdiction commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or s. 775.0847.

(3) Notwithstanding ss. 847.012 and 847.0133, any person in any jurisdiction other than this state who knew or reasonably should have known that he or she was transmitting child pornography, as defined in s. 847.001, to any person in this state commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, or s. 775.0847.

The provisions of this section do not apply to subscription-based transmissions such as list servers.

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

<table>
<thead>
<tr>
<th>Statute</th>
<th>Degree</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>316.1935(3)(a)</td>
<td>2nd</td>
<td>Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.</td>
</tr>
<tr>
<td>499.0051(1)</td>
<td>3rd</td>
<td>Failure to maintain or deliver transaction history, transaction information, or transaction statements.</td>
</tr>
<tr>
<td>499.0051(5)</td>
<td>2nd</td>
<td>Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.</td>
</tr>
<tr>
<td>517.07(1)</td>
<td>3rd</td>
<td>Failure to register securities.</td>
</tr>
<tr>
<td>517.12(1)</td>
<td>3rd</td>
<td>Failure of dealer or associated person of a dealer of securities to register.</td>
</tr>
</tbody>
</table>
784.031 3rd Battery by strangulation.
784.07(2)(b) 3rd Battery of law enforcement officer, firefighter, etc.
784.074(1)(c) 3rd Battery of sexually violent predators facility staff.
784.075 3rd Battery on detention or commitment facility staff.
784.078 3rd Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
784.08(2)(c) 3rd Battery on a person 65 years of age or older.
784.081(3) 3rd Battery on specified official or employee.
784.082(3) 3rd Battery by detained person on visitor or other detainee.
784.083(3) 3rd Battery on code inspector.
784.085 3rd Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
787.03(1) 3rd Interference with custody; wrongly takes minor from appointed guardian.
787.04(2) 3rd Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3) 3rd Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
787.07 3rd Human smuggling.
790.115(1) 3rd Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b) 3rd Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c) 3rd Possessing firearm on school property.
| 115 | 794.051(1) | 3rd | Indecent, lewd, or lascivious touching of certain minors. |
| 116 | 800.04(7)(c) | 3rd | Lewd or lascivious exhibition; offender less than 18 years. |
| 117 | 806.135 | 2nd | Destroying or demolishing a memorial or historic property. |
| 118 | 810.02(4)(a) | 3rd | Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery. |
| 119 | 810.02(4)(b) | 3rd | Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery. |
| 120 | 810.06 | 3rd | Burglary; possession of tools. |
| 121 | 810.08(2)(c) | 3rd | Trespass on property, armed with firearm or dangerous weapon. |
| 122 | 812.014(2)(c)3. | 3rd | Grand theft, 3rd degree $10,000 or more but less than $20,000. |

CODING: Words **stricken** are deletions; words **underlined** are additions.
| 131 | 828.125(1) | 2nd | Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle. |
| 132 | 836.14(2) | 3rd | Person who commits theft of a sexually explicit image with intent to promote it. |
| 133 | 836.14(3) | 3rd | Person who willfully possesses a sexually explicit image with certain knowledge, intent, and purpose. |
| 134 | 837.02(1) | 3rd | Perjury in official proceedings. |
| 135 | 837.02(1) | 3rd | Make contradictory statements in official proceedings. |
| 136 | 838.022 | 3rd | Official misconduct. |
| 137 | 839.13(2)(a) | 3rd | Falsifying records of an individual in the care and custody of a state agency. |
| 138 | 839.13(2)(c) | 3rd | Falsifying records of the Department of Children and Families. |

<p>| 139 | 843.021 | 3rd | Possession of a concealed handcuff key by a person in custody. |
| 140 | 843.025 | 3rd | Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication. |
| 141 | 843.15(1)(a) | 3rd | Failure to appear while on bail for felony (bond estreature or bond jumping). |
| 142 | 843.19(2) | 2nd | Injure, disable, or kill police, fire, or SAR canine or police horse. |
| 143 | 843.0135(5)(c) | 3rd | Lewd or lascivious exhibition using computer; offender less than 18 years. |
| 144 | 870.01(3) | 2nd | Aggravated rioting. |
| 145 | 870.01(5) | 2nd | Aggravated inciting a riot. |
| 146 | 874.05(1)(a) | 3rd | Encouraging or recruiting another to join a criminal organization. |</p>
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<tr>
<th>Statute</th>
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<tbody>
<tr>
<td>316.027(2)(a)</td>
<td>3rd</td>
<td>Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.</td>
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<td>316.1935(4)(a)</td>
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<td>Aggravated fleeing or eluding.</td>
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<td>316.80(2)</td>
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<td>Unlawful conveyance of fuel; obtaining fuel fraudulently.</td>
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<td>322.34(6)</td>
<td>3rd</td>
<td>Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.</td>
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327.30(5) 3rd Vessel accidents involving personal injury; leaving scene.

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

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

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

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

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

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

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

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

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

790.01(3) 3rd Unlawful carrying of a concealed firearm.

790.162 2nd Threat to throw or discharge destructive device.
175. 790.163(1) 2nd False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.

176. 790.221(1) 2nd Possession of short-barreled shotgun or machine gun.

177. 790.23 2nd Felons in possession of firearms, ammunition, or electronic weapons or devices.

