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|--------------|--|---|-----|--------------|-------------------------|----------------|
| Tab 1 | SB 688 by Collins ; Identical to H 00603 Canine Support Grant Program for First Responders | | | | | |
| Tab 2 | SB 716 by Martin ; Similar to H 01455 Sexual Offenses by Registered Sexual Offenders or Sexual Predators | | | | | |
| 554438 | A | S | RCS | CJ, Martin | Delete L.16 - 17: | 03/11 03:26 PM |
| Tab 3 | SB 710 by Osgood ; Identical to H 00397 Public Records/Crime Stoppers Organizations | | | | | |
| 694258 | A | S | RCS | CJ, Osgood | Delete L.351 - 358: | 03/11 03:26 PM |
| Tab 4 | SB 878 by Martin ; Identical to H 00091 Probation for Misdemeanor Offenses | | | | | |
| Tab 5 | SB 952 by Ingoglia (CO-INTRODUCERS) Yarborough ; Identical to H 06025 Restrictions on Firearms and Ammunition During Emergencies | | | | | |
| Tab 6 | SB 1022 by Wright ; Compare to H 01343 Public Nuisances | | | | | |
| 933252 | D | S | RCS | CJ, Wright | Delete everything after | 03/11 03:26 PM |
| Tab 7 | SB 1054 by Garcia ; Identical to H 00437 Tampering with an Electronic Monitoring Device | | | | | |
| Tab 8 | SB 1168 by Leek ; Similar to H 00663 Installation or Use of Tracking Devices or Applications | | | | | |
| Tab 9 | SB 1198 by DiCeglie ; Similar to H 01007 Fraudulent Use of Gift Cards | | | | | |
| 651406 | D | S | RCS | CJ, DiCeglie | Delete everything after | 03/11 03:21 PM |
| 644732 | AA | S | RCS | CJ, DiCeglie | Delete L.36: | 03/11 03:21 PM |

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Martin, Chair
Senator Smith, Vice Chair

MEETING DATE: Tuesday, March 11, 2025

TIME: 1:30—3:30 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Martin, Chair; Senator Smith, Vice Chair; Senators Bernard, Bradley, Garcia, Gruters, Pizzo, Simon, and Yarborough

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|---|----------------------------|
| 1 | SB 688 Collins (Identical H 603) | Canine Support Grant Program for First Responders; Citing this act as the "Canine Heroes for First Responders Act"; defining the term "State Fire Marshal"; requiring the Department of Law Enforcement and the State Fire Marshal to establish and jointly administer the grant program; providing support dog requirements, etc. CJ 03/11/2025 Temporarily Postponed ACJ FP | Temporarily Postponed |
| 2 | SB 716 Martin (Similar H 1455) | Sexual Offenses by Registered Sexual Offenders or Sexual Predators; Providing mandatory minimum terms of imprisonment for specified sexual offenses when committed by registered sexual offenders or sexual predators; providing requirements for such sentences, etc. CJ 03/11/2025 Fav/CS ACJ FP | Fav/CS Yeas 9 Nays 0 |
| 3 | SB 710 Osgood (Identical H 397) | Public Records/Crime Stoppers Organizations; Providing an exemption from public records requirements for specified personal identifying and location information of employees of crime stoppers organizations and the board members and volunteers of such crime stoppers organizations; providing for future legislative review and repeal of the exemption; providing for retroactive application; providing a statement of public necessity, etc. CJ 03/11/2025 Fav/CS GO RC | Fav/CS Yeas 9 Nays 0 |
| 4 | SB 878 Martin (Identical H 91) | Probation for Misdemeanor Offenses; Increasing probationary periods for certain misdemeanor offenses involving controlled or chemical substances, etc. CJ 03/11/2025 Favorable ACJ RC | Favorable Yeas 9 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Tuesday, March 11, 2025, 1:30—3:30 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---|--|----------------------------|
| 5 | SB 952 Ingoglia (Identical H 6025) | Restrictions on Firearms and Ammunition During Emergencies; Repealing provisions relating to specified automatic restrictions on firearms and ammunition during certain declared emergencies, etc. CJ 03/11/2025 Favorable CA RC | Favorable Yeas 9 Nays 0 |
| 6 | SB 1022 Wright (Compare H 1343) | Public Nuisances; Deleting a cap on the total amount of fines that may be imposed under specified provisions relating to places or premises declared to be public nuisances, etc. CJ 03/11/2025 Fav/CS CA RC | Fav/CS Yeas 9 Nays 0 |
| 7 | SB 1054 Garcia (Identical H 437) | Tampering with an Electronic Monitoring Device; Reclassifying the offense of tampering with an electronic monitoring device to provide graduated penalties; requiring termination of pretrial release of a person who tampers with such a device while on pretrial release, etc. CJ 03/11/2025 Favorable ACJ FP | Favorable Yeas 9 Nays 0 |
| 8 | SB 1168 Leek (Similar H 663) | Installation or Use of Tracking Devices or Applications; Providing enhanced penalties for a person who, in furtherance of a dangerous crime, knowingly installs or places a tracking device or tracking application on another person's property without consent or uses such a device or application to determine a person's or their property's location or movement without consent, etc. CJ 03/11/2025 Favorable ACJ RC | Favorable Yeas 9 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Tuesday, March 11, 2025, 1:30—3:30 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|--|-------------------------|
| 9 | SB 1198 DiCeglie (Similar H 1007) | Fraudulent Use of Gift Cards; Providing criminal penalties for persons who, with the intent to defraud, acquire or retain possession of certain gift cards or gift card redemption information or from altering or tampering with gift cards; providing criminal penalties for persons who, with the intent to defraud, use for certain purposes gift cards or gift card redemption information; providing enhanced criminal penalties if the value of such violation exceeds a specified amount, etc. CJ 03/11/2025 Fav/CS ACJ RC | Fav/CS Yeas 9 Nays 0 |

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 688

INTRODUCER: Senator Collins

SUBJECT: Canine Support Grant Program for First Responders

DATE: March 10, 2025

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Vaughan | Stokes | CJ | |
| 2. | | | ACJ | |
| 3. | | | FP | |

I. Summary:

SB 688 creates s. 943.701, F.S., the “Canine Heroes for First Responders Act” to create a canine support grant program for first responders. The program is to be administered jointly by the Florida Department of Law Enforcement (FDLE) and the Division of State Fire Marshall within the Department of Financial Services. The purpose of the program is to provide funding to law enforcement agencies and first responder agencies for the procurement, training and maintenance of support dogs, to enhance the mental health and wellness of personnel by providing support dogs that help reduce stress and improve emotional well-being in high-stress work environments.

The bill provides that grants awarded under the program must be used for specific purposes and the bill specifies the requirements for the support dogs, handlers, agency eligibility, the application process and oversight measures.

There is not a specific appropriation in the bill and the impact is indeterminate at this time. *See Section V. Fiscal Impact Statement.*

The bill takes effect on July 1, 2025.

II. Present Situation:

Post-traumatic stress (PTSD) is prevalent among law enforcement officers. Significant correlations have been found between years of service and traumatic events; traumatic events and post-traumatic stress symptoms; and traumatic events and worldview/perception of others.¹

¹ National Library of Medicine, *Police Stress and Deleterious Outcomes: Efforts Towards Improving Police Mental Health*, available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC8575544/> (last visited March 6, 2025).

Thirty-five percent of police officers have PTSD, compared to 6.8 percent of the general population.²

Utilizing support dogs to boost mental wellness and resiliency is a concept that was inspired by the military for recovering service members for animal assisted therapy.³ For almost two decades, specially trained dogs have helped combat veterans cope with depression, anxiety and PTSD.⁴ Therapy dogs are also used in victim assistance programs, courts and medical settings especially children's hospitals. The St. Lucie County Fire District has three canines as part of a behavioral health program to help firefighters and first responders after stressful situations.⁵

Post-Traumatic Stress Disorder (PTSD)

The American Psychiatric Association provides diagnostic criteria for mental disorders, including PTSD, in its *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5). PTSD is a psychiatric disorder that can occur in people who have experienced or witnessed a traumatic event such as a natural disaster, a serious accident, a terrorist act, war, combat, rape, or other violent personal assault.

A diagnosis of PTSD requires exposure to an upsetting traumatic event; however, exposure can be indirect rather than first hand. Symptoms fall into the following four categories: intrusion, avoidance, alterations in cognition and mood, and alterations in arousal and reactivity. In order to diagnose a person with PTSD, symptoms must last for more than a month and must cause significant distress or problems in the individual's daily functioning. Many individuals develop symptoms within three months of the trauma; but symptoms may appear later and often persist for months and sometimes years. Further, PTSD often occurs with other related conditions, such as depression, substance use, memory problems and other physical and mental health problems.⁶

One study noted that the onset of PTSD symptoms is usually in the first month after the traumatic event; however, in about 15 percent of the cases, there may be a delay of months or years before symptoms appear. At least a third of the individuals who initially develop PTSD remain symptomatic for three years or longer and are at risk of secondary problems such as substance abuse.⁷

² Stella Mental Health, *Police Trauma Syndrome-Mental Health of Law Enforcement*, available at <https://stellamentalth.com/resources/10111/police-trauma-syndrome--mental-health-of-law-enforcement> (last visited March 6, 2025).

³ United States Department of Defense, *Guidance on the Use of Service Dogs by Service Members 1300.27* available at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/130027p.pdf> (last visited March 5, 2025).

⁴ Police 1, *Healing paws: The rise of therapy dogs in law enforcement*, available at <https://www.police1.com/what-cops-want/healing-paws-the-rise-of-therapy-dogs-in-law-enforcement> (last visited March 5, 2025).

⁵ The Palm Beach Post, *Three therapy dogs training to help first responders at St. Lucie County Fire District*, Will Greenlee, available at <https://www.palmbeachpost.com/story/news/local/st-lucie-county/2025/02/13/therapy-dogs-help-first-responders-at-st-lucie-county-fire-district/78474843007/>, (last visited March 5, 2025).

⁶ American Psychiatric Association, *What is Posttraumatic Stress Disorder?* available at <https://www.psychiatry.org/patients-families/ptsd/what-is-ptsd> (last visited March 5, 2025).

⁷ National Collaborating Centre for Mental Health (UK), *Post-Traumatic Stress Disorder: The Management of PTSD in Adults and Children in Primary and Secondary Care*, available at <https://www.ncbi.nlm.nih.gov/books/NBK56506/> (last visited March 5, 2025).

Emotional Support Animals

According to the U.S. Department of Housing and Urban Development (HUD), an emotional support animal is any animal that provides emotional support alleviating one or more symptoms or effects of a person's disability. Emotional support animals (ESA) provide companionship, relieve loneliness, and sometimes help with depression, anxiety, and certain phobias, but do not have special training to perform tasks that assist people with disabilities.⁸ Unlike a service animal, an ESA is not trained to work or perform certain tasks, but provides emotional support alleviating one or more symptoms or effects of a person's disability.⁹ The most common type of ESA is a dog; however, other species of animals may be an ESA. ESAs provide therapeutic support to relieve symptoms of psychiatric disabilities, including depression, anxiety, and post-traumatic stress disorder.¹⁰

III. Effect of Proposed Changes:

The bill creates s. 943.701, F.S., the "Canine Heroes for First Responders Act" to create a canine support grant program for first responders. The program is to be administered jointly by the Florida Department of Law Enforcement (FDLE) and the Division of State Fire Marshall within the Department of Financial Services. The purpose of the program is to provide funding to law enforcement agencies and first responder agencies for the procurement, training and maintenance of support dogs, to enhance the mental health and wellness of personnel by providing support dogs that help reduce stress and improve emotional well-being in high-stress work environments.

The grants awarded under this section must be used to do all of the following:

- Procure support dogs that meet the specific requirements.
- Train handlers and establish effective support dog teams.
- Maintain the health, well-being, and training of the support dogs.
- Develop and implement law enforcement agency policies and first responder agency policies for the deployment and management of support dog teams.
- Support the establishment of training standards for handlers and support dog teams consistent with established best practices, with up to 10 percent of the awarded funds allocated to provide training on these standards.

A law enforcement agency or first responder agency applying for grants must meet eligibility requirements as follows:

- Require all support dog teams to pass the American Kennel Club Urban Canine Good Citizen Public Access Test or an equivalent standardized evaluation.
- Adopt and implement a policy indicating that support dogs are working animals specifically designated for mental health and wellness purposes
- Designate a program coordinator to oversee the implementation and evaluation of the support dog program.

⁸ ADA National Network, *Service Animal or Emotional Support Animal: What's the Difference?*, available at <https://adata.org/service-animal-resource-hub/differences> (last visited March 5, 2025).

⁹ U.S. Department of Housing and Urban Development, *FEHO Notice: FHEO-2013-01*, (available at https://archives.hud.gov/news/2013/servanimals_ntcfheo2013-01.pdf (last visited March 5, 2025).

¹⁰ Brazelon Center for Mental Health Law, *Right to Emotional Support Animals in "No Pet" Housing*, available at https://archives.hud.gov/news/2013/servanimals_ntcfheo2013-01.pdf, (last visited March 5, 2025).

- Submit an annual report to the department and the State Fire Marshal detailing the use, outcomes, and costs associated with the support dog program.
- Provide appropriate facilities and resources for the care and deployment of the support dogs.
- Develop training standards for handlers and support dog teams, consistent with established best practices and in collaboration with the department and the State Fire Marshall.

A law enforcement agency or first responder agency applying for a grant must submit an application that includes several key components. Applications should include a description of the proposed support dog program including a justification of need for the support dog program in the agency. Additionally, the application should include a budget for the use of grant funds, as well as a detailed allocation of up to 10 percent for training initiatives. Agencies must include policies and procedures for maintaining the health, welfare, and effectiveness of support dog teams.

A support dog procured under the grant program must meet all of the following requirements:

- Be spayed or neutered.
- Be medically cleared for support work by a licensed veterinarian, including up-to-date vaccinations.
- Exhibit a temperament conducive to support work, with no aggressive or overly protective behaviors.
- Demonstrate aptitude for support work, including being friendly, approachable, and people oriented.
- Meet height and weight standards outlined by the grant program, and measure between 20 and 30 inches at the withers, ensuring the dogs are large enough for easy interaction with people but not so large as to present kenneling and transportation issues.
- Have never received any form of aggression training at any stage of their lives.
- Demonstrate social behavior and trainability to a high degree of obedience control, as evidenced by having passed the American Kennel Club Canine Good Citizen test or by having been trained to an equivalent level.
- Successfully complete an evaluation by a professional training organization.
- Be at least one year of age to ensure sufficient maturity for support work.

Support dog handlers must meet requirements as outlined in the bill including:

- Be a full-time employee of the law enforcement agency or first responder agency receiving the grant.
- Complete certified handler training for working with support dogs, including public access and emotional support protocols.
- Demonstrate the ability to manage and care for a support dog in the workplace.
- Pass a background check confirming suitability to work in mental health and wellness roles.
- Commit to ongoing training and annual certification as a support dog handler.

The FDLE and the State Fire Marshal will monitor grantee compliance through periodic reviews and site visits. Additionally, grant recipients must submit an annual report detailing the outcomes and effectiveness of the support dog program. This report should include metrics such as employee satisfaction, reduction in stress levels, and participation rates of first responders.

The bill takes effect on July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is not a specific appropriation in the bill and the impact is indeterminate at this time.¹¹

VI. Technical Deficiencies:

None.

¹¹ FDLE Agency Bill Analysis, *SB 688-Canine Support for First Responders* (on file with Senate Criminal Justice Committee)

VII. Related Issues:

None.

VIII. Statutes Affected:

943.701 This bill creates the following sections of the Florida Statutes: 943.701, 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 Collins

14-00425-25

2025688

A bill to be entitled

An act relating to the canine support grant program for first responders; providing a short title; creating s. 943.701, F.S.; providing legislative findings and a purpose; defining the term "State Fire Marshal"; requiring the Department of Law Enforcement and the State Fire Marshal to establish and jointly administer the grant program; providing requirements for the grants awarded under the program; providing support dog requirements; providing handler requirements; providing agency eligibility requirements; providing application requirements; providing for oversight and annual reporting requirements; providing an effective date.

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

Section 1. This act may be cited as the "Canine Heroes for First Responders Act."

Section 2. Section 943.701, Florida Statutes, is created to read:

943.701 Canine support grant program for first responders.—

(1) LEGISLATIVE FINDINGS AND PURPOSE.—

(a) The Legislature finds that:

1. Law enforcement officers and first responders experience significant mental health challenges due to occupational stress;

2. Support dogs have been demonstrated to reduce stress, improve emotional well-being, and support mental health in high-stress work environments; and

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3. A standardized approach to support dog acquisition, training, and use will ensure the effectiveness and safety of support dog programs.

(b) The purpose of this section is to establish a grant program, administered jointly by the Department of Law Enforcement and the Division of State Fire Marshal within the Department of Financial Services, to provide funding to law enforcement agencies and first responder agencies for the procurement, training, and maintenance of support dogs to enhance the mental health and wellness of their personnel.

(2) DEFINITION.—As used in this section, the term "State Fire Marshal" means the Division of State Fire Marshal within the Department of Financial Services.

(3) GRANT PROGRAM ESTABLISHMENT.—

(a) The department and the State Fire Marshal shall jointly establish and administer a competitive grant program to provide funding to law enforcement agencies and first responder agencies for the procurement, training, and maintenance of support dogs.

(b) Grants awarded under this section must be used to do all of the following:

1. Procure support dogs that meet the requirements in subsection (4).

2. Train handlers and establish effective support dog teams.

3. Maintain the health, well-being, and training of the support dogs.

4. Develop and implement law enforcement agency policies and first responder agency policies for the deployment and management of support dog teams.

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5. Support the establishment of training standards for handlers and support dog teams consistent with established best practices, with up to 10 percent of the awarded funds allocated to provide training on these standards.

(4) SUPPORT DOG REQUIREMENTS.—A support dog procured under the grant program must meet all of the following requirements:

(a) Be spayed or neutered.

(b) Be medically cleared for support work by a licensed veterinarian, including up-to-date vaccinations.

(c) Exhibit a temperament conducive to support work, with no aggressive or overly protective behaviors.

(d) Demonstrate aptitude for support work, including being friendly, approachable, and people oriented.

(e) Meet height and weight standards outlined by the grant program, and measure between 20 and 30 inches at the withers, ensuring the dogs are large enough for easy interaction with people but not so large as to present kenneling and transportation issues.

(f) Have never received any form of aggression training at any stage of their lives.

(g) Demonstrate social behavior and trainability to a high degree of obedience control, as evidenced by having passed the American Kennel Club Canine Good Citizen test or by having been trained to an equivalent level.

(h) Successfully complete an evaluation by a professional training organization.

(i) Be at least 1 year of age to ensure sufficient maturity for support work.

(5) HANDLER REQUIREMENTS.—A handler for support dogs under

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the grant program must meet all of the following requirements:

(a) Be a full-time employee of the law enforcement agency or first responder agency receiving the grant.

(b) Complete certified handler training for working with support dogs, including public access and emotional support protocols.

(c) Demonstrate the ability to manage and care for a support dog in the workplace.

(d) Pass a background check confirming suitability to work in mental health and wellness roles.

(e) Commit to ongoing training and annual certification as a support dog handler.

(6) AGENCY ELIGIBILITY REQUIREMENTS.—A law enforcement agency or first responder agency applying for a grant under this section must meet all of the following requirements:

(a) Require all support dog teams to pass the American Kennel Club Urban Canine Good Citizen Public Access Test or an equivalent standardized evaluation.

(b) Adopt and implement a policy indicating that support dogs are working animals specifically designated for mental health and wellness purposes.

(c) Designate a program coordinator to oversee the implementation and evaluation of the support dog program.

(d) Submit an annual report to the department and the State Fire Marshal detailing the use, outcomes, and costs associated with the support dog program.

(e) Provide appropriate facilities and resources for the care and deployment of the support dogs.

(f) Develop training standards for handlers and support dog

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117 teams, consistent with established best practices and in
118 collaboration with the department and the State Fire Marshal.

119 (7) APPLICATION REQUIREMENTS.—A law enforcement agency or
120 first responder agency that applies for a grant must submit an
121 application that includes all of the following:

122 (a) A description of the proposed support dog program.

123 (b) A justification of need for the support dog program in
124 the agency.

125 (c) A budget for the use of grant funds, including a
126 detailed allocation of up to 10 percent for training
127 initiatives.

128 (d) Policies and procedures for maintaining the health,
129 welfare, and effectiveness of support dog teams.

130 (8) OVERSIGHT AND REPORTS.—

131 (a) The department and the State Fire Marshal shall jointly
132 monitor grantee compliance with the requirements of this
133 section, including periodic reviews and site visits.

134 (b) A grant recipient shall submit an annual report to the
135 department and the State Fire Marshal detailing the outcomes and
136 effectiveness of the support dog program, including, but not
137 limited to, metrics such as employee satisfaction, whether there
138 was any reduction in stress levels, and the participation rate
139 of first responders of an eligible agency.

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



The Florida Senate

Committee Agenda Request

To: Senator Jonathan Martin, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: February 26, 2025

I respectfully request that **Senate Bill #688**, relating to Canine Support Grant Program for First Responders, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Jay Collins", is written over a horizontal line.

