

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CHILDREN, FAMILIES, AND ELDER AFFAIRS
Senator Sobel, Chair
Senator Hays, Vice Chair

MEETING DATE: Tuesday, April 1, 2014
TIME: 9:00 —11:00 a.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Sobel, Chair; Senator Hays, Vice Chair; Senators Altman, Braynon, Clemens, Dean, Detert, Diaz de la Portilla, Grimsley, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed committee bill:			
1	SPB 7122	Reimbursement for Crisis Stabilization Unit Services; Requiring the Department of Children and Families to require that managing entities implement a specified reimbursement methodology by a specified date; providing requirements for managing entities, providers, and the reimbursement methodology; requiring the department to establish uniform standards for claims data submitted by providers; requiring the department to establish a statewide database of claims data, etc.	Submitted as Committee Bill Yeas 6 Nays 4
Consideration of proposed committee bill:			
2	SPB 7088	Human Trafficking; Requiring the department to develop or adopt initial screening and assessment instruments; specifying the process for the department to develop or adopt initial screening and assessment instruments; authorizing the Department of Children and Families to certify safe houses and safe foster homes; providing for placement for evaluation in a secure safe house if certain criteria is met, etc.	Submitted as Committee Bill Yeas 10 Nays 0
3	SB 508 Detert (Similar CS/H 91, Compare CS/CS/H 573, CS/CS/S 248)	State Ombudsman Program; Deleting references to ombudsman councils and transferring their responsibilities to representatives of the Office of State Long-Term Care Ombudsman; revising the duties and authority of the state ombudsman; revising duties and membership of the State Long-Term Care Ombudsman Council; providing duties of representatives of the office in the districts; revising the appointments of and qualifications for district ombudsmen; deleting provisions that provide for an election of a chair of a local council and the meeting times for the local council, etc. CF 04/01/2014 Fav/CS AHS AP	Fav/CS Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, April 1, 2014, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 552 Thompson (Similar CS/H 535)	Transactions in Fresh Produce Markets; Authorizing certain owners or operators of farmers' markets, community farmers' markets, flea markets, and other open-air markets selling fresh produce to allow certain authorized Food and Nutrition Service groups, associations, or third-party organizations to implement and operate electronic benefits transfer systems for the purpose of accepting SNAP benefits in such markets, etc. AG 03/03/2014 Favorable CF 04/01/2014 Favorable AP RC	Favorable Yeas 10 Nays 0
5	SB 904 Thompson (Compare H 585)	Abuse of a Parent; Defining the terms "child" and "parent" for purposes of the crimes of abuse of a parent, aggravated abuse of a parent, exploitation of a parent's assets, and emotional abuse of a parent; providing the elements of such crimes; providing criminal penalties; authorizing alternative sentencing under certain circumstances; requiring reporting of the abuse of a parent or exploitation of a parent's assets to the Department of Children and Families' central abuse hotline; providing immunity for a person who makes such a report, etc. CF 04/01/2014 Fav/CS CJ ACJ AP	Fav/CS Yeas 9 Nays 0
6	SB 1190 Lee (Compare CS/H 1397)	Family Law; Creating the "Collaborative Process Act"; declaring that a collaborative process commences when the parties enter into a collaborative participation agreement; stating that the execution of a collaborative participation agreement tolls all legal time periods applicable under law between the parties for the amount of time the agreement remains in effect; disqualifying an attorney from further representing a party if the collaborative process terminates without an agreement, etc. CF 04/01/2014 Fav/CS JU	Fav/CS Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Children, Families, and Elder Affairs

Tuesday, April 1, 2014, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1436 Flores (Compare CS/H 1017, CS/H 1019, Link S 1440)	Public Records/Location of Safe Houses ; Providing exemptions from public records requirements for information about the location of safe houses and such other facilities held by units of local government or the Department of Children and Families; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. CF 04/01/2014 Fav/CS GO RC	Fav/CS Yeas 10 Nays 0
8	SB 1440 Flores (Compare CS/H 1017, CS/H 1019, CS/H 1021, Link S 1426, S 1436)	Human Trafficking; Prohibiting the employment of minors in adult theaters; requiring adult theaters to verify the ages of employees and independent contractors and maintain specified documentation; eliminating the statute of limitations for prosecutions under a specified human trafficking provision; providing for expunction of criminal history records of certain criminal charges against victims of human trafficking that did not result in convictions, etc. CF 04/01/2014 Fav/CS CJ AP	Fav/CS Yeas 10 Nays 0
9	Presentation on Child Support Guidelines Study - Thomas McCaleb, Ph.D., Florida State University		Discussed
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 Children, Families, and Elder Affairs

BILL: SPB 7122

INTRODUCER: For consideration by the Children, Families, and Elder Affairs Committee

SUBJECT: Reimbursement for Crisis Stabilization Unit Services

DATE: March 31, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Crosier	Hendon		CF Submitted as Committee Bill

I. Summary:

SPB 7122 directs the Department of Children and Families (DCF) to require the behavioral health managing entities to implement a new reimbursement methodology for crisis stabilization unit services by January 1, 2015. DCF is directed to maintain a statewide database to track utilization of crisis stabilization services regardless of available funding.

The bill is not expected to have a fiscal impact and the effective date is July 1, 2014.

II. Present Situation:

Individuals experiencing severe emotional or behavioral problems often require emergency treatment to stabilize their situations before referral for outpatient services or inpatient services can occur. Emergency mental health stabilization services may be provided to voluntary or involuntary patients. Involuntary patients must be taken to one of the state's designated receiving facilities. Receiving facilities are defined by the Florida Mental Health Act (ss. 394.451 – 394.4789, F.S.) and are referred to as Baker Act Receiving Facilities.¹ According to the Department of Children and Families (department or DCF), the Florida Legislature enacted the Florida Mental Health Act in 1971 to revise the state's mental health commitment laws. The Act substantially strengthened the due process and civil rights of persons in mental health facilities and those alleged to be in need of emergency evaluation and treatment. A major intent of the Act was to increase community care of persons with mental illnesses.²

The purpose of receiving facilities is to receive and hold involuntary patients under emergency conditions or for psychiatric evaluation and to provide short-term treatment. Law enforcement officers usually transport individuals requiring involuntary Baker Act examinations to the nearest receiving facility.³ However, involuntary examinations may be initiated by a court order, a

¹ Section 394.455(25)(26), F.S.

² Budget Subcommittee on Health and Human Services Appropriations, The Florida Senate, *Crisis Stabilization Units*, (Interim Report 2012-109) (Sept. 2011).

³ *Id.*

certificate executed by a physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker or by self-presentation.⁴ The facility must accept individuals brought by a law enforcement officer for involuntary examination, regardless of bed availability.⁵ Receiving facilities may be either public or private but only facilities with a contract with a managing entity to provide mental health services to all persons, regardless of their ability to pay, and receiving state funds for this purpose are considered public receiving facilities.⁶ Transfer of individuals between public facilities, between public and private facilities, and private and public receiving facilities is permitted.⁷ Funds appropriated for Baker Act services may only pay for services to diagnostically and financially-eligible persons, or those who are acutely ill, in need of mental health services, and the least able to pay.

Crisis Stabilization Units (CSUs) are public receiving facilities, receive state funding and provide a less intensive and less costly alternative to inpatient psychiatric hospitalizations for individuals presenting as acutely mentally ill. CSUs screen, assess, and admit for short-term services persons brought to the unit under the Baker Act as well as those who present themselves for services.⁸ CSUs provide services 24 hours a day, seven days a week through a team of mental health professionals. The purpose of the CSU is to examine, stabilize, and redirect people to the most appropriate and least restrictive treatment settings, consistent with their mental health needs. Individuals often enter the public mental health system through CSUs.⁹

The department contracts with a single private non-profit entity at the local level (managing entities) for the administration and oversight of community mental health and substance abuse services.¹⁰ Managing entities have assumed the responsibility for purchasing, managing, and monitoring behavioral health services in the state. The department's contracts with the managing entities are required to include payment methods that promote flexibility, efficiency, and accountability. Managing entities must follow current statutes and rules that require CSUs be paid for bed availability rather than utilization.

As of January 2014, the department's expenditures for adult CSUs, Baker Act, and Inpatient Crisis Services was \$50.4 million. Expenditures for the same services for children was \$10.9 million.¹¹ As of March 2014, there were 51 public receiving facilities with 1,971 beds and 66 private receiving facilities with 3,118 beds available. The department has a contracted capacity of 2,987 adults and 478 children for FY 2013-2014. Based on the Florida Mental Health Institute's Annual Report of Baker Act Data Summary for 2012, released February 2014, in calendar year 2012 there were 157,352 involuntary examinations initiated.¹²

⁴ Section 394.4655(2), F.S.

⁵ Section 394.462, F.S.

⁶ Budget Subcommittee on Health and Human Services Appropriations, The Florida Senate, *Crisis Stabilization Units*, (Interim Report 2012-109) (Sept. 2011).

⁷ Section 394.4685, F.S.

⁸ Section 394.875, F.S.

⁹ Budget Subcommittee on Health and Human Services Appropriations, The Florida Senate, *Crisis Stabilization Units*, (Interim Report 2012-109) (Sept. 2011).

¹⁰ Section 394.9082(1), F.S.

¹¹ Information received from the Department of Children and Families on March 26, 2014.

¹² *Id.*

III. Effect of Proposed Changes:

Section 1 creates a new subsection 10 of s. 394.9082, F.S., to direct the department to require its contracted managing entities to implement a reimbursement methodology for crisis stabilization unit (CSU) services by January 1, 2015. The bill requires each managing entity to:

- Enter into agreements with providers qualified to serve as public receiving facilities located within the managing entity's designated service area.
- Enter into agreements with any receiving facility located within the same service area that chooses to participate. Private receiving facilities that choose not to participate cannot be paid by the managing entity for involuntary care.
- Using no more than one-quarter of the funds provided to managing entities for crisis stabilization services, a base funding amount not to exceed a minimum utilization level set out by the managing entity, is to be allocated to receiving facilities that signed agreements with the managing entity. This funding is to be proportionate to the number of involuntary admissions to the receiving facility in the prior fiscal year and updated annually.
- The managing entity shall use the balance of the funds provided for crisis stabilization services to provide a per diem reimbursement to receiving facilities with a signed agreement.
- Per diem payments shall be made by the managing entity when a claim is submitted by the receiving facility following the patient's discharge. Claims must include the identity of the patient; the date of admission; date of discharge; lack of third-party coverage; services provided during the stay; and whether the patient was discharged to his or her home or to another facility.
- Based on available funds, cost of service, and the expected total days of care in the area, each managing entity will define a standard per diem reimbursement rate.
- As part of the written agreement between the managing entity and the receiving facility, caps on the amount of reimbursements that each receiving facility may earn in a month may be established by the managing entity. The caps must be proportionate to the days of care provided by the receiving facility.
- After three months, if the total reimbursements paid during the period are less than one-quarter of the funds available for this purpose, the remaining funds shall be distributed by the managing entity in an amount proportionate to the days of care provided by each receiving facility.

This section also requires each receiving facility that signs an agreement with the managing entity to provide crisis stabilization unit services to accept all patients. The receiving facility must also agree to accept the base funding and reimbursement of adjudicated claims as payment in full for services provided to involuntary patients.

The department is directed to establish uniform standards for the data that must be submitted by the providers with their claims. The department is directed to establish a statewide database to compile claims data from the managing entities to track use of crisis stabilization services regardless of available funding. The claims data must be securely maintained consistent with state and federal law.

The department is to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 31, 2016, and annually thereafter. The report is to include a description of fund expended, base allocations and per diem rates in each

service area, total reimbursements paid to each provider, the amount of quarterly distributions, and the amount of unfunded care in each service area.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 394.9082 of the Florida Statutes.

IX. Additional Information:

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

None.

- B. **Amendments:**

None.

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

FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

586-03234A-14

20147122__

1 A bill to be entitled
 2 An act relating to reimbursement for crisis
 3 stabilization unit services; amending s. 394.9082,
 4 F.S.; requiring the Department of Children and
 5 Families to require that managing entities implement a
 6 specified reimbursement methodology by a specified
 7 date; providing requirements for managing entities,
 8 providers, and the reimbursement methodology;
 9 requiring the department to establish uniform
 10 standards for claims data submitted by providers;
 11 requiring the department to establish a statewide
 12 database of claims data; requiring the department and
 13 managing entities to maintain the security of claims
 14 data; requiring the department to submit a report to
 15 the Legislature by a specified date; providing
 16 requirements for such report; providing an effective
 17 date.
 18
 19 Be It Enacted by the Legislature of the State of Florida:
 20
 21 Section 1. Present subsections (10) and (11) of section
 22 394.9082, Florida Statutes, are redesignated as subsections (11)
 23 and (12), respectively, and a new subsection (10) is added to
 24 that section, to read:
 25 394.9082 Behavioral health managing entities.—
 26 (10) CRISIS STABILIZATION UNIT REIMBURSEMENT.—The
 27 department shall require managing entities to implement a
 28 reimbursement methodology for crisis stabilization unit services
 29 consistent with this subsection by January 1, 2015.

Page 1 of 4

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

586-03234A-14

20147122__

30 (a) Each managing entity shall enter into agreements with
 31 all providers qualified to serve as receiving facilities as
 32 defined in s. 394.455 and located within the managing entity's
 33 designated service area. If a private receiving facility does
 34 not choose to participate it cannot be paid by the managing
 35 entity for involuntary care. A crisis stabilization unit may not
 36 be a private receiving facility pursuant to s. 394.875.
 37 (b) Using no more than one-quarter of the funds provided to
 38 the managing entity for crisis stabilization services, the
 39 managing entity shall allocate a base funding amount to each
 40 receiving facility with a signed agreement entered into pursuant
 41 to paragraph (a) which exceeded a minimum utilization level
 42 specified by the managing entity. The amount of the base funding
 43 for each receiving facility shall be proportionate to the number
 44 of involuntary admissions to the receiving facility in the prior
 45 fiscal year and shall be updated annually.
 46 (c) The remainder of the funds provided for crisis
 47 stabilization services shall be used by the managing entity to
 48 provide per diem reimbursement to receiving facilities with a
 49 signed agreement entered into pursuant to paragraph (a). The per
 50 diem payment shall be made when a claim is submitted by the
 51 receiving facility following a patient's discharge and verified
 52 by the managing entity. The claim must document the following:
 53 1. The identity of the patient;
 54 2. The date of the admission;
 55 3. The date of discharge;
 56 4. The lack of any third-party coverage;
 57 5. The services provided during the patient's stay; and
 58 6. The status of the patient's discharge, whether to his or

Page 2 of 4

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

586-03234A-14

20147122__

59 her home or to another receiving facility.

60 (d) Each managing entity shall define a standard per diem
 61 reimbursement rate for the service area based on the available
 62 funds, cost of service, and the expected total days of care in
 63 the area.

64 (e) The total payment for each claim shall be the per diem
 65 rate set by the managing entity multiplied by the days of care
 66 provided.

67 (f) The managing entity may establish caps for the amount
 68 of reimbursements each receiving facility with a signed
 69 agreement entered into pursuant to paragraph (a) may earn each
 70 month. Such caps must be part of the written agreement and must
 71 be proportionate to the days of care provided by each receiving
 72 facility.

73 (g) If, after 3 months, the total paid reimbursements
 74 during the period are less than one-quarter of the funds
 75 available for this purpose, the managing entity shall distribute
 76 the remaining funds in an amount proportionate to the days of
 77 care provided by each receiving facility with a signed agreement
 78 entered into pursuant to paragraph (a).

79 (h) By signing an agreement entered into pursuant to
 80 paragraph (a), a provider certifies its willingness to accept
 81 all patients and agrees that the base funding plus the claims-
 82 based reimbursement as adjudicated by the managing entity
 83 constitutes payment in full for services rendered to involuntary
 84 patients.

85 (i) The department shall establish uniform standards for
 86 the data that providers must submit with reimbursement claims
 87 and shall establish a statewide database to compile claims data

586-03234A-14

20147122__

88 from all managing entities in order to track use of crisis
 89 stabilization services regardless of available funding.

90 (j) The department and the managing entities shall maintain
 91 the security of the claims data consistent with state and
 92 federal law.

93 (k) By January 31, 2016, and annually thereafter, the
 94 department shall submit a report to the Governor, the President
 95 of the Senate, and the Speaker of the House of Representatives
 96 which provides details on the provider participation and patient
 97 services provided in each service area. The report must describe
 98 the expenditure of funds pursuant to this section, including the
 99 base allocations and per diem rates in each service area, the
 100 total per diem reimbursements by provider, the amount of any
 101 quarterly disbursements, and the amount of unfunded care in each
 102 service area.

103 Section 2. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/1/14

Meeting Date

Topic Crisis Stabilization Unit Reimbursement Bill Number 7122
Name TIM Bedford Amendment Barcode _____
Job Title CEO
Address 611 Amberjack Dr Phone 850-624-9170
Panama City Beach FL 32411 E-mail tim.bedford@uhhinc.com
City State Zip

Speaking: For Against Information

Representing Emerald Coast Behavioral

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-1-14

Meeting Date

Topic CRISIS Stabilization Bill Number 7122
Name Tim Macsuga Amendment Barcode _____
Job Title Corp. Director Clinical Services
Address 4480 51st Street West Phone 813-486-8437
Bradenton FL 34210 E-mail timothy.macsuga@UHSTINC.com
City State Zip

Speaking: For Against Information

Representing Universal Health Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 1, 2014
Meeting Date

Topic Crisis Stabilization Unit Reimbursement Bill Number 7122
Name David Beardslay Amendment Barcode _____
Job Title CEO University Behavioral Center Phone 407 281-7000 x118
Address 2500 Discovery Dr. Orlando E-mail David.beardslay@uhsinc.com
City Orlando State Florida Zip 32826

Speaking: For Against Information

Representing University Behavioral Center

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/1/14
Meeting Date

** Waive in support*

didn't speak

Topic Crisis Stabilization Units Bill Number SB 7122
Name Ryan Anderson Amendment Barcode _____
Job Title Dir Gov Affairs Phone 850-509-5541
Address _____ E-mail ryan.anderson2@hca
City _____ State _____ Zip _____
Healthcare.com

Speaking: For Against Information

Representing HCA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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April 1, 2014
Meeting Date

Topic Crisis Stabilization Unit Bill Bill Number SPB 7122
Name Mary Ruiz Amendment Barcode _____
Job Title CEO Manatee Glens Phone 941-920-1967
Address 391 6th Ave W E-mail mary.ruiz@manatee
Bradenton FL 34205 glens.org
City State Zip
Speaking: For Against Information
Representing Florida Council for Community Mental Health
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4.7.14
Meeting Date

Topic REIMBURSEMENT FOR CLEK STAB UNIT Bill Number 7122
Name TOM FEENEY Amendment Barcode _____
Job Title MAJOR Phone 813-247-8719
Address 2008 E. 8TH AVE E-mail Tfeene@hcsa-tampa.fl.us
Tampa FL 33605
City State Zip
Speaking: For Against Information
Representing Hillsborough County Sheriff's Office & FL Sheriff's Assoc.
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14

Meeting Date

Topic Reimbursing CSU

Bill Number 7122 (if applicable)

Name Karen Koch (Cook)

Amendment Barcode (if applicable)

Job Title Vice President

Address 316 E. Park Ave

Phone 850 - 224 - 6048

Tallahassee FL 32301

E-mail Karen@fccmh.org

Speaking: For [] Against [X] Information []

Representing FL Council for Behavioral Healthcare

Appearing at request of Chair: Yes [] No [X]

Lobbyist registered with Legislature: Yes [X] No []

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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4-1-14

Meeting Date

Topic CSU Reimbursement

Bill Number 7122 (if applicable)

Name Carole Green

Amendment Barcode (if applicable)

Job Title lobbyist

Address PO Box 07463

Phone 850-590-2206

Fort Myers, FL 33919

E-mail carole@capitolstrategiesinc.com

Speaking: For [] Against [X] Information []

Representing Coastal Behavioral Sarasota / Salus Care Lee County

Appearing at request of Chair: Yes [] No [X]

Lobbyist registered with Legislature: Yes [X] No []

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

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S-001 (10/20/11)

THE FLORIDA SENATE
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4/1/14
Meeting Date

Topic REIMBURSEMENT FOR CRISIS STABILIZATION UNIT SEN Bill Number 7122
(if applicable)
Name NATALIE KELLY Amendment Barcode _____
(if applicable)
Job Title EXECUTIVE DIRECTOR
Address 411 E. CAUCE ST Phone (850) 570-5747
TALLAHASSEE, FL 32301 E-mail NATALIE@ACCEDUM
City State Zip STRATEGIES.AE1
Speaking: For Against Information
Representing FLORIDA ASSOCIATION OF MANAGING ENTITIES
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic REIMBURSEMENT FOR CSU Bill Number PCB 7122
(if applicable)
Name MIKE WATKINS Amendment Barcode _____
(if applicable)
Job Title CEO
Address 525 N. MIK JR. Phone 850.410.1020
TALLAHASSEE, FL E-mail MWATKINS@bigbeard
City State Zip cbc.org
Speaking: For Against Information
Representing BIG BEARD COMMUNITY CARE
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

didn't speak

THE FLORIDA SENATE

APPEARANCE RECORD

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4/1/14

Meeting Date

Topic Crisis Stabilization

Bill Number 7122
(if applicable)

Name Doug Bell

Amendment Barcode _____
(if applicable)

Job Title _____

Address 215 S. Monroe St.
Street

Phone 850 222-3533

Tallahassee FL
City State Zip

E-mail dbell@penningtonlaw.com

Speaking: For Against Information

Representing Stewart Marchman Act Behavioral Healthcare

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

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 Children, Families, and Elder Affairs

BILL: SPB 7088

INTRODUCER: For consideration by the Children, Families, and Elder Affairs Committee

SUBJECT: Human Trafficking

DATE: March 14, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Crosier</u>	<u>Hendon</u>	_____	CF Submitted as Committee Bill

I. Summary:

SPB 7088 changes statutory requirements for safe houses to establish standards for residential treatment of sexually exploited children and authorizes safe foster homes. Section 409.1678, F.S., governs safe homes. The bill creates a certification program for safe houses and safe foster homes at the Department of Children and Families (DCF), and requires certification in order for these facilities to accept state funds specifically allocated to care for sexually exploited children. The bill allows DCF to operate one secure safe house as a pilot program, sets requirements for that safe house, provides for judicial oversight, and requires an evaluation of the pilot program.

The bill also makes administrative changes to the requirements for DCF and the community-based care agencies (CBCs) related to sexually exploited children. The bill requires DCF to create or adopt initial screening and assessment instruments for use in identifying and serving sexually exploited children, and allows a child to be placed in a safe house if the assessment instrument determines that is the most appropriate setting and a safe house is available.

The bill requires DCF and the CBCs to plan and to have response protocols in place regarding serving sexually exploited children. The bill also requires DCF, the CBCs, and DJJ to participate on any local task forces related to this population.

The bill requires the Office of Program Policy Analysis and Government Accountability to conduct a study on commercial sexual exploitation of children in Florida and specifies topics for inclusion in the study.

The bill has an effective date of July 1, 2014, and would have an indeterminate fiscal impact to DCF and DJJ.

II. Present Situation:

-Florida law defines human trafficking as “soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining another person for the purpose of exploitation of that person.”¹ Human trafficking is a form of modern-day slavery, which involves the exploitation of persons for commercial sex or forced labor.² Trafficking often subjects victims to force, fraud, and coercion.³

There are no definitive statistics on the extent of human trafficking. The U.S. Department of State estimates that as many as 27 million victims are being trafficked worldwide at any given time. They also estimate that there were approximately 40,000 victims being trafficked in the United States in 2012.⁴ Florida is estimated to have the third highest rate of human trafficking in the United States, following New York and California.⁵

Commercial Sex Trafficking of Minors

Human trafficking involving commercial sex is also known as commercial sexual exploitation or commercial sex trafficking. The United States Trafficking Victims Protection Act of 2000 defines sex trafficking as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.⁶

In cases of commercial sex trafficking of minors, pimps often operate as the primary domestic sex traffickers and target particularly vulnerable youth, such as runaway and homeless youth.⁷ Pimps may engage in a “grooming” process where a child is showered with gifts, treats, and compliments in order to earn his or her trust.⁸ Often the children have low self-esteem and may come from broken families or have past childhood trauma which may include sexual or physical abuse.⁹ This makes the children easier targets because they are emotionally vulnerable, looking for someone to love and care for them. After the pimp earns the child’s trust the pimp may engage in physical, sexual, and/or emotional abuse of the child.¹⁰ The effect is to psychologically and emotionally break the child so that he or she becomes completely dependent on the pimp.¹¹ Psychologists and clinicians call this phenomenon “traumatic bonding.”¹² This occurs where a person has dysfunctional attachment that occurs in the presence of danger, shame, or exploitation. These situations often include seduction, deception or betrayal, and some form of danger or risk is always present.¹³ While this is a common way that commercial sexual

¹ Section 787.06(2)(d), F.S.

² Section 787.06(1)(a), F.S.

³ *Id.*

⁴ *Trafficking in Persons Report 2013*, U.S. Department of State, available at: <http://www.state.gov/j/tip/rls/tiprpt/2013/> (last visited March 14, 2014).

⁵ Healthy Families Subcommittee Presentation by Professor Terry Coonan, FSU Human Rights Center, (Jan. 14, 2014).

⁶ Trafficking Victims Protection Act of 2000, 22 USC 7101.

⁷ Sex Trafficking of Children in the United States, The Polaris Project, available at <http://www.polarisproject.org/what-we-do/policy-advocacy/prosecuting-traffickers/895-sex-trafficking-of-minors> (last visited March 14, 2014).

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

exploitation occurs, some children are commercially sexually exploited by family members or organized networks.¹⁴

The Department of Homeland Security (DHS) reports that each year as many as 100,000 to 300,000 children in the United States are at risk of being trafficked for commercial sex in the United States.¹⁵

Commercial Sex Trafficking of Minors in Florida

The Department of Children and Families (DCF) verified 182 victims of commercial sex trafficking in FY 2012-13. Of these, nine victims were exploited by their caregiver, and 27 victims were removed from their caregivers. DCF also identified an additional 185 children who may be at risk of becoming commercial sexual exploitation victims.^{16, 17} According to DCF, there are likely many more victims in Florida than have been identified.

The Florida Safe Harbor Act of 2012 allows sexually exploited children to be treated as dependent children¹⁸ rather than delinquent children.¹⁹ The act amended Florida law to make child prostitution abuse of a child, rather than a criminal act by the child, and allows children who are victims of sexual exploitation to be adjudicated dependent.²⁰

¹⁴ *Id.*

¹⁵ *Human Trafficking 101 for School Administrators and Staff*, Blue Campaign, The Department of Homeland Security, available at:

<http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=1&cad=rja&ved=0CCoQFjAA&url=http%3A%2F%2Fwww.dhs.gov%2Fsites%2Fdefault%2Ffiles%2Fpublications%2Fblue-campaign%2FBlue%2520Campaign%2520-%2520Human%2520Trafficking%2520101%2520for%2520School%2520Administrators%2520and%2520Staff.pdf&ei=4DvMU6oO4vrkQeAsYDoBg&usq=AFQjCNGLuEaOhuEVFzRuCTYISWLOrgTQ7w&sig2=AskcWjhjSuILHF6D7LHrcg> (last visited March 14, 2014).

¹⁶ Florida Department of Children and Families *Annual Human Trafficking Report 2012-13 Federal Fiscal Year*.

¹⁷ To determine whether a child is at risk of becoming a commercial sexual exploitation victim, DCF looked at three additional data sets in their IT system for dependent children (FSFN). The three indicators in FSFN indicate that that the child possibly has involvement in sexual exploitation, is possibly involved in prostitution, or were previously verified as a victim of human trafficking.

¹⁸ A child who is found to be dependent is a child who pursuant to ch. 39, F.S., is found by the court:

- (a) To have been abandoned, abused, or neglected by the child's parent or parents or legal custodians;
- (b) To have been surrendered to the department, the former Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption;
- (c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the department, or the former Department of Health and Rehabilitative Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents or legal custodians have failed to substantially comply with the requirements of the plan;
- (d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption, and a parent or parents have signed a consent pursuant to the Florida Rules of Juvenile Procedure;
- (e) To have no parent or legal custodians capable of providing supervision and care;
- (f) To be at substantial risk of imminent abuse, abandonment, or neglect by the parent or parents or legal custodians; or
- (g) To have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing the necessary and appropriate supervision and care.

¹⁹ Section 39.001(4)(b)(2), F.S.

²⁰ Section 39.01(67), F.S.; however, child prostitution is not considered sexual abuse of a child if the child is under arrest or being prosecuted in a delinquency or criminal proceed for a violation in ch. 796 (offenses related to prostitution) or forcing a child to solicit for or engage in prostitution, engage in a sexual performance, as defined by ch. 827, or participate in the trade of sex trafficking as provided in s. 796.035.

Law enforcement officers are required to deliver a minor taken into custody to the DCF when there is probable cause to believe he or she has been sexually exploited.²¹ Safe houses and short-term safe houses were created by the Safe Harbor Act, and DCF is authorized to place sexually exploited children in these facilities.²²

The Department of Juvenile Justice (DJJ) conducted a tri-county pilot project implementing a screening tool for commercial sexual exploitation of children in 2012-2013. In total, there were 353 individual youth screened. Of the 353 screenings, 42 youth were verified as victims of commercial sexual exploitation. This means that 11.9 percent of the youth that had a history of running away (the prerequisite for a screening), and were screened, were ultimately verified by DCF as a sexual exploitation victim.²³

DCF primarily becomes aware of minors who are sexually exploited due to a call to the child abuse hotline or because the child is in the dependency system. As with any allegation of abuse, when allegations of commercial sexual exploitation of a child are reported to DCF's child abuse hotline and the hotline employee believes that the report meets the statutory definition of abuse, abandonment or neglect, an investigation by a child protective investigator is triggered.²⁴ If the allegation is verified and the child has no known parent, legal custodian, or responsible adult relative who is capable of providing the necessary and appropriate supervision and care, DCF may petition to have the child adjudicated dependent.²⁵

Community-based care lead agencies (CBCs) in conjunction with the court, determine placements for children who have been adjudicated dependent. According to DCF, CBCs may also provide services to victims of human trafficking who are not adjudicated dependent as a means of preventing future involvement in the child welfare system. DCF has taken steps to strengthen the infrastructure for serving victims of human trafficking, such as training its child protective investigators and participating in regional task forces.