178. 796.05(1) 2nd Live on earnings of a prostitute; 1st offense.

180. 800.04(6)(c) 3rd Lewd or lascivious conduct; offender less than 18 years of age.

181. 806.111(1) 3rd Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

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<tr>
<td>817.568(2)(b)</td>
<td>2nd</td>
<td>Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, $5,000 or more or use of personal identification information of 10 or more persons.</td>
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<tr>
<td>817.611(2)(a)</td>
<td>2nd</td>
<td>Traffic in or possess 5 to 14 counterfeit credit cards or related documents.</td>
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<td>817.625(2)(b)</td>
<td>2nd</td>
<td>Second or subsequent fraudulent use of scanning device, skimming device, or reencoder.</td>
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<tr>
<td>825.1025(4)</td>
<td>3rd</td>
<td>Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.</td>
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<tr>
<td>827.071(4)</td>
<td>2nd</td>
<td>Possess with intent to promote any photographic material, motion picture, etc., which includes child pornography.</td>
</tr>
<tr>
<td>827.071(5)</td>
<td>3rd</td>
<td>Possess, control, or intentionally view any photographic material, motion picture, etc., which includes child pornography.</td>
</tr>
<tr>
<td>828.12(2)</td>
<td>3rd</td>
<td>Tortures any animal with intent to inflict intense pain, serious physical injury, or death.</td>
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<tr>
<td>836.14(4)</td>
<td>2nd</td>
<td>Person who willfully promotes for financial gain a sexually explicit image of an identifiable person without consent.</td>
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<tr>
<td>839.13(2)(b)</td>
<td>2nd</td>
<td>Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.</td>
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<tr>
<td>843.01(1)</td>
<td>3rd</td>
<td>Resist officer with violence to person; resist arrest with...</td>
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</table>
202. 847.0135(5)(b) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

203. 847.0137 (2) & (3) 3rd Transmission of pornography by electronic device or equipment.

204. 847.0138 (2) & (3) 3rd Transmission of material harmful to minors to a minor by electronic device or equipment.

205. 874.05(1)(b) 2nd Encouraging or recruiting another to join a criminal gang; second or subsequent offense.

206. 874.05(2)(a) 2nd Encouraging or recruiting person under 13 years of age to join a criminal gang.

207. 893.13(1)(a)1. 2nd Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (2)(c)10., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

208. 893.13(1)(c)2. 2nd Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)5. drugs) within 1,000 feet of property used for religious services or a specified business site.
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<tbody>
<tr>
<td>784.048(5)</td>
<td>3rd</td>
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<td>Aggravated assault on sexually violent predators facility staff.</td>
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<tr>
<td>784.08(2)(b)</td>
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<td>Aggravated assault on a person 65 years of age or older.</td>
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<td>784.081(2)</td>
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<td>Aggravated assault on specified official or employee.</td>
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<tr>
<td>784.082(2)</td>
<td>2nd</td>
<td>Aggravated assault by detained person on visitor or other detainee.</td>
</tr>
<tr>
<td>784.083(2)</td>
<td>2nd</td>
<td>Aggravated assault on code inspector.</td>
</tr>
<tr>
<td>787.02(2)</td>
<td>3rd</td>
<td>False imprisonment; restraining with purpose other than those in s. 787.01.</td>
</tr>
<tr>
<td>790.115(2)(d)</td>
<td>2nd</td>
<td>Discharging firearm or weapon on school property.</td>
</tr>
<tr>
<td>790.161(2)</td>
<td>2nd</td>
<td>Make, possess, or throw destructive device with intent to do bodily harm or damage property.</td>
</tr>
<tr>
<td>790.164(1)</td>
<td>2nd</td>
<td>False report concerning bomb, explosive, weapon of mass destruction, act of arson or violence to state property, or use of firearms in violent manner.</td>
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<tr>
<td>790.19</td>
<td>2nd</td>
<td>Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.</td>
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<tr>
<td>794.011(8)(a)</td>
<td>3rd</td>
<td>Solicitation of minor to participate in sexual activity by custodial adult.</td>
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<tr>
<td>794.05(1)</td>
<td>2nd</td>
<td>Unlawful sexual activity with specified minor.</td>
</tr>
<tr>
<td>800.04(5)(d)</td>
<td>3rd</td>
<td>Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years of age;</td>
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<tr>
<td>Section</td>
<td>Offense Description</td>
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<tr>
<td>800.04(6)(b)</td>
<td>2nd Lewd or lascivious conduct; offender less than 18 years.</td>
<td></td>
</tr>
<tr>
<td>806.031(2)</td>
<td>2nd Arson resulting in great bodily harm to firefighter or any other person.</td>
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</tr>
<tr>
<td>810.02(3)(c)</td>
<td>2nd Burglary of occupied structure; unarmed; no assault or battery.</td>
<td></td>
</tr>
<tr>
<td>810.145(8)(b)</td>
<td>2nd Video voyeurism; certain minor victims; 2nd or subsequent offense.</td>
<td></td>
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<tr>
<td>812.014(2)(b)1.</td>
<td>2nd Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.</td>
<td></td>
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<tr>
<td>812.014(2)(c)5.</td>
<td>3rd Grand theft; third degree; firearm.</td>
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<tr>
<td>812.014(6)</td>
<td>2nd Theft; property stolen $3,000 or more; coordination of others.</td>
<td></td>
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<tr>
<td>812.015(9)(a)</td>
<td>2nd Retail theft; property stolen $750 or more; second or subsequent conviction.</td>
<td></td>
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<tr>
<td>812.015(9)(b)</td>
<td>2nd Retail theft; aggregated property stolen within 30 days is $3,000 or more; coordination of others.</td>
<td></td>
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<tr>
<td>812.015(9)(d)</td>
<td>2nd Retail theft; multiple thefts within specified period.</td>
<td></td>
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<tr>
<td>812.13(2)(c)</td>
<td>2nd Robbery, no firearm or other weapon (strong-arm robbery).</td>
<td></td>
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<tr>
<td>817.4821(5)</td>
<td>2nd Possess cloning paraphernalia with intent to create cloned cellular telephones.</td>
<td></td>
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<tr>
<td>817.49(2)(b)2.</td>
<td>2nd Willful making of a false report of a crime resulting in death.</td>
<td></td>
</tr>
<tr>
<td>817.505(4)(b)</td>
<td>2nd Patient brokering; 10 or more patients.</td>
<td></td>
</tr>
<tr>
<td>817.5695(3)(b)</td>
<td>2nd Exploitation of person 65 years of age or older, value $10,000 or more, but less than $50,000.</td>
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</table>