Senator Jay Collins
Florida Senate, District 14



2025 FDLE LEGISLATIVE BILL ANALYSIS



BILL INFORMATION

| | |
|------------------------|---|
| BILL NUMBER: | SB 688 |
| BILL TITLE: | Canine Support Grant Program for First Responders |
| BILL SPONSOR: | Senator Collins |
| EFFECTIVE DATE: | July 1, 2025 |

COMMITTEES OF REFERENCE

| |
|--|
| 1) Senate Criminal Justice |
| 2) Senate Appropriations Committee on Criminal and Civil Justice |
| 3) Senate Fiscal Policy |
| 4) |
| 5) |

PREVIOUS LEGISLATION

| | |
|---------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |
| YEAR: | |
| LAST ACTION: | |

CURRENT COMMITTEE

Senate Criminal Justice

SIMILAR BILLS

| | |
|---------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |

IDENTICAL BILLS

| | |
|---------------------|----------------|
| BILL NUMBER: | HB 603 |
| SPONSOR: | Rep. Benarroch |

Is this bill part of an agency package?

No

BILL ANALYSIS INFORMATION

| | |
|-------------------------------|---|
| DATE OF ANALYSIS: | March 3, 2025 |
| LEAD AGENCY ANALYST: | Cody Menacof |
| ADDITIONAL ANALYST(S): | Tennille Robinette, Kay Buzick, Lucy Saunders, Joshua Gray, Becky Bezemek |
| LEGAL ANALYST: | Erin Ambrose |
| FISCAL ANALYST: | Elizabeth Martin |

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill is titled as the “Canine Heroes for First Responders Act”, which creates s. 943.701, F.S., to establish the canine support grant program for first responders. The bill requires the Florida Department of Law Enforcement (FDLE) and the State Fire Marshal to jointly create and oversee the grant program. The bill provides requirements for grant applications and awards. The bill provides for program oversight and reporting. The bill takes effect July 1, 2025.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:** Currently, FDLE manages the Care for Retired Police Dogs program which provides funding for veterinary care for retired law enforcement dogs. Florida does not have a grant program for first responder support dogs.

2. **EFFECT OF THE BILL:**

Section 1: The bill is titled the “Canine Heroes for First Responders Act.”

Section 2: This bill creates s. 943.701, F.S., to establish the canine support grant program for first responders to provide financial assistance to law enforcement and first responder agencies for eligible costs associated with implementing and maintaining a support dog program. The bill requires FDLE and the State Fire Marshal to jointly administer the program. The bill outlines application requirements and requires grant recipient selection to be done through a competitive process. The bill provides handler, support dog, and agency requirements, including a background check for handlers. The bill requires FDLE and the State Fire Marshal to jointly monitor grantee compliance, including periodic reviews and site visits. The bill requires grant recipients to submit an annual report to FDLE and the State Fire Marshal containing specified information and metrics.

Section 3: The bill takes effect July 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: | |
| 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: | Requires grant recipients to submit annual reports to FDLE and the State Fire Marshal detailing outcomes and effectiveness of the support dog program. |
| Date Due: | The bill does not provide a due date or timeframe. |
| Bill Section Number: | Section 2 (8)(b) Lines 134-139 |

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

| | |
|-------------------------|--|
| Board: | |
| Board Purpose: | |
| Who Appointments: | |
| Appointee Term: | |
| Changes: | |
| Bill Section Number(s): | |

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

| | |
|---|---|
| Revenues: | Program will increase state financial assistance grant revenues for recipient local agencies. |
| Expenditures: | |
| Does the legislation increase local taxes or fees? | No |
| If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase? | N/A |

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

| | |
|--|---|
| Revenues: | |
| Expenditures: | The bill requires periodic site visits to recipients to monitor compliance which will result in travel costs paid by the state. Without an appropriation or estimate of how many recipients the impact is difficult to predict. |
| Does the legislation contain a State Government appropriation? | |
| If yes, was this appropriated last year? | |

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

| | |
|---------------|--|
| Revenues: | |
| Expenditures: | |
| Other: | |

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

| | |
|---|--|
| Does the bill increase taxes, fees or fines? | |
| Does the bill decrease taxes, fees or fines? | |
| What is the impact of the increase or decrease? | |
| Bill Section Number: | |

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

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

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

| | |
|--|-------------------------|
| If yes, describe the anticipated impact including any fiscal impact. | See Additional Comments |
|--|-------------------------|

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

| | |
|--|--|
| Issues/concerns/comments and recommended action: | FDLE OGC is concerned about the reporting requirements, specifically metrics related to reduction in stress levels and employee satisfaction. These are ambiguous and difficult to capture. FDLE would respectfully request additional clarification about how to evaluate these metrics. See lines 134-139 for reference. |
|--|--|

ADDITIONAL COMMENTS

- FDLE recommends the administration of this program reside in either FDLE or the State Fire Marshal. Joint grant administration has never been done as proposed in the bill. FDLE currently administers the Drone Replacement Program which provides financial assistance to fire departments, EMS, and other first responders.
- Line 45: FDLE recommends removing "competitive" to allow for first come first serve based on the date that complete application is received.
- Lines 91-93 and 98-99 reference a certified handler training. FDLE is unaware of any state or federal certification standard for emotional support animals.
- Lines 96-97: As written, it is unclear how the term "background check" is defined. FDLE believes the intent is for the handler to undergo a psychological evaluation, not a criminal background check, to ensure they are suitable for a role in mental health and wellness. However, if the intent of the bill is to require handlers to undergo a fingerprint-based, state and national criminal history record check (i.e., Level 2 background check), it should be specified in statute. It should be noted that criminal justice employees undergo a fingerprint-based, state and national criminal history record check (i.e., Level 2 background) pursuant to s. 943.13, F.S., as a condition of employment or appointment. However, not all first responders are required to do so.

- Lines 100-118 outline eligibility requirements for agencies applying for the canine support grant program; however, lines 119-129 do not require applicants to provide proof of or attest to meeting such eligibility requirements. FDLE recommends the bill be amended to require applicants to provide such proof or attestation.
- The bill does not contain a grant appropriation. Therefore, FDLE cannot assess the workload impact.

3/11/2024

Meeting Date

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB688

Bill Number or Topic

Amendment Barcode (if applicable)

Name

JACK CORRY

Phone

850-893-0995

Address

730 E. Pal Ave

Email

JACKCORRY@MCONSTRUCTION.COM

Street

Tallah

State

FL

Zip

32309

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:



In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

The Humane Society of Sarasota County

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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: CS/SB 716

INTRODUCER: Criminal Justice Committee and Senator Martin

SUBJECT: Sexual Offenses by Registered Sexual Offenders or Sexual Predators

DATE: March 11, 2025

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|---------------|
| 1. | Vaughan | Stokes | CJ | Fav/CS |
| 2. | | | ACJ | |
| 3. | | | FP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 716 creates s. 794.0116, F.S., to provide that certain sexual offenses will carry mandatory minimum sentences if committed by a registered sexual offender or sexual predator. The bill also sets forth that offenders sentenced under this section are not eligible for gain-time or any other early release options before serving their minimum sentence.

A person who was previously convicted or had adjudication withheld of a crime listed in ss. 943.0435 or 775.21, F.S., and subsequently commit a violation of any of the following shall be sentenced to a mandatory minimum term of imprisonment of 10 years:

- Luring or enticing a child,¹
- Lewd and Lascivious battery or molestation upon or in the presence of persons less than 16 years of age,²
- Lewd and Lascivious battery or molestation upon an elderly or disabled person,³
- Sexual performance by a child (victims older than 12 years of age),⁴
- Selling or buying of minors,⁵
- Sexual battery.⁶

¹ Section 787.025(2)(c), F.S.

² Section 800.04(4) or (5), F.S.

³ Section 825.1025(2) or (3), F.S.

⁴ Section 827.071, F.S.

⁵ Section 847.0145, F.S.

⁶ Section 794.011, excluding 794.011(10), F.S.

Sexual offenders and sexual predators who were previously convicted or had adjudication withheld of a crime listed in ss. 943.0435 or 775.21, F.S., and subsequently are convicted of a new crime of sexual performance by a child (victims 12 years of age or younger) shall be sentenced to a minimum mandatory term of imprisonment of 20 years.⁷

The bill specifies that if the mandatory minimum term of imprisonment imposed exceeds or is less than the maximum sentence authorized under ss. 775.082, 775.084, or ch. 921, F.S., the mandatory minimum term of imprisonment must be imposed.

The bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections. *See Section V. Fiscal Impact Statement.*

The bill takes effect on October 1, 2025.

II. Present Situation:

Sexual Predators and Offenders

The Florida Department of Law Enforcement (FDLE) is the state agency responsible for Florida's sex offender registry. The information contained in the sex offender registry is reported directly to FDLE by the Florida Department of Corrections (DOC), the Florida Department of Highway Safety and Motor Vehicles, and law enforcement officials.⁸ Florida's sexual offender and sexual predator registration laws were implemented in 1993 and 1997.⁹ The sex offender registry database is a statewide system that collects and disseminates sex offender information to the public and law enforcement agencies through the Sexual Offender Predator System (SOPS). The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.¹⁰

Florida's Sexual Predator and Sexual Offender Registration Laws

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.¹¹ The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. The laws span several different chapters and numerous statutes¹² and are implemented through the combined efforts of the FDLE, all Florida sheriffs, the DOC, the Department of Juvenile Justice, the Department of Highway Safety and Motor Vehicles, and the Department of Children and Families.

⁷ Section 827.071, F.S.

⁸ Florida Department of Law Enforcement, *Sexual Offender and Predator System*, available at <https://offender.fdle.state.fl.us/offender/sops/search.jsf>, (last visited on February 20, 2025).

⁹ Sections 775.21 and 943.0435, F.S.

¹⁰ *State v. McKenzie*, 331 So.3d 666 (Fla. 2021).

¹¹ Sections 775.21 and 943.0435, F.S.

¹² Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

A person is designated as a sexual predator by a court if the person:¹³

- Has been convicted of a qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;¹⁴
- Has been convicted of a qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.¹⁵

A person is classified as a sexual offender if the person:¹⁶

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.¹⁷

Sex Offender Recidivism

Sex crimes have historically been difficult to measure due to the nature of the crimes, underreporting and timeframes surrounding the crimes. These factors contribute to the complex nature of measuring offenses and rates of recidivism. Sexual recidivism rates vary widely, ranging from 5% after three years to 24% after 15 years.¹⁸

The Department of Corrections defines recidivism as a return to prison, as the result of either a new conviction or a violation of post-prison supervision, within three years of their prison release date. 2024 Recidivism Report reflects the following for inmates incarcerated with the primary offense of a sexual/lewd behavior:

- 11.4% of inmates reoffend within 12 months of release,
- 8.5% of inmates reoffend within 24 months of release,
- 6.3% of inmates reoffend within 36 months of release.¹⁹

¹³ Section 775.21, F.S.

¹⁴ Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

¹⁵ Sections 775.21(4) and (5), F.S., The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

¹⁶ Section 943.0435, F.S.

¹⁷ Sections 943.0435(1)(h) and 985.4815(1)(h), F.S.; Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the DOC's supervision, also define the term "sexual offender."

¹⁸ U.S. Department of Justice, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking, *Chapter 5: Adult Sex Offender Recidivism*, available at <https://smart.ojp.gov/somapi/chapter-5-adult-sex-offender-recidivism> (last visited February 19, 2025).

¹⁹ Florida Department of Corrections, *Florida Prison Recidivism Report: Releases from 2009 to 2021*, available at <https://fdc-media.ccplatform.net/content/download/25944/file/FDC%20Recidivism%20Report%202019%20Cohort%20July%202024.pdf> (last visited February 19, 2025).

Jessica Lunsford Act

The Jessica Lunsford Act²⁰ was enacted in Florida in 2005 following the tragic abduction, rape, and murder of nine-year-old Jessica Lunsford by a repeat sex offender. Individuals convicted of lewd or lascivious molestation of a child under 12 years old face a mandatory minimum sentence of 25 years in prison,²¹ with the exception of a life felony committed on or after September 1, 2005 which is punishable by life imprisonment or at least 25 years in prison followed by probation or community control for the offenders natural life.²²

Sex Offenses and Crimes Against Children***Luring or Enticing a Child***

Section 787.025(2)(c), F.S., provides that it is a third degree felony to commit the offense of luring or enticing a child, after having been previously convicted of a specified offense. A person 18 years of age or older commits such offense if he or she:

- Was previously been convicted of a sexual battery offense under ch. 794, F.S., or a lewd or lascivious offense under s. 800.04, F.S., or s.847.0135(5), F.S., or a violation of a similar law of another jurisdiction; and
- Intentionally lures or entices, or attempt to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose.

The Florida Supreme Court has interpreted “for other than a lawful purpose” as “for an ‘illegal’ purpose, i.e., with intent to violate Florida law by committing a crime.”²³

Lewd and Lascivious Battery on an Elderly or Disabled Person

A person commits a lewd and lascivious battery upon an elderly person or disabled person, when he or she encourages, forces, or entices an elderly person or disabled person to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity, when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent.²⁴

Sexual activity, as it relates to lewd and lascivious battery on an elderly or disabled person, means the oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object.²⁵

Lewd or Lascivious Molestation on Persons Under the Age of 16

A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces

²⁰ Chapter 2005-28, L.O.F.

²¹ Section 800.04(5)(b), F.S.

²² Section 775.082(3)(a)(4), F.S.

²³ *State v. Brake*, 796 So. 2d at 529, (Fla. 2001). While the Court in *Brake* upheld the constitutionality of the statute on a vagueness challenge to the “other than a lawful purpose” language, the court struck down a provision of the law that provides that luring a child “without the consent of the child’s parent or legal guardian shall be prima facie evidence of other than a lawful purpose.”

²⁴ Section 825.1025(2), F.S. A lewd or lascivious battery on an elderly person or disabled person is a second degree felony.

²⁵ Section 825.1025(1), F.S. Sexual activity does not include an act done for a bona fide medical purpose.

or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.²⁶

The terms “lewd” and “lascivious” are not defined in statute, but are commonly understood by the courts. The Supreme Court of Florida has found that these terms are in common use, and the plain meaning of the words gives notice as to what conduct is prohibited. The court further stated that the words lewd and lascivious “are synonyms and connote wicked, lustful, unchaste, licentious, or sensual design on the part of the perpetrator.”²⁷

An offender 18 years of age or older who commits lewd or lascivious molestation against a victim:

- Less than 12 years of age, commits a life felony.²⁸
- Twelve years of age or older but less than 16 years of age, commits a second degree felony.²⁹
- Twelve years of age or older but less than 16 years of age and the person was previously convicted of specified offenses,³⁰ commits a first degree felony.³¹

An offender less than 18 years of age who commits lewd or lascivious molestation against a victim:

- Less than 12 years of age, commits a second degree felony.³²
- Twelve years of age or older but less than 16 years of age, commits a third degree felony.³³

²⁶ Section 800.04(5)(a), F.S.

²⁷ *Chesebrough v. State*, 255 So. 2d 675, 677 (Fla. 1971).

²⁸ Section 800.04(5)(b), F.S. A life felony is generally punishable by life imprisonment or by a term of imprisonment not exceeding 40 years. Section 775.082, F.S.

²⁹ Section 800.04(5)(c)2., F.S. A second degree felony is punishable by up to 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

³⁰ Section 800.04(5)(e)1.-7., F.S., provides the following specified offenses: Kidnapping under s. 787.01(2) F.S., or False Imprisonment under s. 787.02(2), F.S., when the violation involved a victim who was a minor and, in the course of committing the violation, the defendant committed against the minor a sexual battery under ch. 794, F.S., or a lewd act under s. 800.04, F.S., or a computer pornography transmission under s. 847.0135(5), F.S.; Kidnapping under s. 787.01(3)(a)2. or 3., F.S., and in the course of committing the kidnapping committed a sexual battery under ch. 794, F.S., or a lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct or lewd or lascivious exhibition under s. 800.04, F.S., or a computer pornography transmission under s. 847.0135(5), F.S.; False Imprisonment under s. 787.02(3)(a)2. or 3., F.S., and in the course of committing the false imprisonment committed a sexual battery under ch. 794, F.S., or a lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct or lewd or lascivious exhibition under s. 800.04, F.S., or a computer pornography transmission under s. 847.0135(5), F.S.; Sexual Battery under ch. 794, F.S., excluding s. 794.011(10), F.S.; Lewd or Lascivious offenses committed against or in the presence of an elderly or disabled person under s. 825.1025, F.S.; Computer Pornography Transmission under s. 847.0135(5), F.S.; or Lewd or Lascivious offenses under s. 800.04, F.S.

³¹ Section 800.04(5)(e), F.S. A first degree felony is generally punishable by up to 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S. However, when specifically provided by statute, a first degree felony may be punished by imprisonment for a terms of years not exceeding life imprisonment. Section 775.082, F.S.

³² Section 800.04(5)(c)1., F.S.

³³ Section 800.04(5)(d), F.S. A third degree felony is punishable by up to five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

Sexual Performance by a Child

Section 827.071, F.S., provides that it is a second degree felony to employ, authorize, or induce a child younger than 18 years of age to engage in a sexual performance,³⁴ or for a parent, legal guardian, or custodian of such child to consent to the participation by such child in a sexual performance.³⁵ It is also a second degree felony for any person to produce, direct, or promote any performance which includes sexual conduct by a child less than 18 years of age.³⁶

A person may not possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any sexual conduct by a child.³⁷

Additionally, it is a third degree felony for a person to knowingly possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include any sexual conduct by a child.³⁸

Selling or Buying of Minors

Section 847.0145, F.S. provides that selling or buying of minors is when any parent, legal guardian, or other person having custody or control of a minor sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, either with knowledge that the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct. Intending to promote the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct or rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct.³⁹ Whoever sells, transfers or obtains custody or control of a minor commits the first degree felony.⁴⁰

Sexual Battery

Chapter 794, of the Florida Statutes contains numerous sections of law relating to sexual battery. Section 794.011, F.S., defines the crime of “sexual battery” to mean oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.⁴¹

³⁴ Section 827.071(1)(i), F.S., defines “sexual performance” to mean any performance or part therefor which includes sexual conduct by a child less than 18 years of age. Additionally, s. 827.071(1)(c), F.S., defines “performance” to mean any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

³⁵ Section 827.071(2), F.S.

³⁶ Section 827.071(3), F.S.

³⁷ Section 827.071(4), F.S.

³⁸ Section 827.071(5), F.S.

³⁹ Section 847.0145, F.S.

⁴⁰ Section 847.0145(1) and (2), F.S.

⁴¹ Section 794.011(1)(j), F.S.

Sexual battery is a capital felony⁴² or life felony⁴³ when:

- A person 18 years of age or older commits a sexual battery on, or in an attempt to commit a sexual battery injures the sexual organs of, a person less than 12 years of age.⁴⁴
- A person less than 18 years of age commits sexual battery on, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age.⁴⁵
- A person commits sexual battery on a person 12 years of age or older, without that person's consent, and in the process thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury.⁴⁶
- Without regard to the willingness or consent of the victim, a person who is in a position of familial or custodial authority to a person less than 18 years of age engages in any act, which constitutes sexual battery, with that person while the person is less than 12 years of age, or in an attempt to commit sexual battery injures the sexual organs of the person.⁴⁷

Sexual battery is a first degree felony, punishable by a term of years not exceeding life,⁴⁸ when:

- A person 18 years of age or older commits sexual battery on a person 12 years of age or older, but younger than 18 years of age without that person's consent, under specified circumstances.^{49,50}
- A person commits sexual battery on a person 12 years of age or older without that person's consent, under specified circumstances, and that person was previously convicted of specified crimes.⁵¹

⁴² A capital felony is generally punishable by death or life imprisonment. Section 775.082, F.S. The courts have held that the death penalty may not be imposed for sex offenses. In Florida, the only crime for which the death penalty may be imposed is murder in the first degree. *See Rowe v. State*, 417 So. 2d 981, 982 (Fla. 1982). *See also Buford v. State*, 403 So. 2d 943, 951 (Fla. 1981)(holding that the Eighth Amendment prohibits death penalty for rape or sexual battery, even of a child).

⁴³ A life felony is generally punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment and a fine not exceeding \$15,000. Sections 775.082 and 775.083, F.S.

⁴⁴ Section 794.011(2)(a), F.S.

⁴⁵ Section 794.011(2)(b), F.S.

⁴⁶ Section 794.011(3), F.S.

⁴⁷ Section 794.011(8)(c), F.S.

⁴⁸ A first degree felony may be punishable by a term of years not exceeding life imprisonment when specifically provided by statute and a fine not exceeding \$10,000. Sections 775.082 and 775.083 F.S.

⁴⁹ Section 794.011(4)(a), F.S.

⁵⁰ Section 794.011(4)(e)1.-7., F.S., provides the following circumstances apply to certain crimes of sexual battery: the victim is physically helpless to resist; the offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat; the offender coerces the victim to submit by threatening to retaliate against the victim or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future; the offender, without prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance that mentally or physically incapacitates the victim; the victim is mentally defective, and the offender has reason to believe this or has actual knowledge of this fact; the victim is physically incapacitated, the offender is a law enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), who is certified under s. 943.1395 or is an elected official exempt from such certification by virtue of s. 943.253, or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.