DJJ has also been working to identify and provide services to human trafficking victims. In addition to the pilot project cited above, the agency secretary chairs the Florida Children and Youth Cabinet's Human Trafficking Workgroup.²⁶ The workgroup focuses on identifying ways in which Florida can end child sex trafficking. The workgroup has representation from the Governor's Office of Adoption and Child Protection, DCF, DJJ, the Florida State University Center for the Advancement of Human Rights and other stakeholders. Workgroup members have begun researching best practices throughout the nation as well as monitoring proposed legislation addressing child sex trafficking.²⁷

Many programs for identifying and providing services for human trafficking victims have emerged through local efforts, which are unique to each community. Human trafficking task

²¹ Section 39.401(2)(b), F.S.

²² Section 409.1678, F.S.

²³ Sexual Exploitation of Youth, Department of Juvenile Justice, (January 23, 2014.)

²⁴ Section 39.201(2)(a), F.S.

²⁵ Section 39.01(15)(g), F.S.

²⁶ Florida Children and Youth Cabinet: *Human Trafficking Workgroup*, available at <http://www.flgov.com/childrens-cabinet-human-trafficking-workgroup/> (last visited Mar. 14, 2014).

²⁷ *Id.*

forces began as a way to raise awareness, coordinate responses, and share information regarding available services. There are nineteen regional task forces dedicated to fighting human trafficking developed throughout Florida.²⁸ The task forces consist of community members involved in human trafficking issues in that area of the state. This may include law enforcement, providers, schools, and faith based organizations. DCF is involved in the leadership in all task forces. The task forces meet at least monthly and operate according to the community's needs.

Services for Victims of Human Trafficking in Florida

Serving victims of human trafficking presents challenges for a variety of reasons.²⁹ These children often do not see themselves as exploited or victims and thus will not self-identify. Instead, they often develop a “trauma bond” with the traffickers, and see themselves as a companion to the trafficker.³⁰ These children often run away from their placements, including from safe houses.³¹ In a DJJ pilot program, DJJ found that of 64 percent of children who were confirmed victims of commercial exploitation had a history of over 5 instances of running away.³² Victims may also try to recruit other children from their placements to go work for the pimp.³³

Services are not consistently available across the state.³⁴ Availability depends on the local response which has emerged to meet the challenge in that area.³⁵ Children's family situations also vary.³⁶ Some children come from the dependency system, but others have a family which wants to remain involved with them and to help.³⁷ There is also not a standardized assessment tool for identifying victims,³⁸ and due to inconsistent training, the level of awareness of the signs of victimization and appropriate responses varies among personnel.³⁹

The Safe Harbor Act in 2012 provided for “safe houses.” Safe houses are homes for sexually exploited children who have been adjudicated dependent or delinquent and need to reside in a secure⁴⁰ residential facility.⁴¹ Safe houses must provide a living environment that has set aside gender-specific, separate, and distinct living quarters for sexually exploited children and must

²⁸ The task forces are in the following counties: Alachua, Bay, Broward, Collier, Duval, Escambia, Hernando, Lake, Leon, Manatee, Marion, Martin, Miami-Dade, Okaloosa, Orange, Palm Beach, Pinellas, Polk, and St. Johns.

²⁹ Testimony from the panel of providers for victims of human trafficking, House Healthy Families Subcommittee, (Feb. 19, 2014).

³⁰ Testimony from the Detective McBride, House Healthy Families Subcommittee, (Feb. 15, 2014).

³¹ Testimony from the panel of providers for victims of human trafficking, House Healthy Families Subcommittee, (Feb. 19, 2014).

³² Sexual Exploitation of Youth, Department of Juvenile Justice, (Jan. 23, 2014).

³³ Testimony from the panel of providers for victims of human trafficking, House Healthy Families Subcommittee, (Feb. 19, 2014).

³⁴ Testimony from the Detective McBride, House Healthy Families Subcommittee, (Feb. 15, 2014).

³⁵ *Id.*

³⁶ *Id.*

³⁷ *Id.*

³⁸ E-mail correspondence with the Department of Children and Families, (Dec. 23, 2013), (on file with the Senate Committee on Children, Families, and Elder Affairs).

³⁹ Testimony from the Detective McBride, House Healthy Families Subcommittee, (Feb. 15, 2014).

⁴⁰ The term “secure” is defined as a facility which is supervised 24 hours a day by staff members who are awake while on duty.

⁴¹ Section 409.1678 (1)(b), F.S.

have awake staff members 24 hours a day. Safe houses must also hold a license as a family foster home or residential child-caring agency. Each facility must be appropriately licensed in this state as a family foster home or a residential child-caring agency as defined in s. 409.175, F.S., and must have applied for accreditation within 1 year after being licensed.⁴² A safe house serving children who have been sexually exploited must have available staff or contract personnel who have the clinical expertise, credentials, and training to provide:

- Security;
- Crisis intervention services;
- General counseling and victim-witness counseling;
- A comprehensive assessment;
- Residential care;
- Transportation;
- Access to behavioral health services;
- Recreational activities;
- Food;
- Clothing;
- Supplies;
- Infant care;
- Miscellaneous expenses associated with caring for these children;
- Provide necessary arrangement for or provision of educational services, including life skills services and planning services for the successful transition of residents back to the community; and
- Ensuring necessary and appropriate health care and dental care.⁴³

DCF is required to assess dependent children for placement in a safe house if the child is older than six years of age. The assessment is required to incorporate and address the following:

- Current and historical information from any law enforcement reports;
- Psychological testing or evaluation that has occurred;
- Current and historical information from the guardian ad litem, if one has been assigned;
- Current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; and
- Any other information concerning the availability and suitability of safe-house placement.

The child may be placed in a safe house if such placement is determined to be appropriate as a result of this assessment and if one is available, but placement is not required.⁴⁴ There are currently two safe houses in Florida, with a total of 11 beds statewide. A third safe house is projected to open in 2014 with 7 beds.⁴⁵

⁴² According to DCF, there are currently no entities that accredit safe houses and safe houses are not sure what type of accreditation they are required to have. No safe houses have applied for accreditation at this time.

⁴³ Section 409.1671, F.S.

⁴⁴ Section 39.524, F.S.

⁴⁵ E-mail correspondence with the Florida Department of Children and Families, (Dec. 20, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

The Citrus Health Network developed the Citrus Helping Adolescents Negatively Impacted by Commercial Exploitation (CHANCE) Program in South Florida.⁴⁶ The program uses therapeutic foster care and a community response team for victims of commercial sexual exploitations.⁴⁷ The program places children in a therapeutic foster home, where only one child is placed.⁴⁸ The parents receive specialized training for this population. Foster parents are required to be available 24 hours per day, 7 days per week, to respond to crises or the need for special therapeutic interventions.⁴⁹ The foster homes are also required to have an advanced alarm system to alert the foster parents of intruders and allow the parents to be aware if the child is leaving the home.⁵⁰ The CHANCE program also includes the following intensive clinical and support services:

- Assessment and evaluation of the child and the family;
- Individual therapy 2-5 times per week with a therapist trained in trauma focused-cognitive behavioral therapy and motivational interviewing;
- Family therapy available as necessary;
- Assignment of a life coach who is a survivor of commercial sexual exploitation for each child;
- Assignment of a peer mentor to provider peer support and encouragement;
- Clinical staff available 24/7 for crisis management or supportive intervention;
- Certified behavioral analyst services to address the behavioral needs of this population;
- Targeted case management to facilitate linkage to all appropriate support services;
- Regular monitoring by the treatment team to ensure all service and treatment plan goals are consistently pursued; and
- Group therapy with other survivors of commercial sex exploitation.

The University of South Florida is contracted to conduct an evaluation of the CHANCE program. The evaluation will be available in November 2014.⁵¹

Specialized group placements are also available to serve commercially sexually exploited children. These group placements do not meet the statutory criteria to be safe houses, but have specialized programs serving sexually exploited children. These facilities may also serve children who have not experienced sexual exploitation. OASIS offers group placements for children served by DCF and DJJ as well as children not involved in either system.⁵² To participate in its program for sex trafficking victims, the victims must be placed there by their caregivers. This program serves both boys and girls. The OASIS program was funded through a specific legislative line item.⁵³ Other providers with specialized programs that are not designated as safe houses include Chrysalis, Images of Glory, and Deveraux.⁵⁴

⁴⁶ Testimony from Human Trafficking Panel, House Healthy Families Subcommittee (Feb. 19, 2014.)

⁴⁷ *Id.*

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² E-mail correspondence with the Department of Children and Families, (Feb. 24, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs).

⁵³ E-mail correspondence with the Department of Children and Families, (Jan 14, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs.)

⁵⁴ E-mail correspondence with the Department of Children and Families, (Feb. 24, 2014) (on file with the Senate Committee on Children, Families, and Elder Affairs.)

Other victims of human trafficking have been placed with parents or relatives, in mental health facilities, in substance abuse facilities, in therapeutic foster homes, in foster care, in DJJ detention centers, or remained in their current placement, after identification as a victim.⁵⁵

The CHANCE program serves 17 children not placed in safe houses with wraparound services. These services include assessment and evaluation, treatment and service plan development, 24/7 on-call clinical staff, individualized and family therapy, life coaching, peer mentorship, case management, certified behavioral analyst services, substance abuse treatment, and psychiatric services.⁵⁶ Victims of human trafficking may be offered other services generally available to children in need through the existing service array, such as substance abuse services, mental health services, and educational services.⁵⁷

Residential Programs in Other States

Limited research has been completed nationwide regarding best practices to serve and treat victims of human trafficking. However, there are some residential programs in other states which serve victims of human trafficking.

Wellspring Living (Wellspring) is a residential facility in Georgia, which serves girls from 12 to 17 years of age who are victims of human trafficking.⁵⁸ This program is licensed as a “maximum watchful oversight” child care facility.⁵⁹ The facility has security features such as locked doors, unbreakable Plexiglas windows, and a fence surrounding the facility. While this program is a locked facility, it has alarmed doors that the children can open. If the alarmed door is pushed there is a delay for the door to open and alarms inform the program staff that somebody has tried to leave the facility. While Wellspring considers themselves a locked facility, exit can occur without the involvement of facility staff. At Wellspring, girls receive trauma-informed therapies, life skills classes, education,⁶⁰ group therapies, family therapy, and other needed services.⁶¹ Following the program, most girls return to their families or to a foster-home or group home setting. The program is working to develop a study of its effectiveness.

In California, Children of the Night (COTN) is a private, non-profit program for children between the ages of 11 and 17 that receives referrals from across the country and only accepts those children whom it believes are willing to leave prostitution and participate in long-term, comprehensive treatment. COTN is a homelike environment with 24 beds.⁶² The children follow a highly structured program that includes attending an on-site school and a college placement program.⁶³ After children complete the comprehensive program of academic and life-skills education, caseworkers are available to provide ongoing case management to graduates.⁶⁴ COTN

⁵⁵ Florida Department of Children and Families *Annual Human Trafficking Report 2012-13 Federal Fiscal Year*.

⁵⁶ Testimony from Human Trafficking Panel, House Healthy Families Subcommittee (Feb. 19, 2014.)

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Provider Resource Results, State of Georgia Out-of-Home Care, available at https://www.gascore.com/resourceguide/search_results.cfm.*

⁶⁰ Testimony from Human Trafficking Panel, House Healthy Families Subcommittee (Feb. 19, 2014.)

⁶¹ *Wellspring Living for Girls*, Wellspring Living, available at <https://wellspringliving.org/wellspring-living-for-girls/>

⁶² Children of the Night, available at <https://www.childrenofthenight.org/index.html> (last visited March 14, 2014.)

⁶³ *Id.*

⁶⁴ *Id.*

has existed since its inception through the sole support of private contributions from individuals, corporations, and foundations.⁶⁵

Treatment for Victims of Human Trafficking

In the immediate as well as long-term aftermath of exposure to trauma, children are at risk of developing significant emotional and behavioral difficulties.⁶⁶ Trauma-focused cognitive behavioral therapy (TF-CBT) is an evidence-based treatment approach shown to help children, adolescents, and their caregivers overcome trauma-related difficulties.⁶⁷ It is designed to reduce negative emotional and behavioral responses following child sexual abuse, domestic violence, traumatic loss, and other traumatic events.⁶⁸ The treatment is based on learning and cognitive theories, and addresses distorted beliefs and attributions related to the abuse.⁶⁹ TF-CBT provides a supportive environment in which children are encouraged to talk about their traumatic experience.⁷⁰ TF-CBT combines elements drawn from:

- Cognitive therapy, which aims to change behavior by addressing a person's thoughts or perceptions, particularly those thinking patterns that create distorted or unhelpful views;
- Behavioral therapy, which focuses on modifying habitual responses (e.g., anger, fear) to identified situations or stimuli; and
- Family therapy, which examines patterns of interactions among family members to identify and alleviate problems.⁷¹

TF-CBT is a short-term treatment typically provided in 12 to 18 sessions of 50 to 90 minutes, depending on treatment needs.⁷² The intervention is usually provided in outpatient mental health facilities, but it has been used in hospital, group home, school, community, residential, and in-home settings.⁷³

Recent research findings suggest that TF-CBT is more effective than nondirective or client centered treatment approaches for children who have a history of multiple traumas (e.g., sexual abuse, exposure to domestic violence, physical abuse, as well as other traumas).⁷⁴

An individualized, strengths-based approach refers to policies, practice methods, and strategies that identify and draw upon the strengths of children, families, and communities.⁷⁵ Strengths-based practice involves a shift from a deficit approach, which emphasizes problems and

⁶⁵ *Id.*

⁶⁶ *Trauma-Focused Cognitive Behavioral Therapy for Children Affected by Sexual Abuse or Trauma*, The Administration for Children and Families, U.S. Department of Health and Human Services, (August 2012), available at <https://www.childwelfare.gov/pubs/trauma/>

⁶⁷ *Id.*

⁶⁸ *Id.*

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² *Id.*

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *An Individualized, Strengths-Based Approach in Public Child Welfare Driven Systems of Care*, Administration for Children and Families, US Department of Health and Human Services, available at <https://www.childwelfare.gov/pubs/acloserlook/strengthsbased/strengthsbased1.cfm> (last visited March 14, 2014).

pathology, to a positive partnership with the family.⁷⁶ The approach acknowledges each child and family's unique set of strengths and challenges, and engages the family as a partner in developing and implementing the service plan.⁷⁷

III. Effect of Proposed Changes

Section 1 creates s. 409.1754, F.S., related to administrative requirements for serving sexually exploited children. The bill deletes the current assessment process to determine whether a child should be placed in a safe house and requires DCF to develop or adopt one or more initial screening and assessment instruments to identify, determine the needs of, plan services for, and identify an appropriate residential environment for sexually exploited children. The bill requires that the assessment instruments include the ability to determine whether placement in a safe house is appropriate. The bill requires that the initial screening and assessment instruments used to determine appropriate residential placement of a sexually exploited child consider:

- Risk of the sexually exploited child running away;
- Risk of the sexually exploited child recruiting other children into the commercial sex trade;
- Level of the sexually exploited child's attachment to his or her exploiter;
- Level and type of trauma that the sexually exploited child has endured;
- Nature of the child's interactions with law enforcement;
- Length of time that the child was sexually exploited; and
- Extent of any substance abuse by the sexually exploited child.

The bill specifies that that if a safe house placement is determined to be the most appropriate setting using the assessment tool, the child may be placed in a safe house, as long as a placement is available. However, the bill specifies that a child may be placed in another setting if it is more appropriate to his or her needs and the child's behaviors can be managed in those settings in a manner that does not endanger other children, or if a safe house or safe foster home is not available.

The bill requires the initial screening and assessment instruments to be validated if possible and requires the instruments to be used by the DCF, juvenile assessment centers, CBCs, and providers serving sexually exploited children. The bill requires DCF to consult state and local agencies, organizations, and individuals involved in the identification and care of sexually exploited children to develop or adopt the initial screening and assessment instruments. The bill requires DCF to establish rules specifying the initial screening and assessment instruments to be used, the requirements for their use, and the reporting of data collected through them and specifies that entities are not precluded from using additional assessment instruments in the course of serving sexually exploited children.

The bill requires DCF and CBCs to assign cases where a child is alleged, suspected, or known to have been sexually exploited to child protective investigators (CPIs) and case managers who have received specialized intensive training in investigating cases involving a sexually exploited child. Similarly, the bill requires the Department of Juvenile Justice juvenile probation staff administering the detention risk assessment instrument to have specialized intensive training in

⁷⁶ *Id.*

⁷⁷ *Id.*

identifying and serving sexually exploited children. The bill specifies CPIs and case managers must receive this training prior to accepting any case involving sexually exploited children.

The bill requires DCF and CBCs to conduct regular multidisciplinary staffings for sexually exploited children to ensure that all relevant information is known to all parties and that services are coordinated across systems. The bill requires DCF or the CBC to coordinate these staffings and invite individuals involved in the child's care. The bill specifies that this may include, but is not limited to, staff from the juvenile justice system, the school district, service providers, and victim advocates.

The bill requires each CBC and DCF region to jointly identify the service needs of sexually exploited children and plan for developing sufficient capacity to meet them.

The bill requires each CBC and DCF circuit to establish local protocols and procedures that are responsive to the varying circumstances that sexually exploited children are in. The bill requires the protocols and procedures to address the full continuum of needs of sexually exploited children to the extent of available funding. The bill requires that the protocols and procedures be used by CMs and CPIs when working with a sexually exploited child.

The bill requires the local DCF circuit administrator or his or her designee, the local circuit director of the Department of Juvenile Justice or his or her designee, and the CBC chief operating officer, or his or her designee to participate in any task force, committee, council, advisory group, coalition, or other entity active in the circuit for coordinating responses to address human trafficking or sexual exploitation of children. If no such entity exists, the bill specifies that the local DCF circuit administrator must work to initiate one.

Section 2 amends the definition of "safe house" as a "group residential placement certified by DCF to care for sexually exploited children," and creates and defines "safe foster home" as "a foster home certified by DCF to care for sexually exploited children."

The bill also amends the definition of a sexually exploited child to include those children who have not been adjudicated dependent, which permits them to be served by safe houses and safe foster homes.

The bill specifies that safe houses and safe foster homes are required to provide a safe, separate, and therapeutic environment tailored to the needs of sexually exploited children who have endured significant trauma. The bill requires DCF to certify safe homes and safe foster homes.

The bill amends the current requirements for safe houses, and creates requirements for safe foster homes, in order to be certified by DCF. The bill requires that safe houses and safe foster homes be licensed as residential child-caring agencies or licensed family foster homes, respectively, and that safe houses have awake staff on duty 24 hours a day.

The bill requires that safe houses and safe foster homes house a single sex, group children with similar chronological ages or levels of maturity together, and treat and care for these children in a manner that separates them from children with other needs. The bill specifies that safe houses and safe foster homes may care for other populations, as long as those populations do not interact

with the sexually exploited children. The bill requires that safe houses and safe foster homes use trauma-informed and strength based approaches to care, to the extent possible and appropriate.

The bill requires that safe houses and safe foster homes provide appropriate security through facility design, hardware, technology, staffing, and siting, including but not limited to using external video monitoring or alarmed doors, or being situated in a remote location. The bill specifies that sexually exploited children must be allowed to exit the safe house or safe foster home if they choose.

The bill requires safe houses and safe foster homes to provide services tailored to the needs of sexually exploited children and to determine these needs on a case-by-case basis. The bill specifies that in addition to the services required for traditional foster homes and child caring facilities, safe houses and safe foster homes also coordinate the following services:

- A comprehensive assessment of the service needs of each resident;
- Victim-witness counseling;
- Family counseling;
- Behavioral health services;
- Treatment and intervention for sexual assault;
- Life skills services;
- Mentoring by a survivor of sexual exploitation, if available and appropriate;
- Substance abuse screening, and where necessary, access to treatment;
- Planning services for the successful transition of residents back to the community;
- Activities for sexually exploited children residing in the safe house, scheduled in a manner that provides them with a full schedule; and
- Any additional services determined by DCF.

The bill requires foster parents of safe foster homes to complete intensive training regarding the needs of sexually exploited children, the effects of trauma and sexual exploitation, and how to address those needs using strength-based and trauma-informed approaches. The bill requires DCF to specify this training by rule. The bill also allows DCF to establish additional criteria in rule for the certification of safe houses and safe foster homes.

The bill requires that safe houses and safe foster homes reapply for certification and be inspected annually. The bill allows DCF to place a moratorium on referrals and revoke the certification of a safe house or safe foster home if it does not meet the requirements of certification.

The bill specifies that in order to accept state funds specifically allocated to provide services to sexually exploited children, the residential facility must be certified as a safe house or safe foster home.

The bill authorizes DCF to facilitate the development of one secure safe house on a pilot basis in order to evaluate the therapeutic benefits of a secure residential setting within the broader array of residential and community-based services available to meet the needs of sexually exploited children. The bill specifies that the secure safe house is intended for those sexually exploited children with the greatest needs and for whom no less restrictive placement has been or will be effective in addressing the effects of severe abuse, violence, trauma, or exploiter control endured

by the child. The bill specifies that the setting is only available to sexually exploited children who have been, or are in the process of being, adjudicated dependent. The bill specifies that children can remain in the secure safe house from five days to up to 10 months.

The bill requires DCF to select the region where the secure safe house can be sited and to collaborate with the local CBC to design the pilot project. The bill specifies that the secure safe house must be a certified safe house, have no more than 15 beds, and have security features to prevent any entry into or exit from the facility or its grounds without the involvement of staff. The bill specifies that these features may include, but are not limited to, walls, fencing, gates, and locking doors.

The bill requires that the facility staff, the child, the child's parent or guardian, and the case manager develop a plan regarding how the child will be cared for at least thirty days prior to leaving the facility.

The bill specifies that sexually exploited dependent children may be placed in the secure safe house from any region of Florida and that DCF, in consultation with the CBCs serving the children, must approve all placements in the secure safe house. The bill also provides that a child may only be placed in the secure safe house if he or she has intensive needs, mental health issues, or other factors which prevent the child from being safely cared for in a less restrictive setting.

The bill specifies that in addition to the other criteria required to be used to determine whether safe house placement is appropriate for a child, a child's lack of willingness to participate in less intensive programs and lack of treatment progress in less restrictive placements must also be considered. The bill specifies that DCF may establish additional criteria for placement in the secure safe house.

The bill allows a dependent child to be taken to a secure safe house for evaluation of the appropriateness of placement for treatment if:

- There is probable cause that the child has been sexually exploited;
- The child meets the criteria to be placed in a safe house;
- The child recently engaged in behaviors that subject the child to victimization, violence, emotional harm, serious bodily harm, or health risks that endanger the child, posing a real and present threat of substantial harm to the child's well-being;
- There is a substantial likelihood that without care or treatment the child will endanger or cause serious bodily harm to others, as evidenced by previous behavior; and
- Less restrictive placement alternatives are unlikely to be effective in keeping the child from engaging in the behaviors specified above, as determined by a DCF or CBC employee.

The bill requires DCF to contract for an evaluation of the secure safe house. The bill specifies that the evaluation must address the effectiveness in facilitating the rehabilitation of sexually exploited children. The bill specifies that the evaluation must describe the program model and facility design, assess the effectiveness of the facility in meeting the treatment and security needs of sexually exploited children, analyze its cost-effectiveness, and provide recommendations regarding the continued operation of the pilot program and any changes or enhancements. The

bill specifies that the evaluation must be provided to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2018.

Section 3 amends s. 39.524, F.S., to add a safe foster home as an appropriate placement for the child using the initial screening and assessment instrument provided in s. 409.1754(1), F.S.

Section 4 creates s. 39.4072, F.S., to allow a dependent child to be taken to a secure safe house for evaluation of the appropriateness of placement for treatment if:

- There is probable cause that the child has been sexually exploited;
- The child meets the criteria to be placed in a safe house;
- The child recently engaged in behaviors that subject the child to victimization, violence, emotional harm, serious bodily harm, or health risks that endanger the child, posing a real and present threat of substantial harm to the child's well-being;
- There is a substantial likelihood that without care or treatment the child will endanger or cause serious bodily harm to others, as evidenced by previous behavior; and
- Less restrictive placement alternatives are unlikely to be effective in keeping the child from engaging in the behaviors specified above, as determined by a DCF or CBC employee.

The bill allows a DCF official to initiate an evaluation of a child if the child is the subject of an open investigation or under the supervision of the court, as long as the child meets the criteria for evaluation specified above. The bill allows a CPI, law enforcement officer, case manager, or other qualified individual to transport the child to the secure safe house for assessment and stabilization.

The bill allows the secure safe house to admit the child for assessment and stabilization pending the filing and adjudication of a petition by DCF alleging the need for a change in placement. The bill requires the secure safe house to provide notice regarding the child's admittance for assessment to the child's parent or guardian, foster parent, case manager, and guardian ad litem (GAL). The bill specifies that if the child does not have a GAL and a lawyer, the court must appoint them.

The bill requires a psychiatrist, clinical psychologist, licensed mental health counselor, or licensed clinical social worker at the secure safe house to evaluate the child. The bill specifies that this professional must have experience working with sexually exploited children. The bill requires the evaluation be conducted as soon as it is appropriate to do so, given the child's emotional, mental, and physical condition and that facility staff continue evaluating the child throughout the placement for evaluation in the secure safe house. The bill permits the staff to access and request relevant information, including, the child's case file, and allows the child's parent or guardian, foster parent, case manager, and GAL to provide any information they believe is relevant to the evaluation. The bill requires that the evaluation be based on whether the child meets criteria for admission to the secure safe house.

If the evaluator determines that a secure safe house would not best meet the child's needs, DCF must place the child in the least restrictive setting which is appropriate for the child's needs. If the evaluator determines that placement in the secure safe house would best meet the child's needs, DCF must petition the court within 24 hours for placement, and the secure safe house must admit the child for placement pending a judicial determination. If the evaluator determines

that additional evaluation is required before a determination may be made, DCF must petition the court within 24 hours to extend the placement for evaluation purposes up to 30 days or until a determination may be made regarding the need for extended secure safe house placement for treatment, whichever comes first. The child shall remain in the secure safe house pending the court order.

The bill requires DCF to provide all evaluations to the child's parent or guardian, case manager, and GAL.

Section 5 creates s. 39.4074, F.S., to allow if the evaluation of the child results in a determination that placement for treatment in a secure safe house would best meet the child's needs, DCF may file a petition for placement in dependency court. The bill requires DCF to provide notice to the child's parents. The bill specifies that if the child's parents consent to the placement, the court must enter an order placing the child in the secure safe house for up to 45 days, pending review by the court. The bill also specifies that if the child's parents refuse or are unable to consent, within 24 hours of the filing of the petition, the court must hear all parties in person or by counsel, or both. The bill specifies that if the court concludes that the child meets the criteria for placement in the secure safe house, it must order that the child be placed in the secure safe house for a period of up to 45 days, pending review by the court.

The bill requires the secure safe house to review the child's progress toward the treatment goals and assess whether the child's needs can be met in a less restrictive treatment program. This review and assessment must be done every 20 days, commencing upon the beginning of treatment according to the treatment plan. The bill requires the secure safe house to submit a report of its findings to the child's parent or guardian, the GAL, the case manager, DCF, and the court. The bill specifies that DCF may not reimburse a secure safe house until the secure safe house has submitted every written report that is due.

The bill requires the court to conduct an initial review of the status of the child's treatment plan no later than 35 days after the child's placement in the secure safe house. The bill also requires the court to review the child's treatment plan 20 days after the initial review and then every 60 days thereafter, until the child no longer requires placement in the secure safe house, or until the child has resided in the secure safe house for 10 months. The bill specifies that if the child has resided in the secure safe house for 9 months, a court hearing must be held to determine an appropriate setting and appropriate services for the child after 10 months.

The bill requires the child's continued placement in a secure safe house to be a subject of judicial review at any time that a judicial review is held pursuant to s. 39.701, F.S. The bill specifies that if, at any time, the court determines that the child has not been sexually exploited or that the placement in the safe house is no appropriate, the court must order DCF to place the child in the least restrictive setting that is best suited to meet the child's needs. The bill requires DCF to place the child in another setting when continued placement in the secure safe house is no longer appropriate.

Section 6 requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct a study on commercial sexual exploitation of children in Florida. The bill requires the study to assess the extent of sexual exploitation of children in Florida, including the

prevalence in various regions of the state, estimates of the number of youth who have been sexually exploited, and service gaps for treating this population. The bill requires the study to analyze the operation of safe houses in Florida and address the effectiveness of safe houses and safe foster homes in addressing the safety, therapeutic, health, and emotional needs of sexually exploited children, including the nature and appropriateness of subsequent placements, extent of sexual exploitation post-placement, and educational attainment.

The bill requires OPPAGA to report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2017.

The bill requires DCF to establish rules regarding the initial screening and assessment instruments and the training for staff of safe houses and foster parents in safe foster homes. The bill provides DCF rulemaking authority regarding additional criteria for certification of safe houses and safe foster homes.

Section 7 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Fourteenth Amendment to the United States Constitution guarantees that the government cannot take away a person's basic rights to "life, liberty or property, without due process of law." Under s. 394.463, F.S., also known as the Baker Act, children can be involuntarily confined in a hospital or crisis stabilization unit for mental health assessment. However, the criteria to place a sexually exploited child in a secure safe house is based on risk of running away, recruiting other children into the commercial sex trade, attachment to his or her exploiter, level of trauma endured and interactions with law enforcement. The Florida Legislature has previously stated that sexually exploited children are victims not criminals.