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<tr>
<td>825.102(1)</td>
<td>3rd</td>
<td>Abuse of an elderly person or disabled adult.</td>
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<tr>
<td>825.102(3)(c)</td>
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<td>Neglect of an elderly person or disabled adult.</td>
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<tr>
<td>825.1025(3)</td>
<td>3rd</td>
<td>Lewd or lascivious molestation of an elderly person or disabled adult.</td>
</tr>
<tr>
<td>825.103(3)(c)</td>
<td>3rd</td>
<td>Exploiting an elderly person or disabled adult and property is valued at less than $10,000.</td>
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<tr>
<td>827.03(2)(c)</td>
<td>3rd</td>
<td>Abuse of a child.</td>
</tr>
<tr>
<td>827.03(2)(d)</td>
<td>3rd</td>
<td>Neglect of a child.</td>
</tr>
<tr>
<td>827.071(2) &amp; (3)</td>
<td>2nd</td>
<td>Use or induce a child in a sexual performance, or promote or direct such performance.</td>
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<tr>
<td>828.126(3)</td>
<td>3rd</td>
<td>Sexual activities involving animals.</td>
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<tr>
<td>836.05</td>
<td>2nd</td>
<td>Threats; extortion.</td>
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<td>836.10</td>
<td>2nd</td>
<td>Written or electronic threats to kill, do bodily injury, or</td>
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<td>Abuse of an elderly person or disabled adult.</td>
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<td>843.12</td>
<td>3rd</td>
<td>Aids or assists person to escape.</td>
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<tr>
<td>847.011</td>
<td>3rd</td>
<td>Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.</td>
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<tr>
<td>847.012</td>
<td>3rd</td>
<td>Knowingly using a minor in the production of materials harmful to minors.</td>
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<tr>
<td>847.0135(2)</td>
<td>3rd</td>
<td>Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.</td>
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<td>847.0135(5)(b)</td>
<td>2nd</td>
<td>Lewd or lascivious exhibition using computer; offender 18 years or older.</td>
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<td>Transmission of child pornography.</td>
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<tr>
<th>Florida</th>
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<td>316.027(2)(c)</td>
<td>1st</td>
<td>Accident involving death, failure to stop; leaving scene.</td>
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<tr>
<td>316.193(3)(c)2.</td>
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<td>DUI resulting in serious bodily injury.</td>
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<tr>
<td>316.1953(3)(b)</td>
<td>1st</td>
<td>Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.</td>
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<td>327.35(3)(c)2.</td>
<td>3rd</td>
<td>Vessel BUI resulting in serious bodily injury.</td>
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<tr>
<td>402.319(2)</td>
<td>2nd</td>
<td>Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.</td>
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<td>409.920</td>
<td>Medicaid provider fraud; $10,000 or less.</td>
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<td>(2)(b)1.a.</td>
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<tr>
<td>409.920</td>
<td>Medicaid provider fraud; more than $10,000, but less than $50,000.</td>
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<td>(2)(b)1.b.</td>
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<tr>
<td>456.065(2)</td>
<td>Practicing a health care profession without a license.</td>
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<tr>
<td>456.065(2)</td>
<td>Practicing a health care profession without a license which results in serious bodily injury.</td>
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<tr>
<td>458.327(1)</td>
<td>Practicing medicine without a license.</td>
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<td>459.013(1)</td>
<td>Practicing osteopathic medicine without a license.</td>
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<td>460.411(1)</td>
<td>Practicing chiropractic medicine without a license.</td>
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<td>461.012(1)</td>
<td>Practicing pediatric medicine without a license.</td>
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<td>462.17</td>
<td>Practicing naturopathy without a license.</td>
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<td>484.053</td>
<td>Dispensing hearing aids without a license.</td>
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<tr>
<td>494.0018(2)</td>
<td>Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.</td>
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<tr>
<td>560.123(8)(b)1.</td>
<td>Failure to report currency or payment instruments exceeding $300 but less than $20,000 by a money services business.</td>
</tr>
<tr>
<td>560.125(5)(a)</td>
<td>Money services business by unauthorized person, currency or payment instruments exceeding $300 but less than $20,000.</td>
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<tr>
<td>655.50(10)(b)1.</td>
<td>Failure to report financial transactions exceeding $300 but less than $20,000 by financial institution.</td>
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<tr>
<td>775.21(10)(a)</td>
<td>Sexual predator; failure to register; failure to renew driver license.</td>
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operation of a vessel in a
reckless manner (vessel
homicide).