⁵¹ Section 794.011(4)(d), F.S. Specified crimes include: s. 787.01(2), F.S., relating to kidnapping, or s. 787.02(2), F.S., relating to false imprisonment, when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5), F.S.; s. 787.01(3)(a)2. or 3., F.S., relating to kidnapping; s. 787.02(3)(a)2. or 3., F.S., relating to false

- Without regard to the willingness or consent of the victim, a person who is in a position of familial or custodial authority to a person less than 18 years of age engages in any act, which constitutes sexual battery, with that person while the person is 12 years of age or older but younger than 18 years of age.⁵²

Sexual battery is a first degree felony, punishable by a term of imprisonment not exceeding 30 years,⁵³ when:

- A person 18 years of age or older commits sexual battery on a person 18 years of age or older without that person's consent, under specified circumstances.^{54, 55}
- A person younger than 18 years of age commits sexual battery on a person 12 years of age or older without that person's consent, under specified circumstances.^{56, 57}
- A person 18 years of age or older commits sexual battery on a person 12 years of age or older but younger than 18 years of age, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury.⁵⁸
- A person commits sexual battery on a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury and the person was previously convicted of specified crimes.⁵⁹

Sexual battery is a second degree felony⁶⁰ when:

- A person 18 years of age or older commits sexual battery on a person 18 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury.⁶¹
- A person younger than 18 years of age commits sexual battery on a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury.⁶²

imprisonment; s. 800.04, F.S., relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age; s. 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person; s. 847.0135(5), F.S., relating to computer pornography; or ch. 794, F.S., relating to sexual battery, except s. 794.011(10), F.S., which criminalizes false allegations against specified persons.

⁵² Section 794.011(8)(b), F.S.

⁵³ The maximum term of imprisonment for a first degree felony is generally 30 years imprisonment and a fine not exceeding \$10,000. Sections 775.082 and 775.083 F.S.

⁵⁴ See note 50.

⁵⁵ Section 794.011(4)(b), F.S.

⁵⁶ See note 50.

⁵⁷ Section 794.011(4)(c), F.S.

⁵⁸ Section 794.011(5)(a), F.S.

⁵⁹ Section 794.011(5)(d), F.S. Specified crimes include: s. 787.01(2), F.S., relating to kidnapping, or s. 787.02(2), F.S., relating to false imprisonment, when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5), F.S.; s. 787.01(3)(a)2. or 3., F.S., relating to kidnapping; s. 787.02(3)(a)2. or 3., F.S., relating to false imprisonment; s. 800.04, F.S., relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age; s. 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person; s. 847.0135(5), F.S., relating to computer pornography; or ch. 794, F.S., relating to sexual battery, except s. 794.011(10), F.S., which criminalizes false allegations against specified persons.

⁶⁰ The maximum term of imprisonment for a second degree felony is 15 years imprisonment and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

⁶¹ Section 794.011(5)(b), F.S.

⁶² Section 794.011(5)(c), F.S.

Sexual battery is a third degree felony⁶³ when:

- Without regard to the willingness or consent of the victim, a person who is in a position of familial or custodial authority to a person less than 18 years of age solicits that person to engage in any act which constitutes sexual battery.⁶⁴

Criminal Punishment Code

The Criminal Punishment Code⁶⁵ (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).⁶⁶ The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- 60 days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- 15 years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.⁶⁷

Offense Severity Ranking Chart

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

Points are assigned and accrue based upon the offense severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses. The lowest permissible sentence is any non-state prison

⁶³ The maximum term of imprisonment for a third degree felony is 5 years imprisonment and a fine not exceeding \$5,000. Sections 775.082 and 775.083 F.S.

⁶⁴ Section 794.011(8)(a), F.S.

⁶⁵ Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

⁶⁶ Offenses are either ranked in the offense severity level ranking chart in section 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in section 921.0023, F.S.

⁶⁷ Section 775.082, F.S. Fines may also be imposed, and those fines escalate based on the degree of the offense. section 775.083, F.S., provides the following maximum fines; \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.⁶⁸ Absent mitigation,⁶⁹ the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.⁷⁰

Mandatory Minimum Sentencing

Mandatory minimum sentencing in Florida began in the 1980's and is designed to ensure consistent and severe penalties for specific crimes. Sentencing offenders to mandatory minimum terms of imprisonment prevents the use of early release mechanisms and ensures that offenders serve most or all of their court-imposed sentences.⁷¹ These laws require judges to impose a predetermined minimum sentence for certain offenses, regardless of the circumstances surrounding the crime or the individual's background. Generally, mandatory minimum sentences often apply to specific crimes like drug offenses, firearm violations, and repeat offenses.

Gain-Time

Section 944.275, F.S., allows the Department of Corrections (DOC) to grant deductions from sentences in the form of gain-time to encourage satisfactory inmate behavior, to provide incentive for inmates to participate in productive activities, and to reward inmates who perform outstanding deeds or services. There are currently three types of gain-time inmates may earn: basic, incentive, and meritorious.⁷²

Inmates serving sentences for specified convictions committed on or after October 1, 2014, are ineligible to earn incentive gain-time, including inmates serving sentences for attempt to commit, solicitation to commit, or conspiracy to commit one of these underlying offenses. Gain-time earned by an inmate may also be forfeited for violations of state law or department rules.⁷³

Incentive Gain-Time

The DOC may grant incentive gain-time for each month during which an inmate works diligently, participates in training, uses time constructively, or otherwise engages in positive activities.⁷⁴ The rate of incentive gain-time in effect on the date the inmate committed the offense that resulted in his or her incarceration is the inmate's rate of eligibility to earn incentive gain-time throughout the period of incarceration and cannot be altered by a subsequent change in

⁶⁸ Section 921.0024, F.S., Unless otherwise noted, information on the Code is from this source.

⁶⁹ The court may "mitigate" or "depart downward" from the scored lowest permissible sentence, if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

⁷⁰ If the scored lowest permissible sentence exceeds the maximum penalty in Section 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

⁷¹ U.S. Department of Justice, Office of Justice Programs, *Mandatory Minimum Sentencing in Florida: Past Trends and Future Implications*, available at <https://www.ojp.gov/ncjrs/virtual-library/abstracts/mandatory-minimum-sentencing-florida-past-trends-and-future> (last visited on February 20, 2025).

⁷² Section 944.275, F.S.

⁷³ Section 944.275, F.S.

⁷⁴ Section 944.274(1), F.S.

the severity level of the offense for which the inmate was sentenced.⁷⁵ For sentences imposed for:

- Offenses committed prior to January 1, 1994, up to 20 days per month of incentive gain-time may be granted;
- Offenses committed on or after January 1, 1994, and before October 1, 1995:
 - Up to 25 days per month of incentive gain-time may be granted for offenses ranked in offense severity levels 1 through 7 of the former sentencing guidelines;
 - Up to 20 days per month of incentive gain-time may be granted for offenses ranked in offense severity levels 8, 9, and 10 of the former sentencing guidelines; and
- Offenses committed after October 1, 1995, up to 10 days per month of incentive gain-time may be granted.⁷⁶

The DOC may grant, upon a recommendation of the education program manager, a one-time award of 60 additional days of incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is awarded a high school equivalency diploma or vocational certificate. An inmate may not receive more than 60 days for educational attainment.⁷⁷ The DOC may grant an additional six days of incentive gain-time if an inmate attends and actively participates in 150 hours of adult basic education to attain basic and functional literacy.⁷⁸

The DOC may not grant incentive gain-time for sentences imposed for the following offenses committed on or after October 1, 2014:

- Homicide occurring in the perpetration of or attempted perpetration of a sexual battery;
- Kidnapping of a child under the age of 13, and in the course of committing the offense, commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- False imprisonment of a child under the age of 13, and in the course of committing the offense commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- Sexual battery;
- Lewd or lascivious offenses upon or in the presence of persons less than 16 years of age;
- Lewd or lascivious offenses upon or in the presence of an elderly person or disabled person; or
- Transmission of certain images over a computer to a person who is less than 16 years of age.⁷⁹

The DOC may not grant incentive gain-time for sentences imposed for the following offenses committed on or after October 1, 2014:

⁷⁵ Section 944.275(4)(b), F.S.

⁷⁶ Section 944.275(4)(a)3.(b)1.-3., F.S.

⁷⁷ Section 944.275(4)(d), F.S.

⁷⁸ Section 944.801(3)(i)5., F.S., “Active participation” means at a minimum, that the inmate is attentive, responsive, cooperative, and completes assigned work.

⁷⁹ Section 944.275(4)(e), F.S.

- Murder, when committed by a person engaged in the perpetration of, or in the attempt to perpetrate a sexual battery),⁸⁰
- Kidnapping, upon a child under the age of 13 and who, in the course of committing the offense, commits sexual battery,⁸¹
- False imprisonment of a child under the age 13, and who, in the course of committing the offense, commits sexual battery or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition,⁸²
- Sexual battery,⁸³
- Lewd and Lascivious battery or molestation upon or in the presence of persons less than 16 years of age,⁸⁴
- Lewd and Lascivious battery or molestation upon an elderly or disabled person,⁸⁵
- Computer pornography involving a victim less than 16 years of age.⁸⁶

Sentences imposed for offenses committed on or after July 1, 2023 are ineligible to receive incentive gain-time if the offense is for committing or attempting, soliciting, or conspiring to commit a violation of the above crimes.

Basic Gain-Time

The DOC grants basic gain-time at the rate of 10 days for each month of each sentence imposed on an inmate to encourage satisfactory behavior, subject to the following:

- Portions of any sentences to be served concurrently are treated as a single sentence when determining basic gain-time;
- Basic gain-time for a partial month is prorated on the basis of a 30-day month; and
- When an inmate receives a new maximum sentence expiration date because of additional sentences imposed, basic gain-time is granted for the amount of time the maximum sentence expiration date was extended.⁸⁷

A “tentative release date” is calculated utilizing the date projected for the inmate’s release from custody by virtue of gain-time granted or forfeited. The initial tentative release date shall be determined by deducting basic gain-time granted from the maximum sentence expiration date.⁸⁸ Basic gain-time applies to sentences imposed or offenses committed on or after July 1, 1978, and before January 1, 1994.⁸⁹

The DOC may not grant basic gain-time to inmates who are convicted of committing a sexual battery on or after October 1, 1992.⁹⁰

⁸⁰ Section 782.04(1)(a)c., F.S.

⁸¹ Section 787.01(3)(a)2., F.S.

⁸² Section 787.02(3)(a)2. or 3., F.S.

⁸³ Section 794.011(10), F.S.

⁸⁴ Section 800.04(4) or (5), F.S.

⁸⁵ Section 825.1025(2) or (3), F.S.

⁸⁶ Section 847.0135(5), F.S.

⁸⁷ Section 944.275(4)(a), F.S.

⁸⁸ Section 944.275(3)(a), F.S.

⁸⁹ Section 944.275(6), F.S.

⁹⁰ Section 794.011(7), F.S.

Meritorious Gain-Time

The DOC may grant meritorious gain-time to an inmate who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped inmate, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his or her sentence. The grant of meritorious gain-time may be from one to 60 days.⁹¹ Inmates sentenced as a habitual offender are only eligible for meritorious gain time if the deed occurs after the designation has been removed.⁹²

Limitations on Earning Gain-Time

For sentences imposed for offenses committed on or after October 1, 1995, an inmate may not earn any type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in an inmate's release, prior to serving a minimum of 85 percent of the sentence imposed. Credits awarded by the court for time physically incarcerated are credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by s. 944.275, F.S., an inmate may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the inmate will have served 85 percent of the sentence imposed.⁹³ If an inmate is found to have violated state law or department rules, gain-time may be forfeited according to law.⁹⁴

Inmates sentenced to life imprisonment must be incarcerated for the rest of their natural lives, unless granted pardon or clemency.⁹⁵ Certain offenders are statutorily prohibited from earning gain-time:

- Prison releasee reoffenders must serve 100 percent of the court-imposed sentence and may not earn gain-time to shorten the length of incarceration.⁹⁶
- Certain inmates convicted of offenses involving the fleeing or attempting to elude a law enforcement officer are ineligible for statutory gain-time.⁹⁷
- Inmates convicted of committing or attempting to commit certain felonies while possessing or using a firearm or destructive device.⁹⁸
- Inmates convicted of committing or attempting to commit certain felonies while possessing or using a semiautomatic firearm and its high-capacity box magazine or a machine gun.⁹⁹

⁹¹ Section 944.275(4)(c), F.S.

⁹² Section 775.084, F.S.

⁹³ Section 944.275(4)(f), F.S.

⁹⁴ Sections 944.275(5) and 944.28, F.S.

⁹⁵ Section 944.275(4)(f), F.S.

⁹⁶ Under s. 775.082(9), F.S., a defendant may be designated a "prison releasee offender" if within three years of being released from incarceration commits or attempts to commit: treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, arson, kidnapping, aggravated assault with a deadly weapon, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive device or bomb, any felony that involves the use or threat of physical force or violence against an individual, armed burglary, burglary of a dwelling, or burglary of an occupied structure, or any felony violation of ss. 790.07, 800.04, 827.03, 827.071, or 847.0135(5), F.S. A "prison releasee offender" also means any defendant who commits or attempts to commit one of the aforementioned offenses while serving a prison sentence or on escape status from a correctional facility.

⁹⁷ Section 316.1935(6), F.S.

⁹⁸ Section 775.087(2)(b), F.S.

⁹⁹ Section 775.087(3)(b), F.S.

- Inmates convicted of battery on a law enforcement officer, firefighter, emergency medical providers, public transit employees or agents, or other specified officers while possessing a firearm or semiautomatic firearm and its high-capacity box magazine.¹⁰⁰
- Inmates convicted under the dangerous sexual felony offender statute.¹⁰¹

Dangerous Sexual Felony Offender

Section 794.0115, F.S., provides that a person is a “dangerous sexual felony offender” if he or she is convicted of specified violation of luring a child,¹⁰² sexual battery,¹⁰³ lewd battery and lewd molestation committed upon or in the presence of persons less than 16 years of age,¹⁰⁴ lewd battery and lewd molestation committed upon or in the presence of an elderly or disabled person,¹⁰⁵ sexual performance by a child,¹⁰⁶ offenses relating to selling or buying of minors,¹⁰⁷ or a similar offense under a former designation, if such offense was committed when the person was 18 years of age or older and the person:

- Caused serious personal injury to the victim as a result of the commission of the offense;
- Used or threatened to use a deadly weapon during the commission of the offense;
- Victimized more than one person during the course of the criminal episode applicable to the offense;
- Committed the offense while under the jurisdiction of a court for a felony offense committed in Florida or another jurisdiction, or for a non-felony offense in another jurisdiction that would have been a felony if it had been committed in Florida; or
- Has previously been convicted of any of the previously described offenses or any offense under a former statutory designation which is similar in elements to any of the previously described offenses.

Dangerous sexual felony offenders must be sentenced to a mandatory minimum term of 25 years imprisonment. They may be sentenced above that threshold up to, and including, life imprisonment.

III. Effect of Proposed Changes:

The bill creates s. 794.0116, F.S., to provide that certain sexual offenses will carry mandatory minimum sentences if committed by a registered sexual offender or sexual predator. The bill also sets forth that offenders sentenced under this section are not eligible for gain-time or any other early release options before serving their minimum sentence.

A person who was previously convicted or had adjudication withheld of a crime listed in ss. 943.0435 or 775.21, F.S., and subsequently commit a violation of any of the following shall be sentenced to a mandatory minimum term of imprisonment of 10 years:

¹⁰⁰ Section 784.07(3), F.S.

¹⁰¹ Section 794.0115(7), F.S.

¹⁰² Section 787.025(2)(c), F.S.

¹⁰³ Sections 794.011(2), (3), (4), (5), or (8), F.S.

¹⁰⁴ Sections 800.04(4) or (5), F.S.

¹⁰⁵ Sections 825.1025(2) or (3), F.S.

¹⁰⁶ Sections 827.071(2), (3), or (4), F.S.

¹⁰⁷ Sections 847.0145, F.S.

- Luring or enticing a child,¹⁰⁸
- Lewd and Lascivious battery or molestation upon or in the presence of persons less than 16 years of age,¹⁰⁹
- Lewd and Lascivious battery or molestation upon an elderly or disabled person,¹¹⁰
- Sexual performance by a child (victims older than 12 years of age),¹¹¹
- Selling or buying of minors,¹¹²
- Sexual battery.¹¹³

Sexual offenders and sexual predators who were previously convicted or had adjudication withheld of a crime listed in ss. 943.0435 or 775.21, F.S., and subsequently are convicted of a new crime of sexual performance by a child (victims 12 years of age or younger) shall be sentenced to a minimum mandatory term of imprisonment of 20 years.¹¹⁴

The bill specifies that if the mandatory minimum term of imprisonment imposed exceeds or is less than the maximum sentence authorized under ss. 775.082, 775.084, or ch.921, F.S., the mandatory minimum term of imprisonment must be imposed.

Excluding early releases such as pardon or executive clemency, sexual offenders and sexual predators who are sentenced under this new section of law are not eligible for any of the following sentence reduction mechanisms:

- Gain-time or any form of discretionary early release.¹¹⁵
- Conditional medical release.¹¹⁶

The bill takes effect on October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

¹⁰⁸ Section 787.025(2)(c), F.S.

¹⁰⁹ Section 800.04(4) or (5), F.S.

¹¹⁰ Section 825.1025(2) or (3), F.S.

¹¹¹ Section 827.071, F.S.

¹¹² Section 847.0145, F.S.

¹¹³ Section 794.011, F.S. excluding 794.011(10), F.S.

¹¹⁴ Section 827.071, F.S.

¹¹⁵ Section 944.275, F.S.

¹¹⁶ Section 947.149, F.S.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per the DOC, there are currently 11,914 inmates incarcerated under these statutes, with several of these offenses already having a higher average sentence length than the proposed mandatory minimum sentence. It is not known if these inmates were registered sexual offenders or sexual predators prior to committing the offenses for which they are currently incarcerated. Therefore, the magnitude of the prison bed impact cannot be determined.¹¹⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:**VIII. Statutes Affected:**

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

¹¹⁷ Office of Economic and Demographic Research, *SB 716 – Sexual Offenses by Registered Sexual Offenders or Sexual Predators*, (on file with the Senate Committee on Criminal Justice).

IX. Additional Information:

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

CS by Criminal Justice on March 11, 2025:

The amendment provides that a person who is convicted of certain sex offenses, rather than a person who must register as a sex offender, must serve a mandatory minimum for a conviction of specified offenses.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 03/11/2025 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment (with title amendment)

Delete lines 16 - 17

and insert:

(1) A person who was previously convicted of or had
adjudication withheld for any offense listed in s. 775.21 or s.

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

And the title is amended as follows:

Delete lines 2 - 3



554438

11 and insert:

12 An act relating to sexual offenses by persons

13 previously convicted of sexual offenses; creating s.

By Senator Martin

33-01452-25

2025716__

A bill to be entitled

An act relating to sexual offenses by registered sexual offenders or sexual predators; creating s. 794.0116, F.S.; providing mandatory minimum terms of imprisonment for specified sexual offenses when committed by registered sexual offenders or sexual predators; providing requirements for such sentences; providing an effective date.

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

Section 1. Section 794.0116, Florida Statutes, is created to read:

794.0116 Sexual offenses by registered sexual offenders or sexual predators; mandatory sentencing.—

(1) A person who is required to register as a sexual predator under s. 775.21 or as a sexual offender under s. 943.0435 and commits a violation of s. 787.025(2)(c); s. 794.011, excluding s. 794.011(10); s. 800.04(4) or (5); s. 825.1025(2) or (3); s. 827.071; or s. 847.0145 shall be sentenced to a mandatory minimum term of imprisonment as follows:

| <u>Statute</u> | <u>Mandatory Minimum</u> |
|----------------|--------------------------|
|----------------|--------------------------|

| | |
|----------------------|-----------------|
| <u>787.025(2)(c)</u> | <u>10 years</u> |
|----------------------|-----------------|

Page 1 of 3

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

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| | |
|------------------------------|-----------------|
| <u>794.011, excluding s.</u> | <u>10 years</u> |
| <u>794.011(10)</u> | |

| | |
|-------------------------|-----------------|
| <u>800.04(4) or (5)</u> | <u>10 years</u> |
|-------------------------|-----------------|

| | |
|---------------------------|-----------------|
| <u>825.1025(2) or (3)</u> | <u>10 years</u> |
|---------------------------|-----------------|

| | |
|-------------------------------|-----------------|
| <u>827.071 (victims older</u> | <u>10 years</u> |
| <u>than 12 years of age)</u> | |

| | |
|---------------------------------|-----------------|
| <u>827.071 (victim 12 years</u> | <u>20 years</u> |
| <u>of age or younger)</u> | |

| | |
|-----------------|-----------------|
| <u>847.0145</u> | <u>10 years</u> |
|-----------------|-----------------|

(2) Notwithstanding s. 775.082(3), chapter 958, any other law, or any interpretation or construction thereof, a person subject to sentencing under this section must be sentenced to the mandatory term of imprisonment provided under this section. If the mandatory minimum term of imprisonment imposed under this section exceeds the maximum sentence authorized under s. 775.082, s. 775.084, or chapter 921, the mandatory minimum term of imprisonment under this section must be imposed. If the mandatory minimum term of imprisonment under this section is less than the sentence that could be imposed under s. 775.082, s. 775.084, or chapter 921, the sentence imposed must include the mandatory minimum term of imprisonment under this section.

Page 2 of 3

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33-01452-25

2025716__

48 (3) A defendant sentenced to a mandatory minimum term of
49 imprisonment under this section is not eligible for statutory
50 gain-time under s. 944.275 or any form of discretionary early
51 release, other than pardon or executive clemency, or conditional
52 medical release under s. 947.149, before serving the minimum
53 sentence.