The following sections of the bill may be inconsistent with the state and federal constitution:

Section 2 - The department, in consultation with the community-based care lead agency serving the child, shall approve all placements of children in the secure safe house.

Section 39.402(8)(a), F.S., states that a child may not be held in a shelter for longer than 24 hours unless ordered by the court not the department after a shelter hearing.

Section 2 - A child may be placed in the secure safe house for a minimum of 5 days and a maximum of 10 months.

Section 4 - A child may be taken to a secure safe house for evaluation of the appropriateness of placement for treatment in a secure safe house if there is probable cause that the child has been sexually exploited and a less restrictive placement alternative is unlikely to be effective in keeping the child from engaging in certain behaviors as determined by a department or community-based care lead agency.

Section 4 - An official of the department may initiate an evaluation of a child who is the subject of an open investigation or under the supervision of the court if certain criteria are met.

Section 4 - Within five days after the child's admittance to the secure safe house for evaluation, the psychiatrist, clinical psychologist, licensed mental health counselor, or licensed clinical social worker shall determine whether the secure safe house would best meet the child's needs or whether additional evaluation is required before a conclusion can be reached.

Section 4 - If additional evaluation is required before a determination may be made about the child's needs for secure safe house placement for treatment, the department shall petition the court within 24 hours to extend the placement of the child for evaluation purposes up to 30 days or until a determination may be made regarding the need for secure safe house placement for treatment, whichever comes first. The child shall remain in the secure safe house pending the court order.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill specifies certain provisions to be implemented based on an appropriation. The bill allows the Department of Children and Families to create a Secure Safe House Pilot Program. Such a program would increase costs to the department by requiring assessments of potential children, placement of sexually exploited children in safe houses or specialized foster homes, case management services and treatment services. The bill requires the Department of Juvenile Justice to provide intensive training to probation officers and other staff on identifying and serving sexually exploited children. Other costs

to the state would be the appointment of an attorney to represent the child in court proceedings. The bill does not specify who would pay for such attorneys. The court has broad latitude to ensure that certain persons receive legal representation. In some cases, the court will appoint a pro-bono attorney, while in other cases, attorneys are paid through a contract with the Justice Administrative Commission. The cost the bill to state agencies, the state court system, and the community based care agencies cannot be determined without knowing how many children would be served and in what way in safe houses and in the Secure Safe House Pilot Program.

VI. Technical Deficiencies:

Line 128 states each region of the department and each community-based care lead agency shall establish local protocols and procedures for working with sexually exploited children. It should be clarified that each region of the department and community-based care lead agency shall work together to establish local protocols and procedures.

Lines 146, 148, 150, 155, and 162 refer to the local circuit administrator. It should be clarified if the local circuit administrator is a DCF employee or the administrator of the judicial circuit.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.524 and 409.1678.

This bill creates the following sections of the Florida Statutes: 39.4072, 39.4074, and 409.1754.

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.

FOR CONSIDERATION By the Committee on Children, Families, and Elder Affairs

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1 A bill to be entitled
 2 An act relating to human trafficking; creating s.
 3 409.1754; requiring the department to develop or adopt
 4 initial screening and assessment instruments;
 5 specifying the process for the department to develop
 6 or adopt initial screening and assessment instruments;
 7 providing criteria for placement in safe houses or
 8 safe foster homes; allowing entities to use additional
 9 initial screening and assessment instruments;
 10 requiring the department, community-based care lead
 11 agencies, and staff administering the detention risk
 12 assessment instrument to receive specified training;
 13 requiring the department and lead agencies to hold
 14 multidisciplinary staffings under certain conditions;
 15 requiring the department and lead agencies to develop
 16 specific plans and protocols; directing the
 17 department, the Department of Juvenile Justice, and
 18 lead agencies to participate in coalitions, task
 19 forces, or similar organizations to coordinate local
 20 responses to human trafficking; requiring the
 21 department to attempt to initiate a task force if none
 22 is active in a local area; amending s. 409.1678;
 23 providing definitions; authorizing the Department of
 24 Children and Families to certify safe houses and safe
 25 foster homes; providing requirements for certification
 26 as safe houses and safe foster homes; allowing the
 27 department to certify a secure safe house to operate
 28 as a pilot program; providing requirements for the
 29 secure safe house pilot program; amending s. 39.524;

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30 providing for review of appropriateness of safe harbor
 31 placement in both safe houses and safe foster homes;
 32 amending criteria for placement; authorizing placement
 33 in settings other than safe houses and safe foster
 34 homes under certain conditions; requiring the Office
 35 of Program Policy Analysis and Government
 36 Accountability to conduct a study on commercial
 37 exploitation of children in Florida and related
 38 topics; creating s. 39.4072; providing for placement
 39 for evaluation in a secure safe house if certain
 40 criteria is met; specifying the process for evaluating
 41 whether a child meets criteria for placement for
 42 treatment in a secure safe house; creating s. 39.4074;
 43 authorizing the department to file a petition for
 44 placement in a secure safe house if the child is
 45 evaluated to meet criteria; providing for court
 46 determination; requiring reporting on a child's
 47 treatment progress in a secure safe house; providing
 48 for court review; providing an effective date.

49
 50 Be It Enacted by the Legislature of the State of Florida:

51
 52 Section 1. Section 409.1754, Florida Statutes, is created
 53 to read:

54 409.1754 Sexually Exploited Children; Screening and
 55 Assessment; Training; Case Management; Task Forces.—

56 (1) SCREENING AND ASSESSMENT.—

57 (a) The department shall develop or adopt one or more
 58 initial screening and assessment instruments to identify,

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59 determine the needs of, plan services for, and identify
 60 appropriate placement for sexually exploited children. The
 61 department shall consult state and local agencies,
 62 organizations, and individuals involved in the identification
 63 and care of sexually exploited children in developing or
 64 adopting the initial screening and assessment instruments. The
 65 initial screening and assessment instruments shall include
 66 assessment of appropriate placement, including whether placement
 67 in a safe house or safe foster home is appropriate, and shall
 68 consider, at a minimum, the following factors:

- 69 1. Risk of the sexually exploited child running away.
- 70 2. Risk of the sexually exploited child recruiting other
 71 children into the commercial sex trade.
- 72 3. Level of the sexually exploited child's attachment to
 73 his or her exploiter.
- 74 4. Level and type of trauma that the sexually exploited
 75 child has endured.
- 76 5. Nature of the sexually exploited child's interactions
 77 with law enforcement.
- 78 6. Length of time that the child was sexually exploited.
- 79 7. Extent of any substance abuse by the sexually exploited
 80 child.

81 (b) The initial screening and assessment instruments shall
 82 be validated if possible and must be used by the department,
 83 juvenile assessment centers as provided in s. 985.135, and
 84 community-based care lead agencies.

85 (c) The department shall establish rules specifying the
 86 initial screening and assessment instruments to be used, the
 87 requirements for their use, and the reporting of data collected

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88 through them.

89 (d) The department, the Department of Juvenile Justice, and
 90 community-based care lead agencies are not precluded from using
 91 additional assessment instruments in the course of serving
 92 sexually exploited children.

93 (2) TRAINING; CASE MANAGEMENT; TASK FORCES.-

94 (a)1. The department and community-based care lead agencies
 95 shall ensure that cases in which a child is alleged, suspected,
 96 or known to have been sexually exploited are assigned to child
 97 protective investigators and case managers who have specialized
 98 intensive training in handling cases involving a sexually
 99 exploited child. The department and lead agencies shall ensure
 100 that child protective investigators and case managers,
 101 respectively, receive this training prior to accepting any case
 102 involving a sexually exploited child.

103 2. The Department of Juvenile Justice shall ensure that
 104 juvenile probation staff or contractors administering the
 105 detention risk assessment instrument receive specialized
 106 intensive training in identifying and serving sexually exploited
 107 children.

108 (b) The department and community-based care lead agencies
 109 shall conduct regular multidisciplinary staffings for sexually
 110 exploited children to ensure that all relevant information is
 111 known to all parties and that services are coordinated across
 112 systems. The department or community-based care lead agency, as
 113 appropriate, shall coordinate these staffings and invite
 114 individuals involved in the child's care. This may include, but
 115 is not limited to, the child's guardian ad litem, juvenile
 116 justice system staff, school district staff, service providers,

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117 and victim advocates.

118 (c)1. Each region of the department and each community-
 119 based care lead agency shall jointly assess local service
 120 capacity to meet the specialized service needs of sexually
 121 exploited children and establish a plan to develop capacity.
 122 Each plan shall be developed in consultation with local law
 123 enforcement officials, local school officials, runaway and
 124 homeless youth program providers, local probation departments,
 125 children's advocacy centers, public defenders, state attorney's
 126 offices, safe houses, and child advocates and services providers
 127 who work directly with sexually exploited children.

128 2. Each region of the department and each community-based
 129 care lead agency shall establish local protocols and procedures
 130 for working with sexually exploited children which are
 131 responsive to the individual circumstances of each child. The
 132 protocols and procedures shall take into account the varying
 133 types and levels of trauma endured; whether the sexual
 134 exploitation is actively occurring, occurred in the past, or
 135 inactive but likely to reoccur; and the differing community
 136 resources and degrees of familial support that may be available.
 137 Child protective investigators and case managers must use the
 138 protocols and procedures when working with a sexually exploited
 139 child.

140 (3) (a) The local regional director may, to the extent that
 141 funds are available, provide training to local law enforcement
 142 officials who are likely to encounter sexually exploited
 143 children in the course of their law enforcement duties. Training
 144 shall address the provisions of this section and how to identify
 145 and obtain appropriate services for sexually exploited children.

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146 The local circuit administrator may contract with a not-for-
 147 profit agency having experience working with sexually exploited
 148 children to provide the training. Circuits may work
 149 cooperatively to provide training, which may be provided on a
 150 regional basis. The department shall assist circuits to obtain
 151 any available funds for the purposes of conducting law
 152 enforcement training from the Office of Juvenile Justice and
 153 Delinquency Prevention of the United States Department of
 154 Justice.

155 (b) Circuit administrators or their designees, chief
 156 probation officers of the Department of Juvenile Justice or
 157 their designees, and the chief operating officers of community
 158 based care lead agencies or their designees shall participate in
 159 any task force, committee, council, advisory group, coalition,
 160 or other entity active in their service area for coordinating
 161 responses to address human trafficking or sexual exploitation of
 162 children. If no such entity exists, the circuit administrator
 163 for the department shall work to initiate one.

164 Section 2. Section 409.1678, Florida Statutes, is amended
 165 to read:

166 (Substantial rewording of section. See
 167 s. 409.1678, F.S., for present text).

168 409.1678 Specialized residential options for children who
 169 are victims of sexual exploitation.—

170 (1) DEFINITIONS.—As used in this section, the term:

171 (a) "Safe foster home" means a foster home certified by the
 172 department under this section to care for sexually exploited
 173 children.

174 (b) "Safe house" means a group residential placement

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175 certified by the department under this section to care for
 176 sexually exploited children.

177 (c) "Sexually exploited child" means a child who has
 178 suffered sexual exploitation as defined in s. 39.01(67) (g) and
 179 is ineligible for relief and benefits under the federal
 180 Trafficking Victims Protection Act, 22 U.S.C. ss. 7101 et seq.

181 (2) CERTIFICATION OF SAFE HOUSES AND SAFE FOSTER HOMES.—

182 (a) Safe houses and safe foster homes shall provide a safe,
 183 separate, and therapeutic environment tailored to the needs of
 184 sexually exploited children who have endured significant trauma.
 185 Safe houses and safe foster homes shall use a model of treatment
 186 that includes strength-based and trauma-informed approaches.

187 (b) The department shall certify safe houses and safe
 188 foster homes. A residential facility accepting state funds
 189 appropriated to provide services to sexually exploited children
 190 or child victims of sex trafficking must be certified by the
 191 department as a safe house or a safe foster home. No entity may
 192 use the designation "safe house" or "safe foster home" and hold
 193 themselves out as serving sexually exploited children unless the
 194 entity is certified under this section.

195 (c) To be certified, a safe house must hold a license as a
 196 residential child-caring agency, and a safe foster home must
 197 hold a license as a family foster home, pursuant to s. 409.175.
 198 A safe house or safe foster home must also:

- 199 1. Use trauma-informed and strength-based approaches to
 200 care, to the extent possible and appropriate.
 201 2. Serve exclusively one sex.
 202 3. Group sexually exploited children by age or maturity
 203 level.

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204 4. Care for sexually exploited children in a manner that
 205 separates these children from children with other needs. Safe
 206 houses and safe foster homes may care for other populations, if
 207 the children who have not experienced sexual exploitation do not
 208 interact with children who have experienced sexual exploitation.

209 5. Have awake staff members on duty 24 hours a day, if a
 210 safe house.

211 6. Provide appropriate security through facility design,
 212 hardware, technology, staffing, and siting, including but not
 213 limited to external video monitoring or alarmed doors, having a
 214 high staff-to-client ratio, or being situated in a remote
 215 location isolated from major transportation centers and common
 216 trafficking areas. However, such security must allow sexually
 217 exploited children to exit the safe house if they choose.

218 7. Meet other criteria established by the department in
 219 rule, which may include, but are not limited to, personnel
 220 qualifications, staffing ratios, and services content.

221 (d) Safe houses and safe foster homes shall provide
 222 services tailored to the needs of sexually exploited children
 223 and shall conduct a comprehensive assessment of the service
 224 needs of each resident. In addition to the services required to
 225 be provided by residential child caring agencies and family
 226 foster homes, safe houses and safe foster homes must provide,
 227 arrange for or coordinate, at a minimum, the following services:

- 228 1. Victim-witness counseling;
 229 2. Family counseling;
 230 3. Behavioral health care;
 231 4. Treatment and intervention for sexual assault;
 232 5. Education tailored to the child's individual needs,

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233 including remedial education if necessary;
 234 6. Life skills training;
 235 7. Mentoring by a survivor of sexual exploitation, if
 236 available and appropriate for the child;
 237 8. Substance abuse screening, and where necessary, access
 238 to treatment;
 239 9. Planning services for the successful transition of each
 240 child back to the community; and
 241 10. Activities, in a manner that provides sexually
 242 exploited children with a full schedule.

243 (e) The community-based care lead agencies shall ensure
 244 that foster parents of safe foster homes and staff of safe
 245 houses complete intensive training regarding, at a minimum, the
 246 needs of sexually exploited children, the effects of trauma and
 247 sexual exploitation, and how to address those needs using
 248 strength-based and trauma-informed approaches. The department
 249 shall specify this training by rule and may develop or contract
 250 for a standard curriculum. The department may establish in rule
 251 additional criteria for the certification of safe houses and
 252 safe foster homes. Criteria shall address the security,
 253 therapeutic, social, health, and educational needs of sexually
 254 exploited children.

255 (f) The department shall inspect safe houses and safe
 256 foster homes prior to certification and annually to ensure
 257 compliance with requirements of this section. The department may
 258 place a moratorium on referrals and may revoke the certification
 259 of a safe house or safe foster home which fails at any time to
 260 meet the requirements of this section or rules adopted pursuant
 261 to this section.

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262 (g) The certification period for safe houses and safe
 263 foster homes shall run concurrently with the terms of their
 264 licenses.

265 (3) SECURE SAFE HOUSE PILOT PROGRAM.—
 266 (a) The department may facilitate the development of one
 267 secure safe house on a pilot basis to evaluate the therapeutic
 268 benefits of a secure residential setting within the broader
 269 array of residential and community-based services available to
 270 meet the needs of sexually exploited children. The secure safe
 271 house is intended for those sexually exploited children with the
 272 greatest needs, for whom no less restrictive placement has been
 273 or will be effective in addressing the effects of severe abuse,
 274 violence, trauma, or exploiter control endured by the child. The
 275 setting is only available to a sexually exploited child:

276 1. Who is the subject of an open investigation due to an
 277 allegation of abuse, neglect, or exploitation, or has been
 278 adjudicated dependent;

279 2. Who has been placed in accordance with ss. 39.4072 and
 280 39.4074; and

281 3. Whose needs cannot be met in less restrictive
 282 placements.

283 (b) The secure safe house must be a certified safe house,
 284 and may have no more than 15 beds. The department shall select
 285 the region where the secure safe house shall be sited. The
 286 department shall collaborate with the local community-based care
 287 lead agency to design the pilot project, including, but not
 288 limited to, selection of the location, selection of the
 289 provider, the facility's security features, referral processes,
 290 and services provided within the secure safe house.

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291 (c) Children from any region of the state may be placed in
 292 the secure safe house pursuant to ss. 39.4072 and 39.4074. The
 293 department, in consultation with the community-based care lead
 294 agencies serving the children, shall approve all placements of
 295 children in the facility. In addition to the criteria in s.
 296 409.1754(1) and any other criteria determined by the department
 297 pursuant to that subsection, the following criteria at a minimum
 298 shall also be used to determine whether a child qualifies for
 299 placement in the secure safe house:

300 1. Lack of willingness to participate in less intensive
 301 programs; and

302 2. Lack of treatment progress in less restrictive
 303 placements, if the child has been placed elsewhere.

304 (d) The secure safe house shall include features which
 305 prevent any entry into or exit from the facility or its grounds
 306 without the involvement of staff, including, but not limited to,
 307 walls, fencing, gates, and locking doors.

308 (e) A child may be placed in the secure safe house for a
 309 minimum of 5 days and a maximum of 10 months. Pursuant to s.
 310 39.4074(4), the secure safe house shall regularly review and
 311 report on the child's progress, and during judicial reviews the
 312 court shall determine whether continued placement in the secure
 313 safe house is appropriate. The department shall place the child
 314 in another setting when continued placement in the secure safe
 315 house is no longer appropriate.

316 (f) The department shall contract for an evaluation of the
 317 effectiveness of the secure safe house in facilitating the
 318 rehabilitation of sexually exploited children. The evaluation
 319 report shall be provided to the Governor, the President of the

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320 Senate, and the Speaker of the House of Representatives by
 321 February 1, 2018. The evaluation shall, at a minimum, describe
 322 the program model and facility design, assess the effectiveness
 323 of the facility in meeting the treatment and security needs of
 324 sexually exploited children, analyze its cost-effectiveness, and
 325 provide recommendations regarding the continued operation of the
 326 pilot program and any changes or enhancements.

327 (4) (a) This section does not prohibit any provider of
 328 services for sexually exploited children from appropriately
 329 billing Medicaid for services rendered, from contracting with a
 330 local school district for educational services, or from
 331 obtaining federal or local funding for services provided, as
 332 long as two or more funding sources do not pay for the same
 333 specific service that has been provided to a child.

334 (b) The lead agency shall ensure that all children residing
 335 in safe houses or safe foster homes have a case manager and a
 336 case plan, whether or not the child is a dependent child.

337 (5) The services specified in this section may, to the
 338 extent possible provided by law and with funding authorized, be
 339 available to all sexually exploited children whether they are
 340 accessed voluntarily, as a condition of probation, through a
 341 diversion program, through a proceeding under chapter 39, or
 342 through a referral from a local community-based care or social
 343 service agency.

344 Section 3. Section 39.524, Florida Statutes, is amended to
 345 read:

346 39.524 Safe-harbor placement.—

347 (1) Except as provided in s. 39.407 or s. 985.801, a
 348 dependent child 6 years of age or older who has been found to be

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349 a victim of sexual exploitation as defined in s. 39.01(67)(g)
 350 must be assessed for placement in a safe house or safe foster
 351 home as provided in s. 409.1678 using the initial screening and
 352 assessment instruments provided in s. 409.1754(1). ~~The~~
 353 ~~assessment shall be conducted by the department or its agent and~~
 354 ~~shall incorporate and address current and historical information~~
 355 ~~from any law enforcement reports, psychological testing or~~
 356 ~~evaluation that has occurred; current and historical information~~
 357 ~~from the guardian ad litem, if one has been assigned; current~~
 358 ~~and historical information from any current therapist, teacher,~~
 359 ~~or other professional who has knowledge of the child and has~~
 360 ~~worked with the child; and any other information concerning the~~
 361 ~~availability and suitability of safe house placement. If such~~
 362 ~~placement is determined to be appropriate for the child as a~~
 363 ~~result of this assessment, the child may be placed in a safe~~
 364 ~~house or safe foster home, if one is available. However, the~~
 365 ~~child may be placed in another setting if it is more appropriate~~
 366 ~~to his or her needs and his or her behaviors can be managed in~~
 367 ~~those settings so that they do not endanger other children being~~
 368 ~~served in those settings, or if a safe house or safe foster home~~
 369 ~~is unavailable. As used in this section, the term "available" as~~
 370 ~~it relates to a placement means a placement that is located~~
 371 ~~within the circuit or otherwise reasonably accessible.~~

372 (2) The results of the assessment described in s.
 373 409.1754(1) subsection (1) and the actions taken as a result of
 374 the assessment must be included in the next judicial review of
 375 the child. At each subsequent judicial review, the court must be
 376 advised in writing of the status of the child's placement, with
 377 special reference regarding the stability of the placement and

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378 the permanency planning for the child.

379 (3) (a) By December 1 of each year, the department shall
 380 report to the Legislature on the placement of children in safe
 381 houses and safe foster homes during the year, including the
 382 criteria used to determine the placement of children, the number
 383 of children who were evaluated for placement, the number of
 384 children who were placed based upon the evaluation, and the
 385 number of children who were not placed.

386 (b) The department shall maintain data specifying the
 387 number of children who were referred to a safe house or safe
 388 foster home for whom placement was unavailable and the counties
 389 in which such placement was unavailable. The department shall
 390 include this data in its report under this subsection so that
 391 the Legislature may consider this information in developing the
 392 General Appropriations Act.

393 Section 4. Section 39.4072, Florida Statutes, is created to
 394 read:

395 39.4072 Evaluation for secure safe house placement.-

396 (1) The Legislature finds that victims of child sexual
 397 exploitation as defined in s. 39.01(67)(g) often exhibit
 398 behaviors that place themselves and others in danger. The
 399 Legislature finds that when sexually exploited children
 400 repeatedly run away from their home or residential placement to
 401 unsafe placements, engage in commercial sexual activity as
 402 defined in s. 787.06(2)(b), F.S., or seek to maintain a
 403 relationship with their exploiters, these children and other
 404 children are in danger of being sexually exploited and
 405 physically abused, which can lead to grave emotional and
 406 physical harm.

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407 (2) CRITERIA.—A child may be taken to a secure safe house
 408 for evaluation of the appropriateness of placement for treatment
 409 in a secure safe house as provided in this section if there is
 410 probable cause that the child has been sexually exploited as
 411 defined in s. 39.01(67)(g) and:

412 (a) The child meets the criteria in s. 409.1678(3) for safe
 413 house placement; and

414 (b) The child recently engaged in behaviors that subject
 415 the child to victimization, violence, emotional harm, serious
 416 bodily harm, or health risks that endanger the child, posing a
 417 real and present threat of substantial harm to the child's well-
 418 being. Such behaviors include, but are not limited to,
 419 repeatedly running away from home or residential placement to an
 420 unsafe situation, engaging in commercial sexual activity as
 421 defined in s. 787.06(2)(b), and seeking to maintain a
 422 relationship with the child's trafficker despite others'
 423 attempts to separate the child from the trafficker;

424 (c) There is a substantial likelihood that without care or
 425 treatment the child will endanger or cause serious bodily harm
 426 to others, as evidenced by previous behavior including
 427 recruiting other children into the commercial sex trade or using
 428 coercion such as violence, illegal substances, or other means to
 429 compel their participation in such trade; and

430 (d) Less restrictive placement alternatives are unlikely to
 431 be effective in keeping the child from engaging in behaviors
 432 provided in paragraphs (b) and (c), as determined by a
 433 department or community-based care lead agency.

434 (3) EVALUATION.—

435 (a) An official of the department may initiate an

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436 evaluation of a child who is the subject of an open
 437 investigation or under the supervision of the court if the
 438 criteria in subsection (2) are met. A child protective
 439 investigator, a law enforcement officer, case manager, or other
 440 qualified individual may transport the child to the secure safe
 441 house, which may admit the child for assessment and
 442 stabilization pending the filing and adjudication of a petition
 443 by the department as provided in s. 39.522(1) alleging a need
 444 for a change in placement. The secure safe house shall provide
 445 notice regarding the child's admittance for assessment for
 446 secure safe house placement, to the child's parent or guardian,
 447 foster parent, case manager, and guardian ad litem. If the child
 448 does not have a guardian ad litem and a lawyer, the court shall
 449 appoint them.

450 (b) A psychiatrist, clinical psychologist, licensed mental
 451 health counselor, or licensed clinical social worker at the
 452 secure safe house who has training in working with sexually
 453 exploited children shall conduct an initial evaluation of the
 454 child as soon as it is appropriate to do so given the child's
 455 emotional, mental, and physical condition. The child may be
 456 provided medical screening and treatment pursuant to s. 39.407.
 457 The secure safe house may initiate appropriate therapeutic
 458 services to stabilize and treat the child.

459 (c) Facility staff shall continue to evaluate the child
 460 throughout his or her placement for evaluation in the secure
 461 safe house and may access the child's case file and other
 462 relevant records and request information from other individuals
 463 involved in the child's life. The child's parent or guardian,
 464 foster parent, case manager, and guardian ad litem may provide

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465 any information they believe relevant to the evaluation. The
 466 evaluation of the child shall be based on whether the child
 467 meets the criteria established under s. 409.1678(3) for
 468 admission to the secure safe house, and the criteria in
 469 paragraphs (1) (a) and (b).

470 (d) Within five days after the child's admittance to the
 471 secure safe house for evaluation, the psychiatrist, clinical
 472 psychologist, licensed mental health counselor, or licensed
 473 clinical social worker shall determine, based on the evaluation,
 474 whether the secure safe house would best meet the child's needs,
 475 or whether additional evaluation is required before a conclusion
 476 can be reached.

477 1. If the secure safe house would not best meet the child's
 478 needs, the department shall place the child in the least
 479 restrictive setting which is appropriate for the child's needs.

480 2. If placement in the secure safe house for treatment
 481 would best meet the child's needs, the department shall petition
 482 the court within 24 hours for placement under s. 39.4074, and
 483 the secure safe house shall admit the child pending a judicial
 484 determination.

485 3. If additional evaluation is required before a
 486 determination may be made about the child's need for secure safe
 487 house placement for treatment, the department shall petition the
 488 court within 24 hours to extend the placement of the child for
 489 evaluation purposes up to 30 days or until a determination may
 490 be made regarding the need for secure safe house placement for
 491 treatment, whichever comes first. The child shall remain in the
 492 secure safe house pending the court order.

493 (f) The department shall provide all evaluations to the

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494 child's parent or guardian, case manager, and guardian ad litem.

495 Section 5. Section 39.4074, Florida Statutes, is created to
 496 read:

497 39.4074 Placement in a secure safe house.—

498 (1) PETITION FOR PLACEMENT.—If an evaluation pursuant to s.
 499 39.4072(3) results in a determination that placement for
 500 treatment in a secure safe house would best meet the child's
 501 needs, the department may file a petition for placement in
 502 dependency court. The department shall provide notice to the
 503 child's parents as required under s. 39.502(1). If the child's
 504 parents consent to such placement, the court shall enter an
 505 order placing the child in the secure safe house for up to 45
 506 days, pending review by the court as provided herein. If the
 507 child's parents refuse or are unable to consent, the court
 508 within 24 hours of the filing of the petition shall hear all
 509 parties in person or by counsel, or both. If the court concludes
 510 that the child meets the criteria for placement in the secure
 511 safe house in s. 39.4072(1), it shall order that the child be
 512 placed in the secure safe house for a period of up to 45 days,
 513 pending review by the court.

514 (2) TREATMENT PLAN AND JUDICIAL REVIEW.—

515 (a) Within 10 days after the placement of a child for
 516 treatment in a secure safe house, the secure safe house must
 517 prepare an individualized treatment plan which addresses both
 518 preliminary residential treatment and comprehensive discharge,
 519 identifying care appropriate for the child upon completion of
 520 residential treatment. The plan must be approved by the
 521 department. The child must be involved in the preparation of the
 522 plan to the maximum feasible extent consistent with the child's

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523 ability to do so. The child's parents, guardian, or foster
 524 parents, guardian ad litem, and staff from the child's home
 525 school district must be involved with the child's treatment and
 526 discharge planning. Other individuals may also participate in
 527 plan development as appropriate. A secure safe house shall
 528 provide a copy and an explanation of the plan to the child, the
 529 child's parent or guardian, the guardian ad litem, and case
 530 manager. The department shall also provide the plan to the
 531 court.

532 (b) At 20-day intervals, commencing upon the beginning of
 533 treatment according to the treatment plan, the secure safe house
 534 must review the child's progress toward the treatment goals and
 535 assess whether the child's needs could be met in a less
 536 restrictive treatment program. The secure safe house must submit
 537 a report of its findings to the child's parents or guardian,
 538 guardian ad litem, case manager, the department and the court.
 539 The department may not reimburse a secure safe house until the
 540 secure safe house has submitted every written report that is
 541 due.

542 (c) The court shall conduct an initial review of the status
 543 of the child's treatment plan no later than 35 days after the
 544 child's placement for treatment in the secure safe house. For
 545 any child in a secure safe house at the time a judicial review
 546 is held pursuant to s. 39.701, the child's continued placement
 547 in a secure safe house must be a subject of the judicial review.
 548 If, at any time, the court determines that the child has not
 549 been sexually exploited or that the child has been sexually
 550 exploited but is not appropriate for placement in a secure safe
 551 house, the court shall order the department to place the child

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552 in the least restrictive setting that is best suited to meet the
 553 child's needs.

554 (d) After the initial review, the court must review the
 555 child's treatment plan every 60 days until the child no longer
 556 requires placement in the secure safe house, or until the child
 557 has resided in the secure safe house for 10 months. If the child
 558 has resided in the secure safe house for 9 months, a court
 559 hearing shall be held to determine an appropriate setting and
 560 appropriate services for the child.