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

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

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

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

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

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

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

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

CODING: Words **stricken** are deletions; words **underlined** are additions.
790.165(2) 2nd Manufacture, sell, possess, or deliver hoax bomb.
336

790.165(3) 2nd Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
337

790.166(3) 2nd Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
338

790.166(4) 2nd Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
339

790.23 1st,PBL Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
340

794.08(4) 3rd Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
341

796.05(1) 1st Live on earnings of a prostitute; 2nd offense.
342

796.05(1) 1st Live on earnings of a prostitute; 3rd and subsequent offense.
343

800.04(5)(c)1. 2nd Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
344

800.04(5)(c)2. 2nd Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
345

800.04(5)(e) 1st Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
346

806.01(2) 2nd Maliciously damage structure by fire or explosive.
347

810.02(3)(a) 2nd Burglary of occupied dwelling;
348
<table>
<thead>
<tr>
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</tr>
</thead>
<tbody>
<tr>
<td>810.02(3)(b)</td>
<td>2nd Burglary of unoccupied dwelling; unarmed; no assault or battery.</td>
</tr>
<tr>
<td>810.02(3)(d)</td>
<td>2nd Burglary of occupied conveyance; unarmed; no assault or battery.</td>
</tr>
<tr>
<td>810.02(3)(e)</td>
<td>2nd Burglary of authorized emergency vehicle.</td>
</tr>
<tr>
<td>812.014(2)(a)1.</td>
<td>1st Property stolen, valued at $100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.</td>
</tr>
<tr>
<td>812.014(2)(b)2.</td>
<td>2nd Property stolen, cargo valued at less than $50,000, grand theft in 2nd degree.</td>
</tr>
<tr>
<td>812.014(2)(b)3.</td>
<td>2nd Property stolen, emergency medical equipment; 2nd degree grand theft.</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Section</th>
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</tr>
</thead>
<tbody>
<tr>
<td>817.234(9)</td>
<td>2nd</td>
<td>Organizing, planning, or participating in an intentional motor vehicle collision.</td>
</tr>
<tr>
<td>817.234(11)(c)</td>
<td>1st</td>
<td>Insurance fraud; property value $100,000 or more.</td>
</tr>
<tr>
<td>817.2341(2)(b) &amp; (3)(b)</td>
<td>1st</td>
<td>Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.</td>
</tr>
<tr>
<td>817.418(2)(a)</td>
<td>3rd</td>
<td>Offering for sale or advertising personal protective equipment with intent to defraud.</td>
</tr>
<tr>
<td>817.504(1)(a)</td>
<td>3rd</td>
<td>Offering or advertising a vaccine with intent to defraud.</td>
</tr>
<tr>
<td>817.535(2)(a)</td>
<td>3rd</td>
<td>Filing false lien or other unauthorized document.</td>
</tr>
<tr>
<td>817.611(2)(b)</td>
<td>2nd</td>
<td>Traffic in or possess 15 to 49 counterfeit credit cards or related documents.</td>
</tr>
</tbody>
</table>

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<th>Section</th>
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<th>Description</th>
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<tbody>
<tr>
<td>838.015</td>
<td>2nd</td>
<td>Bribery.</td>
<td></td>
</tr>
<tr>
<td>838.016</td>
<td>2nd</td>
<td>Unlawful compensation or reward for official behavior.</td>
<td></td>
</tr>
<tr>
<td>838.021(3)(a)</td>
<td>2nd</td>
<td>Unlawful harm to a public servant.</td>
<td></td>
</tr>
<tr>
<td>838.22</td>
<td>2nd</td>
<td>Bid tampering.</td>
<td></td>
</tr>
<tr>
<td>843.0855(2)</td>
<td>3rd</td>
<td>Impersonation of a public officer or employee.</td>
<td></td>
</tr>
<tr>
<td>843.0855(3)</td>
<td>3rd</td>
<td>Unlawful simulation of legal process.</td>
<td></td>
</tr>
<tr>
<td>843.0855(4)</td>
<td>3rd</td>
<td>Intimidation of a public officer or employee.</td>
<td></td>
</tr>
<tr>
<td>847.0135(2)</td>
<td>2nd</td>
<td>Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.</td>
<td></td>
</tr>
<tr>
<td>847.0135(3)</td>
<td>2nd</td>
<td>Solicitation of a child, via a computer service, to commit an unlawful sex act.</td>
<td></td>
</tr>
<tr>
<td>847.0135(4)</td>
<td>2nd</td>
<td>Traveling to meet a minor to commit an unlawful sex act.</td>
<td></td>
</tr>
<tr>
<td>847.0138(2) &amp; (3)</td>
<td>3rd</td>
<td>Transmission of material harmful to minors to a minor by electronic device or equipment.</td>
<td></td>
</tr>
<tr>
<td>872.06</td>
<td>2nd</td>
<td>Abuse of a dead human body.</td>
<td></td>
</tr>
<tr>
<td>874.05(2)(b)</td>
<td>1st</td>
<td>Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.</td>
<td></td>
</tr>
<tr>
<td>874.10</td>
<td>1st</td>
<td>Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.</td>
<td></td>
</tr>
<tr>
<td>893.13(1)(c)(1)</td>
<td>1st</td>
<td>Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)(5).) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned</td>
<td></td>
</tr>
</tbody>
</table>

CODING: Words stricken are deletions; words underlined are additions.
recreational facility or community center.