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

SB 716 – Sexual Offenses by Registered Sexual Offenders or Sexual Predators

This bill creates s. 794.0116, F.S., creating mandatory minimum sentences for when a registered sexual offender or sexual predator commits certain sexual offenses as follows:

- intentionally lures or entices, or attempts to lure or entice, a child under the age of 12 – 10 year mandatory minimum sentence
- sexual battery (excluding falsely accusing someone of that act) – 10 year mandatory minimum sentence
- lewd or lascivious battery/molestation – 10 year mandatory minimum sentence
- lewd or lascivious battery/molestation of an elderly or disabled person – 10 year mandatory minimum sentence
- offenses related to sexual performance of a child or child pornography (victim older than 12 years of age) – 10 year mandatory minimum sentence
- offenses related to sexual performance of a child or child pornography (victim 12 years of age or younger) – 20 year mandatory minimum sentence
- selling or buying of minors for the purpose of sexual conduct – 10 year mandatory minimum sentence

Per DOC, there are currently 11,914 inmates incarcerated under these statutes, with several of these offenses already having a higher average sentence length than the proposed mandatory minimum sentence. It is not known if these inmates were registered sexual offenders or sexual predators prior to committing the offenses for which they are currently incarcerated. Therefore, the magnitude of the prison bed impact cannot be determined.

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: CS/SB 710

INTRODUCER: Criminal Justice Committee and Senator Osgood

SUBJECT: Public Records/Crime Stoppers Organizations

DATE: March 11, 2025

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|---------------|
| 1. | Wyant | Stokes | CJ | Fav/CS |
| 2. | | | GO | |
| 3. | | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 710 exempts from public records copying and inspection requirements certain identifying and location information of current or former employees, board members and volunteers, and their spouses and children, of crime stoppers organizations.¹

The bill exempts from public disclosure the following information:

- The home addresses, telephone numbers, dates of birth, and photographs of current or former employees, board members, and volunteers of crime stoppers organizations;
- The names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of the employees, board members, and volunteers;
- The names and locations of schools and day care facilities attended by the children of the employees, board members, and volunteers.

This exemption applies to information held by an agency before, on, or after July 1, 2025, and is repealed on October 2, 2030, unless reenacted by the Legislature.

The bill provides a statement of public necessity as required by the State Constitution.

¹ “Crime stoppers organization” means a private not-for-profit organization that collects and expends donations for rewards to persons who report to the organization information concerning criminal activity, and forwards that information to appropriate law enforcement agencies. Section 16.557(1)(a), F.S.

The bill creates a new public records exemption and, therefore, requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill takes effect July 1, 2025.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.² The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.³

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.⁴ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁵ Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive branch and local government agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁶

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

² FLA. CONST. art. I, s. 24(a).

³ *Id.*

⁴ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2022-2024).

⁵ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁶ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁷

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁸ A violation of the Public Records Act may result in civil or criminal liability.⁹

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.¹⁰ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹¹

General exemptions from the public records requirements are contained in the Public Records Act.¹² Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹³

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹⁴ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁵ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁶

Public Records Exemptions for Specified Personnel and their Families (s. 119.071(4), F.S.)

Section 119.071(4), F.S., exempts from public record disclosure the personal information of specific government employees when held by government agencies. In paragraph (d), “home addresses” is defined as the dwelling location at which an individual resides and includes the

⁷ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁸ Section 119.07(1)(a), F.S.

⁹ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

¹⁰ FLA. CONST. art. I, s. 24(c).

¹¹ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹² *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹³ *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹⁴ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁵ *Id.*

¹⁶ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address. Additionally, “telephone numbers” is defined to include home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

Section 119.071(4)(d)2., F.S., generally exempts from public disclosure the home addresses, dates of birth, photographs, and telephone numbers of specified public employees and their spouses and children. Additionally exempted, typically, are the spouse’s place of work as well as the name and location of any schools or day care facilities of the public employee’s children, if any. These public employees include, but are not limited to, sworn law enforcement personnel and active or former civilian personnel employed by a law enforcement agency;¹⁷ current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges;¹⁸ current or former state attorneys;¹⁹ current or former public defenders;²⁰ county tax collectors;²¹ and clerks of a circuit court.²²

Records that include exempt information about the above-specified personnel and their spouses and children (minor or adult) may be held by, among others, their employing agency, clerks of court and comptrollers, county tax collectors and property appraisers, school districts, and law enforcement agencies. County property appraisers²³ and county tax collectors²⁴ holding exempted information need only remove the name of an individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exemption status from all publicly available records. County property appraisers and county tax collectors may not remove the street address, legal description, or other information identifying real property so long as the name or personal information otherwise exempt is not associated with the property or otherwise displayed in the public records.²⁵

The personnel, their spouses or children, or their employing agency claiming an exemption under s. 119.071(4)(d)2., F.S., must affirmatively assert the right to the exemption by submitting a written and notarized request to each non-employer agency that holds the employee’s or their spouse or child’s information. The individual or entity asserting the exemption must provide, under oath, the statutory basis for the individual’s exemption and confirm the individual’s status as a party eligible for exempt status.²⁶

¹⁷ Section 119.071(4)(d)2.a., F.S. This would presumably include elected law enforcement officers such as sheriffs.

¹⁸ Section 119.071(4)(d)2.e., F.S.

¹⁹ Section 119.071(4)(d)2.f., F.S.

²⁰ Section 119.071(4)(d)2.l., F.S.

²¹ Section 119.071(4)(d)2.n., F.S.

²² Section 119.071(4)(d)2.y., F.S. Circuit court clerks’ exemption from public records under this statute is set to repeal on October 2, 2029, unless saved by the Legislature.

²³ See s. 192.001(3), F.S.

²⁴ See s. 192.001(4), F.S.

²⁵ Section 119.071(4)(d)4., F.S.

²⁶ Section 119.071(4)(d)3., F.S.

These exemptions under s. 119.071(4)(d)2., F.S., have retroactive application, applying to information held by an agency before, on, or after the effective date of the exemption.²⁷ Home addresses, however, are no longer exempt in the Official Records if the protected party no longer resides at the dwelling²⁸ or upon his or her death.²⁹

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act³⁰ (the act), prescribe a legislative review process for newly created or substantially amended³¹ public records or open meetings exemptions, with specified exceptions.³² The act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.³³ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.³⁴ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;³⁵
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;³⁶ or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.³⁷

The Act also requires specified questions to be considered during the review process.³⁸ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

²⁷ Section 119.071(4)(d)6., F.S.

²⁸ The protected individual must submit a notarized, written request to release the removed information. Section 119.071(4)(d)8., F.S.

²⁹ A certified copy of a death certificate or court order must be presented with a notarized request to release the information to remove the exemption. Section 119.071(4)(d)9., F.S. Note, the Clerk is also called the "county recorder." *See* s. 28.222(2), F.S.

³⁰ Section 119.15, F.S.

³¹ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

³² Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

³³ Section 119.15(3), F.S.

³⁴ Section 119.15(6)(b), F.S.

³⁵ Section 119.15(6)(b)1., F.S.

³⁶ Section 119.15(6)(b)2., F.S.

³⁷ Section 119.15(6)(b)3., F.S.

³⁸ Section 119.15(6)(a), F.S. The specified questions are:

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.³⁹ If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.⁴⁰

Crime Stoppers

Crime Stoppers programs are non-profit organizations led by citizens against crime, founded on the concept that someone other than the criminal has information that can help solve a crime. These programs offer anonymity to anyone who can provide information about crimes and subsequently pay rewards when such information leads to the felony arrest of criminals and fugitives.⁴¹

The idea of providing a reward to someone with information about a crime originated in Albuquerque, New Mexico, when a detective was tasked with solving a homicide with no leads. He thought to make a video re-enactment of the murder and guarantee anonymity for anyone who was willing to call with information about the crime. After receiving calls following the re-enactment, one of which allowed police to solve a different crime, the detective persuaded the Albuquerque Police Department to permit citizens to establish the first Crime Stoppers program.⁴²

The Florida Association of Crime Stoppers (FACS) is a statewide umbrella organization operated by a volunteer board of directors from the 27 Crime Stopper programs throughout the state of Florida. The aim of FACS is to help establish local programs, and provide ongoing training, advocacy and mentoring to established programs and new programs alike.⁴³

Local citizens are responsible for forming local Crime Stopper programs. Civilian-based boards of directors generally oversee the program, establishing policies and providing direction as to the financial and promotional activities of the program.

-
- What specific records or meetings are affected by the exemption?
 - Whom does the exemption uniquely affect, as opposed to the general public?
 - What is the identifiable public purpose or goal of the exemption?
 - Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
 - Is the record or meeting protected by another exemption?
 - Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

³⁹ See generally s. 119.15, F.S.

⁴⁰ Section 119.15(7), F.S.

⁴¹ Crime Stoppers USA, *About CSUSA*, available at: <https://www.crimestoppersusa.org/profile/> (last visited March 5, 2025).

⁴² Florida Association of Crime Stoppers, *Our History*, available at: <https://facsflorida.org/who-we-are/our-history/> (last visited March 5, 2025).

⁴³ Florida Association of Crime Stoppers, *Who We Are?*, available at: <https://facsflorida.org/#pg-8-4> (last visited March 4, 2025).

III. Effect of Proposed Changes:

The bill exempts from public records copying and inspection requirements certain identifying and location information of current or former employees, board members and volunteers, and their spouses and children, of crime stoppers organizations.

.

The bill exempts from public disclosure the following information:

- The home addresses, telephone numbers, dates of birth, and photographs of current or former employees, board members, and volunteers of crime stoppers organizations;
- The names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of the employees, board members, and volunteers;
- The names and locations of schools and day care facilities attended by the children of the employees, board members, and volunteers.

Consistent with s. 119.15, F.S., the new exemptions will expire on October 2, 2030, unless reviewed and saved from repeal by the Legislature.

Additionally, the bill provides a statement of public necessity as required by the State Constitution. The public necessity statement provides that the release of certain personal identifying and location information may jeopardize the safety of the employees, board members, volunteers of crime stoppers organizations, and their family members.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require the cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for records pertaining to employees, board members, and volunteers of crime stopper organizations; therefore, the bill requires a two-thirds vote of each chamber for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity

justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c), of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect employees, board members, and volunteers of crime stopper organizations and their family members, and the bill exempts only records pertaining to those persons from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 119.071 of the Florida Statutes.

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

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

CS by Criminal Justice on March 11, 2025:

The committee substitute:

- Expands the public record exemption to include former employees of crime stoppers organizations.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/11/2025 | . | |
| | . | |
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The Committee on Criminal Justice (Osgood) recommended the following:

Senate Amendment

Delete lines 351 - 358
and insert:
and photographs of current or former employees of crime stoppers organizations as defined in s. 16.557(1), and the board members and volunteers of such crime stoppers organizations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of the current or former employees, board members, and volunteers of such crime stoppers



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11 organizations; and the names and locations of schools and day
12 care facilities attended by the children of the current or
13 former employees, board members, and volunteers of such

By Senator Osgood

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; providing an exemption from public
 4 records requirements for specified personal
 5 identifying and location information of employees of
 6 crime stoppers organizations and the board members and
 7 volunteers of such crime stoppers organizations;
 8 providing for future legislative review and repeal of
 9 the exemption; providing for retroactive application;
 10 providing a statement of public necessity; providing
 11 an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Paragraph (d) of subsection (4) of section
 16 119.071, Florida Statutes, is amended to read:
 17 119.071 General exemptions from inspection or copying of
 18 public records.—
 19 (4) AGENCY PERSONNEL INFORMATION.—
 20 (d)1. For purposes of this paragraph, the term:
 21 a. "Home addresses" means the dwelling location at which an
 22 individual resides and includes the physical address, mailing
 23 address, street address, parcel identification number, plot
 24 identification number, legal property description, neighborhood
 25 name and lot number, GPS coordinates, and any other descriptive
 26 property information that may reveal the home address.
 27 b. "Judicial assistant" means a court employee assigned to
 28 the following class codes: 8140, 8150, 8310, and 8320.
 29 c. "Telephone numbers" includes home telephone numbers,

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

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30 personal cellular telephone numbers, personal pager telephone
 31 numbers, and telephone numbers associated with personal
 32 communications devices.
 33 2.a. The home addresses, telephone numbers, dates of birth,
 34 and photographs of active or former sworn law enforcement
 35 personnel or of active or former civilian personnel employed by
 36 a law enforcement agency, including correctional and
 37 correctional probation officers, personnel of the Department of
 38 Children and Families whose duties include the investigation of
 39 abuse, neglect, exploitation, fraud, theft, or other criminal
 40 activities, personnel of the Department of Health whose duties
 41 are to support the investigation of child abuse or neglect, and
 42 personnel of the Department of Revenue or local governments
 43 whose responsibilities include revenue collection and
 44 enforcement or child support enforcement; the names, home
 45 addresses, telephone numbers, photographs, dates of birth, and
 46 places of employment of the spouses and children of such
 47 personnel; and the names and locations of schools and day care
 48 facilities attended by the children of such personnel are exempt
 49 from s. 119.07(1) and s. 24(a), Art. I of the State
 50 Constitution.
 51 b. The home addresses, telephone numbers, dates of birth,
 52 and photographs of current or former nonsworn investigative
 53 personnel of the Department of Financial Services whose duties
 54 include the investigation of fraud, theft, workers' compensation
 55 coverage requirements and compliance, other related criminal
 56 activities, or state regulatory requirement violations; the
 57 names, home addresses, telephone numbers, dates of birth, and
 58 places of employment of the spouses and children of such

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personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges and current judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former

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justices and judges and current judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges and current judicial assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division

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of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

j. The home addresses, telephone numbers, places of

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employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.01; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

k. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor supervisors, human services counselor administrators, senior human services counselor administrators, rehabilitation therapists, and social services counselors of the Department of Juvenile Justice; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

l. The home addresses, telephone numbers, dates of birth, and photographs of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; the names, home addresses, telephone numbers, dates of birth, and

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places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department of Health whose duties include, or result in, the determination

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or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and locations of schools and day care facilities attended by the

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233 children of such emergency medical technicians or paramedics are
 234 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 235 Constitution.

236 r. The home addresses, telephone numbers, dates of birth,
 237 and photographs of current or former personnel employed in an
 238 agency's office of inspector general or internal audit
 239 department whose duties include auditing or investigating waste,
 240 fraud, abuse, theft, exploitation, or other activities that
 241 could lead to criminal prosecution or administrative discipline;
 242 the names, home addresses, telephone numbers, dates of birth,
 243 and places of employment of spouses and children of such
 244 personnel; and the names and locations of schools and day care
 245 facilities attended by the children of such personnel are exempt
 246 from s. 119.07(1) and s. 24(a), Art. I of the State
 247 Constitution.

248 s. The home addresses, telephone numbers, dates of birth,
 249 and photographs of current or former directors, managers,
 250 supervisors, nurses, and clinical employees of an addiction
 251 treatment facility; the home addresses, telephone numbers,
 252 photographs, dates of birth, and places of employment of the
 253 spouses and children of such personnel; and the names and
 254 locations of schools and day care facilities attended by the
 255 children of such personnel are exempt from s. 119.07(1) and s.
 256 24(a), Art. I of the State Constitution. For purposes of this
 257 sub-subparagraph, the term "addiction treatment facility" means
 258 a county government, or agency thereof, that is licensed
 259 pursuant to s. 397.401 and provides substance abuse prevention,
 260 intervention, or clinical treatment, including any licensed
 261 service component described in s. 397.311(27).

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262 t. The home addresses, telephone numbers, dates of birth,
 263 and photographs of current or former directors, managers,
 264 supervisors, and clinical employees of a child advocacy center
 265 that meets the standards of s. 39.3035(2) and fulfills the
 266 screening requirement of s. 39.3035(3), and the members of a
 267 Child Protection Team as described in s. 39.303 whose duties
 268 include supporting the investigation of child abuse or sexual
 269 abuse, child abandonment, child neglect, and child exploitation
 270 or to provide services as part of a multidisciplinary case
 271 review team; the names, home addresses, telephone numbers,
 272 photographs, dates of birth, and places of employment of the
 273 spouses and children of such personnel and members; and the
 274 names and locations of schools and day care facilities attended
 275 by the children of such personnel and members are exempt from s.
 276 119.07(1) and s. 24(a), Art. I of the State Constitution.

277 u. The home addresses, telephone numbers, places of
 278 employment, dates of birth, and photographs of current or former
 279 staff and domestic violence advocates, as defined in s.
 280 90.5036(1)(b), of domestic violence centers certified by the
 281 Department of Children and Families under chapter 39; the names,
 282 home addresses, telephone numbers, places of employment, dates
 283 of birth, and photographs of the spouses and children of such
 284 personnel; and the names and locations of schools and day care
 285 facilities attended by the children of such personnel are exempt
 286 from s. 119.07(1) and s. 24(a), Art. I of the State
 287 Constitution.

288 v. The home addresses, telephone numbers, dates of birth,
 289 and photographs of current or former inspectors or investigators
 290 of the Department of Agriculture and Consumer Services; the

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names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former inspectors or investigators; and the names and locations of schools and day care facilities attended by the children of current or former inspectors or investigators are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

w. The home addresses, telephone numbers, dates of birth, and photographs of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys; and the names and locations of schools and day care facilities attended by the children of current county attorneys, assistant county attorneys, deputy county attorneys, city attorneys, assistant city attorneys, and deputy city attorneys are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption does not apply to a county attorney, assistant county attorney, deputy county attorney, city attorney, assistant city attorney, or deputy city attorney who qualifies as a candidate for election to public office. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand

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repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

x. The home addresses, telephone numbers, dates of birth, and photographs of current or former commissioners of the Florida Gaming Control Commission; the names, home addresses, telephone numbers, dates of birth, photographs, and places of employment of the spouses and children of such current or former commissioners; and the names and locations of schools and day care facilities attended by the children of such current or former commissioners are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and saved from repeal through reenactment by the Legislature.

y. The home addresses, telephone numbers, dates of birth, and photographs of current clerks of the circuit court, deputy clerks of the circuit court, and clerk of the circuit court personnel; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current clerks of the circuit court, deputy clerks of the circuit court, and clerk of the circuit court personnel; and the names and locations of schools and day care facilities attended by the children of current clerks of the circuit court, deputy clerks of the circuit court, and clerk of the circuit court personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2029, unless reviewed and

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saved from repeal through reenactment by the Legislature.

z. The home addresses, telephone numbers, dates of birth, and photographs of employees of crime stoppers organizations as defined in s. 16.557(1), and the board members and volunteers of such crime stoppers organizations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of the employees, board members, and volunteers of such crime stoppers organizations; and the names and locations of schools and day care facilities attended by the children of the employees, board members, and volunteers of such crime stoppers organizations are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2030, unless reviewed and saved from repeal through reenactment by the Legislature.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. must maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written and notarized request for maintenance of the exemption to the custodial agency. The request must state under oath the statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status.

4.a. A county property appraiser, as defined in s. 192.001(3), or a county tax collector, as defined in s.

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192.001(4), who receives a written and notarized request for maintenance of the exemption pursuant to subparagraph 3. must comply by removing the name of the individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exempt status from all publicly available records maintained by the property appraiser or tax collector. For written requests received on or before July 1, 2021, a county property appraiser or county tax collector must comply with this sub-subparagraph by October 1, 2021. A county property appraiser or county tax collector may not remove the street address, legal description, or other information identifying real property within the agency's records so long as a name or personal information otherwise exempt from inspection and copying pursuant to this section is not associated with the property or otherwise displayed in the public records of the agency.

b. Any information restricted from public display, inspection, or copying under sub-subparagraph a. must be provided to the individual whose information was removed.

5. An officer, an employee, a justice, a judge, or other person specified in subparagraph 2. may submit a written request for the release of his or her exempt information to the custodial agency. The written request must be notarized and must specify the information to be released and the party authorized to receive the information. Upon receipt of the written request, the custodial agency must release the specified information to the party authorized to receive such information.

6. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the

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exemption.

7. Information made exempt under this paragraph may be disclosed pursuant to s. 28.2221 to a title insurer authorized pursuant to s. 624.401 and its affiliates as defined in s. 624.10; a title insurance agent or title insurance agency as defined in s. 626.841(1) or (2), respectively; or an attorney duly admitted to practice law in this state and in good standing with The Florida Bar.

8. The exempt status of a home address contained in the Official Records is maintained only during the period when a protected party resides at the dwelling location. Upon conveyance of real property after October 1, 2021, and when such real property no longer constitutes a protected party's home address as defined in sub-subparagraph 1.a., the protected party must submit a written request to release the removed information to the county recorder. The written request to release the removed information must be notarized, must confirm that a protected party's request for release is pursuant to a conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to

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release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

Section 2. The Legislature finds that it is a public necessity that the home addresses, telephone numbers, dates of birth, and photographs of employees of crime stoppers organizations as defined in s. 16.557(1), Florida Statutes, and the board members and volunteers of such crime stoppers organizations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such employees, board members, and volunteers; and the names and locations of schools and day care facilities attended by the children of such employees, board members and volunteers be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The friends, associates, and family members of people who are involved in criminal investigations may retaliate against crime stoppers employees, board members, and volunteers while they perform their duties, which include collecting sensitive tip information, forwarding this information to appropriate law enforcement agencies, and paying out rewards to anonymous tipsters. Such retaliatory acts may also be targeted at the spouses and children of crime stoppers employees, board members, and volunteers. If such identifying and location information is

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465 released, the safety of current and former crime stoppers
466 employees, board members, and volunteers and their spouses and
467 children could be seriously jeopardized. The Legislature
468 therefore finds that the harm that may result from the release
469 of such personal identifying and location information outweighs
470 any public benefit that may be derived from the disclosure of
471 the information.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 878

INTRODUCER: Senator Martin

SUBJECT: Probation for Misdemeanor Offenses

DATE: March 10, 2025

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Vaughan | Stokes | CJ | Favorable |
| 2. | | | ACJ | |
| 3. | | | RC | |

I. Summary:

SB 878 amends s. 948.15, F.S., to authorize the court to sentence a defendant who is found guilty of any misdemeanor to a term of probation of up to one year if a controlled substance, a controlled substance analog or a chemical substance was a significant factor in the commission of the crime.