561 Section 6. The Office of Program Policy Analysis and
 562 Government Accountability (OPPAGA) shall conduct a study on
 563 commercial sexual exploitation of children in Florida. The study
 564 shall assess the extent of commercial sexual exploitation of
 565 children, including but not limited to its prevalence in various
 566 regions of the state. The study shall also identify specialized
 567 services needed by sexually exploited children and any gaps in
 568 the availability of such services by region, including but not
 569 limited to residential services and specialized therapies. The
 570 study shall analyze the effectiveness of safe houses, safe
 571 foster homes, and other residential options for serving sexually
 572 exploited children in addressing their safety, therapeutic,
 573 health, educational, and emotional needs, including but not
 574 limited to, the nature and appropriateness of subsequent
 575 placements, extent of sexual exploitation post-placement, and
 576 educational attainment. By July 1, 2017, OPPAGA shall report its
 577 findings to the Governor, the President of the Senate, and the
 578 Speaker of the House of Representatives.

579 Section 7. This act shall take effect July 1, 2014.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14

Meeting Date

Topic Human Trafficking

Bill Number SPB 7089 (if applicable)

Name Jody Grutza

Amendment Barcode (if applicable)

Job Title VP Strategic Partnerships

Address 100 N. Starcrest Drive

Phone 727-266-8584

Street Clearwater FL 33765 City State Zip

E-mail jgrutza@clearwater.com

Speaking: [X] For [] Against [] Information

Representing Eckerd

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-14

Meeting Date

Topic Human Trafficking

Bill Number 7088 (if applicable)

Name Kimberly Grabert

Amendment Barcode (if applicable)

Job Title Human Trafficking Prevention Director

Address 400 W. Robinson Street, Ste. 1129

Phone 352-303-1366

Street Orlando, FL 32801 City State Zip

E-mail Kimberly.grabert@dcl.state.fl.us

Speaking: [X] For [] Against [] Information

Representing FL Dept. of Children + Families

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [] Yes [X] No

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

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S-001 (10/20/11)

From out of ~~the~~ Town.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14

Meeting Date

Topic Human trafficking / csec

Bill Number 7088
(if applicable)

Name Dr. Leslie Gavin

Amendment Barcode _____
(if applicable)

Job Title Psychologist

Address MEMORAS Childrens Hospital

Phone 407 707 4516

Street

Orlando

FL

32806

City

State

Zip

E-mail Lgavin@memoras.org

Speaking: For Against Information

Representing No one

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 1, 2010

Meeting Date

Topic Human Trafficking

Bill Number 7088
(if applicable)

Name Todd Dixon

Amendment Barcode _____
(if applicable)

Job Title Director of Community Affairs

Address 5151 Adanson Street

Phone 407/245-0045

Street

Orlando

FL

32804

City

State

Zip

E-mail tdixon@cfdca.com

Speaking: For Against Information

Representing Aspire Health Partners

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-1-2014
Meeting Date

Topic Human Trafficking Bill Number 7088
Name Babette Hankey Amendment Barcode _____
Job Title Chief Operating Officer - The Center for Drug Free (if applicable)
Address 5151 Adanson St Phone 407.245.0045 ext 225
City Orlando Florida 32804 E-mail bhankey@cfdaf1.com
City State Zip

Speaking: For Against Information

Representing _____

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic SEX TRAFFICKING Bill Number 7088
Name ROY MILLER Amendment Barcode _____
Job Title FOUNDER & PRESIDENT (if applicable)
Address 502 N. ADORNS ST Phone 727-229-7274
City TLH State _____ Zip 32302 E-mail ROYMILLER@AOL.COM
City State Zip

Speaking: For Against Information

Representing THE CHILDREN'S CAMPAIGN

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic SEX TRAFFICKING Bill Number 7088
Name DR. LAWANDA RAVOIRA Amendment Barcode _____
Job Title PRESIDENT & CEO DeLores BARR WEAVER POLICY CENTER
Address 1022 PARK ST Phone 904 2378660
JACKSONVILLE FL 32204 E-mail lravoira@scaythegirl.org
City State Zip
Speaking: For Against Information
Representing DeLores BARR WEAVER POLICY CENTER
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Human Trafficking Bill Number 7088
Name MARY MARK Amendment Barcode _____
Job Title PRESIDENT + CEO PACE Center for Girls
Address 1 W. Adams Ste 301 Phone _____
Jacksonville FL 32202 E-mail mary.mark@pacecenter.org
City State Zip
Speaking: For Against Information
Representing PACE Center for Girls
Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 508

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Detert

SUBJECT: State Ombudsman Program

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.			AHS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 508 revises the operating structure and internal procedures of the State Long-Term Care Ombudsman Program (LTCOP), housed in the Department of Elder Affairs (DOEA), to reflect current practices, maximize operational and program efficiencies and conform to the federal Older Americans Act. The bill revises the appointment process for three at-large positions to the State Long-Term Care Council whereby the appointments are no longer made by the Governor but by the Secretary of DOEA.

The bill has an effective date of July 1, 2014, and no fiscal impact.

II. Present Situation:

Older Americans Act

The Older Americans Act (OAA) was enacted in 1965 to assist elders to lead independent, meaningful, and dignified lives in their own communities rather than in more costly residential or nursing home settings.¹ The OAA programs are administered through area agencies on aging under the Department of Elder Affairs (DOEA). To be eligible for OAA programs, individuals must be 60 years of age or older. Spouses and disabled adults younger than 60 years of age may receive services in certain circumstances. Preference is given to elders with the greatest

¹ Government Program Summaries, Office of Program Policy Analysis and Governmental Accountability website, *available at* <http://www.oppga.state.fl.us/profiles/5032/> (last visited March 28, 2014).

economic or social needs, particularly low-income minority individuals. The OAA was most recently reauthorized in 2006 to supply funding for several nutritional programs and in-home and supportive services for elders.

Florida's Long-Term Care Ombudsman Program (LTCOP) was created in 1975 as a result of the OAA. The OAA grants a special set of residents' rights to individuals who live in long-term care facilities such as nursing homes, assisted living facilities, and adult family care homes.²

Long—Term Care Ombudsman Program

In Florida, a long-term care ombudsman is a volunteer who helps to improve the lives of people who live in long-term care settings like nursing homes, assisted living facilities, and adult family care homes by investigating and resolving their complaints against the facility.

As Florida's elders' transition into long-term care facilities, they need a strong support system. Unfortunately, many long-term care residents do not have anyone to look out for their best interests when it comes to personal health, safety, welfare and rights. The LTCOP is made up of more than 300 volunteers who are advocates for the residents to improve their quality of life.

The LTCOP is administratively housed within DOEA. The LTCOP undertakes to discover, investigate, and determine the presence of conditions or individuals which constitute a threat to the rights, health, safety, or welfare of the residents of long-term care facilities. The LTCOP accomplishes these tasks by conducting investigations of complaints filed by or on behalf of residents of nursing homes, assisted living facilities, and adult family care homes and by conducting annual administrative assessments of such facilities. An administrative assessment is a resident-centered, unannounced review of conditions in the facility which have an impact on the rights, health, safety, and welfare of residents with the purpose of noting needed improvements and making recommendations to enhance the quality of life for residents.

The LTCOP has no enforcement and regulatory oversight authority for long-term care facilities. The Agency for Health Care Administration (AHCA) has the responsibility for licensing long-term care facilities. Instead, ombudsmen, after completing specified statutory requirements, are certified as independent advocates, working solely on behalf of residents to mediate disputes between residents and long-term care facilities on an informal basis. The LTCOP provides residents with the opportunity to develop personal and confidential relationships with the ombudsmen to create an environment that allows a resident to candidly voice complaints. If a complaint is verified by the ombudsman that could violate the facility's licensure or be criminal activity, the LTCOP refers the issue to AHCA, Adult Protective Services within the Department of Children and Families (DCF), the Attorney General's Office, or other agencies as appropriate.³

² Department of Elder Affairs, Florida's Long-Term Care Ombudsman Program website, *available at* <http://ombudsman.myflorida.com/index.php> (last visited March 28, 2014).

³ Department of Elder Affairs, *Senate Bill 508 Fiscal Analysis* (Dec. 31, 2013) (on file with the Senate Committee on Children, Families, and Elder Affairs).

III. Effect of Proposed Changes:

Section 1 amends s. 400.0060, F.S., to revise and create definitions of terms used in the ombudsman statute. Definitions for “long-term care facility,” and “ombudsman” are updated. The term “representative of the office” is defined to include the state ombudsman, employees, and certified ombudsman. The term “state ombudsman” is defined as the person appointed by the secretary of DOEA to administer the ombudsman program. The term “resident” is revised to include persons over 18 years of age who reside in a long-term care facility. The term “district” creates geographical areas in the state designated by the state ombudsman and each district may have more than one local unit of ombudsmen.

Section 2 amends s. 400.0061, F.S., which provides legislative finds and intent, to conform existing text to newly defined terms.

Section 3 amends s. 400.0063, F.S., which establishes the office of state ombudsman and to conform existing text to newly defined terms.

Section 4 amends s. 400.0065, F.S., relating to duties of the state ombudsman, to give the state ombudsman the final authority to make appointments of individuals serving as ombudsman; to update position titles of individuals to receive the annual ombudsman program report; and to revise terminology to conform to new definitions.

Section 5 amends s. 400.0067, F.S., relating to the State Long-Term Care Ombudsman Council, to update terminology. Currently, appointments to the three at-large positions to the Council are made by the Governor. Under the bill, the district manager, in consultation with the district ombudsmen, will select a district ombudsman as a representative to the Council. The state ombudsman will submit the names to the secretary of DOEA who will make the appointment to the three at-large positions on the state council.

Section 6 amends 400.0069, F.S., relating to the local ombudsman councils. The councils are renamed as districts and are designated by the state ombudsman. The bill provides for development of family councils within facilities; clarifies that ombudsmen may be allowed to serve in a different district for good cause shown; and clarifies the application, background screening, and training requirements needed to become a certified ombudsman. The section also requires that each district must convene a public meeting every quarter. The section provides that ombudsmen identify, investigate, and resolve complaints made by or on behalf of residents relating to actions or omissions by providers of long term care services, other public agencies, guardians, or representative payees which may adversely affect the health, safety, welfare, or rights of a resident.

Section 7 amends s. 400.0070, F.S., relating to ombudsman conflicts of interest and to conform to newly-defined terms.

Section 8 amends s. 400.0071, F.S., relating to how ombudsmen investigate and resolve complaints. The bill separates and removes references to the administrative assessment process from the complaint process.

Section 9 amends s. 400.0073, F.S., relating to complaint investigations, access to long-term care facilities by ombudsmen, reporting procedures in the event access is denied and conforms to newly defined terms.

Section 10 amends s. 400.0074, F.S., to provide an onsite administrative assessment at least annually, which assessment must be resident-centered and focus on the rights, health, safety, and welfare of the residents. The assessment must not impose an unreasonable burden on the long-term care facility. The bill moves the rulemaking authority from s. 400.072, F.S., and conforms to newly-defined terms.

Section 11 amends s. 400.0075, F.S., relating to complaint resolutions, to conform to newly-defined terms and to clarify complaint reporting procedures.

Section 12 revises s. 400.0078, F.S., relating to access to the ombudsmen, to add-email as a way to make complaints. The bill also requires long-term care facilities to notify all residents and their families upon admission that retaliation against residents making complaints to the ombudsman is prohibited by law.

Section 13 amends s. 400.0079, F.S., relating to immunity for persons making complaints, to conform to newly-defined terms.

Section 14 amends s. 400.0081, F.S., relating to ombudsman access to long-term care facilities, including access to medical and social records of a resident as necessary to resolve a complaint. This section also provides conformity to newly-defined terms, and to delete the limitation that ombudsmen have access to residents only for investigating a complaint.

Section 15 amends s. 400.0083, F.S., relating to interference with the ombudsman, to make technical and conforming changes.

Section 16 amends s. 400.0087, F.S., relating to oversight of the ombudsman program by DOEA, to make technical and conforming changes.

Section 17 amends 400.0089, F.S., relating to information on ombudsman complaints, to make technical and conforming changes.

Section 18 amends s. 400.0091, F.S., relating to ombudsman training, to clarify training requirements and make conforming changes.

Sections 19 – 44 amends ss. 20.41, 400.021, 400.022, 400.0255, 400.1413, 400.162, 400.19, 400.191, 400.23, 400.235, 415.102, 415.1034, 415.104, 415.1055, 415.106, 145.107, 429.02, 429.07, 429.19, 429.26, 429.28, 429.34, 429.35, 429.67, 429.85, 744.444, F.S., to conform to newly-defined terms and to make technical changes.

Section 45 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 20.41, 400.0060, 400.0061, 400.0063, 400.0065, 400.0067, 400.0069, 400.0070, 400.0071, 400.0073, 400.0074, 400.0075, 400.0078, 400.0079, 400.0081, 400.0083, 400.0087, 400.0089, 400.0091, 400.021, 400.022, 400.0255, 400.1413, 400.162, 400.19, 400.191, 400.23, 400.235, 415.102, 415.1034, 415.104, 415.1055, 415.106, 415.107, 429.02, 429.07, 429.19, 429.26, 429.28, 429.34, 429.35, 429.67, 429.85, and 744.444.

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 Children, Families, and Elder Affairs on April 1, 2014:

The Committee Substitute:

- Defines the term “district” as a geographical area designated by the state ombudsman in which ombudsmen carry out of the duties of the state ombudsman program. A district may have more than one local unit of ombudsmen.
- Provides that each local unit in a district selects a representative to serve in an at-large position on the state council. The list of selected ombudsmen will be provided to the state ombudsman and the Secretary of DOEA will appoint the three at-large members to the state council.
- Provides that each district must convene a public meeting every quarter.
- Clarifies that an ombudsman identify, investigate, and resolve complaints made by or on behalf of residents relating to actions or omissions by providers or representatives of providers of long-term care services, other public agencies, guardians, or representative payees which may adversely affect the health, safety, welfare, or rights of residents.
- Allows ombudsmen to have access to medical and social records of a resident as necessary to investigate a complaint.
- Clarifies criteria for a long-term care facility to be recognized as a Gold Seal Program.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2014	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Detert) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 400.0060, Florida Statutes, is amended
to read:

400.0060 Definitions.—When used in this part, unless the
context clearly dictates otherwise, the term:

(1) "Administrative assessment" means a review of
conditions in a long-term care facility which impact the rights,



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11 health, safety, and welfare of residents with the purpose of
12 noting needed improvement and making recommendations to enhance
13 the quality of life for residents.

14 (2) "Agency" means the Agency for Health Care
15 Administration.

16 (3) "Department" means the Department of Elderly Affairs.

17 (4) "District" means a geographical area designated by the
18 state ombudsman in which individuals certified as ombudsmen
19 carry out the duties of the state ombudsman program. A district
20 may have more than one local unit of ombudsmen ~~"Local council"~~
21 ~~means a local long-term care ombudsman council designated by the~~
22 ~~ombudsman pursuant to s. 400.0069. Local councils are also known~~
23 ~~as district long-term care ombudsman councils or district~~
24 ~~councils.~~

25 (5) "Long-term care facility" means a nursing home
26 facility, assisted living facility, adult family-care home,
27 board and care facility, facility in which continuing long-term
28 care is provided, or any other similar residential adult care
29 facility.

30 (6) "Office" means the Office of State Long-Term Care
31 Ombudsman created by s. 400.0063.

32 (7) "Ombudsman" means an individual who has been certified
33 by the state ombudsman as meeting the requirements of ss.
34 400.0069, 400.0070, and 400.0091 ~~the individual appointed by the~~
35 ~~Secretary of Elderly Affairs to head the Office of State Long-~~
36 ~~Term Care Ombudsman.~~

37 (8) "Representative of the office" means the state
38 ombudsman, an employee of the office, or an individual certified
39 as an ombudsman.



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40 ~~(9)-(8)~~ "Resident" means an individual 18 ~~60~~ years of age or
41 older who resides in a long-term care facility.

42 ~~(10)-(9)~~ "Secretary" means the Secretary of Elderly Affairs.

43 ~~(11)-(10)~~ "State council" means the State Long-Term Care
44 Ombudsman Council created by s. 400.0067.

45 (12) "State ombudsman" means the individual appointed by
46 the Secretary of Elderly Affairs to head the Office of State
47 Long-Term Care Ombudsman.

48 (13) "State ombudsman program" means the program operating
49 under the direction of the office.

50 Section 2. Section 400.0061, Florida Statutes, is amended
51 to read:

52 400.0061 Legislative findings and intent; long-term care
53 facilities.-

54 (1) The Legislature finds that conditions in long-term care
55 facilities in this state are such that the rights, health,
56 safety, and welfare of residents are not fully ensured by rules
57 of the Department of Elderly Affairs or the Agency for Health
58 Care Administration or by the good faith of owners or operators
59 of long-term care facilities. Furthermore, there is a need for a
60 formal mechanism whereby a long-term care facility resident, a
61 representative of a long-term care facility resident, or any
62 other concerned citizen may make a complaint against the
63 facility or its employees, or against other persons who are in a
64 position to restrict, interfere with, or threaten the rights,
65 health, safety, or welfare of a long-term care facility
66 resident. The Legislature finds that concerned citizens are
67 often more effective advocates for the rights of others than
68 governmental agencies. The Legislature further finds that in



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69 order to be eligible to receive an allotment of funds authorized
70 and appropriated under the federal Older Americans Act, the
71 state must establish and operate an Office of State Long-Term
72 Care Ombudsman, to be headed by the state ~~Long-Term Care~~
73 ombudsman, and carry out a state long-term care ombudsman
74 program.

75 (2) It is the intent of the Legislature, therefore, to use
76 ~~utilize~~ voluntary citizen ombudsmen ~~ombudsman councils~~ under the
77 leadership of the state ombudsman, and, through them, to operate
78 a state an ombudsman program, which shall, without interference
79 by any executive agency, undertake to discover, investigate, and
80 determine the presence of conditions or individuals who ~~which~~
81 constitute a threat to the rights, health, safety, or welfare of
82 the residents of long-term care facilities. To ensure that the
83 effectiveness and efficiency of such investigations are not
84 impeded by advance notice or delay, the Legislature intends that
85 representatives of the office ombudsman and ombudsman councils
86 ~~and their designated representatives~~ not be required to obtain
87 warrants in order to enter into or conduct investigations or
88 onsite administrative assessments of long-term care facilities.
89 It is the further intent of the Legislature that the environment
90 in long-term care facilities be conducive to the dignity and
91 independence of residents and that investigations by
92 representatives of the office ombudsman councils ~~shall~~ further
93 the enforcement of laws, rules, and regulations that safeguard
94 the health, safety, and welfare of residents.

95 Section 3. Section 400.0063, Florida Statutes, is amended
96 to read:

97 400.0063 Establishment of Office of State Long-Term Care



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98 Ombudsman; designation of ombudsman and legal advocate.—

99 (1) There is created an Office of State Long-Term Care
100 Ombudsman in the Department of Elderly Affairs.

101 (2) (a) The Office of State Long-Term Care Ombudsman shall
102 be headed by the state ~~Long-Term Care~~ ombudsman, who shall serve
103 on a full-time basis and shall personally, or through
104 representatives of the office, carry out the purposes and
105 functions of the state ombudsman program ~~office~~ in accordance
106 with state and federal law.

107 (b) The state ombudsman shall be appointed by and shall
108 serve at the pleasure of the Secretary of Elderly Affairs. The
109 secretary shall appoint a person who has expertise and
110 experience in the fields of long-term care and advocacy to serve
111 as state ombudsman.

112 (3) (a) There is created in the office the position of legal
113 advocate, who shall be selected by and serve at the pleasure of
114 the state ombudsman and shall be a member in good standing of
115 The Florida Bar.

116 (b) The duties of the legal advocate shall include, but not
117 be limited to:

118 1. Assisting the state ombudsman in carrying out the duties
119 of the office with respect to the abuse, neglect, exploitation,
120 or violation of rights of residents of long-term care
121 facilities.

122 2. Assisting the state council and representatives of the
123 office ~~local councils~~ in carrying out their responsibilities
124 under this part.

125 3. Pursuing administrative, legal, and other appropriate
126 remedies on behalf of residents.



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127 4. Serving as legal counsel to the state council and
128 representatives of the office ~~local councils, or individual~~
129 ~~members thereof,~~ against whom any suit or other legal action
130 that is initiated in connection with the performance of the
131 official duties of the state ombudsman program ~~councils or an~~
132 ~~individual member.~~

133 Section 4. Section 400.0065, Florida Statutes, is amended
134 to read:

135 400.0065 Office of State Long-Term Care Ombudsman; duties
136 and responsibilities.-

137 (1) The purpose of the Office of State Long-Term Care
138 Ombudsman ~~is shall be~~ to:

139 (a) Identify, investigate, and resolve complaints made by
140 or on behalf of residents of long-term care facilities relating
141 to actions or omissions by providers or representatives of
142 providers of long-term care services, other public or private
143 agencies, guardians, or representative payees that may adversely
144 affect the health, safety, welfare, or rights of the residents.

145 (b) Provide services that assist in protecting the health,
146 safety, welfare, and rights of residents.

147 (c) Inform residents, their representatives, and other
148 citizens about obtaining the services of the state ~~Long-Term~~
149 ~~Care~~ ombudsman program and its representatives.

150 (d) Ensure that residents have regular and timely access to
151 the services provided through the office and that residents and
152 complainants receive timely responses from representatives of
153 the office to their complaints.

154 (e) Represent the interests of residents before
155 governmental agencies and seek administrative, legal, and other



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156 remedies to protect the health, safety, welfare, and rights of
157 the residents.

158 (f) Administer the state council and ~~local councils~~.

159 (g) Analyze, comment on, and monitor the development and
160 implementation of federal, state, and local laws, rules, and
161 regulations, and other governmental policies and actions, that
162 pertain to the health, safety, welfare, and rights of the
163 residents, with respect to the adequacy of long-term care
164 facilities and services in the state, and recommend any changes
165 in such laws, rules, regulations, policies, and actions as the
166 office determines to be appropriate and necessary.

167 (h) Provide technical support for the development of
168 resident and family councils to protect the well-being and
169 rights of residents.

170 (2) The state ~~Long-Term Care~~ ombudsman has ~~shall have~~ the
171 duty and authority to:

172 (a) Establish and coordinate districts ~~local councils~~
173 throughout the state.

174 (b) Perform the duties specified in state and federal law,
175 rules, and regulations.

176 (c) Within the limits of appropriated federal and state
177 funding, employ such personnel ~~as are~~ necessary to perform
178 adequately the functions of the office and provide or contract
179 for legal services to assist the state council and
180 representatives of the office ~~local councils~~ in the performance
181 of their duties. ~~Staff positions established for the purpose of~~
182 ~~coordinating the activities of each local council and assisting~~
183 ~~its members may be filled by the ombudsman after approval by the~~
184 ~~secretary. Notwithstanding any other provision of this part,~~



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185 ~~upon certification by the ombudsman that the staff member hired~~
186 ~~to fill any such position has completed the initial training~~
187 ~~required under s. 400.0091, such person shall be considered a~~
188 ~~representative of the State Long Term Care Ombudsman Program for~~
189 ~~purposes of this part.~~

190 (d) Contract for services necessary to carry out the
191 activities of the office.

192 (e) Apply for, receive, and accept grants, gifts, or other
193 payments, including, but not limited to, real property, personal
194 property, and services from a governmental entity or other
195 public or private entity or person, and make arrangements for
196 the use of such grants, gifts, or payments.

197 (f) Coordinate, to the greatest extent possible, state and
198 local ombudsman services with the protection and advocacy
199 systems for individuals with developmental disabilities and
200 mental illnesses and with legal assistance programs for the poor
201 through adoption of memoranda of understanding and other means.

202 ~~(g) Enter into a cooperative agreement with the Statewide~~
203 ~~Advocacy Council for the purpose of coordinating and avoiding~~
204 ~~duplication of advocacy services provided to residents.~~

205 (g) ~~(h)~~ Enter into a cooperative agreement with the Medicaid
206 Fraud Division as prescribed under s. 731(e)(2)(B) of the Older
207 Americans Act.

208 (h) ~~(i)~~ Prepare an annual report describing the activities
209 carried out by the office, the state council, and the districts
210 ~~local councils~~ in the year for which the report is prepared. The
211 state ombudsman shall submit the report to the secretary, the
212 United States Assistant Secretary for Aging, the Governor, the
213 President of the Senate, the Speaker of the House of



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214 Representatives, the Secretary of Children and Families, and the
215 Secretary of Health Care Administration at least 30 days before
216 the convening of the regular session of the Legislature. ~~The~~
217 ~~secretary shall in turn submit the report to the United States~~
218 ~~Assistant Secretary for Aging, the Governor, the President of~~
219 ~~the Senate, the Speaker of the House of Representatives, the~~
220 ~~Secretary of Children and Family Services, and the Secretary of~~
221 ~~Health Care Administration.~~ The report must ~~shall~~, at a minimum:
222 1. Contain and analyze data collected concerning complaints
223 about and conditions in long-term care facilities and the
224 disposition of such complaints.
225 2. Evaluate the problems experienced by residents.
226 3. Analyze the successes of the state ombudsman program
227 during the preceding year, including an assessment of how
228 successfully the office ~~program~~ has carried out its
229 responsibilities under the Older Americans Act.
230 4. Provide recommendations for policy, regulatory, and
231 statutory changes designed to solve identified problems; resolve
232 residents' complaints; improve residents' lives and quality of
233 care; protect residents' rights, health, safety, and welfare;
234 and remove any barriers to the optimal operation of the state
235 ~~Long-Term Care~~ ombudsman program.
236 5. Contain recommendations from the state ~~Long-Term Care~~
237 ~~Ombudsman~~ council regarding program functions and activities and
238 recommendations for policy, regulatory, and statutory changes
239 designed to protect residents' rights, health, safety, and
240 welfare.
241 6. Contain any relevant recommendations from
242 representatives of the office ~~local councils~~ regarding program



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243 functions and activities.

244 Section 5. Section 400.0067, Florida Statutes, is amended
245 to read:

246 400.0067 State Long-Term Care Ombudsman Council; duties;
247 membership.-

248 (1) There is created, within the Office of State Long-Term
249 Care Ombudsman, the State Long-Term Care Ombudsman Council.

250 (2) The state ~~Long-Term Care Ombudsman~~ council shall:

251 (a) Serve as an advisory body to assist the state ombudsman
252 in reaching a consensus among districts ~~local councils~~ on issues
253 affecting residents and impacting the optimal operation of the
254 program.

255 (b) Serve as an appellate body in receiving from the
256 districts ~~local councils~~ complaints not resolved at the district
257 ~~local~~ level. Any individual member or members of the state
258 council may enter any long-term care facility involved in an
259 appeal, pursuant to the conditions specified in s. 400.0074(2).

260 (c) Assist the state ombudsman to discover, investigate,
261 and determine the existence of abuse or neglect in any long-term
262 care facility, and work with the adult protective services
263 program as required in ss. 415.101-415.113.

264 (d) Assist the state ombudsman in eliciting, receiving,
265 responding to, and resolving complaints made by or on behalf of
266 residents.

267 (e) Elicit and coordinate state, district ~~local~~, and
268 voluntary organizational assistance for the purpose of improving
269 the care received by residents.

270 (f) Assist the state ombudsman in preparing the annual
271 report described in s. 400.0065.



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272 (3) The state ~~Long Term Care Ombudsman~~ council consists
273 ~~shall be composed~~ of one active certified ombudsman from each
274 local unit within a district council member elected by each
275 ~~local council~~ plus three at-large members appointed by the
276 secretary Governor.

277 (a) Each local unit in a district must select ~~council shall~~
278 ~~elect by majority vote~~ a representative of its choice to serve
279 ~~from among the council members to represent the interests of the~~
280 ~~local council~~ on the state council. A ~~local council chair may~~
281 ~~not serve as the representative of the local council on the~~
282 ~~state council~~.

283 (b)1. The state ombudsman secretary, ~~after consulting with~~
284 ~~the ombudsman~~, shall submit to the secretary Governor a list of
285 individuals ~~persons~~ recommended for appointment to the at-large
286 positions on the state council. The list may ~~shall~~ not include
287 the name of any individual ~~person~~ who is currently serving in a
288 district ~~on a local council~~.

289 2. The secretary Governor shall appoint three at-large
290 members chosen from the list.

291 3. If the secretary Governor does not appoint an at-large
292 member to fill a vacant position within 60 days after the list
293 is submitted, the state secretary, ~~after consulting with the~~
294 ~~ombudsman~~, shall appoint an at-large member to fill that vacant
295 position.

296 (4) (a) ~~(c)1.~~ All State council members shall serve 3-year
297 terms.

298 ~~2.~~ A member of the state council may not serve more than
299 two consecutive terms.

300 (b) ~~3.~~ A district manager, in consultation with the district



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301 ~~ombudsmen, local council~~ may recommend replacement ~~removal~~ of
302 its selected ombudsman ~~elected representative~~ from the state
303 council ~~by a majority vote~~. If the district manager, in
304 consultation with the district ombudsmen, selects a replacement
305 ombudsman, the district manager ~~council votes to remove its~~
306 ~~representative, the local council chair~~ shall immediately notify
307 the state ombudsman. ~~The secretary shall advise the Governor of~~
308 ~~the local council's vote upon receiving notice from the~~
309 ~~ombudsman.~~

310 (c)4. The position of any member missing three state
311 council meetings within a 1-year period without cause may be
312 declared vacant by the state ombudsman. The findings of the
313 state ombudsman regarding cause shall be final and binding.

314 (d)5. Any vacancy on the state council shall be filled in
315 the same manner as the original appointment.

316 (e)(d)1. The state council shall elect a chair to serve for
317 a term of 1 year. A chair may not serve more than two
318 consecutive terms.

319 2. The chair shall select a vice chair from among the
320 members. The vice chair shall preside over the state council in
321 the absence of the chair.