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

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

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

893.135 1st Trafficking in cocaine, more than 28 grams, less than 200 grams.

893.135 1st Trafficking in hydrocodone, 28 grams or more, less than 50 grams.

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

893.135(1)(f)1. 1st Trafficking in amphetamine, 14 grams or more, less than 28 grams.
(1)(g)1.a. Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.

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

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

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

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

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

(1)(n)2.a. Trafficking in n-benzylphenethylamines, 14 grams or more, less than 100 grams.

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

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

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

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

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

(9)(a) Sexual offender; failure to comply with reporting requirements.
<table>
<thead>
<tr>
<th>Section</th>
<th>Description</th>
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<tbody>
<tr>
<td>943.0435(13)</td>
<td>Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.</td>
</tr>
<tr>
<td>943.0435(14)</td>
<td>Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.</td>
</tr>
<tr>
<td>944.607(9)</td>
<td>Sexual offender; failure to comply with reporting requirements.</td>
</tr>
<tr>
<td>944.607(10)(a)</td>
<td>Sexual offender; failure to submit to the taking of a digitized photograph.</td>
</tr>
<tr>
<td>944.607(12)</td>
<td>Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.</td>
</tr>
<tr>
<td>944.607(13)</td>
<td>Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.</td>
</tr>
</tbody>
</table>

Section 4. This act shall take effect October 1, 2024.
I. Summary:

SB 1690 amends s. 562.13, F.S., revising applicability of the statute by removing language that a minor may not be employed if the employment, whether as a professional entertainer or otherwise, involves nudity on the part of the minor and such nudity is intended as a form of adult entertainment.

The bill creates s. 787.30, F.S., creating the provision that a person may not knowingly employ any person under the age of 21 years in any adult entertainment establishment, as defined in s. 847.001, F.S. A person who violates this provision commits a second degree felony.

This bill may have a positive indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2024.

II. Present Situation:

Section 847.001, F.S., defines “adult entertainment establishment,” to include adult bookstores, adult theaters, special cabaret, and unlicensed massage establishments.

An adult bookstore is any corporation, partnership, or business of any kind which restricts or purports to restrict admission only to adults, which has as part of its stock book, magazines, other periodicals, videos, discs, or other graphic media and which offers, sells, provides, or rents for a fee any sexually oriented material.

Adult theaters are enclosed buildings or enclosed spaces within a building used for presenting either film, live plays, dances, or other performances that are distinguished or characterized by an emphasis on matter depicting, describing, or relating to specific sexual activities for
observation by patrons, and which restricts or purports to restrict admission only to adults, or any business that features a person who engages in specific sexual activities for observation by a patron, and which restricts or purports to restrict admission to only adults.

Special cabaret is any business that features persons who engage in specific sexual activities for observation by patrons, and which restricts or purports to restrict admission only to adults.

An unlicensed massage establishment is any business or enterprise that offers, sells, or provides, or that holds itself out as offering, selling, or providing, massages that include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating, or other tactile stimulation of the human body by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. This term does not include an establishment licensed under s. 480.043, F.S.

Several states have enacted laws prohibiting persons under 21 years of age from working or performing in certain adult entertainment establishments. These laws have been challenged, and courts have found that the state has a compelling interest in protecting victims from human trafficking, and that there is often a link between human trafficking and certain adult entertainment establishments. In Jane Doe I v. Landry, the United States Court of Appeals, Fifth Circuit upheld a Louisiana law that prohibited establishments licensed to serve alcohol from employing nearly nude entertainers younger than 21 years of age on the grounds that the law furthered the state’s interests in curbing human trafficking and prostitution.\(^1\)

The Court found that the State of Louisiana sufficiently demonstrated its reasonable belief that there was a link between Louisiana statutes that prohibited women aged 18 to 21 years old from nude erotic dancing in establishments that served alcohol and curbing the secondary effects of human trafficking and prostitution such that the statutes furthered substantial governmental interest, as required for statutes to survive intermediate scrutiny on erotic dancers’ First Amendment free speech challenge.\(^2\)

In Valadez v. Paxton, the United States District Court, W.D. Texas, Austin Division holding that the State of Texas sufficiently demonstrated that it held reasonable belief that the law prohibiting all working relationships between persons between the ages of 18 and 20 years old and sexually-oriented businesses would serve to curb harmful secondary effects of sexually-oriented businesses, including trafficking and sexual exploitation.\(^3\)