The bill is not expected to have a fiscal impact on state or local governments. *See Section V. Fiscal Impact Statement.*

The bill takes effect on July 1, 2025.

II. Present Situation:

Court Jurisdiction

Florida has a two-tiered trial court system that consists of circuit courts and county courts. The state Constitution requires a circuit court to be established in each judicial circuit established by the Legislature, of which there are twenty.¹

Circuit courts have exclusive original jurisdiction all felonies and all misdemeanors arising out of the same circumstances as a felony which is also charged. The state Constitution also establishes a county court in each county.² County courts have original jurisdiction over misdemeanor cases not cognizable by the circuit courts.

¹ Art. V, ss. 1 and 5, FLA. CONST. A list of judicial circuits can be found at <https://www.flcourts.org/Florida-Courts/Trial-Courts-Circuit> (last visited March 3, 2025).

² Art. V, s. 6, FLA. CONST.

Generally, felony offenses are adjudicated by the circuit court and misdemeanor offenses are adjudicated by the county court. However, circuit courts routinely adjudicate misdemeanor charges when:

- A misdemeanor charge arises out of the same circumstances as a felony; or
- A felony charge is reduced or dismissed in circuit court and the court retains jurisdiction over the remaining misdemeanor charge.

Probation and Other Supervision

Probation is a form of community supervision requiring specified contacts with probation officers and compliance with certain terms and conditions.^{3,4} The court determines the terms and conditions of probation.⁵ Section 948.03, F.S., provides standard conditions of probation;⁶ however, a court may sentence an offender to special terms and conditions at the time of sentencing, such as substance abuse treatment.

Maximum Term of Probation

The Florida Supreme Court addressed the issue of whether a trial court must credit previous time served on probation toward any newly-imposed term of probation upon revocation, to ensure that the total probationary term does not exceed the statutory maximum for a single offense.⁷ The maximum term of probation to which a judge may sentence a defendant depends on the offense that the defendant committed. Penalties for misdemeanors are:

- A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine.⁸
- A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine.⁹
- A term of probation for a misdemeanor may not to exceed six months unless otherwise specified in s. 948.15, F.S.¹⁰

County Court

A defendant who is placed on probation after being found guilty of a misdemeanor may not be sentenced to a term of supervision exceeding six months, unless otherwise ordered by the court.¹¹ Any person sentenced to misdemeanor probation by the county court must pay at least \$40 per month, as determined by the court, to the court approved public or private entity providing misdemeanor supervision.¹²

³ Section 948.001(8), F.S.

⁴ Florida Department of Corrections, *Probation Services*, available at <https://www.fdc.myflorida.com/probation-services> (last visited March 3, 2025).

⁵ Section 948.03, F.S.

⁶ Section 948.03(1)(a-l), F.S. Standard conditions include, in part, reporting to the probation officer as directed, permitting visits by the probation officer, work at suitable employment, and live without violating any law.

⁷ *State v. Summers*, 642 So. 2d 742 (Fla. 1994). *State v. Holmes*, 360 So. 2d 380 (Fla. 1978).

⁸ Sections 775.082 and 775.083, F.S.

⁹ Sections 775.082 and 775.083, F.S.

¹⁰ Section 948.15(1), F.S. In relation to any offense other than a felony in which the use of alcohol is a significant factor, the period of probation may be up to 1 year.

¹¹ Section 948.15(1), F.S.

¹² Section 948.09(1)(b), F.S.

A private entity or public entity, including licensed substance abuse education and intervention programs, may provide probation services to offenders sentenced by a county court, when such services are provided under the supervision of the board of county commissioners or the court.¹³

Circuit Court

If the circuit court places a defendant on probation for a felony, the Florida Department of Corrections (DOC) must supervise the defendant.¹⁴ A defendant who is placed on probation for a misdemeanor may not be placed under the DOC's supervision unless the circuit court was the court of original jurisdiction.¹⁵ The DOC currently supervises 145,000 offenders on probation or in community control throughout Florida.¹⁶

Any person placed on probation under ch. 948, F.S., must pay the DOC supervision fees equal to the total month or portion of a month of supervision times the court-ordered amount, but such amount cannot exceed the actual per diem cost of supervision.¹⁷ The DOC must consider an offender's ability to pay in establishing a written pay plan. Any funds collected from felony probationers may be used by the DOC to offset the costs associated with community supervision programs.¹⁸

Subsections 948.01(1) and (5), F.S., prohibit a private entity from providing probationary or supervision services to felony or misdemeanor offenders sentenced to probation or other supervision by the circuit court. As such, a private entity is authorized to provide supervision services to a misdemeanor offender sentenced by the county court, but cannot provide such services to a misdemeanor offender sentenced by the circuit court.

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"¹⁹ 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.

¹³ Section 948.15(2), F.S.

¹⁴ Section 948.01(1)(a), F.S.

¹⁵ Section 948.01(2), F.S.

¹⁶ Florida Department of Corrections, *Probation Services*, available at <https://www.fdc.myflorida.com/probation-services> (Last visited March 4, 2025).

¹⁷ Section 948.09(1)(a)1., F.S.

¹⁸ *Id.* Additionally, a felony probationer must pay a \$2-per-month surcharge to be used by the DOC to pay for correctional probation officers' training and equipment, including radios, and firearms training, firearms, and similar equipment. Section 948.09(1)(a)2., F.S.

¹⁹ 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.

- 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 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.

Chemical Substance

A chemical substance is any substance identified in s. 877.111, F.S., which is the criminal statute identifying certain harmful chemical substances, the inhalation, ingestion, possession, sale, purchase, or transfer of which is punishable by law; or ch. 893, F.S., which identifies controlled substances.²⁰ However, the term does not include any drug or medication obtained pursuant to a prescription which was taken in accordance with the prescription,²¹ or any medication that is authorized under state or federal law for general distribution and use without a prescription in treating human diseases, ailments, or injuries and that was taken in the recommended dosage.

III. Effect of Proposed Changes:

The bill amends s. 948.15, F.S. to authorize a court to sentence a defendant who is found guilty of a misdemeanor to a term of probation of up to one year if a controlled substance,²² a

²⁰ Section 768.36(1), F.S.

²¹ A “prescription” includes any order for drugs or medicinal supplies which is written or transmitted by any means of communication by a licensed practitioner authorized by the laws of Florida to prescribe such drugs or medicinal supplies, it issued in good faith and in the course of professional practice, is intended to be dispensed by a person authorized by the laws of Florida to do so, and meets the requirements of s. 893.04, F.S. (regulating pharmacists and practitioners). Section 893.02(24), F.S.

²² Section 893.02, F.S.

controlled substance analog,²³ or a chemical substance²⁴ is a significant factor in the commission of the offense.

Current law provides that the maximum term of probation is 6 months unless otherwise specified by a court.

The bill takes effect on July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

²³ Section 893.0356, F.S.

²⁴ Section 877.111(1), F.S.

C. Government Sector Impact:

The bill is not expected to impact state or local government revenues and expenditures.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 948.15

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.

²⁵ Office of Economic and Demographic Research, *SB 878 – Probation for Misdemeanor Offenses*, (on file with the Senate Committee on Criminal Justice).

By Senator Martin

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A bill to be entitled

An act relating to probation for misdemeanor offenses;
amending s. 948.15, F.S.; increasing probationary
periods for certain misdemeanor offenses involving
controlled or chemical substances; providing an
effective date.

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

Section 1. Subsection (1) of section 948.15, Florida
Statutes, is amended to read:

948.15 Misdemeanor probation services.—

(1) A defendant found guilty of a misdemeanor who is placed
on probation shall be under supervision not to exceed 6 months
unless otherwise specified by the court. Probation supervision
services for a defendant found guilty of a misdemeanor for
possession of a controlled substance or drug paraphernalia under
chapter 893 may be provided by a licensed substance abuse
education and intervention program, which may provide substance
abuse education and intervention as well as any other terms and
conditions of probation. In relation to any offense other than a
felony in which the use of alcohol; a controlled substance, as
defined in s. 893.02; a controlled substance analog, as defined
in s. 893.0356; or a chemical substance described in s.
877.111(1) is a significant factor, the period of probation may
be up to 1 year.

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

HB 91 – Probation for Misdemeanor Offenses (Identical SB 878)

This bill amends s. 948.15, F.S., adding the following offenses to the exceptions where supervision under misdemeanor probation can exceed six months (new language in bold): “In relation to any offense other than a felony in which the use of alcohol; **a controlled substance, as defined in s. 893.02, F.S.; a controlled substance analog, as described in s. 893.0356, F.S.; or a chemical substance described in s. 877.111(1), F.S.** is a significant factor, the period of probation may be up to 1 year.” Given that this new language applies to misdemeanor offenders, there is expected to be no impact on the prison population.

EDR PROPOSED ESTIMATE: No Impact

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 952

INTRODUCER: Senator Ingoglia

SUBJECT: Restrictions on Firearms and Ammunition During Emergencies

DATE: March 10, 2025

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Cellon | Stokes | CJ | Favorable |
| 2. | | | CA | |
| 3. | | | RC | |

I. Summary:

SB 952 repeals s. 870.044, F.S., which provides that when there is a local state of emergency declared by a county sheriff or a city official,¹ a person may not:

- Sell or offer to sell firearms or ammunition,
- Intentionally display firearms for the purpose of selling, or;
- Intentionally possess a firearm in a public place unless he or she is an authorized law enforcement official or person in military service acting in the official performance of her or his duty.

There is no fiscal impact from the bill.

The bill takes effect upon becoming a law.

II. Present Situation:

In the event of an emergency beyond local control, the Governor may assume direct operational control over all or any part of the emergency management functions within this state and is authorized to delegate such powers as she or he may deem prudent.² Additionally, the Governor may suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.³ However, nothing contained in ss. 252.31-252.90, F.S. will be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in the commission of a criminal act.⁴

¹ Sections 870.042 and 870.043, F.S., convey the county sheriff and a city official the power to declare a local state of emergency within their jurisdictions.

² Section 252.36, F.S.

³ Section 252.36(6)(h), F.S.

⁴ *Id.*

Section 870.042, F.S., empowers a county sheriff to declare that a state of emergency exists within the unincorporated areas of the county and to exercise the emergency powers conferred in ss. 870.041-870.047, F.S.⁵

The governing body of any municipality within this state may designate by an ordinance a city official who will be empowered to declare that a state of emergency exists within the boundaries of the municipality and to exercise the emergency powers conferred in ss. 870.041-870.047, F.S. The designated city official will be either the mayor or chief of police or the person who performs the duties of a mayor or chief of police in the municipality. In the absence of an ordinance designating the official to act, the chief of police of the municipality is designated as the city official to assume the duties and powers set forth in the statute.⁶

Whenever the sheriff or designated city official determines that there has been an act of violence or a flagrant and substantial defiance of, or resistance to, a lawful exercise of public authority and that, on account thereof, there is reason to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to property, all of which constitute an imminent threat to public peace or order and to the general welfare of the jurisdiction affected or a part or parts thereof, he or she may declare that a state of emergency exists within that jurisdiction or any part or parts thereof.

Section 870.044, F.S., prohibits the following acts, throughout the specified jurisdiction, during a state of emergency declared by a sheriff or designated city official:⁷

- The sale of, or offer to sell, with or without consideration, any ammunition or gun or other firearm of any size or description.
- The intentional display, after the emergency is declared, by or in any store or shop of any ammunition or gun or other firearm of any size or description.
- The intentional possession in a public place of a firearm by any person, except an authorized law enforcement official or person in military service acting in the official performance of her or his duty.⁸

Nothing contained in ch. 870, F.S., may be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in a criminal act.⁹ It is not unlawful for a person to carry a concealed weapon or a concealed firearm while in the act of evacuating during a mandatory evacuation order issued during a state of emergency.¹⁰

⁵ Section 870.042(1), F.S.

⁶ Section 870.042(2), F.S.

⁷ Section 870.043, F.S.

⁸ Section 870.044, F.S.

⁹ *Id.* See also Section 790.01(5), F.S., which specifies that it is not unlawful for a person to carry a concealed weapon or a concealed firearm while in the act of evacuating during a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to ch. 252 F.S., or declared by a local authority pursuant to ch. 870, F.S.

¹⁰ Section 790.01(5), F.S.

III. Effect of Proposed Changes:

The bill repeals s. 870.044, F.S., which prohibits a person from selling or offering to sell firearms or ammunition, intentionally displaying for the purpose of selling firearms or ammunition or intentionally possessing a firearm in a public place during a local state of emergency¹¹ unless he or she is an authorized law enforcement official or person in military service acting in the official performance of her or his duty.

The bill takes effect upon becoming a law.

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

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s.18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None noted.

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

None.

B. Private Sector Impact:

None.

¹¹ Whenever the sheriff or designated city official determines that there has been an act of violence or a flagrant and substantial defiance of, or resistance to, a lawful exercise of public authority and that, on account thereof, there is reason to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to property, all of which constitute an imminent threat to public peace or order and to the general welfare of the jurisdiction affected or a part or parts thereof, he or she may declare that a state of emergency exists within that jurisdiction or any part or parts thereof. Section 870.043, F.S.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill repeals the following section of the Florida Statutes: 870.044.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Ingoglia

11-00242-25

2025952__

A bill to be entitled

An act relating to restrictions on firearms and
ammunition during emergencies; repealing s. 870.044,
F.S., relating to specified automatic restrictions on
firearms and ammunition during certain declared
emergencies; providing an effective date.

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

Section 1. Section 870.044, Florida Statutes, is repealed.

Section 2. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Banking and Insurance, *Chair*
Environment and Natural Resources, *Vice Chair*
Appropriations Committee on Criminal and
Civil Justice
Appropriations Committee on Transportation,
Tourism, and Economic Development
Fiscal Policy
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR BLAISE INGOGLIA

11th District

February 28, 2025

The Honorable Jonathan Martin, Chair
Criminal Justice Committee
315 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

RE: SB 952 Restriction of Firearms and Ammunition during Emergencies

Chair Martin,

Senate Bill 952 has been referred to the Criminal Justice Committee as its first committee of reference. I respectfully ask that it be placed on the committee agenda at your earliest convenience.

If I may answer questions or be of assistance, please do not hesitate to contact me. Thank you for your leadership and consideration.

Regards,

A handwritten signature in blue ink, appearing to read "Blaise Ingoglia". The signature is stylized with a large, sweeping loop at the end.

Blaise Ingoglia
State Senator, District 11

CC'd: Amanda Stokes, Tori Denson

REPLY TO:

- ☐ 2943 Landover Boulevard, Spring Hill, Florida 34608 (352) 666-5707
- ☐ 306 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011

Senate's Website: www.flsenate.gov

BEN ALBRITTON
President of the Senate

JASON BRODEUR
President Pro Tempore

March 11, 2025

Meeting Date

Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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SB 952

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Luis Valdes

Phone

703-321-8585

Address

8001 Forbes Place, Suite 202

Email

Luis.Valdes@
gunowners.org

Street

Springfield

City

State

VA

Zip

22151

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

gun owners, Inc.

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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3-11-25

Meeting Date

Criminal Justice

Committee

SB 952

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Eric Friday

Phone

904-722-3333

Address

225 E Church St.

Street

Jacksonville

City

FL

State

32202

Zip

Email

efriday@kingryfriday.com

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

Florida Carry, Inc.



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

03-11-25

APPEARANCE RECORD

952

Meeting Date

Bill Number or Topic

Criminal Justice

Deliver both copies of this form to
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Committee

Amendment Barcode (if applicable)

Name **Gerald "Jed" Carroll**

Phone **703-321-8585**

Address **8001 Forbes Place**

Email **jed.carroll@gunowners.org**

Street

Springfield

Va.

22151

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Gun Owners of America

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

March 11, 2025

Meeting Date

Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

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SB 952

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Logan Edge

Phone

678-735-1367

Address

701 Water Oak Dr

Email

logan.edge@gunrights.org

Street

PCB

City

FL

State

32408

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/11/25

Meeting Date

Criminal Justice

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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SB 952

Bill Number or Topic

Amendment Barcode (if applicable)

Name Kelby Seanor

Phone 703-254-7439

Address 11250 Waples Mill Rd.

Email Kseanor@nrahq.org

Fairfax
City

VA
State

22030
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

National Rifle Association
(NRA)

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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: CS/SB 1022

INTRODUCER: Criminal Justice Committee and Senator Wright

SUBJECT: Public Nuisances

DATE: March 11, 2025

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Wyant | Stokes | CJ | Fav/CS |
| 2. | | | CA | |
| 3. | | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1022 amends s. 893.138, F.S., to revise provisions relating to the assessment and collection of fines that may be included in a county or municipal ordinance for public nuisances and removes the limit of total fines that may be imposed by such ordinance.

The bill requires for an abatement board to:

- Increase daily fines to \$500 if the nuisance activity is not abated within a year.
- Consider the gravity of the public nuisance and any actions taken by the owner when determining the amount of the fine.
- Award attorney fees, if requested, after considering the time and labor of legal assistants.

Additionally, the bill allows for an abatement board to:

- Retain jurisdiction over a place or premises for periods of one year until the public nuisance is abated.
- Enter into an agreement with the tax collector to recover fines via non-ad valorem special assessments.
- Authorize an appropriate entity to foreclose on a lien under certain circumstances.

The bill defines “legal assistant” as the person who, under the supervision and direction of a licensed attorney, engages in legal research, and case development or planning.

The bill takes effect on July 1, 2025.

II. Present Situation:

Nuisance Abatement

Section 893.138, F.S., allows local governments to establish a nuisance abatement board to hear public nuisance complaints. These boards may take various administrative actions to abate violence-related, drug-related, prostitution-related, or stolen property-related public nuisances and criminal gang activity, including a closure of the place or premises.

Section 893.138(2), F.S., lists criminal activities which, if committed at any place or premises during a specified period of time, may create a public nuisance. Such nuisance may be abated by order of a nuisance abatement board. Those properties subject to nuisance abatement by the board include any place or premises that has been used:

- On more than two occasions within a 6-month period as the site of a violation of s. 796.07, F.S., prohibiting prostitution;¹
- On more than two occasions within a 6-month period as a site for the unlawful sale, delivery, manufacture, or cultivation of a controlled substance;²
- On one occasion as the site of a felony involving the unlawful possession of a controlled substance and that has been previously used as the site for the unlawful sale, delivery, manufacture, or cultivation of a controlled substance;³
- By a criminal street gang for a pattern of criminal street gang activity;^{4,5}
- On more than two occasions within a 6-month period for a violation of s. 812.019, F.S., relating to stolen property;⁶
- On two or more occasions within a 6-month period, as the site of a violation of ch. 499, F.S., relating to the Florida Drug and Cosmetic Act;⁷
- On more than two occasions within a 6-month period, as the site of a violation of any combination of murder and other specified aggravated batteries;^{8,9} or
- On more than two occasions within a 12-month period, as the site of a violation of s. 562.12, F.S., relating to the unlicensed or unlawful sale of alcoholic beverages.¹⁰

Additionally, any pain-management clinic which has been used on more than two occasions within a 6-month period as the site of a violation relating to assault and battery, burglary, theft,

¹ Section 893.138(2)(a), F.S.

² Section 893.138(2)(b), F.S.

³ Section 893.138(2)(c), F.S.

⁴ “Criminal gang-related activity” means, in part, an activity committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purposes of increasing a person’s own standing within a criminal gang. Section 874.03(4)(a), F.S.

⁵ Section 893.138(2)(d), F.S.

⁶ Section 893.138(2)(e), F.S.

⁷ Section 893.138(2)(f), F.S.

⁸ Section 893.138(2)(g), F.S.

⁹ Offenses include murder pursuant to s. 782.04, F.S., attempted felony murder pursuant to s. 782.051, F.S., aggravated battery with a deadly weapon pursuant to s. 784.045(1)(a)2., F.S., and aggravated assault with a deadly weapon without intent to kill pursuant to s. 784.021(1)(a), F.S.

¹⁰ Section 893.138(2)(h), F.S.

robbery by sudden snatching, or the unlawful distribution of controlled substances may be declared a public nuisance and subject to nuisance abatement.¹¹

Under s. 893.138(5), F.S., a local administrative board created to address public nuisances may order the owner of such place or premises to adopt appropriate procedures to abate a nuisance, or enter an order immediately prohibiting:

- Maintaining the nuisance;
- Operating or maintaining the place or premises, including the closure or operation of the place or premises; and
- Conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.

Penalties that may be imposed under s. 893.138, F.S., may be supplemented by a county or municipal ordinance, which may include, but is not limited to, the following penalties:¹²

- Imposing additional penalties for public nuisances, including fines not to exceed \$250 per day;
- Requiring the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on public nuisances;
- Providing continuing jurisdiction for a period of one year over any place or premises that has been or is declared to be a public nuisance;
- Imposing penalties, including fines not to exceed \$500 per day for recurring public nuisances;
- Requiring the recording of orders on public nuisances so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order;
- Providing that recorded orders on public nuisances may become liens against the real property that is the subject of the order; and
- Providing for the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure. However, a lien may not be created to foreclose on real property which is a homestead under s. 4, Art. X of the State Constitution.

The total fines imposed in a county or municipal ordinance may not exceed \$15,000.

The nuisance abatement board may also bring a complaint under s. 60.05, F.S., seeking temporary and permanent injunctive relief against any nuisance described in s. 893.138(2), F.S.