322 3. The chair may create additional executive positions as
323 necessary to carry out the duties of the state council. Any
324 person appointed to an executive position shall serve at the
325 pleasure of the chair, and his or her term shall expire on the
326 same day as the term of the chair.

327 4. A chair may be immediately removed from office before
328 ~~prior to~~ the expiration of his or her term by a vote of two-
329 thirds of all state council members present at any meeting at



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330 which a quorum is present. If a chair is removed from office
331 before ~~prior to~~ the expiration of his or her term, a replacement
332 chair shall be chosen during the same meeting in the same manner
333 as described in this paragraph, and the term of the replacement
334 chair shall begin immediately. The replacement chair shall serve
335 for the remainder of the term and is eligible to serve two
336 subsequent consecutive terms.

337 (f) ~~(e)~~ 1. The state council shall meet upon the call of the
338 chair or upon the call of the state ombudsman. The state council
339 shall meet at least quarterly but may meet more frequently as
340 needed.

341 2. A quorum shall be considered present if more than 50
342 percent of all active state council members are in attendance at
343 the same meeting.

344 3. The state council may not vote on or otherwise make any
345 decisions resulting in a recommendation that will directly
346 impact the state council or any district ~~local council~~, outside
347 of a publicly noticed meeting at which a quorum is present.

348 (g) ~~(f)~~ Members may not shall receive ~~no~~ compensation but
349 shall, with approval from the state ombudsman, be reimbursed for
350 per diem and travel expenses as provided in s. 112.061.

351 Section 6. Section 400.0069, Florida Statutes, is amended
352 to read:

353 400.0069 ~~Local~~ Long-term care ombudsman districts ~~councils~~;
354 duties; appointment ~~membership~~.

355 (1) (a) The state ombudsman shall designate districts ~~local~~
356 ~~long-term care ombudsman councils~~ to carry out the duties of the
357 state ~~Long-Term Care~~ ombudsman program ~~within local communities~~.
358 Each district ~~local council~~ shall function under the direction



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359 of the state ombudsman.

360 (b) The state ombudsman shall ensure that there are
361 representatives of the office ~~is at least one local council~~
362 ~~operating in each district of the department's planning and~~
363 ~~service areas. The ombudsman may create additional local~~
364 ~~councils~~ as necessary to ensure that residents throughout the
365 state have adequate access to state ~~Long-Term Care~~ ombudsman
366 program services. ~~The ombudsman, after approval from the~~
367 ~~secretary, shall designate the jurisdictional boundaries of each~~
368 ~~local council.~~

369 (c) Each district shall convene a public meeting every
370 quarter.

371 (2) The duties of the representatives of the office in the
372 districts ~~local councils~~ are to:

373 (a) Provide services to assist in ~~Serve as a third-party~~
374 ~~mechanism for~~ protecting the health, safety, welfare, and ~~civil~~
375 ~~and human~~ rights of residents.

376 (b) Discover, investigate, and determine the existence of
377 abuse, ~~or~~ neglect, or exploitation using in any long-term care
378 ~~facility and to use~~ the procedures provided for in ss. 415.101-
379 415.113 when applicable.

380 (c) Identify Elicit, receive, investigate, respond to, and
381 resolve complaints made by or on behalf of residents relating to
382 actions or omissions by providers or representatives of
383 providers of long-term care services, other public agencies,
384 guardians, or representative payees which may adversely affect
385 the health, safety, welfare, or rights of residents.

386 (d) Review and, if necessary, comment on all existing or
387 proposed rules, regulations, and other governmental policies and



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388 actions relating to long-term care facilities that may
389 potentially have an effect on the ~~rights~~, health, safety,
390 welfare, and rights ~~welfare~~ of residents.

391 (e) Review personal property and money accounts of
392 residents who are receiving assistance under the Medicaid
393 program pursuant to an investigation to obtain information
394 regarding a specific complaint ~~or problem~~.

395 (f) Recommend that the state ombudsman and the legal
396 advocate seek administrative, legal, and other remedies to
397 protect the health, safety, welfare, and rights of ~~the~~
398 residents.

399 (g) Provide technical assistance for the development of
400 resident and family councils within long-term care facilities.

401 (h) ~~(g)~~ Carry out other activities that the state ombudsman
402 determines to be appropriate.

403 (3) In order to carry out the duties specified in
404 subsection (2), a representative of the office may ~~member of a~~
405 ~~local council is authorized to~~ enter any long-term care facility
406 without notice or without first obtaining a warrant; however,
407 ~~subject to the provisions of s. 400.0074(2) may apply regarding~~
408 notice of a followup administrative assessment.

409 (4) Each district ~~local council~~ shall be composed of
410 ombudsmen ~~members~~ whose primary residences are ~~residence is~~
411 located within the boundaries of the district ~~local council's~~
412 jurisdiction.

413 (a) Upon good cause shown, the state ombudsman may appoint
414 an ombudsman to another district. ~~The ombudsman shall strive to~~
415 ~~ensure that each local council include the following persons as~~
416 ~~members:~~



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417 ~~1. At least one medical or osteopathic physician whose~~
418 ~~practice includes or has included a substantial number of~~
419 ~~geriatric patients and who may practice in a long-term care~~
420 ~~facility;~~

421 ~~2. At least one registered nurse who has geriatric~~
422 ~~experience;~~

423 ~~3. At least one licensed pharmacist;~~

424 ~~4. At least one registered dietitian;~~

425 ~~5. At least six nursing home residents or representative~~
426 ~~consumer advocates for nursing home residents;~~

427 ~~6. At least three residents of assisted living facilities~~
428 ~~or adult family-care homes or three representative consumer~~
429 ~~advocates for alternative long-term care facility residents;~~

430 ~~7. At least one attorney; and~~

431 ~~8. At least one professional social worker.~~

432 (b) The following individuals may not be appointed as
433 ombudsmen:

434 1. The owner or representative of a long-term care
435 facility.

436 2. A provider or representative of a provider of long-term
437 care service.

438 3. An employee of the agency.

439 4. An employee of the department, except for a
440 representative of the office.

441 5. An employee of the Department of Children and Families.

442 6. An employee of the Agency for Persons with Disabilities

443 ~~In no case shall the medical director of a long-term care~~
444 ~~facility or an employee of the agency, the department, the~~
445 ~~Department of Children and Family Services, or the Agency for~~



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446 ~~Persons with Disabilities serve as a member or as an ex officio~~
447 ~~member of a council.~~

448 (5) (a) To be appointed as an ombudsman, an individual must:

449 1. Individuals wishing to join a local council shall Submit
450 an application to the state ombudsman or his or her designee.

451 2. Successfully complete level 2 background screening
452 pursuant to s. 430.0402 and chapter 435 ~~The ombudsman shall~~
453 ~~review the individual's application and advise the secretary of~~
454 ~~his or her recommendation for approval or disapproval of the~~
455 ~~candidate's membership on the local council. If the secretary~~
456 ~~approves of the individual's membership, the individual shall be~~
457 ~~appointed as a member of the local council.~~

458 (b) The state ombudsman shall approve or deny the
459 appointment of the individual as an ombudsman ~~The secretary may~~
460 ~~rescind the ombudsman's approval of a member on a local council~~
461 ~~at any time. If the secretary rescinds the approval of a member~~
462 ~~on a local council, the ombudsman shall ensure that the~~
463 ~~individual is immediately removed from the local council on~~
464 ~~which he or she serves and the individual may no longer~~
465 ~~represent the State Long-Term Care Ombudsman Program until the~~
466 ~~secretary provides his or her approval.~~

467 (c) Upon appointment as an ombudsman, the individual may
468 participate in district activities but may not represent the
469 office or conduct any authorized program duties until the
470 individual has completed the initial training specified in s.
471 400.0091(1) and has been certified by the state ombudsman.

472 (d) The state ombudsman, for good cause shown, such as
473 development of a conflict of interest, failure to adhere to the
474 policies and procedures established by the office, or



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475 demonstrated inability to carry out the responsibilities of the
476 office, may rescind the appointment of an individual as an
477 ombudsman. After the appointment is rescinded, the individual
478 may not conduct any duties as an ombudsman and may not represent
479 the office or the state ombudsman program ~~A local council may~~
480 ~~recommend the removal of one or more of its members by~~
481 ~~submitting to the ombudsman a resolution adopted by a two-thirds~~
482 ~~vote of the members of the council stating the name of the~~
483 ~~member or members recommended for removal and the reasons for~~
484 ~~the recommendation. If such a recommendation is adopted by a~~
485 ~~local council, the local council chair or district coordinator~~
486 ~~shall immediately report the council's recommendation to the~~
487 ~~ombudsman. The ombudsman shall review the recommendation of the~~
488 ~~local council and advise the secretary of his or her~~
489 ~~recommendation regarding removal of the council member or~~
490 ~~members.~~

491 ~~(6) (a) Each local council shall elect a chair for a term of~~
492 ~~1 year. There shall be no limitation on the number of terms that~~
493 ~~an approved member of a local council may serve as chair.~~

494 ~~(b) The chair shall select a vice chair from among the~~
495 ~~members of the council. The vice chair shall preside over the~~
496 ~~council in the absence of the chair.~~

497 ~~(c) The chair may create additional executive positions as~~
498 ~~necessary to carry out the duties of the local council. Any~~
499 ~~person appointed to an executive position shall serve at the~~
500 ~~pleasure of the chair, and his or her term shall expire on the~~
501 ~~same day as the term of the chair.~~

502 ~~(d) A chair may be immediately removed from office prior to~~
503 ~~the expiration of his or her term by a vote of two-thirds of the~~



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504 ~~members of the local council. If any chair is removed from~~
505 ~~office prior to the expiration of his or her term, a replacement~~
506 ~~chair shall be elected during the same meeting, and the term of~~
507 ~~the replacement chair shall begin immediately. The replacement~~
508 ~~chair shall serve for the remainder of the term of the person he~~
509 ~~or she replaced.~~

510 ~~(7) Each local council shall meet upon the call of its~~
511 ~~chair or upon the call of the ombudsman. Each local council~~
512 ~~shall meet at least once a month but may meet more frequently if~~
513 ~~necessary.~~

514 ~~(6)(8) An ombudsman may not A member of a local council~~
515 ~~shall receive no compensation but shall, with approval from the~~
516 ~~state ombudsman, be reimbursed for travel expenses both within~~
517 ~~and outside the jurisdiction of the local council in accordance~~
518 ~~with the provisions of s. 112.061.~~

519 ~~(7)(9) A representative of the office may The local~~
520 ~~councils are authorized to call upon appropriate state agencies~~
521 ~~of state government for such professional assistance as may be~~
522 ~~needed in the discharge of his or her their duties, and such.~~
523 ~~All state agencies shall cooperate with the local councils in~~
524 ~~providing requested information and agency representation at~~
525 ~~council meetings.~~

526 Section 7. Section 400.0070, Florida Statutes, is amended
527 to read:

528 400.0070 Conflicts of interest.-

529 (1) A representative of the office may ~~The ombudsman shall~~
530 not:

531 (a) Have a direct involvement in the licensing or
532 certification of, or an ownership or investment interest in, a



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533 long-term care facility or a provider of a long-term care
534 service.

535 (b) Be employed by, or participate in the management of, a
536 long-term care facility.

537 (c) Receive, or have a right to receive, directly or
538 indirectly, remuneration, in cash or in kind, under a
539 compensation agreement with the owner or operator of a long-term
540 care facility.

541 (2) Each representative ~~employee~~ of the office, ~~each state~~
542 ~~council member, and each local council member~~ shall certify that
543 he or she does not have any ~~has no~~ conflict of interest.

544 (3) The department, in consultation with the state
545 ombudsman, shall define by rule:

546 (a) Situations that constitute an individual ~~a person~~
547 having a conflict of interest which ~~that~~ could materially affect
548 the objectivity or capacity of the individual ~~a person~~ to serve
549 as a representative on an ombudsman council, or as an employee
550 of the office, while carrying out the purposes of the State
551 Long Term Care Ombudsman Program as specified in this part.

552 (b) The procedure by which an individual ~~a person~~ listed in
553 subsection (2) shall certify that he or she does not have a ~~has~~
554 ~~no~~ conflict of interest.

555 Section 8. Section 400.0071, Florida Statutes, is amended
556 to read:

557 400.0071 State ~~Long Term Care~~ ombudsman program complaint
558 procedures.—The department, in consultation with the state
559 ombudsman, shall adopt rules implementing state and local
560 complaint procedures. The rules must include procedures for
561 receiving, investigating, identifying, and resolving complaints



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562 concerning the health, safety, welfare, and rights of residents:

563 ~~(1) Receiving complaints against a long-term care facility~~
564 ~~or an employee of a long-term care facility.~~

565 ~~(2) Conducting investigations of a long-term care facility~~
566 ~~or an employee of a long-term care facility subsequent to~~
567 ~~receiving a complaint.~~

568 ~~(3) Conducting onsite administrative assessments of long-~~
569 ~~term care facilities.~~

570 Section 9. Section 400.0073, Florida Statutes, is amended
571 to read:

572 400.0073 Complaint ~~State and local ombudsman council~~
573 ~~investigations.-~~

574 (1) A representative of the office ~~local council~~ shall
575 identify and investigate, ~~within a reasonable time after a~~
576 complaint is made, any complaint made by or on behalf of a
577 resident, ~~a representative of a resident, or any other credible~~
578 ~~source based on an action or omission by an administrator, an~~
579 ~~employee, or a representative of a long-term care facility~~ which
580 might be:

581 (a) Contrary to law;

582 (b) Unreasonable, unfair, oppressive, or unnecessarily
583 discriminatory, even though in accordance with law;

584 (c) Based on a mistake of fact;

585 (d) Based on improper or irrelevant grounds;

586 (e) Unaccompanied by an adequate statement of reasons;

587 (f) Performed in an inefficient manner; or

588 (g) Otherwise adversely affecting the health, safety,
589 welfare, or rights of a resident.

590 ~~(2) In an investigation, both the state and local councils~~



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591 ~~have the authority to hold public hearings.~~

592 ~~(3) Subsequent to an appeal from a local council, the state~~
593 ~~council may investigate any complaint received by the local~~
594 ~~council involving a long term care facility or a resident.~~

595 ~~(2)(4) If a representative of the office the ombudsman or~~
596 ~~any state or local council member is not allowed to enter a~~
597 ~~long-term care facility, the administrator of the facility shall~~
598 ~~be considered to have interfered with a representative of the~~
599 ~~office, the state council, or the local council in the~~
600 ~~performance of official duties as described in s. 400.0083(1)~~
601 ~~and to have violated committed a violation of this part. The~~
602 ~~representative of the office ombudsman shall report a facility's~~
603 ~~refusal to allow entry to the facility to the state ombudsman or~~
604 ~~his or her designee, who shall report the incident to the~~
605 ~~agency, and the agency shall record the report and take it into~~
606 ~~consideration when determining actions allowable under s.~~
607 ~~400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.~~
608 ~~429.71.~~

609 Section 10. Section 400.0074, Florida Statutes, is amended
610 to read:

611 400.0074 ~~Local ombudsman council~~ Onsite administrative
612 assessments.-

613 (1) A representative of the office shall ~~In addition to any~~
614 ~~specific investigation conducted pursuant to a complaint, the~~
615 ~~local council shall~~ conduct, at least annually, an onsite
616 administrative assessment of each nursing home, assisted living
617 facility, and adult family-care home ~~within its jurisdiction.~~
618 This administrative assessment must be resident-centered and
619 must shall focus on factors affecting the rights, health,



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620 safety, and welfare of the residents. ~~Each local council is~~
621 ~~encouraged to conduct a similar onsite administrative assessment~~
622 ~~of each additional long-term care facility within its~~
623 ~~jurisdiction.~~

624 (2) An onsite administrative assessment is conducted by a
625 ~~local council shall be~~ subject to the following conditions:

626 (a) To the extent possible and reasonable, the
627 administrative assessment may ~~assessments shall~~ not duplicate
628 the efforts of ~~the agency~~ surveys and inspections conducted by
629 state agencies of long-term care facilities under part II of
630 ~~this chapter and parts I and II of chapter 429.~~

631 (b) An administrative assessment shall be conducted at a
632 time and for a duration necessary to produce the information
633 required to complete the assessment ~~carry out the duties of the~~
634 ~~local council.~~

635 (c) Advance notice of an administrative assessment may not
636 be provided to a long-term care facility, except that notice of
637 followup assessments on specific problems may be provided.

638 (d) A representative of the office ~~local council member~~
639 ~~physically~~ present for the administrative assessment must ~~shall~~
640 identify himself or herself to the administrator ~~and cite the~~
641 ~~specific statutory authority for his or her assessment of the~~
642 facility or his or her designee.

643 (e) An administrative assessment may not unreasonably
644 interfere with the programs and activities of residents.

645 (f) A representative of the office ~~local council member~~ may
646 not enter a single-family residential unit within a long-term
647 care facility during an administrative assessment without the
648 permission of the resident or the representative of the



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649 resident.

650 (g) An administrative assessment shall ~~must~~ be conducted in
651 a manner that does not impose an ~~will impose no~~ unreasonable
652 burden on a long-term care facility.

653 ~~(3) Regardless of jurisdiction, the ombudsman may authorize~~
654 ~~a state or local council member to assist another local council~~
655 ~~to perform the administrative assessments described in this~~
656 ~~section.~~

657 ~~(4)~~ An onsite administrative assessment may not be
658 accomplished by forcible entry. However, if a representative of
659 the office ombudsman ~~or a state or local council member~~ is not
660 allowed to enter a long-term care facility, the administrator of
661 the facility shall be considered to have interfered with a
662 representative of the office, ~~the state council, or the local~~
663 ~~council~~ in the performance of official duties as described in s.
664 400.0083(1) and to have committed a violation of this part. The
665 representative of the office ombudsman shall report the refusal
666 by a facility to allow entry to the state ombudsman or his or
667 her designee, who shall then report the incident to the agency,
668 and the agency shall record the report and take it into
669 consideration when determining actions allowable under s.
670 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.
671 429.71.

672 (4) The department, in consultation with the state
673 ombudsman, may adopt rules implementing procedures for
674 conducting onsite administrative assessments of long-term care
675 facilities.

676 Section 11. Section 400.0075, Florida Statutes, is amended
677 to read:



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678 400.0075 Complaint notification and resolution procedures.-

679 (1) (a) Any complaint ~~or problem~~ verified by a
680 representative of the office ~~an ombudsman council~~ as a result of
681 an investigation may ~~or onsite administrative assessment, which~~
682 ~~complaint or problem is determined to require remedial action by~~
683 ~~the local council, shall~~ be identified and brought to the
684 attention of the long-term care facility administrator subject
685 to the confidentiality provisions of s. 400.0077 ~~in writing.~~

686 Upon receipt of the information ~~such document~~, the
687 administrator, with the concurrence of the representative of the
688 office ~~local council chair~~, shall establish target dates for
689 taking appropriate remedial action. If, by the target date, the
690 remedial action is not completed or forthcoming, the
691 representative may extend the target date if there is reason to
692 believe such action would facilitate the resolution of the
693 complaint, or the representative may refer the complaint to the
694 district manager ~~local council chair may, after obtaining~~
695 ~~approval from the ombudsman and a majority of the members of the~~
696 ~~local council:~~

697 1. ~~Extend the target date if the chair has reason to~~
698 ~~believe such action would facilitate the resolution of the~~
699 ~~complaint.~~

700 2. ~~In accordance with s. 400.0077, publicize the complaint,~~
701 ~~the recommendations of the council, and the response of the~~
702 ~~long term care facility.~~

703 3. ~~Refer the complaint to the state council.~~

704 (b) If an ombudsman determines ~~the local council chair~~
705 ~~believes~~ that the health, safety, welfare, or rights of a ~~the~~
706 resident are in imminent danger, the ombudsman must immediately



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707 notify the district manager. The district manager chair shall
708 ~~notify the ombudsman or legal advocate, who,~~ after verifying
709 that such imminent danger exists, must notify the appropriate
710 state agencies, including law enforcement agencies, the state
711 ombudsman, and the legal advocate to ensure the protection of
712 ~~shall seek immediate legal or administrative remedies to protect~~
713 the resident.

714 (c) If the state ombudsman or legal advocate has reason to
715 believe that the long-term care facility or an employee of the
716 facility has committed a criminal act, the state ombudsman or
717 legal advocate shall provide the local law enforcement agency
718 with the relevant information to initiate an investigation of
719 the case.

720 (2) ~~(a)~~ Upon referral from a district local council, the
721 state ombudsman or his or her designee council shall assume the
722 responsibility for the disposition of the complaint. If a long-
723 term care facility fails to take action to resolve or remedy the
724 ~~on a complaint by the state council~~, the state ombudsman council
725 ~~may, after obtaining approval from the ombudsman and a majority~~
726 ~~of the state council members:~~

727 ~~(a)1.~~ In accordance with s. 400.0077, publicize the
728 complaint, the recommendations of the representatives of the
729 office local or state council, and the response of the long-term
730 care facility.

731 ~~(b)2.~~ Recommend to the department and the agency a series
732 of facility reviews pursuant to s. 400.19, s. 429.34, or s.
733 429.67 to ensure correction and nonrecurrence of the conditions
734 that gave ~~give~~ rise to the complaint ~~complaints~~ against the a
735 long-term care facility.



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736 (c)3. Recommend to the department and the agency that the
737 long-term care facility no longer receive payments under any
738 state assistance program, including Medicaid.

739 (d)4. Recommend to the department and the agency that
740 procedures be initiated for action against ~~revocation of~~ the
741 long-term care facility's license in accordance with chapter
742 120.

743 ~~(b) If the state council chair believes that the health,~~
744 ~~safety, welfare, or rights of the resident are in imminent~~
745 ~~danger, the chair shall notify the ombudsman or legal advocate,~~
746 ~~who, after verifying that such imminent danger exists, shall~~
747 ~~seek immediate legal or administrative remedies to protect the~~
748 ~~resident.~~

749 (3)(e) If the state ombudsman, after consultation with the
750 legal advocate, has reason to believe that the long-term care
751 facility or an employee of the facility has committed a criminal
752 act, the office ombudsman shall provide the local law
753 enforcement agency with the relevant information to initiate an
754 investigation of the case.

755 Section 12. Section 400.0078, Florida Statutes, is amended
756 to read:

757 400.0078 Citizen access to state ~~Long-Term Care~~ ombudsman
758 program services.—

759 (1) The office shall establish a statewide toll-free
760 telephone number and e-mail address for receiving complaints
761 concerning matters adversely affecting the health, safety,
762 welfare, or rights of residents.

763 (2) ~~Every resident or representative of a resident shall~~
764 ~~receive,~~ Upon admission to a long-term care facility, each



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765 resident or representative of a resident must receive
766 information regarding:

767 (a) The purpose of the state ~~Long-Term-Care~~ ombudsman
768 program.

769 (b) The statewide toll-free telephone number and e-mail
770 address for receiving complaints.

771 (c) Information that retaliatory action cannot be taken
772 against a resident for presenting grievances or for exercising
773 any other resident rights.

774 (d) Other relevant information regarding how to contact
775 representatives of the office program.

776
777 Residents or their representatives must be furnished additional
778 copies of this information upon request.

779 Section 13. Section 400.0079, Florida Statutes, is amended
780 to read:

781 400.0079 Immunity.—

782 (1) Any person making a complaint pursuant to this part who
783 does so in good faith shall be immune from any liability, civil
784 or criminal, that otherwise might be incurred or imposed as a
785 direct or indirect result of making the complaint.

786 (2) Representatives of the office and ~~The ombudsman or any~~
787 ~~person authorized by the ombudsman to act on behalf of the~~
788 ~~office, as well as all members of the state council are and~~
789 ~~local councils, shall be~~ immune from any liability, civil or
790 criminal, that otherwise might be incurred or imposed during the
791 good faith performance of official duties.

792 Section 14. Section 400.0081, Florida Statutes, is amended
793 to read:



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794 400.0081 Access to facilities, residents, and records.-
795 (1) A long-term care facility shall provide representatives
796 of the office with, ~~the state council and its members, and the~~
797 ~~local councils and their members access to:~~
798 (a) Access to ~~Any portion of~~ the long-term care facility
799 and residents ~~any resident as necessary to investigate or~~
800 ~~resolve a complaint.~~
801 (b) Appropriate access to medical and social records of a
802 resident for review ~~as necessary to investigate or resolve a~~
803 ~~complaint~~, if:
804 1. The representative of the office has the permission of
805 the resident or the legal representative of the resident; or
806 2. The resident is unable to consent to the review and does
807 not have a ~~has no~~ legal representative.
808 (c) Access to medical and social records of a ~~the~~ resident
809 as necessary to investigate ~~or resolve~~ a complaint, if:
810 1. A legal representative or guardian of the resident
811 refuses to give permission;
812 2. A representative of the office has reasonable cause to
813 believe that the legal representative or guardian is not acting
814 in the best interests of the resident; and
815 3. The representative of the office ~~state or local council~~
816 ~~member~~ obtains the approval of the state ombudsman.
817 (d) Access to the administrative records, policies, and
818 documents to which residents or the general public has ~~have~~
819 access.
820 (e) Upon request, copies of all licensing and certification
821 records maintained by the state with respect to a long-term care
822 facility.



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823 (2) The department, in consultation with the state
824 ombudsman ~~and the state council~~, may adopt rules to establish
825 procedures to ensure access to facilities, residents, and
826 records as described in this section.

827 Section 15. Section 400.0083, Florida Statutes, is amended
828 to read:

829 400.0083 Interference; retaliation; penalties.—

830 (1) A ~~It shall be unlawful for any person, long-term care~~
831 ~~facility, or other entity~~ may not ~~to~~ willfully interfere with a
832 representative of the office or, ~~the state council, or a local~~
833 ~~council~~ in the performance of official duties.

834 (2) A ~~It shall be unlawful for any person, long-term care~~
835 ~~facility, or other entity~~ may not ~~to~~ knowingly or willfully take
836 action or retaliate against any resident, employee, or other
837 person for filing a complaint with, providing information to, or
838 otherwise cooperating with any representative of the office or,
839 ~~the state council, or a local council~~.

840 (3) A ~~Any~~ person, long-term care facility, or other entity
841 that violates this section:

842 (a) Is ~~Shall be~~ liable for damages and equitable relief as
843 determined by law.

844 (b) Commits a misdemeanor of the second degree, punishable
845 as provided in s. 775.083.

846 Section 16. Section 400.0087, Florida Statutes, is amended
847 to read:

848 400.0087 Department oversight; funding.—

849 (1) The department shall meet the costs associated with the
850 state ~~Long-Term-Care~~ ombudsman program from funds appropriated
851 to it.



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852 (a) The department shall include the costs associated with
853 support of the state ~~Long-Term-Care~~ ombudsman program when
854 developing its budget requests for consideration by the Governor
855 and submittal to the Legislature.

856 (b) The department may divert from the federal ombudsman
857 appropriation an amount equal to the department's administrative
858 cost ratio to cover the costs associated with administering the
859 state ombudsman program. The remaining allotment from the Older
860 Americans Act program shall be expended on direct ombudsman
861 activities.

862 (2) The department shall monitor the office and the state
863 council, ~~and the local councils~~ to ensure that each is carrying
864 out the duties delegated to it by state and federal law.

865 (3) The department is responsible for ensuring that the
866 office:

867 (a) Has the objectivity and independence required to
868 qualify it for funding under the federal Older Americans Act.

869 (b) Provides information to public and private agencies,
870 legislators, and others.

871 (c) Provides appropriate training to representatives of the
872 office ~~or of the state or local councils~~.

873 (d) Coordinates ombudsman services with Disability Rights
874 Florida ~~the Advocacy Center for Persons with Disabilities~~ and
875 with providers of legal services to residents ~~of long-term care~~
876 ~~facilities~~ in compliance with state and federal laws.

877 (4) The department shall also:

878 (a) Receive and disburse state and federal funds for
879 purposes that the state ombudsman has formulated in accordance
880 with the Older Americans Act.



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881 (b) Whenever necessary, act as liaison between agencies and
882 branches of the federal and state governments and the office
883 ~~State Long Term Care Ombudsman Program.~~

884 Section 17. Section 400.0089, Florida Statutes, is amended
885 to read:

886 400.0089 Complaint data reports.—The office shall maintain
887 a statewide uniform reporting system to collect and analyze data
888 relating to complaints and conditions in long-term care
889 facilities and to residents for the purpose of identifying and
890 resolving complaints ~~significant problems~~. The office shall
891 publish quarterly and make readily available information
892 pertaining to the number and types of complaints received by the
893 state ~~Long Term Care~~ ombudsman program and shall include such
894 information in the annual report required under s. 400.0065.

895 Section 18. Section 400.0091, Florida Statutes, is amended
896 to read:

897 400.0091 Training.—The state ombudsman shall ensure that
898 appropriate training is provided to all representatives
899 ~~employees~~ of the office ~~and to the members of the state and~~
900 ~~local councils.~~

901 (1) All representatives ~~state and local council members and~~
902 ~~employees~~ of the office shall be given a minimum of 20 hours of
903 training upon employment with the office or appointment as an
904 ombudsman. Ten approval as a state or local council member and
905 ~~10~~ hours of continuing education is required annually
906 thereafter.

907 (2) The state ombudsman shall approve the curriculum for
908 the initial and continuing education training, which must, at a
909 minimum, address:



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- 910 (a) Resident confidentiality.
911 (b) Guardianships and powers of attorney.
912 (c) Medication administration.
913 (d) Care and medication of residents with dementia and
914 Alzheimer's disease.
915 (e) Accounting for residents' funds.
916 (f) Discharge rights and responsibilities.
917 (g) Cultural sensitivity.
918 (h) Any other topic related to residency within a long-term
919 care facility recommended by the secretary.

920 (3) An individual ~~No employee, officer, or representative~~
921 ~~of the office or of the state or local councils,~~ other than the
922 state ombudsman, may not hold himself or herself out as a
923 representative of the office ~~State Long-Term Care Ombudsman~~
924 ~~Program~~ or conduct any authorized program duty described in this
925 part unless the individual ~~person~~ has received the training
926 required by this section and has been certified by the state
927 ombudsman as qualified to carry out ombudsman activities on
928 behalf of the office ~~or the state or local councils.~~

929 Section 19. Subsection (4) of section 20.41, Florida
930 Statutes, is amended to read:

931 20.41 Department of Elderly Affairs.—There is created a
932 Department of Elderly Affairs.