The United States District Court denied a motion for a preliminary injunction against the enforcement of the Texas bill prohibiting “all working relationships between 18-20 year olds and sexually-oriented businesses” because the plaintiff’s failed to show that the age restrictions were not rationally related to the state’s interest in curbing human trafficking.\(^4\)

In DC Operating, LLC v. Paxton, the United States District Court, W.D. Texas, Austin Division, denied a motion for a preliminary injunction in part, finding that the state’s recently enacted bill

\(^1\) Doe I v. Landry, 909 F.3d 99, 109 (5th Cir. 2018).
\(^2\) Id.
\(^4\) Id.
relating to restrictions on the age of person employed by or allowed on the premises of a sexually oriented business is rationally related to the state’s interest in curbing human trafficking. The Court ruled that the plaintiff’s failed to establish a likelihood of success on the merits of their claims under the First Amendment, Fourteenth Amendment Due Process and Equal Protection Clauses of the United States Constitution, and Texas Constitution’s equivalent provisions.

In Wacko’s Too, Inc. v. City of Jacksonville, the United States District Court, M.D. Florida upheld age restrictions in a City of Jacksonville ordinance requiring performers at adult entertainment establishments to be at least 21 years of age based, at least in part, on evidence that there was a reasonable basis to believe that the age restrictions would further the City’s interest in preventing human and sex trafficking. The city ordinance provisions forbid anyone under age 21 from receiving the requisite license to perform at adult entertainment establishments in the city. The Eleventh Circuit upheld the requirement that adult entertainment establishments maintain rosters as a “permissible way to keep track of licensed performers, secondary to combating human trafficking.” The performer disclosure requirement under the ordinance also relates to preventing human trafficking by allowing law enforcement to keep track of performers.

**Human Trafficking**

The Florida Legislature recognizes human trafficking as a form of modern-day slavery whose victims include young children, teenagers, and adults who may be citizens that are trafficked domestically within the borders of the United States or smuggled across international borders worldwide. While victims of human trafficking are forced to work in prostitution or sexual entertainment, trafficking also occurs in forms of labor exploitation, such as domestic servitude, restaurant work, janitorial work, factory work, and agricultural work.

Florida law defines “human trafficking” as transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, purchasing, patronizing, procuring, or obtaining another person for the purpose of exploitation of that person.

Human trafficking includes two types of exploitation: commercial sexual exploitation (CSE) and forced labor. In 2022, according to the Department of Children and Families, 354 youth were

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6 Id.
7 Wacko’s Too Inc. v. City of Jacksonville, 658 F.Supp.3d 1086 (11th Cir. 2023).
8 Id. at 1127.
9 Section 787.06, F.S.
10 Id.
11 Section 787.06(2)(f), F.S., provides “maintain” means, in relation to labor or services, to secure or make possible continued performance thereof, regardless of any initial agreement on the part of the victim to perform such type service. Section 787.06(2)(h), F.S., defines “services” as any act committed at the behest of, under the supervision of, or for the benefit of another, including forced marriage, servitude, or the removal of organs.
12 Section 787.06(2)(g), F.S., provides “obtain” means, in relation to labor, commercial sexual activity, or services, to receive, take possession of, or take custody of another person or secure performance thereof. Section 787.06(2)(e), F.S., provides “labor” means work of economic or financial value.
13 Section 787.06(2)(d), F.S.
14 Section 787.06, F.S.
verified as victims of commercial sexual exploitation (CSE) in Florida. The number has decreased from 2021, when 379 youth were verified.\(^{15}\)

**Soliciting or Purchasing Prostitution**

Section 796.07, F.S., defines prostitution as the giving or receiving of the body for sexual activity for hire.\(^{16}\)

Under s. 796.07(2)(a)-(e) and (g)-(i), F.S., it is a second-degree misdemeanor:\(^{17}\)
- To own, establish, maintain, or operate any place, structure, building, or conveyance for the purpose of lewdness,\(^{18}\) assignation,\(^{19}\) or prostitution;
- To offer, or to offer or agree to secure, another for the purpose of prostitution or for any other lewd or indecent act;
- To receive, or to offer or agree to receive, any person into any place, structure, building, or conveyance for the purpose of prostitution, lewdness, or assignation, or to permit any person to remain there for such purpose;
- To direct, take, or transport, or to offer or agree to direct, take, or transport, any person to any place, structure, or building, or to any other person, with knowledge or reasonable cause to believe that the purpose of such directing, taking, or transporting is prostitution, lewdness, or assignation;
- For a person 18 years of age or older to offer to commit, or to commit, or to engage in, prostitution, lewdness, or assignation;
- To reside in, enter, or remain in, any place, structure, or building, or to enter or remain in any conveyance, for the purpose of prostitution, lewdness, or assignation;
- To aid, abet, or participate in any of the acts or things listed above; or
- To purchase the services of any person engaged in prostitution.\(^{20}\)

Additionally, under s. 796.07(2)(f), F.S., a person who solicits, induces, entices, or procures another person to commit prostitution, lewdness, or assignation commits a first-degree misdemeanor for a first violation, a third-degree felony for a second violation, and a second-degree felony for a third or subsequent violation.\(^{21}\) An offender convicted for soliciting another person to commit prostitution is also subject to additional penalties including:
- One hundred hours of community service;\(^ {22}\)
- Being required to pay for and attend an educational program about the negative effects of prostitution and human trafficking, such as a sexual violence prevention education program,


\(^{16}\) This definition excludes sexual activity between spouses. s. 796.07(1)(b), F.S.