Section 60.05, F.S., also provides a process for an Attorney General, state attorney, city attorney, county attorney, sheriff, or any citizen of the county to sue in the name of the state to prohibit the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists. For other types of public nuisances such as the disposal of dead animals, the abandonment of refrigerators and other appliances, and abandoned or derelict vessels, ch. 823, F.S., provides penalties for the maintenance of those nuisances.

¹¹ Section 893.138(3), F.S.

¹² Section 893.138(11), F.S.

III. Effect of Proposed Changes:

The bill amends s. 893.138, F.S., to revise provisions relating to the assessment and collection of fines that may be included in a county or municipal ordinance for public nuisances and removes the limit of total fines that may be imposed by such ordinance.

The bill requires for an abatement board to:

- Increase daily fines to \$500 if the nuisance activity is not abated within a year.
- Consider the gravity of the public nuisance and any actions taken by the owner when determining the amount of the fine.
- Award attorney fees, if requested, after considering the time and labor of legal assistants.

Additionally, the bill allows for an abatement board to:

- Retain jurisdiction over a place or premises for periods of one year until the public nuisance is abated.
- Enter into an agreement with the tax collector to recover fines via non-ad valorem special assessments.
- Authorize an appropriate entity to foreclose on a lien if:
 - 3 months after filing, the lien remains unpaid.
 - The nuisance abatement activity is unabated after 2 years.

The bill defines “legal assistant” as the person who, under the supervision and direction of a licensed attorney, engages in legal research, and case development or planning.

The bill takes effect on July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require the cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends 893.138 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Criminal Justice on March 11, 2025:

The committee substitute:

- Revises provisions relating to the assessment and collection of fines that may be included in a county or municipal ordinance, and requires an abatement board to consider the gravity of the public nuisance and actions taken by the owner when determining the amount of the fine for such public nuisance.
- Requires an abatement board to award attorney fees, if requested, after considering the time and labor of any “legal assistants” and provides a definition for such term.
- Allows for the continuing jurisdiction over a place or premises that has been declared a public nuisance until the public nuisance is abated.
- Authorizes foreclosure when a lien remains unpaid 3 months after the filing of such or if the nuisance abatement activity is unabated after 2 years.

B. Amendments:

None.

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



933252

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/11/2025 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (11) of section 893.138, Florida
Statutes, is amended to read:

893.138 Local administrative action to abate certain
activities declared public nuisances.—

(11) The provisions of this section may be supplemented by
a county or municipal ordinance. The ordinance may include, but



933252

is not limited to:

(a) ~~provisions that establish additional~~ Penalties for public nuisances, including fines not to exceed \$250 per day. If the nuisance activity is not abated within 1 year, the fines increase to \$500 per day. In determining the amount of the fine, if any, the nuisance abatement board shall consider the gravity of the public nuisance and any actions taken by the owner to correct the public nuisance.

(b) ~~provide for the payment of reasonable costs,~~ including Reasonable attorney fees associated with investigations of and hearings on public nuisances. If attorney fees are requested, the nuisance abatement board shall award attorney fees after considering, among other things, time and labor of any legal assistants who contributed nonclerical, meaningful legal support to the matter involved and who are working under the supervision of an attorney. For purposes of this paragraph, the term "legal assistant" means a person who, under the supervision and direction of a licensed attorney, engages in legal research, and case development or planning.

(c) ~~Provide for continuing jurisdiction for periods a~~ period of 1 year over any place or premises that has been or is declared to be a public nuisance until the public nuisance is abated.

(d) The county or municipality may enter into an agreement with the tax collector to recover the fines via non-ad valorem special assessments.

(e) ~~establish penalties, including fines not to exceed \$500 per day for recurring public nuisances; provide for the recording of orders on public nuisances so that notice must be~~



933252

~~given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order; provide that recorded orders on public nuisances may become liens against the real property that is the subject of the order; and provide for the Foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure. After 3 months from the filing of any such lien which remains unpaid, the nuisance abatement board may authorize the appropriate entity to foreclose on the lien. If the nuisance abatement activity is unabated after 2 years, the nuisance abatement board shall authorize and require the appropriate entity to foreclose on the lien.~~ No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution. Where a local government seeks to bring an administrative action, based on a stolen property nuisance, against a property owner operating an establishment where multiple tenants, on one site, conduct their own retail business, the property owner shall not be subject to a lien against his or her property or the prohibition of operation provision if the property owner evicts the business declared to be a nuisance within 90 days after notification by registered mail to the property owner of a second stolen property conviction of the tenant. ~~The total fines imposed pursuant to the authority of this section shall not exceed \$15,000. Nothing contained within~~ This section does not prohibit prohibits a county or municipality from proceeding against a public nuisance by any other means.



933252

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to fines for public nuisance
abatement; amending s. 893.138, F.S.; revising
provisions relating to the assessment and collection
of fines for public nuisances; defining the term
"legal assistant"; removing a limit on the total
amount of fines that may be imposed on a public
nuisance; providing an effective date.

By Senator Wright

8-00658-25

20251022__

A bill to be entitled

An act relating to public nuisances; amending s. 893.138, F.S.; deleting a cap on the total amount of fines that may be imposed under specified provisions relating to places or premises declared to be public nuisances; providing an effective date.

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

Section 1. Subsection (11) of section 893.138, Florida Statutes, is amended to read:

893.138 Local administrative action to abate certain activities declared public nuisances.—

(11) The provisions of this section may be supplemented by a county or municipal ordinance. The ordinance may include, but is not limited to, provisions that establish additional penalties for public nuisances, including fines not to exceed \$250 per day; provide for the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on public nuisances; provide for continuing jurisdiction for a period of 1 year over any place or premises that has been or is declared to be a public nuisance; establish penalties, including fines not to exceed \$500 per day for recurring public nuisances; provide for the recording of orders on public nuisances so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order; provide that recorded orders on public nuisances may become liens against the real property that is the subject of the order; and provide for

Page 1 of 2

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

8-00658-25

20251022__

the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure. No lien created pursuant to the provisions of this section may be foreclosed on real property which is a homestead under s. 4, Art. X of the State Constitution. Where a local government seeks to bring an administrative action, based on a stolen property nuisance, against a property owner operating an establishment where multiple tenants, on one site, conduct their own retail business, the property owner shall not be subject to a lien against his or her property or the prohibition of operation provision if the property owner evicts the business declared to be a nuisance within 90 days after notification by registered mail to the property owner of a second stolen property conviction of the tenant. ~~The total fines imposed pursuant to the authority of this section shall not exceed \$15,000.~~ Nothing contained within this section prohibits a county or municipality from proceeding against a public nuisance by any other means.

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

Page 2 of 2

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

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3-11-25

Meeting Date

CJ

Committee

1022

Bill Number or Topic

Amendment Barcode (if applicable)

Name

CAPTAIN ANTORRIO WRIGHT

Phone

407-259-7448

Address

2500 W COLONIAL DR

Email

Antorrio.Wright@coesofl.com

Street

ORLANDO

City

FL

State

32804

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

ORANGE COUNTY SHERIFF'S
OFFICE.



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1054

INTRODUCER: Senator Garcia

SUBJECT: Tampering with an Electronic Monitoring Device

DATE: March 10, 2025

REVISED: _____

| ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|------------|----------------|-----------|------------------|
| 1. Vaughan | Stokes | CJ | Favorable |
| 2. _____ | _____ | ACJ | _____ |
| 3. _____ | _____ | FP | _____ |

I. Summary:

SB 1054 amends s. 843.23, F.S., to reclassify the penalties regarding tampering with an electronic device. If a person is charged with or serving a sentence for a:

- Misdemeanor,¹ tampering with an electronic device is a third degree felony.²
- Third degree felony, tampering with an electronic device is a second degree felony.³
- Second degree felony, tampering with an electronic device is a first degree felony.⁴
- First degree felony or a first degree felony punishable by a term of years not exceeding life, tampering with an electronic device is a first degree felony punishable by a term of years not exceeding life.
- Life or capital felony, tampering with an electronic device is a life felony.

If a person on pretrial release tampers with an electronic monitoring device, his or her pretrial release will be terminated, and will no longer be eligible for pretrial release for the offenses for which they were on release.

The bill may have a positive indeterminate prison bed impact. *See Section V. Fiscal Impact Statement.*

The bill takes effect on October 1, 2025.

¹ A first degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year and a fine not exceeding \$1000; a second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500, as provided in ss. 775.082 and 775.083, F.S.

² A third degree felony is punishable by a term of imprisonment not to exceed five years and a \$5,000 fine, as provided in ss. 775.082, 775.083, or 775.084, F.S.

³ A second degree felony is punishable by a term of imprisonment not exceeding fifteen years and a fine not exceeding \$5,000, as provided in ss. 775.082, 775.083, or 775.084, F.S.

⁴ A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

II. Present Situation:

Use of Electronic Monitoring in Florida's Criminal Justice System

There are several stages of the criminal justice system in which a court or another authorized entity may order a person to wear an electronic monitoring device. An electronic monitoring (EM) device is a tamper-resistant device worn on the body that monitors the location of a person at all times of the day. The monitoring agency is notified for various violations of the terms of supervision, such as if the person travels to a location he or she is not authorized to be or if the device is removed. Electronic monitoring systems can be either “passive” or “active” and are typically operated through radio frequency or global positioning system (GPS) monitoring.⁵ Some of the instances where a person may be placed on an EM include:

- A court order allowing the release from custody to a pretrial release program while the defendant awaits trial.⁶
- A judge placing an offender on probation⁷ or community control⁸ in lieu of or in addition to incarceration.⁹
- Supervision by the Florida Commission on Offender Review (FCOR).¹⁰

Electronic Monitoring

The Department of Corrections (DOC) must electronically monitor an offender sentenced to community control when the court has imposed such condition.¹¹ Any offender placed under supervision who violates the terms and conditions of supervision and is restored to supervision may be supervised by means of an electronic monitoring device or system if ordered by the court.¹²

Electronic monitoring is a condition of a court or commission order for probationers, community controllees, or conditional releasees who have current or prior convictions for violent or sexual offenses. A system that actively monitors and identifies the offender's locations and timely reports or records the offender's presence near or within a crime scene or in a prohibited area or the offender's departure from specified geographic limitations must be used.¹³

⁵ Office of Juvenile Justice and Delinquency Prevention, *Home Confinement and Electronic Monitoring*, October 2014, available at https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/home_confinement_em.pdf (last visited March 3, 2025).

⁶ Office of Program Policy Analysis & Gov't Accountability, *County Pretrial Release Programs: Calendar Year 2017*, Report No. 18-06, at 1, 2, and 8-9, November 2018, available at <https://oppaga.fl.gov/Documents/Reports/18-06.pdf> (last visited March 3, 2025); See also s. 907.041, F.S., which provides a presumption in favor of release on nonmonetary conditions for any person who is granted pretrial release unless such person is charged with an enumerated dangerous crime.

⁷ Section 948.001(8), F.S., Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose. Standard conditions of probation are enumerated in s. 948.03, F.S., and are not required to be announced on the record, but the court must orally pronounce, as well as provide in writing, any special conditions of probation imposed.

⁸ Section 948.001(3), F.S., defines “community control” as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Section 948.10(2), F.S., provides that caseloads must be no more than 30 cases per officer.

⁹ Sections 948.01 and 948.11, F.S.

¹⁰ Section 947.1405(7), (8), and (10), F.S.

¹¹ Section 948.11(1), F.S.

¹² Section 948.11(2), F.S.

¹³ Section 948.11(6), F.S.

Probation

The Office of Community Corrections currently supervises more than 145,000 offenders throughout Florida. These adult offenders are monitored and supervised by probation officers located in 130 probation offices. This includes offenders released from prison on parole, conditional release, or conditional medical release. It also includes offenders placed on court ordered supervision including regular probation, administrative probation, drug offender probation, sex offender probation, and community control.¹⁴

Tampering with an Electronic Monitoring Device

Section 843.23, F.S., provides it is a third-degree felony¹⁵ to tamper with an EM, which includes any device that is used to track the location of a person. It is unlawful for a person to intentionally and without authority:

- Remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device that must be worn or used by that person or another person pursuant to a court or order by the FCOR; or
- Request, authorize, or solicit a person to remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device.

Reclassification and Ranking

Reclassification occurs when the Legislature *increases the degree of a conviction*. The reclassification attaches at the time the charges are filed.¹⁶ Reclassification of a criminal conviction from one degree to a higher degree stems from an express and explicit grant of statutory authority.¹⁷ The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony.

- 60 days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- 15 years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.¹⁸

Section 775.087(1)(a-c), F.S., reclassifies the penalty in cases that a weapon or a firearm is an essential element during the commission of a felony by reclassifying the penalty to a higher degree.¹⁹

¹⁴ Florida Department of Corrections, *Probation Services*, available at <http://www.dc.state.fl.us/cc/index.html> (last visited March 3, 2025).

¹⁵ A third degree felony is punishable by up to 5 years of incarceration and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

¹⁶ *Cooper v. State*, 455 So.2d 588 (Fla. 1st DCA 1984); *Jackson v. State*, 515 So.2d 394 (Fla. 1st DCA 1987).

¹⁷ *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”).

¹⁸ Section 775.082, F.S. Fines may also be imposed, and those fines escalate based on the degree of the offense.

Section 775.083, F.S., provides the following maximum fines; \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

¹⁹ Section 775.087(1)(a-c), F.S.

III. Effect of Proposed Changes:

The bill amends s. 843.23, F.S., to reclassify the penalties regarding tampering with an electronic device. If a person is charged with or serving a sentence for a:

- Misdemeanor,²⁰ tampering with an electronic device is a third degree felony.²¹
- Third degree felony, tampering with an electronic device is a second degree felony.²²
- Second degree felony, tampering with an electronic device is a first degree felony.²³
- First degree felony or a first degree felony punishable by a term of years not exceeding life, tampering with an electronic device is a first degree felony punishable by a term of years not exceeding life.
- Life or capital felony, tampering with an electronic device is a life felony.

If a person on pretrial release tampers with an electronic monitoring device, his or her pretrial release will be terminated, and will no longer be eligible for pretrial release for the offenses for which they were on release.

The bill takes effect on October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

²⁰ A first degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year and a fine not exceeding \$1000; a second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500, as provided in ss. 775.082 and 775.083, F.S.

²¹ A third degree felony is punishable by a term of imprisonment not to exceed five years and a \$5,000 fine, as provided in ss. 775.082, 775.083, or 775.084, F.S.

²² A second degree felony is punishable by a term of imprisonment not exceeding fifteen years and a fine not exceeding \$5,000, as provided in ss. 775.082, 775.083, or 775.084, F.S.

²³ A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per the FDLE, in FY 23-24, there were 503 arrests for tampering with an electronic monitoring device, with 222 guilty/convicted and 45 adjudications withheld.
- Per the DOC, in FY 23-24, there were 12 new commitments to prison for tampering with an electronic monitoring device. It is not known what felony degree they were when tampering with the electronic monitoring device. Therefore, it cannot be determined how many of those incarcerated and those not incarcerated would be impacted by this language.
- Per the DOC, in FY 23-24, the incarceration rate for a Level 1, 3rd degree felony was 9.7%. The incarceration rate for a Level 4, 2nd degree felony was 29.5%. The incarceration rate for a Level 7, 1st degree felony was 68.4%, the incarceration rate for a 1st degree felony, punishable by a term of years not exceeding life was 75.4%, and the incarceration rate for a life felony was 87.5%.²⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 843.23

²⁴ Office of Economic and Demographic Research, *SB 1054 – Tampering with Electronic Monitoring Devices*, (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.

By Senator Garcia

36-01555-25

20251054__

1 A bill to be entitled
 2 An act relating to tampering with an electronic
 3 monitoring device; amending s. 843.23, F.S.;
 4 reclassifying the offense of tampering with an
 5 electronic monitoring device to provide graduated
 6 penalties; requiring termination of pretrial release
 7 of a person who tampers with such a device while on
 8 pretrial release; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Section 843.23, Florida Statutes, is amended to
 13 read:
 14 843.23 Tampering with an electronic monitoring device.—
 15 (1) As used in this section, the term “electronic
 16 monitoring device” includes any device that is used to track the
 17 location of a person.
 18 (2) It is unlawful for a person to intentionally and
 19 without authority:
 20 (a) Remove, destroy, alter, tamper with, damage, or
 21 circumvent the operation of an electronic monitoring device that
 22 must be worn or used by that person or another person pursuant
 23 to a court order or pursuant to an order by the Florida
 24 Commission on Offender Review; or
 25 (b) Request, authorize, or solicit a person to remove,
 26 destroy, alter, tamper with, damage, or circumvent the operation
 27 of an electronic monitoring device required to be worn or used
 28 pursuant to a court order or pursuant to an order by the Florida
 29 Commission on Offender Review.

Page 1 of 2

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

36-01555-25

20251054__

30 (3) A person who violates this section commits a:
 31 (a) Felony of the third degree, punishable as provided in
 32 s. 775.082, s. 775.083, or s. 775.084, if the person is charged
 33 with or serving a sentence for a misdemeanor.
 34 (b) Felony of the second degree, punishable as provided in
 35 s. 775.082, s. 775.083, or s. 775.084, if the person is charged
 36 with or serving a sentence for a third degree felony.
 37 (c) Felony of the first degree, punishable as provided in
 38 s. 775.082, s. 775.083, or s. 775.084, if the person is charged
 39 with or serving a sentence for a second degree felony.
 40 (d) Felony of the first degree, punishable by a term of
 41 years not exceeding life or as provided in s. 775.082, s.
 42 775.083, or s. 775.084, if the person is charged with or serving
 43 a sentence for a first degree felony or a first degree felony
 44 punishable by a term of years not exceeding life.
 45 (e) Life felony, punishable as provided in s. 775.082, s.
 46 775.083, or s. 775.084, if the person is charged with or serving
 47 a sentence for a life or capital felony.
 48 (4) A person on pretrial release who commits a violation of
 49 this section shall have his or her pretrial release terminated
 50 and shall no longer be eligible for pretrial release for the
 51 offenses for which he or she was on release.
 52 Section 2. This act shall take effect October 1, 2025.

Page 2 of 2

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

HB 437 – Tampering With an Electronic Monitoring Device (Identical SB 1054)

This bill amends s. 843.23, F.S., currently a Level 1, 3rd degree felony for tampering with an electronic monitoring device, and adds multiple other felonies, depending on the situation as follows:

- if the person is charged with or serving a sentence for a misdemeanor – Level 1, 3rd degree felony
- if the person is charged with or serving a sentence for a 3rd degree felony – unranked, 2nd degree felony (Level 4 by default)
- if the person is charged with or serving a sentence for a 2nd degree felony – unranked, 1st degree felony (Level 7 by default)
- if the person is charged with or serving a sentence for a 1st degree felony or a 1st degree felony punishable by a term of years not exceeding life – 1st degree felony, punishable by a term of years not exceeding life
- if the person is charged with or serving a sentence for a life or capital felony – life felony

Lastly, “a person on pretrial release who commits a violation of this section shall have his or her pretrial release terminated and shall no longer be eligible for pretrial release for the offenses for which he or she was on release.”

Per FDLE, in FY 23-24, there were 503 arrests for tampering with an electronic monitoring device, with 222 guilty/convicted and 45 adjudications withheld.

Per DOC, in FY 23-24, there were 12 new commitments to prison for tampering with an electronic monitoring device. It is not known what felony degree they were when tampering with the electronic monitoring device. Therefore, it cannot be determined how many of those incarcerated and those not incarcerated would be impacted by this language.

Per DOC, in FY 23-24, the incarceration rate for a Level 1, 3rd degree felony was 9.7%. The incarceration rate for a Level 4, 2nd degree felony was 29.5%. The incarceration rate for a Level 7, 1st degree felony was 68.4%, the incarceration rate for a 1st degree felony, punishable by a term of years not exceeding life was 75.4%, and the incarceration rate for a life felony was 87.5%.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate

The Florida Senate

APPEARANCE RECORD

SB 1054

Bill Number or Topic

March 11

Meeting Date

Criminal Justice

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Marsia Brown

Phone

716-727-9788

Address

3354 Ft. Collins Lane

Email

MarsiaPrFreeLife@gmail.com

Street

Tallahassee

State

FL

Zip

32304

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 1168

INTRODUCER: Senator Leek

SUBJECT: Installation or Use of Tracking Devices or Applications

DATE: March 10, 2025

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Parker | Stokes | CJ | Favorable |
| 2. | | | ACJ | |
| 3. | | | RC | |

I. Summary:

SB 1168 amends s. 934.425, F.S., to provide that a person who, in furtherance of a dangerous crime as defined in s. 907.041(5)(a)¹, F.S., knowingly installs or places a tracking device or tracking application on another person's property without consent or uses such a device or application to determine a person's location or their property's location or movement without consent, commits a second degree felony.²

The bill has a positive indeterminate fiscal impact. *See Section V. Fiscal Impact Statement.*

The bill takes effect on October 1, 2025.

II. Present Situation:

In recent years, compact tracking devices like Apple AirTags have changed the way that we locate lost items. These devices have also opened avenues for misuse in the area of personal surveillance. Tracking devices and tracking applications can be used to follow the location or movement of another person, potentially without that person's knowledge or consent. Some applications have legitimate uses, but may be accessed by third parties without the user's consent. Other applications are developed and marketed as surveillance applications, commonly targeting potential customers interested in using the technology to track the movements and communication of another without consent.