933 (4) The department shall administer the Office of State
934 Long-Term Care Ombudsman Council, created by s. 400.0063
935 ~~400.0067, and the local long-term care ombudsman councils,~~
936 ~~created by s. 400.0069~~ and shall, as required by s. 712 of the
937 federal Older Americans Act of 1965, ensure that ~~both~~ the state
938 office operates ~~and local long-term care ombudsman councils~~



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939 ~~operate~~ in compliance with the Older Americans Act.

940 Section 20. Subsections (10) through (19) of section
941 400.021, Florida Statutes, are amended to read:

942 400.021 Definitions.—When used in this part, unless the
943 context otherwise requires, the term:

944 ~~(10) "Local ombudsman council" means a local long-term care~~
945 ~~ombudsman council established pursuant to s. 400.0069, located~~
946 ~~within the Older Americans Act planning and service areas.~~

947 (10)~~(11)~~ "Nursing home bed" means an accommodation which is
948 ready for immediate occupancy, or is capable of being made ready
949 for occupancy within 48 hours, excluding provision of staffing;
950 and which conforms to minimum space requirements, including the
951 availability of appropriate equipment and furnishings within the
952 48 hours, as specified by rule of the agency, for the provision
953 of services specified in this part to a single resident.

954 (11)~~(12)~~ "Nursing home facility" means any facility which
955 provides nursing services as defined in part I of chapter 464
956 and which is licensed according to this part.

957 (12)~~(13)~~ "Nursing service" means such services or acts as
958 may be rendered, directly or indirectly, to and in behalf of a
959 person by individuals as defined in s. 464.003.

960 (13) "Office" has the same meaning as in s. 400.0060.

961 (14) "Planning and service area" means the geographic area
962 in which the Older Americans Act programs are administered and
963 services are delivered by the Department of Elderly Affairs.

964 (15) "Representative of the office" has the same meaning as
965 in s. 400.0060.

966 (16)~~(15)~~ "Respite care" means admission to a nursing home
967 for the purpose of providing a short period of rest or relief or



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968 emergency alternative care for the primary caregiver of an
969 individual receiving care at home who, without home-based care,
970 would otherwise require institutional care.

971 (17)~~(16)~~ "Resident care plan" means a written plan
972 developed, maintained, and reviewed not less than quarterly by a
973 registered nurse, with participation from other facility staff
974 and the resident or his or her designee or legal representative,
975 which includes a comprehensive assessment of the needs of an
976 individual resident; the type and frequency of services required
977 to provide the necessary care for the resident to attain or
978 maintain the highest practicable physical, mental, and
979 psychosocial well-being; a listing of services provided within
980 or outside the facility to meet those needs; and an explanation
981 of service goals.

982 (18)~~(17)~~ "Resident designee" means a person, other than the
983 owner, administrator, or employee of the facility, designated in
984 writing by a resident or a resident's guardian, if the resident
985 is adjudicated incompetent, to be the resident's representative
986 for a specific, limited purpose.

987 (19)~~(18)~~ "State ombudsman program council" has the same
988 meaning as in s. 400.0060 ~~means the State Long-Term Care~~
989 ~~Ombudsman Council established pursuant to s. 400.0067.~~

990 (20)~~(19)~~ "Therapeutic spa services" means bathing, nail,
991 and hair care services and other similar services related to
992 personal hygiene.

993 Section 21. Paragraph (c) of subsection (1) and subsections
994 (2) and (3) of section 400.022, Florida Statutes, are amended to
995 read:

996 400.022 Residents' rights.—



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997 (1) All licensees of nursing home facilities shall adopt
998 and make public a statement of the rights and responsibilities
999 of the residents of such facilities and shall treat such
1000 residents in accordance with the provisions of that statement.
1001 The statement shall assure each resident the following:

1002 (c) Any entity or individual that provides health, social,
1003 legal, or other services to a resident has the right to have
1004 reasonable access to the resident. The resident has the right to
1005 deny or withdraw consent to access at any time by any entity or
1006 individual. Notwithstanding the visiting policy of the facility,
1007 the following individuals must be permitted immediate access to
1008 the resident:

1009 1. Any representative of the federal or state government,
1010 including, but not limited to, representatives of the Department
1011 of Children and Families ~~Family Services~~, the Department of
1012 Health, the Agency for Health Care Administration, the Office of
1013 the Attorney General, and the Department of Elderly Affairs; any
1014 law enforcement officer; any representative ~~members~~ of the
1015 office ~~state or local ombudsman council~~; and the resident's
1016 individual physician.

1017 2. Subject to the resident's right to deny or withdraw
1018 consent, immediate family or other relatives of the resident.

1019
1020 The facility must allow representatives of the office ~~state~~
1021 ~~Long Term Care ombudsman Council~~ to examine a resident's
1022 clinical records with the permission of the resident or the
1023 resident's legal representative and consistent with state law.

1024 (2) The licensee for each nursing home shall orally inform
1025 the resident of the resident's rights and provide a copy of the



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1026 statement required by subsection (1) to each resident or the
1027 resident's legal representative at or before the resident's
1028 admission to a facility. The licensee shall provide a copy of
1029 the resident's rights to each staff member of the facility. Each
1030 such licensee shall prepare a written plan and provide
1031 appropriate staff training to implement ~~the provisions of this~~
1032 section. The written statement of rights must include a
1033 statement that a resident may file a complaint with the agency
1034 or state local ombudsman program council. The statement must be
1035 in boldfaced type and ~~shall~~ include the ~~name, address, and~~
1036 telephone number and e-mail address of the state numbers of the
1037 ~~local~~ ombudsman program council and the telephone number of the
1038 central abuse hotline where complaints may be lodged.

1039 (3) Any violation of the resident's rights set forth in
1040 this section constitutes ~~shall constitute~~ grounds for action by
1041 the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or
1042 part II of chapter 408. In order to determine whether the
1043 licensee is adequately protecting residents' rights, the
1044 licensure inspection of the facility must ~~shall~~ include private
1045 informal conversations with a sample of residents to discuss
1046 residents' experiences within the facility with respect to
1047 rights specified in this section and general compliance with
1048 standards, and consultation with the state ombudsman program
1049 ~~council in the local planning and service area of the Department~~
1050 ~~of Elderly Affairs in which the nursing home is located.~~

1051 Section 22. Subsections (8), (9), and (11) through (14) of
1052 section 400.0255, Florida Statutes, are amended to read:

1053 400.0255 Resident transfer or discharge; requirements and
1054 procedures; hearings.-



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1055 (8) The notice required by subsection (7) must be in
1056 writing and must contain all information required by state and
1057 federal law, rules, or regulations applicable to Medicaid or
1058 Medicare cases. The agency shall develop a standard document to
1059 be used by all facilities licensed under this part for purposes
1060 of notifying residents of a discharge or transfer. Such document
1061 must include a means for a resident to request the office local
1062 ~~long-term care ombudsman council~~ to review the notice and
1063 request information about or assistance with initiating a fair
1064 hearing with the department's Office of Appeals Hearings. In
1065 addition to any other pertinent information included, the form
1066 shall specify the reason allowed under federal or state law that
1067 the resident is being discharged or transferred, with an
1068 explanation to support this action. Further, the form must ~~shall~~
1069 state the effective date of the discharge or transfer and the
1070 location to which the resident is being discharged or
1071 transferred. The form must ~~shall~~ clearly describe the resident's
1072 appeal rights and the procedures for filing an appeal, including
1073 the right to request the office local~~ombudsman council~~ to
1074 review the notice of discharge or transfer. A copy of the notice
1075 must be placed in the resident's clinical record, and a copy
1076 must be transmitted to the resident's legal guardian or
1077 representative and to the office local~~ombudsman council~~ within
1078 5 business days after signature by the resident or resident
1079 designee.

1080 (9) A resident may request that the office local~~ombudsman~~
1081 ~~council~~ review any notice of discharge or transfer given to the
1082 resident. When requested by a resident to review a notice of
1083 discharge or transfer, the office local~~ombudsman council~~ shall



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1084 do so within 7 days after receipt of the request. The nursing
1085 home administrator, or the administrator's designee, must
1086 forward the request for review contained in the notice to the
1087 office ~~local ombudsman council~~ within 24 hours after such
1088 request is submitted. Failure to forward the request within 24
1089 hours after the request is submitted shall toll the running of
1090 the 30-day advance notice period until the request has been
1091 forwarded.

1092 (11) Notwithstanding paragraph (10) (b), an emergency
1093 discharge or transfer may be implemented as necessary pursuant
1094 to state or federal law during the ~~period of~~ time after the
1095 notice is given and before the time a hearing decision is
1096 rendered. Notice of an emergency discharge or transfer to the
1097 resident, the resident's legal guardian or representative, and
1098 the office ~~local ombudsman council~~ if requested pursuant to
1099 subsection (9) must be by telephone or in person. This notice
1100 shall be given before the transfer, if possible, or as soon
1101 thereafter as practicable. A representative of the office ~~local~~
1102 ~~ombudsman council~~ conducting a review under this subsection
1103 shall do so within 24 hours after receipt of the request. The
1104 resident's file must be documented to show who was contacted,
1105 whether the contact was by telephone or in person, and the date
1106 and time of the contact. If the notice is not given in writing,
1107 written notice meeting the requirements of subsection (8) must
1108 be given the next working day.

1109 (12) After receipt of any notice required under this
1110 section, the office ~~local ombudsman council~~ may request a
1111 private informal conversation with a resident to whom the notice
1112 is directed, and, if known, a family member or the resident's



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1113 legal guardian or designee, to ensure that the facility is
1114 proceeding with the discharge or transfer in accordance with ~~the~~
1115 ~~requirements of~~ this section. If requested, the office local
1116 ~~ombudsman council~~ shall assist the resident with filing an
1117 appeal of the proposed discharge or transfer.

1118 (13) The following persons must be present at all hearings
1119 authorized under this section:

1120 (a) The resident, or the resident's legal representative or
1121 designee.

1122 (b) The facility administrator, or the facility's legal
1123 representative or designee.

1124

1125 A representative of the office local long-term care ombudsman
1126 ~~council~~ may be present at all hearings authorized by this
1127 section.

1128 (14) In any hearing under this section, the following
1129 information concerning the parties shall be confidential and
1130 exempt from ~~the provisions of~~ s. 119.07(1):

1131 (a) Names and addresses.

1132 (b) Medical services provided.

1133 (c) Social and economic conditions or circumstances.

1134 (d) Evaluation of personal information.

1135 (e) Medical data, including diagnosis and past history of
1136 disease or disability.

1137 (f) Any information received verifying income eligibility
1138 and amount of medical assistance payments. Income information
1139 received from the Social Security Administration or the Internal
1140 Revenue Service must be safeguarded according to the
1141 requirements of the agency that furnished the data.



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The exemption created by this subsection does not prohibit access to such information by a representative of the office ~~local long term care ombudsman council~~ upon request, by a reviewing court if such information is required to be part of the record upon subsequent review, or as specified in s. 24(a), Art. I of the State Constitution.

Section 23. Subsection (2) of section 400.1413, Florida Statutes, is amended to read:

400.1413 Volunteers in nursing homes.—

(2) This section does not affect the activities of the ~~state or local long term care~~ ombudsman program ~~councils~~ authorized under part I.

Section 24. Paragraph (d) of subsection (5) of section 400.162, Florida Statutes, is amended to read:

400.162 Property and personal affairs of residents.—

(5)

(d) If, at any time during the period for which a license is issued, a licensee that has not purchased a surety bond or entered into a self-insurance agreement, as provided in paragraphs (b) and (c), is requested to provide safekeeping for the personal funds of a resident, the licensee shall notify the agency of the request and make application for a surety bond or for participation in a self-insurance agreement within 7 days after ~~of~~ the request, exclusive of weekends and holidays. Copies of the application, along with written documentation of related correspondence with an insurance agency or group, shall be maintained by the licensee for review by the agency and the office ~~state Nursing Home and Long Term Care Facility ombudsman~~



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1171 ~~Council.~~

1172 Section 25. Subsections (1) and (4) of section 400.19,
1173 Florida Statutes, are amended to read:

1174 400.19 Right of entry and inspection.-

1175 (1) In accordance with part II of chapter 408, the agency
1176 and any duly designated officer or employee thereof or a
1177 representative member of the office state Long-Term Care
1178 ~~ombudsman Council or the local long-term care ombudsman council~~
1179 shall have the right to enter upon and into the premises of any
1180 facility licensed pursuant to this part, or any distinct nursing
1181 home unit of a hospital licensed under chapter 395 or any
1182 freestanding facility licensed under chapter 395 which that
1183 provides extended care or other long-term care services, at any
1184 reasonable time in order to determine the state of compliance
1185 with ~~the provisions of~~ this part, part II of chapter 408, and
1186 applicable rules in force pursuant thereto. The agency shall,
1187 within 60 days after receipt of a complaint made by a resident
1188 or resident's representative, complete its investigation and
1189 provide to the complainant its findings and resolution.

1190 (4) The agency shall conduct unannounced onsite facility
1191 reviews following written verification of licensee noncompliance
1192 in instances in which the office a long-term care ombudsman
1193 ~~council~~, pursuant to ss. 400.0071 and 400.0075, has received a
1194 complaint and has documented deficiencies in resident care or in
1195 the physical plant of the facility that threaten the health,
1196 safety, or security of residents, or when the agency documents
1197 through inspection that conditions in a facility present a
1198 direct or indirect threat to the health, safety, or security of
1199 residents. However, the agency shall conduct unannounced onsite



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1200 reviews every 3 months of each facility while the facility has a
1201 conditional license. Deficiencies related to physical plant do
1202 not require followup reviews after the agency has determined
1203 that correction of the deficiency has been accomplished and that
1204 the correction is of the nature that continued compliance can be
1205 reasonably expected.

1206 Section 26. Subsection (1) of section 400.191, Florida
1207 Statutes, is amended to read:

1208 400.191 Availability, distribution, and posting of reports
1209 and records.—

1210 (1) The agency shall provide information to the public
1211 about all of the licensed nursing home facilities operating in
1212 the state. The agency shall, within 60 days after a licensure
1213 inspection visit or within 30 days after any interim visit to a
1214 facility, send copies of the inspection reports to the office
1215 ~~local long term care ombudsman council~~, the agency's local
1216 office, and a public library or the county seat for the county
1217 in which the facility is located. The agency may provide
1218 electronic access to inspection reports as a substitute for
1219 sending copies.

1220 Section 27. Subsection (6) and paragraph (c) of subsection
1221 (7) of section 400.23, Florida Statutes, are amended to read:

1222 400.23 Rules; evaluation and deficiencies; licensure
1223 status.—

1224 (6) Before ~~Prior to~~ conducting a survey of the facility,
1225 the survey team shall obtain a copy of the office's ~~local long-~~
1226 ~~term care ombudsman council~~ report on the facility. Problems
1227 noted in the report shall be incorporated into and followed up
1228 through the agency's inspection process. This procedure does not



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1229 preclude the office ~~local long-term care ombudsman council~~ from
1230 requesting the agency to conduct a followup visit to the
1231 facility.

1232 (7) The agency shall, at least every 15 months, evaluate
1233 all nursing home facilities and make a determination as to the
1234 degree of compliance by each licensee with the established rules
1235 adopted under this part as a basis for assigning a licensure
1236 status to that facility. The agency shall base its evaluation on
1237 the most recent inspection report, taking into consideration
1238 findings from other official reports, surveys, interviews,
1239 investigations, and inspections. In addition to license
1240 categories authorized under part II of chapter 408, the agency
1241 shall assign a licensure status of standard or conditional to
1242 each nursing home.

1243 (c) In evaluating the overall quality of care and services
1244 and determining whether the facility will receive a conditional
1245 or standard license, the agency shall consider the needs and
1246 limitations of residents in the facility and the results of
1247 interviews and surveys of a representative sampling of
1248 residents, families of residents, representatives of the office
1249 ~~ombudsman council members in the planning and service area in~~
1250 ~~which the facility is located~~, guardians of residents, and staff
1251 of the nursing home facility.

1252 Section 28. Paragraph (a) of subsection (3), paragraph (f)
1253 of subsection (5), and subsection (6) of section 400.235,
1254 Florida Statutes, are amended to read:

1255 400.235 Nursing home quality and licensure status; Gold
1256 Seal Program.—

1257 (3) (a) The Gold Seal Program shall be developed and



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1258 implemented by the Governor's Panel on Excellence in Long-Term
1259 Care which shall operate under the authority of the Executive
1260 Office of the Governor. The panel shall be composed of three
1261 persons appointed by the Governor, to include a consumer
1262 advocate for senior citizens and two persons with expertise in
1263 the fields of quality management, service delivery excellence,
1264 or public sector accountability; three persons appointed by the
1265 Secretary of Elderly Affairs, to include an active member of a
1266 nursing facility family and resident care council and a member
1267 of the University Consortium on Aging; a representative of the
1268 Office of State Long-Term Care Ombudsman; one person appointed
1269 by the Florida Life Care Residents Association; one person
1270 appointed by the State Surgeon General; two persons appointed by
1271 the Secretary of Health Care Administration; one person
1272 appointed by the Florida Association of Homes for the Aging; and
1273 one person appointed by the Florida Health Care Association.
1274 Vacancies on the panel shall be filled in the same manner as the
1275 original appointments.

1276 (5) Facilities must meet the following additional criteria
1277 for recognition as a Gold Seal Program facility:

1278 (f) Evidence that verified an outstanding record regarding
1279 the number and types of substantiated complaints reported to the
1280 Office of State Long-Term Care Ombudsman Council within the 30
1281 months preceding application for the program have been resolved
1282 or, if they have not been resolved, that the facility has made a
1283 good faith effort to resolve the complaints.

1284
1285 A facility assigned a conditional licensure status may not
1286 qualify for consideration for the Gold Seal Program until after



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1287 it has operated for 30 months with no class I or class II
1288 deficiencies and has completed a regularly scheduled relicensure
1289 survey.

1290 (6) The agency, nursing facility industry organizations,
1291 consumers, Office of State Long-Term Care Ombudsman Council, and
1292 members of the community may recommend to the Governor
1293 facilities that meet the established criteria for consideration
1294 for and award of the Gold Seal. The panel shall review nominees
1295 and make a recommendation to the Governor for final approval and
1296 award. The decision of the Governor is final and is not subject
1297 to appeal.

1298 Section 29. Present subsections (18) through (28) of
1299 section 415.102, Florida Statutes, are redesignated as
1300 subsections (19) through (29), respectively, and a new
1301 subsection (18) is added to that section, to read:

1302 415.102 Definitions of terms used in ss. 415.101-415.113.-
1303 As used in ss. 415.101-415.113, the term:

1304 (18) "Office" has the same meaning as in s. 400.0060.

1305 Section 30. Paragraph (a) of subsection (1) of section
1306 415.1034, Florida Statutes, is amended to read:

1307 415.1034 Mandatory reporting of abuse, neglect, or
1308 exploitation of vulnerable adults; mandatory reports of death.-

1309 (1) MANDATORY REPORTING.-

1310 (a) Any person, including, but not limited to, any:

1311 1. Physician, osteopathic physician, medical examiner,
1312 chiropractic physician, nurse, paramedic, emergency medical
1313 technician, or hospital personnel engaged in the admission,
1314 examination, care, or treatment of vulnerable adults;

1315 2. Health professional or mental health professional other



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1316 than one listed in subparagraph 1.;

1317 3. Practitioner who relies solely on spiritual means for
1318 healing;

1319 4. Nursing home staff; assisted living facility staff;
1320 adult day care center staff; adult family-care home staff;
1321 social worker; or other professional adult care, residential, or
1322 institutional staff;

1323 5. State, county, or municipal criminal justice employee or
1324 law enforcement officer;

1325 6. ~~An~~ Employee of the Department of Business and
1326 Professional Regulation conducting inspections of public lodging
1327 establishments under s. 509.032;

1328 7. Florida advocacy council member or representative of the
1329 Office of State Long-Term Care Ombudsman ~~council member~~; or

1330 8. Bank, savings and loan, or credit union officer,
1331 trustee, or employee,
1332

1333 who knows, or has reasonable cause to suspect, that a vulnerable
1334 adult has been or is being abused, neglected, or exploited shall
1335 immediately report such knowledge or suspicion to the central
1336 abuse hotline.

1337 Section 31. Subsection (1) of section 415.104, Florida
1338 Statutes, is amended to read:

1339 415.104 Protective investigations of cases of abuse,
1340 neglect, or exploitation of vulnerable adults; transmittal of
1341 records to state attorney.—

1342 (1) The department shall, upon receipt of a report alleging
1343 abuse, neglect, or exploitation of a vulnerable adult, begin
1344 within 24 hours a protective investigation of the facts alleged



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1345 therein. If a caregiver refuses to allow the department to begin
1346 a protective investigation or interferes with the conduct of
1347 such an investigation, the appropriate law enforcement agency
1348 shall be contacted for assistance. If, during the course of the
1349 investigation, the department has reason to believe that the
1350 abuse, neglect, or exploitation is perpetrated by a second
1351 party, the appropriate law enforcement agency and state attorney
1352 shall be orally notified. The department and the law enforcement
1353 agency shall cooperate to allow the criminal investigation to
1354 proceed concurrently with, and not be hindered by, the
1355 protective investigation. The department shall make a
1356 preliminary written report to the law enforcement agencies
1357 within 5 working days after the oral report. The department
1358 shall, within 24 hours after receipt of the report, notify the
1359 appropriate Florida local advocacy council, or the office long-
1360 ~~term care ombudsman council~~, when appropriate, that an alleged
1361 abuse, neglect, or exploitation perpetrated by a second party
1362 has occurred. Notice to the Florida local advocacy council or
1363 the office long-term care ombudsman council may be accomplished
1364 orally or in writing and shall include the name and location of
1365 the vulnerable adult alleged to have been abused, neglected, or
1366 exploited and the nature of the report.

1367 Section 32. Subsection (8) of section 415.1055, Florida
1368 Statutes, is amended to read:

1369 415.1055 Notification to administrative entities.—

1370 (8) At the conclusion of a protective investigation at a
1371 facility, the department shall notify ~~either~~ the Florida local
1372 advocacy council or the office long-term care ombudsman council
1373 of the results of the investigation. This notification must be



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1374 in writing.

1375 Section 33. Subsection (2) of section 415.106, Florida
1376 Statutes, is amended to read:

1377 415.106 Cooperation by the department and criminal justice
1378 and other agencies.—

1379 (2) To ensure coordination, communication, and cooperation
1380 with the investigation of abuse, neglect, or exploitation of
1381 vulnerable adults, the department shall develop and maintain
1382 interprogram agreements or operational procedures among
1383 appropriate departmental programs and the Office of State Long-
1384 Term Care Ombudsman Council, the Florida Statewide Advocacy
1385 Council, and other agencies that provide services to vulnerable
1386 adults. These agreements or procedures must cover such subjects
1387 as the appropriate roles and responsibilities of the department
1388 in identifying and responding to reports of abuse, neglect, or
1389 exploitation of vulnerable adults; the provision of services;
1390 and related coordinated activities.

1391 Section 34. Paragraph (g) of subsection (3) of section
1392 415.107, Florida Statutes, is amended to read:

1393 415.107 Confidentiality of reports and records.—

1394 (3) Access to all records, excluding the name of the
1395 reporter which shall be released only as provided in subsection
1396 (6), shall be granted only to the following persons, officials,
1397 and agencies:

1398 (g) Any appropriate official of the Florida advocacy
1399 council or the office ~~long-term care ombudsman council~~
1400 investigating a report of known or suspected abuse, neglect, or
1401 exploitation of a vulnerable adult.

1402 Section 35. Present subsections (16) through (26) of



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1403 section 429.02, Florida Statutes, are redesignated as
1404 subsections (17) through (27), respectively, present subsections
1405 (11) and (20) are amended, and a new subsection (16) is added to
1406 that section, to read:

1407 429.02 Definitions.—When used in this part, the term:

1408 (11) "Extended congregate care" means acts beyond those
1409 authorized in subsection (17) ~~(16)~~ that may be performed
1410 pursuant to part I of chapter 464 by persons licensed thereunder
1411 while carrying out their professional duties, and other
1412 supportive services which may be specified by rule. The purpose
1413 of such services is to enable residents to age in place in a
1414 residential environment despite mental or physical limitations
1415 that might otherwise disqualify them from residency in a
1416 facility licensed under this part.

1417 (16) "Office" has the same meaning as in s. 400.0060.

1418 (21) ~~(20)~~ "Resident's representative or designee" means a
1419 person other than the owner, or an agent or employee of the
1420 facility, designated in writing by the resident, if legally
1421 competent, to receive notice of changes in the contract executed
1422 pursuant to s. 429.24; to receive notice of and to participate
1423 in meetings between the resident and the facility owner,
1424 administrator, or staff concerning the rights of the resident;
1425 to assist the resident in contacting the office ombudsman
1426 ~~council~~ if the resident has a complaint against the facility; or
1427 to bring legal action on behalf of the resident pursuant to s.
1428 429.29.

1429 Section 36. Paragraph (b) of subsection (3) of section
1430 429.07, Florida Statutes, is amended to read:

1431 429.07 License required; fee.—



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1432 (3) In addition to the requirements of s. 408.806, each
1433 license granted by the agency must state the type of care for
1434 which the license is granted. Licenses shall be issued for one
1435 or more of the following categories of care: standard, extended
1436 congregate care, limited nursing services, or limited mental
1437 health.

1438 (b) An extended congregate care license shall be issued to
1439 facilities providing, directly or through contract, services
1440 beyond those authorized in paragraph (a), including services
1441 performed by persons licensed under part I of chapter 464 and
1442 supportive services, as defined by rule, to persons who would
1443 otherwise be disqualified from continued residence in a facility
1444 licensed under this part.

1445 1. In order for extended congregate care services to be
1446 provided, the agency must first determine that all requirements
1447 established in law and rule are met and must specifically
1448 designate, on the facility's license, that such services may be
1449 provided and whether the designation applies to all or part of
1450 the facility. Such designation may be made at the time of
1451 initial licensure or relicensure, or upon request in writing by
1452 a licensee under this part and part II of chapter 408. The
1453 notification of approval or the denial of the request shall be
1454 made in accordance with part II of chapter 408. Existing
1455 facilities qualifying to provide extended congregate care
1456 services must have maintained a standard license and may not
1457 have been subject to administrative sanctions during the
1458 previous 2 years, or since initial licensure if the facility has
1459 been licensed for less than 2 years, for any of the following
1460 reasons:



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1461 a. A class I or class II violation;

1462 b. Three or more repeat or recurring class III violations
1463 of identical or similar resident care standards from which a
1464 pattern of noncompliance is found by the agency;

1465 c. Three or more class III violations that were not
1466 corrected in accordance with the corrective action plan approved
1467 by the agency;

1468 d. Violation of resident care standards which results in
1469 requiring the facility to employ the services of a consultant
1470 pharmacist or consultant dietitian;

1471 e. Denial, suspension, or revocation of a license for
1472 another facility licensed under this part in which the applicant
1473 for an extended congregate care license has at least 25 percent
1474 ownership interest; or

1475 f. Imposition of a moratorium pursuant to this part or part
1476 II of chapter 408 or initiation of injunctive proceedings.

1477 2. A facility that is licensed to provide extended
1478 congregate care services shall maintain a written progress
1479 report on each person who receives services which describes the
1480 type, amount, duration, scope, and outcome of services that are
1481 rendered and the general status of the resident's health. A
1482 registered nurse, or appropriate designee, representing the
1483 agency shall visit the facility at least quarterly to monitor
1484 residents who are receiving extended congregate care services
1485 and to determine whether ~~if~~ the facility is in compliance with
1486 this part, part II of chapter 408, and relevant rules. One of
1487 the visits may be in conjunction with the regular survey. The
1488 monitoring visits may be provided through contractual
1489 arrangements with appropriate community agencies. A registered



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1490 nurse shall serve as part of the team that inspects the
1491 facility. The agency may waive one of the required yearly
1492 monitoring visits for a facility that has been licensed for at
1493 least 24 months to provide extended congregate care services,
1494 if, during the inspection, the registered nurse determines that
1495 extended congregate care services are being provided
1496 appropriately, and if the facility has no class I or class II
1497 violations and no uncorrected class III violations. The agency
1498 must first consult with the office ~~long-term care ombudsman~~
1499 ~~council~~ for the area in which the facility is located to
1500 determine whether ~~if~~ any complaints have been made and
1501 substantiated about the quality of services or care. The agency
1502 may not waive one of the required yearly monitoring visits if
1503 complaints have been made and substantiated.

1504 3. A facility that is licensed to provide extended
1505 congregate care services must:

1506 a. Demonstrate the capability to meet unanticipated
1507 resident service needs.

1508 b. Offer a physical environment that promotes a homelike
1509 setting, provides for resident privacy, promotes resident
1510 independence, and allows sufficient congregate space as defined
1511 by rule.

1512 c. Have sufficient staff available, taking into account the
1513 physical plant and firesafety features of the building, to
1514 assist with the evacuation of residents in an emergency.

1515 d. Adopt and follow policies and procedures that maximize
1516 resident independence, dignity, choice, and decisionmaking to
1517 permit residents to age in place, so that moves due to changes
1518 in functional status are minimized or avoided.



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1519 e. Allow residents or, if applicable, a resident's
1520 representative, designee, surrogate, guardian, or attorney in
1521 fact to make a variety of personal choices, participate in
1522 developing service plans, and share responsibility in
1523 decisionmaking.

1524 f. Implement the concept of managed risk.

1525 g. Provide, directly or through contract, the services of a
1526 person licensed under part I of chapter 464.

1527 h. In addition to the training mandated in s. 429.52,
1528 provide specialized training as defined by rule for facility
1529 staff.