\(^{17}\) A second-degree misdemeanor is punishable by up to 60 days in county jail and a fine not exceeding $500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

\(^{18}\) “Lewdness” means any indecent or obscene act. Section 796.07(1)(c), F.S.

\(^{19}\) “Assignation” means the making of any appointment or engagement for prostitution or lewdness, or any act in furtherance of such appointment or engagement. Section 796.07(1)(d), F.S.

\(^{20}\) Section 796.07(2), F.S.

\(^{21}\) Section 796.07(2)(f) and (5)(a), F.S.

\(^{22}\) Section 796.07(5)(b)1., F.S.
including such programs offered by faith-based providers, if such a program is offered in the
circuit in which the offender is sentenced;\textsuperscript{23}
\begin{itemize}
\item A 10-day mandatory minimum jail sentence for a second or subsequent violation;\textsuperscript{24}
\item Vehicle impoundment up to 60 days if the offender used a car to commit the violation;\textsuperscript{25}
\item Inclusion of the offender’s name on the Soliciting for Prostitution Public Database in certain
situations;\textsuperscript{26} and
\item A $5,000 civil fine.\textsuperscript{27}
\end{itemize}

III. **Effect of Proposed Changes:**

The bill amends s. 562.13, F.S., revising applicability of the statute by removing language that a
minor may not be employed if the employment, whether as a professional entertainer or
otherwise, involves nudity on the part of the minor and such nudity is intended as a form of adult
entertainment.

The bill creates s. 787.30, F.S., creating the provision that a person may not knowingly employ
any person under the age of 21 years in any adult entertainment establishment, as defined in
s. 847.001, F.S. A person who violates this provision commits a felony of the second degree,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

This bill may have a positive indeterminate fiscal impact. See Section V. Fiscal Impact
Statement.

The bill is effective July 1, 2024.

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.

\textsuperscript{23} Section 796.07(5)(b)2., F.S.
\textsuperscript{24} Section 796.07(5)(c), F.S.
\textsuperscript{25} Section 796.07(5)(d), F.S.
\textsuperscript{26} Section 796.07(5)(e), F.S.
\textsuperscript{27} Section 796.07(6), F.S.
E. Other Constitutional Issues:

The First Amendment of the U.S. Constitution prevents the government from creating laws that restrict the speech of citizens.\(^{28}\) “Congress shall make no law ... abridging the freedom of speech.” The rights guaranteed by the First Amendment apply with equal force to state governments through the due process clause of the Fourteenth Amendment.

The state has a compelling interest in safeguarding the community and children from trafficking and sexual exploitation. A statute regulating conduct with incidental effects on speech can be a reasonable restriction if, among other things, it is narrowly tailored to serve substantial government interests.\(^{29}\)

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate impact on private businesses by excluding individuals under the age of 21 from working in all adult establishments including adult bookstores.

C. Government Sector Impact:

The bill may have a positive indeterminate impact on the Department of Corrections due to the criminal penalties created in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 562.13 and 787.30.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

\(^{28}\) U.S. Const., amend I.

\(^{29}\) Id.
B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.
The Committee on Criminal Justice (Yarborough) recommended the following:

**Senate Amendment**

Delete lines 164 - 169

and insert:

(1)(a) Except as provided in paragraph (b), an owner, manager, employee, or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work in an adult entertainment establishment, commits a misdemeanor of the first
degree, punishable as provided in s. 775.082, or s. 775.083.

(b) An owner, manager, employee, or contractor of an adult entertainment establishment, who knowingly employs, contracts with, contracts with another person to employ, or otherwise permits a person younger than 21 years of age to perform or work nude in an adult entertainment establishment, commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or 775.084.

(2) An owner, manager, employee, or contractor of an adult entertainment establishment, that permits a person to perform as an entertainer or work in any capacity shall carefully check the person’s driver licenses or an identification card issued by this state or another state of the United States, a passport, or a United States Uniformed Services identification card presented by the person and act in good faith and in reliance upon the representation and appearance of the person in the belief that the person is 21 years of age or older.

(3)(a) “Adult entertainment establishment” has the same meaning as in s. 847.001.

(b) “Nude” means the showing of the human male or female genitals, pubic area, or buttock with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state. A mother’s breastfeeding of her baby does not under any circumstance constitute nudity, irrespective of whether or not the nipple is covered during or incidental to feeding.
A bill to be entitled

An act relating to human trafficking; amending s.

562.13, F.S.; revising applicability; creating s.

787.30, F.S.; prohibiting the employment of persons
younger than 21 years of age in adult entertainment
establishments; providing criminal penalties;

providing an effective date.