¹ Section 907.041(5)(a), F.S., defines "dangerous crime" to mean any of the follow: offenses: Arson, Aggravated assault, Aggravated battery, Illegal use of explosives, Child abuse or aggravated child abuse, Abuse of an elderly person or disabled adult, Aircraft piracy, Kidnapping; Homicide, Manslaughter, Sexual battery, Robbery, carjacking, and the remaining offenses listed under this section.

² A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine of \$10,000 as provided in ss. 775.082, 775.083, and 775.084, F.S.

Bluetooth trackers like Apple AirTag, Google's Nest tags and Tile devices work by transmitting a signal to nearby phones or tablets, which report the tracker's location for the tracker's owner and display its moves in real time on a map.³

Location Tracking Technology

Global Positioning System

The Global Positioning System (GPS) is a space-based radio navigation system, owned by the United States Government and operated by the United States Space Force. GPS consists of three segments, including the:

- Space Segment: A constellation of 31 operational satellites that circle the Earth at an altitude of approximately 11,000 miles every 12 hours;
- Control Segment: Stations on Earth that monitor and maintain the GPS satellites; and
- User Segment: Receivers that process the navigation signals from the GPS satellites and calculate position and time.⁴

Each GPS satellite transmits its position and time at regular intervals and the signals are intercepted by GPS receivers. The receiver is then able to determine its position by calculating how long it took for the signal to reach the receiver. GPS currently provides two levels of service: standard positioning service and precise positioning service. Access to precise positioning service is restricted to the United States Armed Forces, Federal agencies, and select allied armed forces and governments. Standard positioning service is available to all users on a continuous basis, free of any direct charge to users.⁵

GPS is widely used in a variety of applications because its capabilities are accessible using small, inexpensive equipment.⁶

Wi-Fi Positioning

Wi-Fi is a radio-frequency technology for wireless communication that is used by nearly all devices and network infrastructure, including smartphones, computers, Internet of Things devices, routers, and more can be used to transmit data between devices using radio waves.⁷ Wi-Fi can be leveraged to detect and track the location of people, devices, and assets, and can be easily activated for indoor positioning with existing Wi-Fi access points. The most commonly used Wi-Fi positioning techniques determine a device's location by using a measure called received signal strength indicator (RSSI). In RSSI applications, multiple existing Wi-Fi access points or Wi-Fi enabled sensors deployed in a fixed position detect transmitting Wi-Fi devices

³ WUFT, *Florida cracking down on cyber stalking with Apple AirTags, other hidden tracking devices*, (April 7, 2024), available at: <https://www.wusf.org/politics-issues/2024-04-07/florida-cracking-down-on-cyber-stalking-with-apple-airtags-other-hidden-tracking-devices> (last visited March 5, 2025).

⁴ NASA, *GPS-What is GPS*, Catherine G. Manning, September 25, 2023, available at: <https://www.nasa.gov/directorates/somd/space-communications-navigation-program/gps/> (last visited on March 5, 2025).

⁵ *Id.*

⁶ Federal Aviation Administration, *Satellite Navigation- Global Positioning System (GPS)*, available at: https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/techops/navservices/gnss/gps (last visited on March 5, 2025).

⁷ Inpixon Indoor Intelligence, *Wi-Fi RTLS, Location Tracking and Positioning, What is Wi-Fi Positioning*, available at: <https://www.inpixon.com/technology/standards/wifi> (last visited on March 5, 2025).

and the received signal strength of a device's signal. The location data collected by the access points or sensors is sent to the central indoor positioning or realtime location system, which analyzes the data to estimate the position of the transmitting device. Alternatively, the signal strength of nearby access points can be used to determine a device's location.⁸ Wi-Fi positioning technology is particularly popular in providing location services in indoor spaces where GPS may not work as effectively.

Unlawful Installation of a Tracking Device or Application

Section 934.425, F.S., provides that the installation or placement of a tracking device or tracking application on another person's property without that person's consent; or use of a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent is a third degree felony.⁹

A person's consent to be tracked is presumed to be revoked if:

- The consenting person and the person to whom consent was given are lawfully married and one person files a petition for dissolution of marriage from the other;¹⁰ or
- The consenting person or the person to whom consent was given files an injunction for protection against the other person.¹¹

The prohibition against installing a tracking device or tracking application does not apply to:

- A law enforcement officer, or any local, state, federal, or military law enforcement agency, that lawfully installs a tracking device or tracking application on another person's property as part of a criminal investigation;¹²
- A parent or legal guardian of a minor child who installs a tracking device or tracking application on the minor child's property if:
 - The parents or legal guardians are lawfully married to each other and are not separated or otherwise living apart, and either parent or legal guardian consents to the installation of the tracking device or tracking application;¹³
 - The parent or legal guardian is the sole surviving parent or legal guardian of the minor child;¹⁴
 - The parent or legal guardian has sole custody of the minor child;¹⁵ or
 - The parents or legal guardians are divorced, separated, or otherwise living apart and both consent to the installation of the tracking device or tracking application.¹⁶

⁸ *Id.*

⁹ A third degree felony is punishable by a term of imprisonment of not exceeding 5 years and a fine of \$5,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

¹⁰ Section 934.425(3)(a), F.S.

¹¹ Section 934.425(3)(b), F.S., references the following injunctions for protection: s. 741.30, F.S., relating to domestic violence; s. 741.315, F.S., relating to foreign protection orders; s. 784.046, F.S., relating to repeat violence, sexual violence, or dating violence; s. 784.048, F.S., relating to stalking.

¹² Section 934.425(4)(a), F.S.

¹³ Section 934.425(4)(b)1., F.S.

¹⁴ Section 934.425(4)(b)2., F.S.

¹⁵ Section 934.425(4)(b)3., F.S.

¹⁶ Section 934.425(4)(b)4., F.S.

- A caregiver of an elderly person¹⁷ or disabled adult,¹⁸ if the elderly person or disabled adult's treating physician certifies that the installation of a tracking device or tracking application onto the elderly person or disabled adult's property is necessary to ensure the safety of the elderly person or disabled adult;¹⁹
- A person acting in good faith on behalf of a business entity for a legitimate business purpose;²⁰ or
- An owner or lessee of a motor vehicle that installs, or directs the installation of, a tracking device or tracking application on such vehicle during the period of ownership or lease, provided that:²¹
 - The tracking device or tracking application is removed before the vehicle's title is transferred or the vehicle's lease expires;²²
 - The new owner or lessor of the vehicle consents in writing for the tracking device or tracking application to remain installed;²³ or
 - The owner of the vehicle at the time of the installation of the tracking device or tracking application was the original manufacturer of the vehicle.²⁴

III. Effect of Proposed Changes:

SB 1168 amends s. 934.425, F.S., to provide that a person who, in furtherance of a dangerous crime as defined in s. 907.041(5)(a), F.S., knowingly installs or places a tracking device or tracking application on another person's property without consent or uses such a device or application to determine a person's location or their property's location or movement without consent, commits a second degree felony.²⁵

Section 907.041(5)(a), F.S., defines "dangerous crime" to mean any of the following:

- Arson;
- Aggravated assault;
- Aggravated battery;
- Illegal use of explosives;
- Child abuse or aggravated child abuse;

¹⁷ Section 825.101(4), F.S., defines "Elderly person" to mean a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction to the extent that the ability of the person to provide adequately for the person's own care or protection is impaired.

¹⁸ Section 825.101(3), F.S., defines "Disabled adult" to mean a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person's ability to perform the normal activities of daily living.

¹⁹ Section 934.425(4)(c), F.S.

²⁰ Section 934.425(4)(d), F.S., This paragraph does not apply to a person engaged in private investigation, as defined in s. 493.6101, F.S., on behalf of another person unless such activities would otherwise be exempt under this subsection if performed by the person engaging the private investigator.

²¹ Section 934.425(4)(e), F.S.

²² Section 934.425(4)(e)1., F.S.

²³ Section 934.425(4)(e)2., F.S.

²⁴ Section 934.425(4)(e)3., F.S.

²⁵ A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine of \$10,000 as provided in ss. 775.082, 775.083, and 775.084, F.S.

- Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;
- Aircraft piracy;
- Kidnapping;
- Homicide;
- Manslaughter, including DUI manslaughter and BUI manslaughter;
- Sexual battery;
- Robbery;
- Carjacking;
- Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;
- Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority.
- Burglary of a dwelling;
- Stalking and aggravated stalking;
- Act of domestic violence as defined in s. 741.28, F.S.;
- Home invasion robbery;
- Act of terrorism as defined in s. 775.30, F.S.;
- Manufacturing any substances in violation of chapter 893, F.S.;
- Attempting or conspiring to commit any such crime;
- Human trafficking;
- Trafficking in any controlled substance described in s. 893.135(1)(c)4, F.S.;
- Extortion in violation of s. 836.05, F.S.; and
- Written threats to kill in violation of s. 836.10, F.S.

The bill takes effect on October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

It is estimated that the bill will have a “positive indeterminate” fiscal impact on the Department of Corrections due to the enhanced criminal penalties created in the bill that have the potential for an unquantifiable increase in prison beds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 934.425 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

By Senator Leek

7-01392-25

20251168__

A bill to be entitled

An act relating to the installation or use of tracking devices or applications; amending s. 934.425, F.S.; providing enhanced penalties for a person who, in furtherance of a dangerous crime, knowingly installs or places a tracking device or tracking application on another person's property without consent or uses such a device or application to determine a person's or their property's location or movement without consent; providing an effective date.

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

Section 1. Subsection (6) is added to section 934.425, Florida Statutes, and subsections (2) and (5) of that section are republished, to read:

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

(2) Except as provided in subsection (4), a person may not knowingly:

(a) Install or place a tracking device or tracking application on another person's property without that person's consent; or

(b) Use a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent.

(5) A person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Page 1 of 2

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

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(6) A person who violates this section in furtherance of a dangerous crime as defined in s. 907.041(5)(a) 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, 2025.

Page 2 of 2

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

5 The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1198

INTRODUCER: Criminal Justice Committee and Senator DiCeglie

SUBJECT: Fraudulent Use of Gift Cards

DATE: March 10, 2025

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Vaughan | Stokes | CJ | Fav/CS |
| 2. | | | ACJ | |
| 3. | | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1198 creates s. 817.091, F.S., relating to the fraudulent use of gift cards to establish guidelines and penalties for fraudulent activities involving gift cards. It is a first degree misdemeanor¹ for a person with intent to defraud to:

- Acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller.
- To alter or tamper with a gift card or its packaging.
- To devise a scheme to obtain a gift card or gift card redemption information from a cardholder, card issuer, or gift card seller by means of fraudulent pretenses.
- To use, for the purpose of obtaining money, goods, or services or anything else of value,² a gift card or gift card redemption information that has been obtained in violation of the above.

¹ A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

² The bill defines “value” as the greatest amount of economic loss the card issuer, gift card seller, or cardholder might reasonably suffer, including the full or maximum monetary face or load value of the gift card, regardless of whether the gift card has been activated.

If the value³ of the money, goods, services or other things of value obtained as a result of the violation exceeds \$750, the person is guilty of a third degree felony.⁴

The bill provides definitions for the terms cardholder, card issuer, gift card, gift card redemption information, gift card seller, and value.

The bill may have a positive indeterminate fiscal impact. *See Section V. Fiscal Impact Statement.*

The bill takes effect on October 1, 2025.

II. Present Situation:

Gift Cards

A gift card is a prepaid debit card that contains a specific amount of money available for use for a variety of purchases. Store gift cards are designed to be used at specific merchants or retailers, while general-use prepaid gift cards are not affiliated with any specific merchant and can also be used to withdraw cash at automated teller machines (ATMs).⁵

Gift Card Scams

According to a December 2020 analysis by the Federal Trade Commission (FTC), “About one in four who lost money to a fraud say they paid with a gift card. In fact, gift cards have topped the list of reported fraud payment methods every year since 2018. During that time, people reported losing a total of nearly \$245 million, with a median individual loss of \$840.” The FTC’s statistics exclude reports categorized as online shopping scams and come from consumer complaints directly to the FTC.⁶ Scammers tamper with gift cards in stores using handheld scanners to capture card information, then periodically check the balance by calling the retailer’s 800 number. Once the card is activated, they either clone and create counterfeit cards, use the information to shop online, or divert the funds to their own cards, leaving the unsuspecting buyer with an empty gift card.⁷

In June 2023, the Alachua County Sheriff’s Office conducted a traffic stop and seized 1,764 gift cards that were reportedly altered and forged, with a value of \$158,600. Another 208 gift cards

³ The bill defines “value” as the greatest amount of economic loss the card issuer, gift card seller, or cardholder might reasonably suffer, including the full or maximum monetary face or load value of the gift card, regardless of whether the gift card has been activated.

⁴ A felony of the third degree is punishable by a term of imprisonment of 5 years, as provided in ss. 775.082, 775.083, and 775.083, F.S.

⁵ Investopedia, *Gift Card: definition, types and scams to avoid*, available at <https://www.investopedia.com/terms/g/gift-card.asp> (last visited March 5, 2025).

⁶ Better Business Bureau, *Gift Card Payment Scams*, available at <https://www.bbb.org/all/scamstudies/gift-card-scams/gift-card-scams-full-study> (last visited March 5, 2025).

⁷ Better Business Bureau, *BBB Tip: Don't get scammed out of a gift card*, available at <https://www.bbb.org/article/news-releases/14400-dont-get-scammed-out-of-a-gift-card-this-season> (last visited March 3, 2025).

were reportedly found, but deputies could not determine whether they had been altered; the known value of those cards is \$10,500, but only 77 of the 208 have dollar amounts on the cards.⁸

Theft and Fraud

Theft and fraud are offenses that involve unlawfully taking or using someone else's property and engaging in deceptive practices for gain or profit. These offenses are currently prosecuted under several different statutes including the Florida Communications Fraud Act,⁹ theft,¹⁰ and retail theft.¹¹ The penalties vary depending on the severity of the crime.

Theft

Theft is generally punished in s. 812.014, F.S., which provides that a person commits a theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to use the property.¹²

Generally, a person commits a third degree felony¹³ crime of grand theft if the property stolen is valued at \$750 or more, but less than \$20,000.¹⁴ If the property stolen is \$20,000 or more, but less than \$100,000, the offender commits a second degree felony,¹⁵ and if the property stolen is \$100,000 or more, the offender commits a first degree felony.¹⁶ Other items listed under this section such as the theft of a firearm, a motor vehicle, or a stop sign, may also constitute grand theft.¹⁷

Theft of any property not specified is a second degree misdemeanor,¹⁸ and property stolen valued at \$100 or more but less than \$750 is a first degree misdemeanor.^{19,20}

⁸ Alachua Chronicle, *Pair arrested with 1,764 fraudulent gift cards, may be part of organized ring*, available at <https://alachuachronicle.com/pair-arrested-with-1764-fraudulent-gift-cards-may-be-part-of-organized-ring/> (last visited March 5, 2025).

⁹ Section 817.034, F.S.

¹⁰ Section 812.014, F.S.

¹¹ Section 812.015, F.S.

¹² Section 812.014(1), F.S.

¹³ A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

¹⁴ Section 812.014(2)(c)1.-3., F.S.

¹⁵ Section 812.014(2)(b), F.S.

¹⁶ Section 812.014(2)(a)1., F.S.

¹⁷ Section 812.014(2)(c), F.S.

¹⁸ A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in s. 775.082 or s. 775.083, F.S.

¹⁹ Section 812.014(3)(a), F.S., Section 812.014(2)(f), F.S.

²⁰ A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

Retail Theft

Section 812.015, F.S., is specifically directed at punishing “retail theft,”²¹ which the statute defines as “the taking possession of or carrying away of merchandise,²² property, money, or negotiable documents; altering or removing a label, universal product code, or price tag; transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant²³ of possession, use, benefit, or full retail value.”^{24,25}

Section 812.015(8), F.S., provides that it is a third degree felony to commit retail theft, if the property stolen is valued at \$750 or more, and the person:

- Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, which may occur through multiple acts of retail theft, in which the amount of each individual theft is aggregated within a 120-day period to determine the value of the property stolen and such value is \$750 or more;
- Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in the control of another person in exchange for consideration, in which the stolen property taken or placed within a 120-day period is aggregated to determine the value of the stolen property and such value is \$750 or more;
- Individually, or in concert with one or more other persons, commits theft from more than one location within a 120-day period, in which the amount of each individual theft is aggregated to determine the value of the property stolen and such value is \$750 or more;
- Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant’s employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense and such value is \$750 or more;
- Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box and such value is \$750 or more;
- Individually, or in concert with one or more other persons, commits three or more retail thefts within a 120-day period and in committing such thefts obtains or uses 10 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 120-day period to determine the total number of items stolen, regardless of the value of such merchandise, and two or more of the thefts occur at different physical merchant locations; or
- Acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant’s employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense.²⁶

²¹Section 812.015, F.S.

²² “Merchandise” means “any personal property, capable of manual delivery, displayed, held, or offered for retail sale by a merchant.” Section 812.015(1)(g), F.S.

²³ “Merchant” means “an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise.” Section 812.015(1)(h), F.S.

²⁴ Section 812.015(1)(i), F.S.

²⁵ Section 812.015, F.S. defines “value of merchandise” as the sale price of the merchandise at the time it was stolen or otherwise removed, depriving the owner of her or his lawful right to ownership and sale of said item.

²⁶ Section 812.015(8)(a)-(g), F.S.

Section 812.015(9), F.S., provides that it is a second degree felony if the person has committed specified acts of retail theft, and has previously been convicted of retail theft.

Section 812.015(10), F.S., provides that if a person commits retail theft in more than one judicial circuit within a 120-day period, the value of the stolen property resulting from the thefts in each judicial circuit may be aggregated, and the person must be prosecuted by the Office of the Statewide Prosecutor in accordance with s. 16.56, F.S.

Schemes to Defraud

Section 817.034(3)(d), F.S., defines “scheme to defraud” means a systematic, ongoing course of conduct with intent to defraud one or more persons, or with intent to obtain property from one or more persons by false or fraudulent pretenses, representations, endorsements of nonconsenting parties, or promises or willful misrepresentations of a future act.²⁷ Any person who engages in a scheme to defraud and obtains property thereby commits organized fraud, punishable as follows:

- If the amount of property obtained has an aggregate value²⁸ of \$50,000 or more, the person commits a first degree felony.²⁹
- If the amount of property obtained has an aggregate value³⁰ of \$20,000 or more, but less than \$50,000, the person commits a second degree felony.³¹

²⁷ Section 817.034(3)(d), F.S.

²⁸ Section 817.034, F.S., defines “value” as the value determined according to any of the following: the market value of the property at the time and place of the offense, or, if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense; the value of a written instrument that does not have a readily ascertainable market value, in the case of an instrument such as a check, draft, or promissory note, is the amount due or collectible or is, in the case of any other instrument which creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation, the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument; the value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner, suffered by reason of losing an advantage over those who do not know of or use the trade secret; if the value of property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than \$300; amounts of value of separate properties obtained in one scheme to defraud, whether from the same person or from several persons, shall be aggregated in determining the grade of the offense under paragraph (4)(a).

²⁹ A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. When specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.

³⁰ Section 817.034, F.S., defines “value” as the value determined according to any of the following: the market value of the property at the time and place of the offense, or, if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense; the value of a written instrument that does not have a readily ascertainable market value, in the case of an instrument such as a check, draft, or promissory note, is the amount due or collectible or is, in the case of any other instrument which creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation, the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument; the value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner, suffered by reason of losing an advantage over those who do not know of or use the trade secret; if the value of property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than \$300; amounts of value of separate properties obtained in one scheme to defraud, whether from the same person or from several persons, shall be aggregated in determining the grade of the offense under paragraph (4)(a).

³¹ A second degree felony is punishable by a term of imprisonment not exceeding 30 years and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

- If the amount of property obtained has an aggregate value³² of less than \$20,000, the person commits a third degree felony.^{33,34}

Section 832.05(3), F.S., provides if any person, by act or scheme, to cashes or deposits any item in a bank or depository with intent to defraud commits a third degree felony.³⁵

III. Effect of Proposed Changes:

The bill creates s. 817.091, F.S., relating to the fraudulent use of gift cards to establish guidelines and penalties for fraudulent activities involving gift cards. It is a first degree misdemeanor³⁶ for a person with intent to defraud to:

- Acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller.
- To alter or tamper with a gift card or its packaging.
- To devise a scheme to obtain a gift card or gift card redemption information from a cardholder, card issuer, or gift card seller by means of fraudulent pretenses.
- To use, for the purpose of obtaining money, goods, or services or anything else of value, a gift card or gift card redemption information that has been obtained in violation of the above.

If the value³⁷ of the money, goods, services or other things of value obtained as a result of the violation exceeds \$750, the person is guilty of a third degree felony.³⁸

³² Section 817.034, F.S., defines “value” as the value determined according to any of the following: the market value of the property at the time and place of the offense, or, if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense; the value of a written instrument that does not have a readily ascertainable market value, in the case of an instrument such as a check, draft, or promissory note, is the amount due or collectible or is, in the case of any other instrument which creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation, the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument; the value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner, suffered by reason of losing an advantage over those who do not know of or use the trade secret; if the value of property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than \$300; amounts of value of separate properties obtained in one scheme to defraud, whether from the same person or from several persons, shall be aggregated in determining the grade of the offense under paragraph (4)(a).

³³ A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

³⁴ Section 817.034(4)(a), F.S.

³⁵ A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

³⁶ A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

³⁷ The bill defines “value” as the greatest amount of economic loss the card issuer, gift card seller, or cardholder might reasonably suffer, including the full or maximum monetary face or load value of the gift card, regardless of whether the gift card has been activated.