1530 4. A facility that is licensed to provide extended
1531 congregate care services is exempt from the criteria for
1532 continued residency set forth in rules adopted under s. 429.41.
1533 A licensed facility must adopt its own requirements within
1534 guidelines for continued residency set forth by rule. However,
1535 the facility may not serve residents who require 24-hour nursing
1536 supervision. A licensed facility that provides extended
1537 congregate care services must also provide each resident with a
1538 written copy of facility policies governing admission and
1539 retention.

1540 5. The primary purpose of extended congregate care services
1541 is to allow residents, as they become more impaired, the option
1542 of remaining in a familiar setting from which they would
1543 otherwise be disqualified for continued residency. A facility
1544 licensed to provide extended congregate care services may also
1545 admit an individual who exceeds the admission criteria for a
1546 facility with a standard license, if the individual is
1547 determined appropriate for admission to the extended congregate



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1548 care facility.

1549 6. Before the admission of an individual to a facility
1550 licensed to provide extended congregate care services, the
1551 individual must undergo a medical examination as provided in s.
1552 429.26(4) and the facility must develop a preliminary service
1553 plan for the individual.

1554 7. When a facility can no longer provide or arrange for
1555 services in accordance with the resident's service plan and
1556 needs and the facility's policy, the facility shall make
1557 arrangements for relocating the person in accordance with s.
1558 429.28(1)(k).

1559 8. Failure to provide extended congregate care services may
1560 result in denial of extended congregate care license renewal.

1561 Section 37. Subsection (9) of section 429.19, Florida
1562 Statutes, is amended to read:

1563 429.19 Violations; imposition of administrative fines;
1564 grounds.—

1565 (9) The agency shall develop and disseminate an annual list
1566 of all facilities sanctioned or fined for violations of state
1567 standards, the number and class of violations involved, the
1568 penalties imposed, and the current status of cases. The list
1569 shall be disseminated, at no charge, to the Department of
1570 Elderly Affairs, the Department of Health, the Department of
1571 Children and Families ~~Family Services~~, the Agency for Persons
1572 with Disabilities, the area agencies on aging, the Florida
1573 Statewide Advocacy Council, and the office ~~state and local~~
1574 ~~ombudsman councils~~. The Department of Children and Families
1575 ~~Family Services~~ shall disseminate the list to service providers
1576 under contract to the department who are responsible for



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1577 referring persons to a facility for residency. The agency may
1578 charge a fee commensurate with the cost of printing and postage
1579 to other interested parties requesting a copy of this list. This
1580 information may be provided electronically or through the
1581 agency's Internet site.

1582 Section 38. Subsection (8) of section 429.26, Florida
1583 Statutes, is amended to read:

1584 429.26 Appropriateness of placements; examinations of
1585 residents.—

1586 (8) The Department of Children and Families ~~Family Services~~
1587 may require an examination for supplemental security income and
1588 optional state supplementation recipients residing in facilities
1589 at any time and shall provide the examination whenever a
1590 resident's condition requires it. Any facility administrator;
1591 personnel of the agency, the department, or the Department of
1592 Children and Families ~~Family Services~~; or representative of the
1593 Office of the State Long-Term Care Ombudsman ~~long-term care~~
1594 ~~ombudsman council member~~ who believes a resident needs to be
1595 evaluated shall notify the resident's case manager, who shall
1596 take appropriate action. A report of the examination findings
1597 shall be provided to the resident's case manager and the
1598 facility administrator to help the administrator meet his or her
1599 responsibilities under subsection (1).

1600 Section 39. Subsection (2) and paragraph (b) of subsection
1601 (3) of section 429.28, Florida Statutes, are amended to read:

1602 429.28 Resident bill of rights.—

1603 (2) The administrator of a facility shall ensure that a
1604 written notice of the rights, obligations, and prohibitions set
1605 forth in this part is posted in a prominent place in each



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1606 facility and read or explained to residents who cannot read.
1607 This notice must ~~shall~~ include the statewide toll-free telephone
1608 number and e-mail address of the state ombudsman program and the
1609 telephone number of the name, address, and telephone numbers of
1610 ~~the local ombudsman council~~ and central abuse hotline and, when
1611 applicable, the Advocacy Center for Persons with Disabilities,
1612 Inc., and the Florida local advocacy council, where complaints
1613 may be lodged. The facility must ensure a resident's access to a
1614 telephone to call the state local ombudsman program council, the
1615 central abuse hotline, the Advocacy Center for Persons with
1616 Disabilities, Inc., and the Florida local advocacy council.

1617 (3)

1618 (b) In order to determine whether the facility is
1619 adequately protecting residents' rights, the biennial survey
1620 shall include private informal conversations with a sample of
1621 residents and consultation with the state ombudsman program
1622 ~~council~~ in the planning and service area in which the facility
1623 is located to discuss residents' experiences within the
1624 facility.

1625 Section 40. Section 429.34, Florida Statutes, is amended to
1626 read:

1627 429.34 Right of entry and inspection.—In addition to the
1628 requirements of s. 408.811, a ~~any~~ duly designated officer or
1629 employee of the department, the Department of Children and
1630 Families ~~Family Services~~, the Medicaid Fraud Control Unit of the
1631 Office of the Attorney General, the state or local fire marshal,
1632 or a representative member of the Office of the State Long-Term
1633 Care Ombudsman may state or local long-term care ombudsman
1634 ~~council shall have the right to enter unannounced upon and into~~



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1635 the premises of any facility licensed under ~~pursuant to~~ this
1636 part in order to determine the state of compliance with ~~the~~
1637 ~~provisions of~~ this part, part II of chapter 408, and applicable
1638 rules. Data collected by the office ~~state or local long-term~~
1639 ~~care ombudsman councils~~ or the state or local advocacy councils
1640 may be used by the agency in investigations involving violations
1641 of regulatory standards.

1642 Section 41. Subsection (2) of section 429.35, Florida
1643 Statutes, is amended to read:

1644 429.35 Maintenance of records; reports.—

1645 (2) Within 60 days after the date of the biennial
1646 inspection visit required under s. 408.811 or within 30 days
1647 after the date of any interim visit, the agency shall forward
1648 the results of the inspection to the office ~~local ombudsman~~
1649 ~~council in whose planning and service area, as defined in part~~
1650 ~~II of chapter 400, the facility is located;~~ to at least one
1651 public library or, in the absence of a public library, the
1652 county seat in the county in which the inspected assisted living
1653 facility is located; and, when appropriate, to the district
1654 Adult Services and Mental Health Program Offices.

1655 Section 42. Subsection (6) of section 429.67, Florida
1656 Statutes, is amended to read:

1657 429.67 Licensure.—

1658 (6) In addition to the requirements of s. 408.811, access
1659 to a licensed adult family-care home must be provided at
1660 reasonable times for the appropriate officials of the
1661 department, the Department of Health, the Department of Children
1662 and Families ~~Family Services~~, the agency, and the State Fire
1663 Marshal, who are responsible for the development and maintenance



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1664 of fire, health, sanitary, and safety standards, to inspect the
1665 facility to assure compliance with these standards. In addition,
1666 access to a licensed adult family-care home must be provided at
1667 reasonable times to representatives of the Office of State ~~for~~
1668 ~~the local~~ Long-Term Care Ombudsman ~~council~~.

1669 Section 43. Subsection (2) of section 429.85, Florida
1670 Statutes, is amended to read:

1671 429.85 Residents' bill of rights.—

1672 (2) The provider shall ensure that residents and their
1673 legal representatives are made aware of the rights, obligations,
1674 and prohibitions set forth in this part. Residents must also be
1675 given the statewide toll-free telephone number and e-mail
1676 address of the state ombudsman program and the telephone number
1677 of names, addresses, and telephone numbers of the local
1678 ~~ombudsman council~~ and the central abuse hotline where they may
1679 lodge complaints.

1680 Section 44. Subsection (17) of section 744.444, Florida
1681 Statutes, is amended to read:

1682 744.444 Power of guardian without court approval.—Without
1683 obtaining court approval, a plenary guardian of the property, or
1684 a limited guardian of the property within the powers granted by
1685 the order appointing the guardian or an approved annual or
1686 amended guardianship report, may:

1687 (17) Provide confidential information about a ward which
1688 ~~that~~ is related to an investigation arising under part I of
1689 chapter 400 to a representative of the Office of the State Long-
1690 Term Care Ombudsman ~~local or state ombudsman council member~~
1691 conducting such an investigation. Any such ombudsman shall have
1692 a duty to maintain the confidentiality of such information.



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1693 Section 45. This act shall take effect July 1, 2014.

1694

1695 ===== T I T L E A M E N D M E N T =====

1696 And the title is amended as follows:

1697 Delete everything before the enacting clause

1698 and insert:

1699 A bill to be entitled

1700 An act relating to the state ombudsman program;
1701 amending s. 400.0060, F.S.; revising and providing
1702 definitions; amending s. 400.0061, F.S.; revising
1703 legislative intent with respect to citizen ombudsmen;
1704 deleting references to ombudsman councils and
1705 transferring their responsibilities to representatives
1706 of the Office of State Long-Term Care Ombudsman;
1707 amending s. 400.0063, F.S.; revising duties of the
1708 office; amending s. 400.0065, F.S.; revising the
1709 purpose of the office; revising the duties and
1710 authority of the state ombudsman; requiring the state
1711 ombudsman to submit an annual report to the Governor,
1712 the Legislature, and specified agencies and entities;
1713 amending s. 400.0067, F.S.; revising duties and
1714 membership of the State Long-Term Care Ombudsman
1715 Council; amending s. 400.0069, F.S.; requiring the
1716 state ombudsman to designate and direct program
1717 districts; requiring each district to conduct public
1718 meetings; providing duties of representatives of the
1719 office in the districts; revising the appointments of
1720 and qualifications for district ombudsmen; prohibiting
1721 certain individuals from serving as ombudsmen;



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1722 deleting provisions that provide for an election of a
1723 chair of a local council and the meeting times for the
1724 local council; amending s. 400.0070, F.S.; providing
1725 conditions under which a representative of the office
1726 could be found to have a conflict of interest;
1727 requiring the Department of Elderly Affairs, in
1728 consultation with the state ombudsman, to define by
1729 rule what constitutes a conflict of interest; amending
1730 s. 400.0071, F.S.; requiring the Department of Elderly
1731 Affairs to consult with the state ombudsman to adopt
1732 rules pertaining to complaint procedures; amending s.
1733 400.0073, F.S.; providing procedures for investigation
1734 of complaints; amending s. 400.0074, F.S.; revising
1735 procedures for conducting onsite administrative
1736 assessments; authorizing the department to adopt
1737 rules; amending s. 400.0075, F.S.; revising complaint
1738 notification and resolution procedures; amending s.
1739 400.0078, F.S.; providing for a resident or
1740 representative of a resident to receive additional
1741 information regarding resident rights; amending s.
1742 400.0079, F.S.; providing immunity from liability for
1743 a representative of the office under certain
1744 circumstances; amending s. 400.0081, F.S.; requiring
1745 long-term care facilities to provide representatives
1746 of the office with access to facilities, residents,
1747 and records for certain purposes; amending s.
1748 400.0083, F.S.; conforming provisions to changes made
1749 by the act; amending s. 400.0087, F.S.; providing for
1750 the office to coordinate ombudsman services with



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1751 Disability Rights Florida; amending s. 400.0089, F.S.;

1752 conforming provisions to changes made by the act;

1753 amending s. 400.0091, F.S.; revising training

1754 requirements for representatives of the office and

1755 ombudsmen; amending ss. 20.41, 400.021, 400.022,

1756 400.0255, 400.1413, 400.162, 400.19, 400.191, and

1757 400.23, F.S.; conforming provisions to changes made by

1758 the act; amending s. 400.235, F.S.; conforming

1759 provisions to changes made by the act; revising the

1760 additional criteria for recognition as a Gold Seal

1761 Program facility; amending ss. 415.102, 415.1034,

1762 415.104, 415.1055, 415.106, 415.107, 429.02, 429.07,

1763 429.19, 429.26, 429.28, 429.34, 429.35, 429.67,

1764 429.85, and 744.444, F.S.; conforming provisions to

1765 changes made by the act; providing an effective date.



826374

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/01/2014	.	
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The Committee on Children, Families, and Elder Affairs (Sobel) recommended the following:

1 **Senate Amendment to Amendment (537700) (with title**
2 **amendment)**

3
4 Delete lines 510 - 675
5 and insert:

6 (6)~~(7)~~ ~~Each local council shall meet upon the call of its~~
7 ~~chair or upon the call of the ombudsman.~~ Each district local
8 ~~council~~ shall meet at least once a month but may meet more
9 frequently if necessary.

10 (7)~~(8)~~ An ombudsman may not ~~A member of a local council~~



826374

11 ~~shall~~ receive ~~no~~ compensation but shall, with approval from the
12 state ombudsman, be reimbursed for travel expenses ~~both within~~
13 ~~and outside the jurisdiction of the local council~~ in accordance
14 with ~~the provisions of~~ s. 112.061.

15 ~~(8)(9)~~ A representative of the office may ~~The local~~
16 ~~councils are authorized to~~ call upon appropriate state agencies
17 ~~of state government~~ for ~~such~~ professional assistance as ~~may be~~
18 needed in the discharge of his or her ~~their~~ duties, and such.
19 ~~All~~ state agencies shall cooperate ~~with the local councils~~ in
20 providing requested information and agency representation ~~at~~
21 ~~council meetings~~.

22 Section 7. Section 400.0070, Florida Statutes, is amended
23 to read:

24 400.0070 Conflicts of interest.—

25 (1) A representative of the office may ~~The ombudsman shall~~
26 not:

27 (a) Have a direct involvement in the licensing or
28 certification of, or an ownership or investment interest in, a
29 long-term care facility or a provider of a long-term care
30 service.

31 (b) Be employed by, or participate in the management of, a
32 long-term care facility.

33 (c) Receive, or have a right to receive, directly or
34 indirectly, remuneration, in cash or in kind, under a
35 compensation agreement with the owner or operator of a long-term
36 care facility.

37 (2) Each representative ~~employee~~ of the office, ~~each state~~
38 ~~council member, and each local council member~~ shall certify that
39 he or she does not have any ~~has no~~ conflict of interest.



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40 (3) The department, in consultation with the state
41 ombudsman, shall define by rule:

42 (a) Situations that constitute an individual ~~a person~~
43 having a conflict of interest which ~~that~~ could materially affect
44 the objectivity or capacity of the individual ~~a person~~ to serve
45 as a representative on an ombudsman council, ~~or as an employee~~
46 ~~of the office, while carrying out the purposes of the State~~
47 ~~Long-Term Care Ombudsman Program as specified in this part.~~

48 (b) The procedure by which an individual ~~a person~~ listed in
49 subsection (2) shall certify that he or she does not have a ~~has~~
50 ~~no~~ conflict of interest.

51 Section 8. Section 400.0071, Florida Statutes, is amended
52 to read:

53 400.0071 State ~~Long-Term Care~~ ombudsman program complaint
54 procedures.—The department, in consultation with the state
55 ombudsman, shall adopt rules implementing state and local
56 complaint procedures. The rules must include procedures for
57 receiving, investigating, identifying, and resolving complaints
58 concerning the health, safety, welfare, and rights of residents;

59 ~~(1) Receiving complaints against a long-term care facility~~
60 ~~or an employee of a long-term care facility.~~

61 ~~(2) Conducting investigations of a long-term care facility~~
62 ~~or an employee of a long-term care facility subsequent to~~
63 ~~receiving a complaint.~~

64 ~~(3) Conducting onsite administrative assessments of long-~~
65 ~~term care facilities.~~

66 Section 9. Section 400.0073, Florida Statutes, is amended
67 to read:

68 400.0073 Complaint ~~State and local ombudsman council~~



826374

69 investigations.-

70 (1) A representative of the office ~~local council~~ shall
71 identify and investigate, ~~within a reasonable time after a~~
72 ~~complaint is made,~~ any complaint made by or on behalf of a
73 resident, ~~a representative of a resident, or any other credible~~
74 ~~source based on an action or omission by an administrator, an~~
75 ~~employee, or a representative of a long term care facility~~ which
76 might be:

77 (a) Contrary to law;

78 (b) Unreasonable, unfair, oppressive, or unnecessarily
79 discriminatory, even though in accordance with law;

80 (c) Based on a mistake of fact;

81 (d) Based on improper or irrelevant grounds;

82 (e) Unaccompanied by an adequate statement of reasons;

83 (f) Performed in an inefficient manner; or

84 (g) Otherwise adversely affecting the health, safety,
85 welfare, or rights of a resident.

86 ~~(2) In an investigation, both the state and local councils~~
87 ~~have the authority to hold public hearings.~~

88 ~~(3) Subsequent to an appeal from a local council, the state~~
89 ~~council may investigate any complaint received by the local~~
90 ~~council involving a long term care facility or a resident.~~

91 (2)(4) If a representative of the office ~~the ombudsman or~~
92 ~~any state or local council member~~ is not allowed to enter a
93 long-term care facility, the administrator of the facility shall
94 be considered to have interfered with a representative of the
95 office, ~~the state council, or the local council~~ in the
96 performance of official duties as described in s. 400.0083(1)
97 and to have violated ~~committed a violation of~~ this part. The



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98 representative of the office ~~ombudsman~~ shall report a facility's
99 refusal to allow entry to the ~~facility~~ to the state ombudsman or
100 his or her designee, who shall report the incident to the
101 agency, and the agency shall record the report and take it into
102 consideration when determining actions allowable under s.
103 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.
104 429.71. If the facility refuses to allow entry to the
105 representative and if the representative believes that the
106 resident's health, safety, or welfare is in immediate danger,
107 the representative shall also report the incident to a local law
108 enforcement agency.

109 Section 10. Section 400.0074, Florida Statutes, is amended
110 to read:

111 400.0074 ~~Local ombudsman council~~ Onsite administrative
112 assessments.—

113 (1) A representative of the office shall ~~In addition to any~~
114 ~~specific investigation conducted pursuant to a complaint, the~~
115 ~~local council shall~~ conduct, at least annually, an onsite
116 administrative assessment of each nursing home, assisted living
117 facility, and adult family-care home ~~within its jurisdiction.~~
118 This administrative assessment must be resident-centered and
119 must shall focus on factors affecting the rights, health,
120 safety, and welfare of the residents. ~~Each local council is~~
121 ~~encouraged to conduct a similar onsite administrative assessment~~
122 ~~of each additional long-term care facility within its~~
123 ~~jurisdiction.~~

124 (2) An onsite administrative assessment is ~~conducted by a~~
125 ~~local council shall be~~ subject to the following conditions:

126 (a) To the extent possible and reasonable, the



826374

127 administrative assessment may ~~assessments shall~~ not duplicate
128 the efforts of ~~the agency~~ surveys and inspections conducted by
129 state agencies of long-term care facilities ~~under part II of~~
130 ~~this chapter and parts I and II of chapter 429.~~

131 (b) An administrative assessment shall be conducted at a
132 time and for a duration necessary to produce the information
133 required to complete the assessment ~~carry out the duties of the~~
134 ~~local council.~~

135 (c) Advance notice of an administrative assessment may not
136 be provided to a long-term care facility, except that notice of
137 followup assessments on specific problems may be provided.

138 (d) A representative of the office ~~local council member~~
139 ~~physically~~ present for the administrative assessment must ~~shall~~
140 identify himself or herself to the administrator ~~and cite the~~
141 ~~specific statutory authority for his or her assessment of the~~
142 facility or his or her designee.

143 (e) An administrative assessment may not unreasonably
144 interfere with the programs and activities of residents.

145 (f) A representative of the office ~~local council member~~ may
146 not enter a single-family residential unit within a long-term
147 care facility during an administrative assessment without the
148 permission of the resident or the representative of the
149 resident.

150 (g) An administrative assessment shall ~~must~~ be conducted in
151 a manner that does not impose an ~~will impose no~~ unreasonable
152 burden on a long-term care facility.

153 (3) ~~Regardless of jurisdiction, the ombudsman may authorize~~
154 ~~a state or local council member to assist another local council~~
155 ~~to perform the administrative assessments described in this~~



826374

156 ~~section.~~

157 ~~(4)~~ An onsite administrative assessment may not be
158 accomplished by forcible entry. However, if a representative of
159 the office ombudsman or a state or local council member is not
160 allowed to enter a long-term care facility, the administrator of
161 the facility shall be considered to have interfered with a
162 representative of the office, ~~the state council, or the local~~
163 ~~council~~ in the performance of official duties as described in s.
164 400.0083(1) and to have committed a violation of this part. The
165 representative of the office ombudsman shall report the refusal
166 by a facility to allow entry to the state ombudsman or his or
167 her designee, who shall then report the incident to the agency,
168 and the agency shall record the report and take it into
169 consideration when determining actions allowable under s.
170 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.
171 429.71.

172 (4) The department, in consultation with the state
173 ombudsman, shall adopt rules implementing procedures for
174 conducting onsite administrative assessments of long-term care
175 facilities.

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

178 And the title is amended as follows:

179 Delete lines 1722 - 1736

180 and insert:

181 deleting provisions that provide for an election of a
182 chair of a local council; amending s. 400.0070, F.S.;

183 providing conditions under which a representative of
184 the office could be found to have a conflict of



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185 interest; requiring the Department of Elderly Affairs,
186 in consultation with the state ombudsman, to define by
187 rule what constitutes a conflict of interest; amending
188 s. 400.0071, F.S.; requiring the Department of Elderly
189 Affairs to consult with the state ombudsman to adopt
190 rules pertaining to complaint procedures; amending s.
191 400.0073, F.S.; providing procedures for investigation
192 of complaints; amending s. 400.0074, F.S.; revising
193 procedures for conducting onsite administrative
194 assessments; requiring the department to adopt



144428

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2014	.	
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The Committee on Children, Families, and Elder Affairs (Detert) recommended the following:

Senate Amendment to Amendment (537700)

Delete lines 574 - 594

and insert:

(1) A representative of the office local council shall identify and investigate, ~~within a reasonable time after a complaint is made,~~ any complaint made by or on behalf of a resident relating to actions or omissions by providers or representatives of providers of long-term care services, other public agencies, guardians, or representative payees which may



144428

11 adversely affect the health, safety, welfare, or rights of
12 residents.



553666

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/01/2014	.	
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The Committee on Children, Families, and Elder Affairs (Detert) recommended the following:

Senate Amendment to Amendment (537700)

Delete line 579

and insert:

~~employee, or a representative of a long-term care facility~~
of which the subject matter of the complaint might be:

By Senator Detert

28-00053A-14

2014508__

1 A bill to be entitled
 2 An act relating to the state ombudsman program;
 3 amending s. 400.0060, F.S.; revising and providing
 4 definitions; amending s. 400.0061, F.S.; revising
 5 legislative intent with respect to citizen ombudsmen;
 6 deleting references to ombudsman councils and
 7 transferring their responsibilities to representatives
 8 of the Office of State Long-Term Care Ombudsman;
 9 amending s. 400.0063, F.S.; revising duties of the
 10 office; amending s. 400.0065, F.S.; revising the
 11 purpose of the office; revising the duties and
 12 authority of the state ombudsman; requiring the state
 13 ombudsman to submit an annual report to the Governor,
 14 the Legislature, and specified agencies and entities;
 15 amending s. 400.0067, F.S.; revising duties and
 16 membership of the State Long-Term Care Ombudsman
 17 Council; amending s. 400.0069, F.S.; requiring the
 18 state ombudsman to designate and direct program
 19 districts; providing duties of representatives of the
 20 office in the districts; revising the appointments of
 21 and qualifications for district ombudsmen; prohibiting
 22 certain individuals from serving as ombudsmen;
 23 deleting provisions that provide for an election of a
 24 chair of a local council and the meeting times for the
 25 local council; amending s. 400.0070, F.S.; providing
 26 conditions under which a representative of the office
 27 could be found to have a conflict of interest;
 28 requiring the Department of Elderly Affairs, in
 29 consultation with the state ombudsman, to define by

Page 1 of 61

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

28-00053A-14

2014508__

30 rule what constitutes a conflict of interest; amending
 31 s. 400.0071, F.S.; requiring the Department of Elderly
 32 Affairs to consult with the state ombudsman to adopt
 33 rules pertaining to complaint procedures; amending s.
 34 400.0073, F.S.; providing procedures for investigation
 35 of complaints; amending s. 400.0074, F.S.; revising
 36 procedures for conducting onsite administrative
 37 assessments; authorizing the department to adopt
 38 rules; amending s. 400.0075, F.S.; revising complaint
 39 notification and resolution procedures; amending s.
 40 400.0078, F.S.; providing for a resident or
 41 representative of a resident to receive additional
 42 information regarding resident rights; amending s.
 43 400.0079, F.S.; providing immunity from liability for
 44 a representative of the office under certain
 45 circumstances; amending s. 400.0081, F.S.; requiring
 46 long-term care facilities to provide representatives
 47 of the office with access to facilities, residents,
 48 and records for certain purposes; amending s.
 49 400.0083, F.S.; conforming provisions to changes made
 50 by the act; amending s. 400.0087, F.S.; providing for
 51 the office to coordinate ombudsman services with
 52 Disability Rights Florida; amending s. 400.0089, F.S.;
 53 conforming provisions to changes made by the act;
 54 amending s. 400.0091, F.S.; revising training
 55 requirements for representatives of the office and
 56 ombudsmen; amending ss. 20.41, 400.021, 400.022,
 57 400.0255, 400.1413, 400.162, 400.19, 400.191, 400.23,
 58 400.235, 415.102, 415.1034, 415.104, 415.1055,

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59 415.106, 415.107, 429.02, 429.07, 429.19, 429.26,
60 429.28, 429.34, 429.35, 429.67, 429.85, and 744.444,
61 F.S.; conforming provisions to changes made by the
62 act; providing an effective date.

63
64 Be It Enacted by the Legislature of the State of Florida:

65
66 Section 1. Section 400.0060, Florida Statutes, is amended
67 to read:

68 400.0060 Definitions.—When used in this part, unless the
69 context clearly dictates otherwise, the term:

70 (1) "Administrative assessment" means a review of
71 conditions in a long-term care facility which impact the rights,
72 health, safety, and welfare of residents with the purpose of
73 noting needed improvement and making recommendations to enhance
74 the quality of life for residents.

75 (2) "Agency" means the Agency for Health Care
76 Administration.

77 (3) "Department" means the Department of Elderly Affairs.

78 (4) "District" means a geographical area designated by the
79 state ombudsman in which individuals certified as ombudsmen
80 carry out the duties of the state ombudsman program "~~Local~~
81 ~~council~~" means a ~~local long-term care ombudsman council~~
82 ~~designated by the ombudsman pursuant to s. 400.0069. Local~~
83 ~~councils are also known as district long-term care ombudsman~~
84 ~~councils or district councils.~~

85 (5) "Long-term care facility" means a nursing home
86 facility, assisted living facility, adult family-care home,
87 board and care facility, facility in which continuing long-term

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88 care is provided, or any other similar residential adult care
89 facility.

90 (6) "Office" means the Office of State Long-Term Care
91 Ombudsman created by s. 400.0063.

92 (7) "Ombudsman" means an individual who has been certified
93 by the state ombudsman as meeting the requirements of ss.
94 400.0069, 400.0070, and 400.0091 ~~the individual appointed by the~~
95 ~~Secretary of Elderly Affairs to head the Office of State Long-~~
96 ~~Term Care Ombudsman.~~

97 (8) "Representative of the office" means the state
98 ombudsman, an employee of the office, or an individual certified
99 as an ombudsman.

100 (9) ~~(8)~~ "Resident" means an individual 18 ~~60~~ years of age or
101 older who resides in a long-term care facility.

102 (10) ~~(9)~~ "Secretary" means the Secretary of Elderly Affairs.

103 (11) ~~(10)~~ "State council" means the State Long-Term Care
104 Ombudsman Council created by s. 400.0067.

105 (12) "State ombudsman" means the individual appointed by
106 the Secretary of Elderly Affairs to head the Office of State
107 Long-Term Care Ombudsman.

108 (13) "State ombudsman program" means the program operating
109 under the direction of the office.

110 Section 2. Section 400.0061, Florida Statutes, is amended
111 to read:

112 400.0061 Legislative findings and intent; long-term care
113 facilities.—

114 (1) The Legislature finds that conditions in long-term care
115 facilities in this state are such that the rights, health,
116 safety, and welfare of residents are not fully ensured by rules

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117 of the Department of Elderly Affairs or the Agency for Health
 118 Care Administration or by the good faith of owners or operators
 119 of long-term care facilities. Furthermore, there is a need for a
 120 formal mechanism whereby a long-term care facility resident, a
 121 representative of a long-term care facility resident, or any
 122 other concerned citizen may make a complaint against the
 123 facility or its employees, or against other persons who are in a
 124 position to restrict, interfere with, or threaten the rights,
 125 health, safety, or welfare of a long-term care facility
 126 resident. The Legislature finds that concerned citizens are
 127 often more effective advocates for the rights of others than
 128 governmental agencies. The Legislature further finds that in
 129 order to be eligible to receive an allotment of funds authorized
 130 and appropriated under the federal Older Americans Act, the
 131 state must establish and operate an Office of State Long-Term
 132 Care Ombudsman, to be headed by the state ~~Long-Term Care~~
 133 ombudsman, and carry out a state long-term care ombudsman
 134 program.

135 (2) It is the intent of the Legislature, therefore, to use
 136 ~~utilize~~ voluntary citizen ombudsmen ~~ombudsman councils~~ under the
 137 leadership of the state ombudsman, and, through them, to operate
 138 a state ~~an~~ ombudsman program, which shall, without interference
 139 by any executive agency, undertake to discover, investigate, and
 140 determine the presence of conditions or individuals ~~who which~~
 141 constitute a threat to the rights, health, safety, or welfare of
 142 the residents of long-term care facilities. To ensure that the
 143 effectiveness and efficiency of such investigations are not
 144 impeded by advance notice or delay, the Legislature intends that
 145 representatives of the office ombudsman and ombudsman councils

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146 ~~and their designated representatives~~ not be required to obtain
 147 warrants in order to enter into or conduct investigations or
 148 onsite administrative assessments of long-term care facilities.
 149 It is the further intent of the Legislature that the environment
 150 in long-term care facilities be conducive to the dignity and
 151 independence of residents and that investigations by
 152 representatives of the office ombudsman councils ~~shall~~ further
 153 the enforcement of laws, rules, and regulations that safeguard
 154 the health, safety, and welfare of residents.