WHEREAS, Florida is ranked third nationally for reported
cases of human trafficking abuses, many of which involved sex
 trafficking, and

WHEREAS, adult entertainment establishments are widely
recognized as being a significant part of the sex trafficking
network used by traffickers to coerce and facilitate men, women,
and children into performing sexual acts, which places the
employees of these establishments in direct and frequent contact
with the victims of human trafficking, and

WHEREAS, victims of sex trafficking are frequently
recruited to work as performers or employees in adult
entertainment establishments, and

WHEREAS, researchers have found that sex trafficking
victims are more likely to be trafficked by someone from within
her or his own community, and

WHEREAS, persons younger than 21 years are more likely to
still remain within and dependent on the community in which they
were raised, and

WHEREAS, research studies have identified the average age
at which a person in the United States enters the sex trade for
the first time is age 17, and

WHEREAS, sex trade at adult entertainment establishments is
a common occurrence in Florida, thereby subjecting performers at
these establishments to frequent propositions and enticements to
engage in sex trade actions and sex trafficking from customers,

as well as strip club employees, managers, and owners, and

WHEREAS, an understanding of history and human nature
reveals that there are sex criminals of various kinds who will
prey on the young and vulnerable, and

WHEREAS, restricting the employment of persons younger than
21 years of age at adult entertainment establishments furthers
an important state interest of protecting those vulnerable
individuals from sex trafficking, drug abuse, and other harm,

and

WHEREAS, many court opinions recognize that while
expressive activities are entitled to some First Amendment
protections at adult entertainment establishments, content
neutral restrictions or regulations intended to minimize the
secondary harmful effects of those businesses tend to be upheld,

and

WHEREAS, on November 16, 2018, the federal Fifth Circuit
Court of Appeals, in the case of Jane Doe I v. Landry, reported
at 909 F.3d 99 (5th Cir. 2018), upheld a Louisiana law that
prohibited establishments licensed to serve alcohol from
employing nearly nude entertainers younger than 21 years of age
on the grounds that the law furthered the state’s interests in
curbing human trafficking and prostitution, and

WHEREAS, the federal district court in Valadez v. Paxton,
553 F.Supp.3d 387 (W.D. Tex. 2021), denied a motion for a
preliminary injunction against the enforcement of Texas Senate

CODING: Words stricken are deletions; words underlined are additions.
Bill 315 prohibiting “all working relationships between 18-20-
year-olds and sexually-oriented businesses” because the
plaintiffs failed to show that the age restrictions were not
rationally related to the state’s interest in curbing human
trafficking, and
WHEREAS, the federal district court in DC Operating, LLC v.
Paxton, 586 F.Supp.3d 554 (W.D. Tex. 2022), denied a motion for
a preliminary injunction against Texas Senate Bill 315, at least
in part, because of the state’s evidence of the correlation
between raising the minimum employment age and reducing human
trafficking, and
WHEREAS, the federal district court in Wacko’s Too, Inc.,
v. City of Jacksonville, 658 F.Supp.3d 1086 (M.D. Fla. 2023),
upheld age restrictions in a City of Jacksonville ordinance
requiring performers at adult entertainment establishments to be
at least 21 years of age based, at least in part, on evidence
that there was a reasonable basis to believe that the age
restrictions would further the City’s interest in preventing
human and sex trafficking, NOW, THEREFORE,

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

Section 1. Section 562.13, Florida Statutes, is amended to
read:
562.13 Employment of minors or certain other persons by

(1) Unless otherwise provided in this section, it is
unlawful for any vendor licensed under the Beverage Law to
employ any person under 18 years of age.

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CODING: Words **stricken** are deletions; words _underlined_ are additions.
alleys in which alcoholic beverages are sold or consumed, so long as such minors do not participate in the sale, preparation, or service of such beverages.

(g) Persons under the age of 18 years employed by a bona fide dinner theater as defined in this paragraph, as long as their employment is limited to the services of an actor, actress, or musician. For the purposes of this paragraph, a dinner theater means a theater presenting consecutive productions playing no less than 3 weeks each in conjunction with dinner service on a regular basis. In addition, both events must occur in the same room, and the only advertised price of admission must include both the cost of the meal and the attendance at the performance.

(h) Persons under the age of 18 years who are employed in places of business licensed under s. 565.02(6), provided such persons do not participate in the sale, preparation, or service of alcoholic beverages.

However, a minor to whom this subsection otherwise applies may not be employed if the employment, whether as a professional entertainer or otherwise, involves nudity, as defined in s. 847.001, on the part of the minor and such nudity is intended as a form of adult entertainment.

(3)(a) It is unlawful for any vendor licensed under the beverage law to employ as a manager or person in charge or as a bartender any person:

1. Who has been convicted within the last past 5 years of any offense against the beverage laws of this state, the United States, or any other state.

2. Who has been convicted within the last past 5 years in this state or any other state or the United States of soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, or any felony violation of chapter 893 or the controlled substances act of any other state or the Federal Government.

3. Who has, in the last past 5 years, been convicted of any felony in this state, any other state, or the United States.

The term “conviction” shall include an adjudication of guilt on a plea of guilty or nolo contendere or forfeiture of a bond when such person is charged with a crime.

(b) This subsection shall not apply to any vendor licensed under the provisions of s. 563.02(1)(a) or s. 564.02(1)(a).

Section 2. Section 787.30, Florida Statutes, is created to read:

787.30 Employing persons under the age of 21 years in adult entertainment establishments prohibited.—

(1) A person may not knowingly employ any person younger than 21 years in any adult entertainment establishment, as defined in s. 847.001.

(2) A person who violates subsection (1) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. This act shall take effect July 1, 2024.