³⁸ A felony of the third degree is punishable by a term of imprisonment of 5 years, as provided in ss. 775.082, 775.083, and 775.083, F.S.

The bill provides definitions for the terms cardholder,³⁹ card issuer,⁴⁰ gift card,⁴¹ gift card redemption information,⁴² gift card seller,⁴³ and value.⁴⁴

The bill takes effect on October 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

³⁹ The bill defines “cardholder” as a person to whom a physical or virtual gift card is sold, gifted or issued following the authorized sale of a gift card.

⁴⁰ The bill defines “card issuer” as a person that issues a gift card or the agent of that person with respect to that card.

⁴¹ The bill defines “gift card” as a card, code or device that is issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and that is redeemable upon presentation by a consumer at a single merchant, a group of affiliated merchants, or a group of unaffiliated merchants.

⁴² The bill defines “gift card redemption information” as information unique to each gift card which allows the cardholder to access, transfer, or spend the funds on that gift card.

⁴³ The bill defines “gift card seller” as a merchant that is engaged in the business of selling open-loop or closed-loop gift cards to consumers.

⁴⁴ The bill defines “value” as the greatest amount of economic loss the card issuer, gift card seller, or cardholder might reasonably suffer, including the full or maximum monetary face or load value of the gift card, regardless of whether the gift card has been activated.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

Under current law, these offenders are likely getting convicted under theft statutes, with that \$950 threshold falling under the Level 2, 3rd degree felony for grand theft (\$750 or more but less than \$5,000).

- Per the DOC, in FY 23-24, there were 366 new commitments for violating this statute. Additionally, there were 197 new commitments for grand theft at or above the \$5,000 threshold, with only 46 of those at the Level 7, 1st degree felony threshold (\$100,000 or more). It is not known how many of these new commitments fit the criteria outlined in the bill, nor is it known how these new offenses will be used relative to grand theft, since grand theft has a lower monetary threshold for it to reach a felony and a higher monetary threshold before becoming a 1st degree felony. Per the DOC, in FY 23-24, the incarceration rate for a Level 7, 1st degree felony was 68.4%.⁴⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 817.091

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

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

CS by Criminal Justice on March 11, 2025:

- The amendment revises definitions in the bill and provides that it is a first degree misdemeanor for a person, with the intent to defraud, to perform specified acts relating to

⁴⁵ Office of Economic and Demographic Research, *SB 1198 – Fraudulent Use of Gift Cards*, (on file with the Senate Committee on Criminal Justice).

gift cards. It is a third degree felony if the value of the money or goods fraudulently obtained exceeds \$750.

- The amendment to the amendment adds language making it illegal to alter with gift card packaging.

B. Amendments:

None.



651406

LEGISLATIVE ACTION

| Senate | . | House |
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| Comm: RCS | . | |
| 03/11/2025 | . | |
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| | . | |

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 817.091, Florida Statutes, is created to
read:

817.091 Fraudulent use of gift cards.—

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

(a) "Cardholder" means a person to whom a physical or
virtual gift card is sold, gifted, or issued following the



651406

11 authorized sale of the gift card.

12 (b) "Card issuer" means a person that issues a gift card or
13 the agent of that person with respect to that card.

14 (c) "Gift card" means a card, code, or device that is
15 issued to a consumer on a prepaid basis primarily for personal,
16 family, or household purposes in a specified amount, regardless
17 of whether that amount may be increased or reloaded in exchange
18 for payment, and that is redeemable upon presentation by a
19 consumer at a single merchant, a group of affiliated merchants,
20 or a group of unaffiliated merchants.

21 (d) "Gift card redemption information" means information
22 unique to each gift card which allows the cardholder to access,
23 transfer, or spend the funds on that gift card.

24 (e) "Gift card seller" means a merchant that is engaged in
25 the business of selling gift cards to consumers.

26 (f) "Value" means the greatest amount of economic loss the
27 card issuer, gift card seller, or cardholder might reasonably
28 suffer, including the full or maximum monetary face or load
29 value of the gift card, regardless of whether the gift card has
30 been activated.

31 (2) It is unlawful for a person, with the intent to
32 defraud:

33 (a) To acquire or retain possession of a gift card or of
34 gift card redemption information without the consent of the
35 cardholder, card issuer, or gift card seller.

36 (b) To alter or tamper with a gift card.

37 (c) To devise a scheme to obtain a gift card or gift card
38 redemption information from a cardholder, card issuer, or gift
39 card seller by means of false or fraudulent pretenses,



651406

representations, or promises.

(d) To use, for the purpose of obtaining money, goods, services, or anything else of value, a gift card or gift card redemption information that has been obtained in violation of paragraph (a), paragraph (b), or paragraph (c).

(3)(a) Except as provided in paragraph (b), a person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the value of the money, goods, services, or other things of value obtained as a result of violating subsection (2) exceeds \$750, the person commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to fraudulent use of gift cards;
creating s. 817.091, F.S.; defining terms; providing
criminal penalties for persons who, with the intent to
defraud, commit specified prohibited acts related to
gift cards; providing criminal penalties for persons
who, with the intent to defraud, use for certain
purposes gift cards or gift card redemption
information; providing enhanced criminal penalties if
the value of such violation exceeds a specified
amount; providing an effective date.



644732

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 03/11/2025 | . | |
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| | . | |
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The Committee on Criminal Justice (DiCeglie) recommended the following:

Senate Amendment to Amendment (651406)

Delete line 36
and insert:
(b) To alter or tamper with a gift card or its packaging.

By Senator DiCeglie

18-00866-25

20251198

A bill to be entitled

An act relating to fraudulent use of gift cards; creating s. 817.091, F.S.; defining terms; providing criminal penalties for persons who, with the intent to defraud, acquire or retain possession of certain gift cards or gift card redemption information or from altering or tampering with gift cards; providing criminal penalties for persons who, with the intent to defraud, use for certain purposes gift cards or gift card redemption information; providing enhanced criminal penalties if the value of such violation exceeds a specified amount; providing an effective date.

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

Section 1. Section 817.091, Florida Statutes, is created to read:

817.091 Fraudulent use of gift cards.-

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

(a) "Cardholder" means a person to whom a gift card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a gift card to another person.

(b) "Card issuer" means a person that issues a gift card or the agent of that person with respect to that card.

(c) "Closed-loop gift card" means a card, code, or device that is issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount,

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18-00866-25

20251198

regardless of whether that amount may be increased or reloaded in exchange for payment, and which is redeemable upon presentation by a consumer at a single merchant or group of affiliated merchants.

(d) "Gift card" means a physical or digital closed-loop gift card or open-loop gift card that is either activated or deactivated.

(e) "Gift card redemption information" means information unique to each gift card which allows the cardholder to access, transfer, or spend the funds on that gift card.

(f) "Gift card seller" means a merchant that is engaged in the business of selling open-loop or closed-loop gift cards to consumers.

(g) "Open-loop gift card" means a card, code, or device that is issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and which is redeemable upon presentation at multiple unaffiliated merchants for goods or services within the payment card network.

(h) "Value" means the greatest amount of economic loss the owner of the property might reasonably suffer, including, in the case of a gift card, the full monetary face value or potential value for variable load gift cards.

(2) It is unlawful for a person, with the intent to defraud:

(a) To acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller.

Page 2 of 3

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

18-00866-25

20251198__

(b) To alter or tamper with a gift card.

(c) To use, for the purpose of obtaining money, goods, services, or anything else of value, a gift card or gift card redemption information that has been obtained in violation of paragraph (a) or paragraph (b).

(3)(a) Except as provided in paragraph (b), a person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the value of the money, goods, services, or other things of value obtained as a result of violating subsection (2) exceeds \$950, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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



THE FLORIDA SENATE
SENATOR NICK DICEGLIE
District 18

Ben Albritton
President of the Senate

Jason Brodeur
President Pro Tempore

March 6, 2025

Dear Chair Martin,

I respectfully request that **SB 1198: Fraudulent Use of Gift Cards** be placed on the agenda of the Committee on Criminal Justice at your earliest convenience. If my office can be of any assistance to the committee, please do not hesitate to contact me at DiCeglie.Nick@flsenate.gov or (850) 487-5018. Thank you for your consideration.

Sincerely,

Nick DiCeglie

State Senator, District 18

Proudly Serving Pinellas County

Appropriations Committee on Transportation, Tourism, and Economic Development,
Chair ~ Governmental Oversight and Accountability, Vice Chair ~ Appropriations ~
Appropriations Committee on Agriculture, Environment, and General Government ~
Commerce and Tourism ~ Environment and Natural Resources ~ Judiciary ~ Rules ~
Joint Select Committee on Collective Bargaining

SB 1198 – Fraudulent Use of Gift Cards

This bill creates s. 817.091, F.S., providing definitions and stating that “it is unlawful for a person, with the intent to defraud...to acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller...to alter or tamper with a gift card...to use, for the purpose of obtaining money, goods, services, or anything else of value, a gift card or gift card redemption information that has been obtained...” through these violations. A **1st degree misdemeanor** is created for such violations, and an **unranked, 1st degree felony (Level 7 by default)** is created for when “the value of the money, goods, services, or other things of value obtained...exceeds \$950.”

Under current law, these offenders are likely getting convicted under theft statutes, with that \$950 threshold falling under the Level 2, 3rd degree felony for grand theft (\$750 or more but less than \$5,000). Per DOC, in FY 23-24, there were 366 new commitments for violating this statute. Additionally, there were 197 new commitments for grand theft at or above the \$5,000 threshold, with only 46 of those at the Level 7, 1st degree felony threshold (\$100,000 or more). It is not known how many of these new commitments fit the criteria outlined in the bill, nor is it known how these new offenses will be used relative to grand theft, since grand theft has a lower monetary threshold for it to reach a felony and a higher monetary threshold before becoming a 1st degree felony.

Per DOC, in FY 23-24, the incarceration rate for a Level 7, 1st degree felony was 68.4%.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate

The Florida Senate

March 11, 2025

APPEARANCE RECORD

1198

Meeting Date

Criminal Justice

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

651406

Committee

Amendment Barcode (if applicable)

Name **Lorena Holley**

Phone **850-443-1173**

Address **227 S. Adams St.**

Email **Lorena@FRF.org**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Retail Federation

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3/11/25

Meeting Date

1198

Bill Number or Topic

Criminal Justice

Committee

651406

Amendment Barcode (if applicable)

Name

Jon Steverson

Phone

(850) 425-5604

Address

315 S. Calhoun St.

Email

jon.steverson@HKLaw.com

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

InComm

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

3/11/25 - 1:30 PM

Meeting Date

Criminal Justice

Committee

Name AARP - Karen Murillo

Address 215 S. Monroe St., Ste. 603
Street

Tallahassee

City

FL

State

32301

Zip

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1198 - Gift Card Fraud

Bill Number or Topic

Amendment Barcode (if applicable)

Phone 850-567-0414

Email kmurillo@aarp.org

Speaking: ☒ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

AARP

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

March 11, 2025

APPEARANCE RECORD

1198

Meeting Date

Bill Number or Topic

Criminal Justice

Deliver both copies of this form to
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Committee

Amendment Barcode (if applicable)

Name **Lorena Holley**

Phone **850-443-1173**

Address **227 S. Adams St.**

Email **Lorena@FRF.org**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Retail Federation

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Bill Number or Topic

Amendment Barcode (if applicable)

Meeting Date 3/11/25
Committee Criminal Justice

Name Greg Black Phone 8505098022

Address 201 E. Park Avenue, Ste. 200B Email Greg@BlackConsultingLLC.com
Street

Tallahassee FL 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

- ☐ I am appearing without compensation or sponsorship.
- ☒ I am a registered lobbyist, representing:
International Council of Shopping Centers (ICSC)
- ☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

3/11/2025

APPEARANCE RECORD

1198

Meeting Date

Bill Number or Topic

CRIMINAL JUSTICEDeliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name **CHRIS HANSEN**Phone **850-577-0444**Address **201 E PARK AVENUE, 5TH FLOOR**Email **chansen@ballardpartners.com**

Street

TALLAHASSEE**FL****32301**

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information**OR**Waive Speaking: ☒ In Support ☐ Against**PLEASE CHECK ONE OF THE FOLLOWING:**☐ I am appearing without
compensation or sponsorship.☒ I am a registered lobbyist,
representing:**WALGREEN COMPANY**☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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3/11/25

Meeting Date

1198

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name

Jon Stererson

Phone

u

Address

Street

u

Email

u

City

u

State

u

Zip

u

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

In Comm

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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3/11/2025

Meeting Date

Criminal Justice

Committee

1198

Bill Number or Topic

Amendment Barcode (if applicable)

Name Samantha Padgett

Phone (408) 528-5006

Address 230 S. Adams Street

Street

Email spadgett@FLRA.org

Tallahassee FL 32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Restaurant &
Lodging Association

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

3/11/25

Meeting Date

S Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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SB 1198

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Cameron Fink**

Phone **850-933-4665**

Address **516 N Adams St**

Email **cfink@aif.com**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Associated Industries of Florida

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Fiserv

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 37 **Case No.:** Courtsmart.37
Caption: Senate Criminal Justice Committee

Type:
Judge:

Started: 3/11/2025 1:31:22 PM
Ends: 3/11/2025 2:29:23 PM **Length:** 00:58:02

| | |
|------------|--|
| 1:31:22 PM | Vice Chair Smith calls meeting to order |
| 1:31:30 PM | Roll call |
| 1:31:45 PM | Vice Chair Smith makes opening remarks |
| 1:32:04 PM | SB 688 temporarily postponed |
| 1:32:29 PM | Tab 8: SB 1168 by Senator Leek |
| 1:32:33 PM | Vice Chair Smith recognizes Senator Leek |
| 1:32:41 PM | Senator Leek explains the bill |
| 1:33:50 PM | Questions |
| 1:33:55 PM | Public testimony |
| 1:34:01 PM | Debate |
| 1:34:07 PM | Senator Leek waives close on the bill |
| 1:34:13 PM | Roll call |
| 1:34:28 PM | Vice Chair Smith reports the bill |
| 1:34:41 PM | Tab 7: SB 1054 by Senator Garcia |
| 1:34:44 PM | Vice Chair Smith recognizes Senator Garcia |
| 1:34:56 PM | Senator Garcia explains the bill |
| 1:36:20 PM | Questions |
| 1:36:24 PM | Public testimony |
| 1:36:27 PM | Marsia Brana |
| 1:38:08 PM | Senator Pizzo |
| 1:38:29 PM | Senator Garcia |
| 1:38:31 PM | Senator Pizzo |
| 1:39:23 PM | Senator Garcia |
| 1:40:30 PM | Debate |
| 1:40:32 PM | Senator Pizzo |
| 1:41:41 PM | Senator Garcia closes on the bill |
| 1:42:17 PM | Roll call |
| 1:42:37 PM | Vice Chair Smith reports the bill |
| 1:43:56 PM | Tab 9: SB 1198 by Senator DiCeglie |
| 1:44:00 PM | Chair Martin recognizes Senator DiCeglie |
| 1:44:16 PM | Amendment 651406 |
| 1:44:22 PM | Senator DiCeglie explains the bill |
| 1:44:52 PM | Questions on the bill |
| 1:44:54 PM | Amendment 651406 |
| 1:45:00 PM | Senator DiCeglie explains the amendment |
| 1:45:23 PM | Questions |
| 1:47:00 PM | Amendment 644732 |
| 1:47:06 PM | Senator DiCeglie explains the amendment |
| 1:47:18 PM | Questions |
| 1:47:19 PM | Public testimony |
| 1:47:20 PM | Debate |
| 1:47:22 PM | Senator DiCeglie waives close on the amendment |
| 1:47:24 PM | Chair Martin reports the amendment |
| 1:47:27 PM | Amendment 651406 as amended |
| 1:47:40 PM | Debate |
| 1:47:40 PM | Debate |
| 1:47:41 PM | Senator DiCeglie waives close on the amendment |
| 1:47:45 PM | Chair Martin reports the amendment |
| 1:47:46 PM | Questions on the bill |
| 1:47:48 PM | Public testimony |
| 1:48:41 PM | Debate |
| 1:48:47 PM | Senator DiCeglie closes on the bill |

| | |
|------------|--|
| 1:49:01 PM | Roll call |
| 1:49:22 PM | Chair Martin reports the bill |
| 1:49:44 PM | Tab 3: SB 710 by Senator Osgood |
| 1:49:47 PM | Chair Martin recognizes Senator Osgood |
| 1:49:53 PM | Senator Osgood explains the bill |
| 1:50:28 PM | Amendment 694258 |
| 1:50:33 PM | Senator Osgood explains the amendment |
| 1:50:51 PM | Questions |
| 1:50:52 PM | Public testimony |
| 1:50:53 PM | Debate |
| 1:50:55 PM | Senator Osgood waives close on the amendment |
| 1:50:56 PM | Chair Martin reports the amendment |
| 1:50:58 PM | Public testimony on bill |
| 1:51:00 PM | Questions |
| 1:51:01 PM | Vice Chair Smith |
| 1:51:11 PM | Senator Osgood |
| 1:52:19 PM | Debate |
| 1:52:21 PM | Senator Osgood waives close on the bill |
| 1:52:35 PM | Roll call |
| 1:52:44 PM | Chair Martin reports the bill |
| 1:52:45 PM | Tab 6: SB 1022 by Senator Wright |
| 1:52:51 PM | Chair Martin recognizes Senator Wright |
| 1:52:54 PM | Senator Wright explains the bill |
| 1:53:40 PM | Amendment 933252 |
| 1:53:43 PM | Senator Wright explains the amendment |
| 1:54:48 PM | Questions |
| 1:54:50 PM | Public testimony |
| 1:54:53 PM | Captain Antorrio Wright - Orange County Sheriff's Office |
| 1:56:12 PM | Debate |
| 1:56:30 PM | Public testimony on the bill |
| 1:56:33 PM | Debate |
| 1:56:36 PM | Senator Wright closes on the bill |
| 1:56:38 PM | Roll call |
| 1:56:48 PM | Chair Martin reports the bill |
| 1:56:52 PM | Tab 2: SB 716 by Chair Martin |
| 1:57:02 PM | Vice Chair Smith recognizes Chair Martin |
| 1:57:05 PM | Chair Martin explains the bill |
| 1:58:13 PM | Amendment 554438 |
| 1:58:18 PM | Chair Martin explains the amendment |
| 1:58:50 PM | Questions |
| 1:58:53 PM | Public testimony |
| 1:58:54 PM | Debate |
| 1:58:56 PM | Chair Martin waives close on the amendment |
| 1:58:58 PM | Vice Chair Smith reports the amendment |
| 1:59:03 PM | Questions on bill |
| 1:59:04 PM | Senator Pizzo |
| 1:59:12 PM | Chair Martin |
| 1:59:16 PM | Senator Pizzo |
| 2:00:01 PM | Chair Martin |
| 2:00:08 PM | Public testimony |
| 2:00:11 PM | Debate |
| 2:00:15 PM | Chair Martin waives close on the bill |
| 2:00:16 PM | Roll call |
| 2:00:27 PM | Vice Chair Smith reports the bill |
| 2:00:30 PM | Tab 4: SB 878 by Senator Martin |
| 2:00:34 PM | Vice Chair Smith recognizes Chair Martin |
| 2:00:37 PM | Chair Martin explains the bill |
| 2:01:27 PM | Questions |
| 2:01:30 PM | Public testimony |
| 2:01:32 PM | Debate |
| 2:01:36 PM | Chair Martin waives close on the bill |
| 2:01:38 PM | Roll call |

2:01:48 PM Vice Chair Smith reports the bill
2:01:52 PM Chair Martin Calls Recess - Recording Paused
2:03:26 PM Recording Resumed
2:03:27 PM Tab 5: SB 952 by Senator Ingoglia
2:03:32 PM Chair Martin recognizes Senator Ingoglia
2:03:35 PM Senator Ingoglia explains the bill
2:04:04 PM Questions
2:04:07 PM Vice Chair Smith
2:04:27 PM Senator Ingoglia
2:05:08 PM Vice Chair Smith
2:07:03 PM Senator Ingoglia
2:08:17 PM Vice Chair Smith
2:08:22 PM Senator Ingoglia
2:09:16 PM Public testimony
2:09:19 PM Luis Valdes - Gun Owners inc.
2:10:03 PM Vice Chair Smith
2:10:40 PM Luis Valdes
2:10:57 PM Vice Chair Smith
2:11:25 PM Eric Friday - Florida Carry Inc.
2:12:40 PM Chair Martin
2:12:42 PM Eric Friday
2:13:00 PM Senator Pizzo
2:13:03 PM Eric Friday
2:13:05 PM Senator Pizzo
2:13:07 PM Eric Friday
2:13:10 PM Senator Pizzo
2:13:49 PM Eric Friday
2:14:18 PM Gerald "Jed" Carroll - Gun Owners of America
2:14:54 PM Logan Edge - Florida Gun Rights
2:15:24 PM Senator Pizzo
2:16:01 PM Debate
2:16:04 PM Vice Chair Smith
2:18:37 PM Chair Martin
2:19:32 PM Senator Ingoglia closes on the bill
2:21:39 PM Roll call
2:22:02 PM Chair Martin reports the bill
2:22:17 PM Senator Gruters moves to record missed vote
2:22:20 PM Chair Martin moves to record missed vote
2:22:22 PM Senator Yarborough moves to record missed vote
2:22:27 PM Senator Bernard moves to adjourn meeting
2:22:30 PM Meeting adjourned