155 Section 3. Section 400.0063, Florida Statutes, is amended
 156 to read:

157 400.0063 Establishment of Office of State Long-Term Care
 158 Ombudsman; designation of ombudsman and legal advocate.-

159 (1) There is created an Office of State Long-Term Care
 160 Ombudsman in the Department of Elderly Affairs.

161 (2) (a) The Office of State Long-Term Care Ombudsman shall
 162 be headed by the state ~~Long-Term Care~~ ombudsman, who shall serve
 163 on a full-time basis and shall personally, or through
 164 representatives of the office, carry out the purposes and
 165 functions of the state ombudsman program office ~~office~~ in accordance
 166 with state and federal law.

167 (b) The state ombudsman shall be appointed by and shall
 168 serve at the pleasure of the Secretary of Elderly Affairs. The
 169 secretary shall appoint a person who has expertise and
 170 experience in the fields of long-term care and advocacy to serve
 171 as state ombudsman.

172 (3) (a) There is created in the office the position of legal
 173 advocate, who shall be selected by and serve at the pleasure of
 174 the state ombudsman and shall be a member in good standing of

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175 The Florida Bar.

176 (b) The duties of the legal advocate shall include, but not
177 be limited to:

178 1. Assisting the state ombudsman in carrying out the duties
179 of the office with respect to the abuse, neglect, exploitation,
180 or violation of rights of residents of long-term care
181 facilities.

182 2. Assisting the state council and representatives of the
183 office local councils in carrying out their responsibilities
184 under this part.

185 3. Pursuing administrative, legal, and other appropriate
186 remedies on behalf of residents.

187 4. Serving as legal counsel to the state council and
188 representatives of the office local councils, or individual
189 members thereof, against ~~whom~~ any suit or other legal action
190 that is initiated in connection with the performance of the
191 official duties of the state ombudsman program councils or an
192 individual member.

193 Section 4. Section 400.0065, Florida Statutes, is amended
194 to read:

195 400.0065 Office of State Long-Term Care Ombudsman; duties
196 and responsibilities.-

197 (1) The purpose of the Office of State Long-Term Care
198 Ombudsman ~~is shall be~~ to:

199 (a) Identify, investigate, and resolve complaints made by
200 or on behalf of residents of long-term care facilities relating
201 to actions or omissions by providers or representatives of
202 providers of long-term care services, other public or private
203 agencies, guardians, or representative payees that may adversely

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204 affect the health, safety, welfare, or rights of the residents.

205 (b) Provide services that assist in protecting the health,
206 safety, welfare, and rights of residents.

207 (c) Inform residents, their representatives, and other
208 citizens about obtaining the services of the state ~~Long-Term~~
209 ~~Care~~ ombudsman program and its representatives.

210 (d) Ensure that residents have regular and timely access to
211 the services provided through the office and that residents and
212 complainants receive timely responses from representatives of
213 the office to their complaints.

214 (e) Represent the interests of residents before
215 governmental agencies and seek administrative, legal, and other
216 remedies to protect the health, safety, welfare, and rights of
217 the residents.

218 (f) Administer the state council and ~~local councils~~.

219 (g) Analyze, comment on, and monitor the development and
220 implementation of federal, state, and local laws, rules, and
221 regulations, and other governmental policies and actions, that
222 pertain to the health, safety, welfare, and rights of the
223 residents, with respect to the adequacy of long-term care
224 facilities and services in the state, and recommend any changes
225 in such laws, rules, regulations, policies, and actions as the
226 office determines to be appropriate and necessary.

227 (h) Provide technical support for the development of
228 resident and family councils to protect the well-being and
229 rights of residents.

230 (2) The state ~~Long-Term-Care~~ ombudsman has ~~shall have~~ the
231 duty and authority to:

232 (a) Establish and coordinate districts ~~local councils~~

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233 throughout the state.

234 (b) Perform the duties specified in state and federal law,
235 rules, and regulations.

236 (c) Within the limits of appropriated federal and state
237 funding, employ such personnel ~~as are~~ necessary to perform
238 adequately the functions of the office and provide or contract
239 for legal services to assist the state council and
240 representatives of the office ~~local councils~~ in the performance
241 of their duties. ~~Staff positions established for the purpose of~~
242 ~~coordinating the activities of each local council and assisting~~
243 ~~its members may be filled by the ombudsman after approval by the~~
244 ~~secretary. Notwithstanding any other provision of this part,~~
245 ~~upon certification by the ombudsman that the staff member hired~~
246 ~~to fill any such position has completed the initial training~~
247 ~~required under s. 400.0091, such person shall be considered a~~
248 ~~representative of the State Long-Term Care Ombudsman Program for~~
249 ~~purposes of this part.~~

250 (d) Contract for services necessary to carry out the
251 activities of the office.

252 (e) Apply for, receive, and accept grants, gifts, or other
253 payments, including, but not limited to, real property, personal
254 property, and services from a governmental entity or other
255 public or private entity or person, and make arrangements for
256 the use of such grants, gifts, or payments.

257 (f) Coordinate, to the greatest extent possible, state and
258 local ombudsman services with the protection and advocacy
259 systems for individuals with developmental disabilities and
260 mental illnesses and with legal assistance programs for the poor
261 through adoption of memoranda of understanding and other means.

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262 ~~(g) Enter into a cooperative agreement with the Statewide~~
263 ~~Advocacy Council for the purpose of coordinating and avoiding~~
264 ~~duplication of advocacy services provided to residents.~~

265 ~~(g)(h)~~ Enter into a cooperative agreement with the Medicaid
266 Fraud Division as prescribed under s. 731(e)(2)(B) of the Older
267 Americans Act.

268 ~~(h)(i)~~ Prepare an annual report describing the activities
269 carried out by the office, the state council, and the districts
270 ~~local councils~~ in the year for which the report is prepared. The
271 state ombudsman shall submit the report to the secretary, the
272 United States Assistant Secretary for Aging, the Governor, the
273 President of the Senate, the Speaker of the House of
274 Representatives, the Secretary of Children and Families, and the
275 Secretary of Health Care Administration at least 30 days before
276 the convening of the regular session of the Legislature. ~~The~~
277 ~~secretary shall in turn submit the report to the United States~~
278 ~~Assistant Secretary for Aging, the Governor, the President of~~
279 ~~the Senate, the Speaker of the House of Representatives, the~~
280 ~~Secretary of Children and Family Services, and the Secretary of~~
281 ~~Health Care Administration.~~ The report must shall, at a minimum:
282 1. Contain and analyze data collected concerning complaints
283 about and conditions in long-term care facilities and the
284 disposition of such complaints.
285 2. Evaluate the problems experienced by residents.
286 3. Analyze the successes of the state ombudsman program
287 during the preceding year, including an assessment of how
288 successfully the office program has carried out its
289 responsibilities under the Older Americans Act.
290 4. Provide recommendations for policy, regulatory, and

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291 statutory changes designed to solve identified problems; resolve
 292 residents' complaints; improve residents' lives and quality of
 293 care; protect residents' rights, health, safety, and welfare;
 294 and remove any barriers to the optimal operation of the state
 295 ~~Long Term Care~~ ombudsman program.

296 5. Contain recommendations from the state ~~Long Term Care~~
 297 ~~Ombudsman~~ council regarding program functions and activities and
 298 recommendations for policy, regulatory, and statutory changes
 299 designed to protect residents' rights, health, safety, and
 300 welfare.

301 6. Contain any relevant recommendations from
 302 representatives of the office ~~local councils~~ regarding program
 303 functions and activities.

304 Section 5. Section 400.0067, Florida Statutes, is amended
 305 to read:

306 400.0067 State Long-Term Care Ombudsman Council; duties;
 307 membership.—

308 (1) There is created, within the Office of State Long-Term
 309 Care Ombudsman, the State Long-Term Care Ombudsman Council.

310 (2) The state ~~Long Term Care Ombudsman~~ council shall:

311 (a) Serve as an advisory body to assist the state ombudsman
 312 in reaching a consensus among districts ~~local councils~~ on issues
 313 affecting residents and impacting the optimal operation of the
 314 program.

315 (b) Serve as an appellate body in receiving from the
 316 districts ~~local councils~~ complaints not resolved at the district
 317 ~~local~~ level. Any individual member or members of the state
 318 council may enter any long-term care facility involved in an
 319 appeal, pursuant to the conditions specified in s. 400.0074(2).

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320 (c) Assist the state ombudsman to discover, investigate,
 321 and determine the existence of abuse or neglect in any long-term
 322 care facility, and work with the adult protective services
 323 program as required in ss. 415.101-415.113.

324 (d) Assist the state ombudsman in eliciting, receiving,
 325 responding to, and resolving complaints made by or on behalf of
 326 residents.

327 (e) Elicit and coordinate state, district ~~local~~, and
 328 voluntary organizational assistance for the purpose of improving
 329 the care received by residents.

330 (f) Assist the state ombudsman in preparing the annual
 331 report described in s. 400.0065.

332 (3) The state ~~Long Term Care Ombudsman~~ council shall be
 333 composed of one active ombudsman from each district ~~local~~
 334 ~~council member~~ elected by each local council plus three at-large
 335 members appointed by the secretary ~~Governor~~.

336 (a) Each district manager, in consultation with the
 337 district ombudsmen, shall select a district ombudsman ~~local~~
 338 ~~council shall elect by majority vote a representative from among~~
 339 ~~the council members~~ to represent the interests of the district
 340 ~~local council~~ on the state council. A local council chair may
 341 ~~not serve as the representative of the local council on the~~
 342 ~~state council.~~

343 (b)1. The state ombudsman ~~secretary~~, after consulting with
 344 ~~the ombudsman~~, shall submit to the secretary ~~Governor~~ a list of
 345 individuals ~~persons~~ recommended for appointment to the at-large
 346 positions on the state council. The list ~~may shall~~ not include
 347 the name of any individual ~~person~~ who is currently serving in a
 348 district ~~on a local council~~.

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349 2. The secretary ~~Governor~~ shall appoint three at-large
350 members chosen from the list.

351 3. If the secretary ~~Governor~~ does not appoint an at-large
352 member to fill a vacant position within 60 days after the list
353 is submitted, the state secretary, ~~after consulting with the~~
354 ~~ombudsman~~, shall appoint an at-large member to fill that vacant
355 position.

356 ~~(4) (a) (e) 1.~~ All State council members shall serve 3-year
357 terms.

358 2. A member of the state council may not serve more than
359 two consecutive terms.

360 ~~(b) 3.~~ A district manager, in consultation with the district
361 ~~ombudsmen~~, local council may recommend replacement ~~removal~~ of
362 its selected ombudsman ~~elected representative~~ from the state
363 council ~~by a majority vote~~. If the district manager, in
364 consultation with the district ombudsmen, selects a replacement
365 ombudsman, the district manager ~~council votes to remove its~~
366 ~~representative~~, the local council chair shall ~~immediately~~ notify
367 the state ombudsman. ~~The secretary shall advise the Governor of~~
368 ~~the local council's vote upon receiving notice from the~~
369 ~~ombudsman.~~

370 ~~(c) 4.~~ The position of any member missing three state
371 council meetings within a 1-year period without cause may be
372 declared vacant by the state ombudsman. The findings of the
373 state ombudsman regarding cause shall be final and binding.

374 ~~(d) 5.~~ Any vacancy on the state council shall be filled in
375 the same manner as the original appointment.

376 ~~(e) (d) 1.~~ The state council shall elect a chair to serve for
377 a term of 1 year. A chair may not serve more than two

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378 consecutive terms.

379 2. The chair shall select a vice chair from among the
380 members. The vice chair shall preside over the state council in
381 the absence of the chair.

382 3. The chair may create additional executive positions as
383 necessary to carry out the duties of the state council. Any
384 person appointed to an executive position shall serve at the
385 pleasure of the chair, and his or her term shall expire on the
386 same day as the term of the chair.

387 4. A chair may be immediately removed from office before
388 ~~prior to~~ the expiration of his or her term by a vote of two-
389 thirds of all state council members present at any meeting at
390 which a quorum is present. If a chair is removed from office
391 before ~~prior to~~ the expiration of his or her term, a replacement
392 chair shall be chosen during the same meeting in the same manner
393 as described in this paragraph, and the term of the replacement
394 chair shall begin immediately. The replacement chair shall serve
395 for the remainder of the term and is eligible to serve two
396 subsequent consecutive terms.

397 ~~(f) (e) 1.~~ The state council shall meet upon the call of the
398 chair or upon the call of the state ombudsman. The state council
399 shall meet at least quarterly but may meet more frequently as
400 needed.

401 2. A quorum shall be considered present if more than 50
402 percent of all active state council members are in attendance at
403 the same meeting.

404 3. The state council may not vote on or otherwise make any
405 decisions resulting in a recommendation that will directly
406 impact the state council or any district ~~local council~~, outside

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407 of a publicly noticed meeting at which a quorum is present.
 408 ~~(g)(f)~~ Members may not shall receive ~~no~~ compensation but
 409 shall, with approval from the state ombudsman, be reimbursed for
 410 per diem and travel expenses as provided in s. 112.061.

411 Section 6. Section 400.0069, Florida Statutes, is amended
 412 to read:

413 400.0069 ~~Local~~ Long-term care ombudsman districts councils;
 414 duties; appointment membership.-

415 (1) (a) The state ombudsman shall designate districts local
 416 ~~long-term care ombudsman councils~~ to carry out the duties of the
 417 state ~~Long-Term Care~~ ombudsman program ~~within local communities~~.
 418 Each district local council shall function under the direction
 419 of the state ombudsman.

420 (b) The state ombudsman shall ensure that there are
 421 representatives of the office is at least one local council
 422 operating in each district of the department's planning and
 423 service areas. The ombudsman may create additional local
 424 councils as necessary to ensure that residents throughout the
 425 state have adequate access to state ~~Long-Term Care~~ ombudsman
 426 program services. ~~The ombudsman, after approval from the~~
 427 ~~secretary, shall designate the jurisdictional boundaries of each~~
 428 ~~local council.~~

429 (2) The duties of the representatives of the office in the
 430 districts local councils are to:

431 (a) Provide services to assist in ~~Serve as a third-party~~
 432 ~~mechanism for~~ protecting the health, safety, welfare, and ~~civil~~
 433 ~~and human~~ rights of residents.

434 (b) Discover, investigate, and determine the existence of
 435 abuse, or neglect, or exploitation using in any long-term care

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436 ~~facility and to use~~ the procedures provided for in ss. 415.101-
 437 415.113 when applicable.

438 (c) Identify Elicit, receive, investigate, ~~respond to,~~ and
 439 resolve complaints made by or on behalf of residents relating to
 440 actions or omissions by providers or representatives of
 441 providers of long-term care services, other public or private
 442 agencies, guardians, or representative payees which may
 443 adversely affect the health, safety, welfare, or rights of
 444 residents.

445 (d) Review and, if necessary, comment on all existing or
 446 proposed rules, regulations, and other governmental policies and
 447 actions relating to long-term care facilities that may
 448 potentially have an effect on the ~~rights,~~ health, safety,
 449 welfare, and rights welfare of residents.

450 (e) Review personal property and money accounts of
 451 residents who are receiving assistance under the Medicaid
 452 program pursuant to an investigation to obtain information
 453 regarding a specific complaint ~~or problem.~~

454 (f) Recommend that the state ombudsman and the legal
 455 advocate seek administrative, legal, and other remedies to
 456 protect the health, safety, welfare, and rights of ~~the~~
 457 residents.

458 (g) Provide technical assistance for the development of
 459 resident and family councils within long-term care facilities.

460 ~~(h)(g)~~ Carry out other activities that the state ombudsman
 461 determines to be appropriate.

462 (3) In order to carry out the duties specified in
 463 subsection (2), a representative of the office may member of a
 464 ~~local council is authorized to~~ enter any long-term care facility

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465 without notice or without first obtaining a warrant; however,
 466 ~~subject to the provisions of s. 400.0074(2) may apply regarding~~
 467 ~~notice of a followup administrative assessment.~~

468 (4) Each ~~district local council~~ shall be composed of
 469 ~~ombudsmen members~~ whose primary ~~residences are~~ residence is
 470 located within the boundaries of the ~~district local council's~~
 471 ~~jurisdiction.~~

472 (a) Upon good cause shown, the state ombudsman may appoint
 473 an ombudsman to another district. ~~The ombudsman shall strive to~~
 474 ~~ensure that each local council include the following persons as~~
 475 ~~members:~~

476 1. ~~At least one medical or osteopathic physician whose~~
 477 ~~practice includes or has included a substantial number of~~
 478 ~~geriatric patients and who may practice in a long-term care~~
 479 ~~facility;~~

480 2. ~~At least one registered nurse who has geriatric~~
 481 ~~experience;~~

482 3. ~~At least one licensed pharmacist;~~

483 4. ~~At least one registered dietitian;~~

484 5. ~~At least six nursing home residents or representative~~
 485 ~~consumer advocates for nursing home residents;~~

486 6. ~~At least three residents of assisted living facilities~~
 487 ~~or adult family care homes or three representative consumer~~
 488 ~~advocates for alternative long-term care facility residents;~~

489 7. ~~At least one attorney; and~~

490 8. ~~At least one professional social worker.~~

491 (b) The following individuals may not be appointed as
 492 ombudsmen:

493 1. The owner or representative of a long-term care

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494 facility.

495 2. A provider or representative of a provider of long-term
 496 care service.

497 3. An employee of the agency.

498 4. An employee of the department, except for a
 499 representative of the office.

500 5. An employee of the Department of Children and Families.

501 6. An employee of the Agency for Persons with Disabilities

502 ~~In no case shall the medical director of a long-term care~~
 503 ~~facility or an employee of the agency, the department, the~~
 504 ~~Department of Children and Family Services, or the Agency for~~
 505 ~~Persons with Disabilities serve as a member or as an ex officio~~
 506 ~~member of a council.~~

507 (5) (a) To be appointed as an ombudsman, an individual must:

508 1. Individuals wishing to join a local council shall submit
 509 an application to the state ombudsman or his or her designee.

510 2. Successfully complete level 2 background screening
 511 pursuant to s. 430.0402 and chapter 435 ~~The ombudsman shall~~
 512 ~~review the individual's application and advise the secretary of~~
 513 ~~his or her recommendation for approval or disapproval of the~~
 514 ~~candidate's membership on the local council. If the secretary~~
 515 ~~approves of the individual's membership, the individual shall be~~
 516 ~~appointed as a member of the local council.~~

517 (b) The state ombudsman shall approve or deny the
 518 appointment of the individual as an ombudsman ~~The secretary may~~
 519 ~~rescind the ombudsman's approval of a member on a local council~~
 520 ~~at any time. If the secretary rescinds the approval of a member~~
 521 ~~on a local council, the ombudsman shall ensure that the~~
 522 ~~individual is immediately removed from the local council on~~

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523 ~~which he or she serves and the individual may no longer~~
 524 ~~represent the State Long-Term Care Ombudsman Program until the~~
 525 ~~secretary provides his or her approval.~~

526 (c) Upon appointment as an ombudsman, the individual may
 527 participate in district activities but may not represent the
 528 office or conduct any authorized program duties until the
 529 individual has completed the initial training specified in s.
 530 400.0091(1) and has been certified by the state ombudsman.

531 (d) The state ombudsman, for good cause shown, such as
 532 development of a conflict of interest, failure to adhere to the
 533 policies and procedures established by the office, or
 534 demonstrated inability to carry out the responsibilities of the
 535 office, may rescind the appointment of an individual as an
 536 ombudsman. After the appointment is rescinded, the individual
 537 may not conduct any duties as an ombudsman and may not represent
 538 the office or the state ombudsman program A local council may
 539 recommend the removal of one or more of its members by
 540 submitting to the ombudsman a resolution adopted by a two-thirds
 541 vote of the members of the council stating the name of the
 542 member or members recommended for removal and the reasons for
 543 the recommendation. If such a recommendation is adopted by a
 544 local council, the local council chair or district coordinator
 545 shall immediately report the council's recommendation to the
 546 ombudsman. The ombudsman shall review the recommendation of the
 547 local council and advise the secretary of his or her
 548 recommendation regarding removal of the council member or
 549 members.

550 ~~(6)(a) Each local council shall elect a chair for a term of~~
 551 ~~1 year. There shall be no limitation on the number of terms that~~

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552 ~~an approved member of a local council may serve as chair.~~

553 ~~(b) The chair shall select a vice chair from among the~~
 554 ~~members of the council. The vice chair shall preside over the~~
 555 ~~council in the absence of the chair.~~

556 ~~(c) The chair may create additional executive positions as~~
 557 ~~necessary to carry out the duties of the local council. Any~~
 558 ~~person appointed to an executive position shall serve at the~~
 559 ~~pleasure of the chair, and his or her term shall expire on the~~
 560 ~~same day as the term of the chair.~~

561 ~~(d) A chair may be immediately removed from office prior to~~
 562 ~~the expiration of his or her term by a vote of two-thirds of the~~
 563 ~~members of the local council. If any chair is removed from~~
 564 ~~office prior to the expiration of his or her term, a replacement~~
 565 ~~chair shall be elected during the same meeting, and the term of~~
 566 ~~the replacement chair shall begin immediately. The replacement~~
 567 ~~chair shall serve for the remainder of the term of the person he~~
 568 ~~or she replaced.~~

569 ~~(7) Each local council shall meet upon the call of its~~
 570 ~~chair or upon the call of the ombudsman. Each local council~~
 571 ~~shall meet at least once a month but may meet more frequently if~~
 572 ~~necessary.~~

573 ~~(6)(8) An ombudsman may not~~ A member of a local council
 574 ~~shall receive no compensation but shall, with approval from the~~
 575 ~~state ombudsman, be reimbursed for travel expenses both within~~
 576 ~~and outside the jurisdiction of the local council in accordance~~
 577 ~~with the provisions of s. 112.061.~~

578 ~~(7)(9) A representative of the office may~~ The local
 579 ~~councils are authorized to call upon appropriate state agencies~~
 580 ~~of state government for such professional assistance as may be~~

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581 needed in the discharge of his or her ~~their~~ duties, and such-
 582 All state agencies shall cooperate ~~with the local councils~~ in
 583 providing requested information and agency representation ~~at~~
 584 ~~council meetings.~~

585 Section 7. Section 400.0070, Florida Statutes, is amended
 586 to read:

587 400.0070 Conflicts of interest.-

588 (1) A representative of the office may ~~The ombudsman shall~~
 589 not:

590 (a) Have a direct involvement in the licensing or
 591 certification of, or an ownership or investment interest in, a
 592 long-term care facility or a provider of a long-term care
 593 service.

594 (b) Be employed by, or participate in the management of, a
 595 long-term care facility.

596 (c) Receive, or have a right to receive, directly or
 597 indirectly, remuneration, in cash or in kind, under a
 598 compensation agreement with the owner or operator of a long-term
 599 care facility.

600 (2) Each representative employee of the office, ~~each state~~
 601 ~~council member, and each local council member~~ shall certify that
 602 he or she does not have any ~~has no~~ conflict of interest.

603 (3) The department, in consultation with the state
 604 ombudsman, shall define by rule:

605 (a) Situations that constitute an individual a person
 606 having a conflict of interest ~~which that~~ could materially affect
 607 the objectivity or capacity of the individual a person to serve
 608 as a representative on an ombudsman council, or as an employee
 609 ~~of the office, while carrying out the purposes of the State~~

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610 ~~Long-Term Care Ombudsman Program as specified in this part.~~

611 (b) The procedure by which an individual a person listed in
 612 subsection (2) shall certify that he or she does not have a ~~has~~
 613 ~~no~~ conflict of interest.

614 Section 8. Section 400.0071, Florida Statutes, is amended
 615 to read:

616 400.0071 State ~~Long-Term Care~~ ombudsman program complaint
 617 procedures.-The department, in consultation with the state
 618 ombudsman, shall adopt rules implementing state and local
 619 complaint procedures. The rules must include procedures for
 620 receiving, investigating, identifying, and resolving complaints
 621 concerning the health, safety, welfare, and rights of residents.

622 ~~(1) Receiving complaints against a long-term care facility~~
 623 ~~or an employee of a long-term care facility.~~

624 ~~(2) Conducting investigations of a long-term care facility~~
 625 ~~or an employee of a long-term care facility subsequent to~~
 626 ~~receiving a complaint.~~

627 ~~(3) Conducting onsite administrative assessments of long-~~
 628 ~~term care facilities.~~

629 Section 9. Section 400.0073, Florida Statutes, is amended
 630 to read:

631 400.0073 Complaint State and local ombudsman council
 632 investigations.-

633 (1) A representative of the office local council shall
 634 identify and investigate, within a reasonable time after a
 635 complaint is made, any complaint made by or on behalf of a
 636 resident, a representative of a resident, or any other credible
 637 source based on an action or omission by an administrator, an
 638 employee, or a representative of a long-term care facility which

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639 might be:

- 640 (a) Contrary to law;
- 641 (b) Unreasonable, unfair, oppressive, or unnecessarily
- 642 discriminatory, even though in accordance with law;
- 643 (c) Based on a mistake of fact;
- 644 (d) Based on improper or irrelevant grounds;
- 645 (e) Unaccompanied by an adequate statement of reasons;
- 646 (f) Performed in an inefficient manner; or
- 647 (g) Otherwise adversely affecting the health, safety,
- 648 welfare, or rights of a resident.
- 649 ~~(2) In an investigation, both the state and local councils~~
- 650 ~~have the authority to hold public hearings.~~
- 651 ~~(3) Subsequent to an appeal from a local council, the state~~
- 652 ~~council may investigate any complaint received by the local~~
- 653 ~~council involving a long-term care facility or a resident.~~
- 654 (2)(4) If a representative of the office the ombudsman or
- 655 any state or local council member is not allowed to enter a
- 656 long-term care facility, the administrator of the facility shall
- 657 be considered to have interfered with a representative of the
- 658 office, the state council, or the local council in the
- 659 performance of official duties as described in s. 400.0083(1)
- 660 and to have violated committed a violation of this part. The
- 661 representative of the office ombudsman shall report a facility's
- 662 refusal to allow entry to the facility to the state ombudsman or
- 663 his or her designee, who shall report the incident to the
- 664 agency, and the agency shall record the report and take it into
- 665 consideration when determining actions allowable under s.
- 666 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.
- 667 429.71.

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668 Section 10. Section 400.0074, Florida Statutes, is amended

669 to read:

670 400.0074 ~~Local ombudsman council~~ Onsite administrative

671 assessments.-

672 (1) A representative of the office shall ~~In addition to any~~

673 ~~specific investigation conducted pursuant to a complaint, the~~

674 ~~local council shall~~ conduct, at least annually, an onsite

675 administrative assessment of each nursing home, assisted living

676 facility, and adult family-care home ~~within its jurisdiction.~~

677 This administrative assessment must be resident-centered and

678 must ~~shall~~ focus on factors affecting the rights, health,

679 safety, and welfare of the residents. ~~Each local council is~~

680 ~~encouraged to conduct a similar onsite administrative assessment~~

681 ~~of each additional long-term care facility within its~~

682 ~~jurisdiction.~~

683 (2) An onsite administrative assessment is conducted by a

684 ~~local council shall~~ be subject to the following conditions:

685 (a) To the extent possible and reasonable, the

686 administrative assessment may ~~assessments shall~~ not duplicate

687 the efforts of ~~the agency~~ surveys and inspections conducted by

688 state agencies of long-term care facilities under part II of

689 ~~this chapter and parts I and II of chapter 429.~~

690 (b) An administrative assessment shall be conducted at a

691 time and for a duration necessary to produce the information

692 required to complete the assessment ~~carry out the duties of the~~

693 ~~local council.~~

694 (c) Advance notice of an administrative assessment may not

695 be provided to a long-term care facility, except that notice of

696 followup assessments on specific problems may be provided.

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697 (d) A representative of the office ~~local council member~~
 698 ~~physically~~ present for the administrative assessment ~~must shall~~
 699 identify himself or herself to the administrator and ~~cite the~~
 700 ~~specific statutory authority for his or her assessment~~ of the
 701 facility or his or her designee.

702 (e) An administrative assessment may not unreasonably
 703 interfere with the programs and activities of residents.

704 (f) A representative of the office ~~local council member~~ may
 705 not enter a single-family residential unit within a long-term
 706 care facility during an administrative assessment without the
 707 permission of the resident or the representative of the
 708 resident.

709 (g) An administrative assessment ~~shall must~~ be conducted in
 710 a manner that does not impose an ~~will impose no~~ unreasonable
 711 burden on a long-term care facility.

712 (3) ~~Regardless of jurisdiction, the ombudsman may authorize~~
 713 ~~a state or local council member to assist another local council~~
 714 ~~to perform the administrative assessments described in this~~
 715 ~~section.~~

716 ~~(4)~~ An onsite administrative assessment may not be
 717 accomplished by forcible entry. However, if a representative of
 718 ~~the office ombudsman or a state or local council member~~ is not
 719 allowed to enter a long-term care facility, the administrator of
 720 the facility shall be considered to have interfered with a
 721 representative of the office, ~~the state council, or the local~~
 722 ~~council~~ in the performance of official duties as described in s.
 723 400.0083(1) and to have committed a violation of this part. The
 724 representative of the office ~~ombudsman~~ shall report the refusal
 725 by a facility to allow entry to the state ombudsman or his or

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726 her designee, who shall then report the incident to the agency,
 727 and the agency shall record the report and take it into
 728 consideration when determining actions allowable under s.
 729 400.102, s. 400.121, s. 429.14, s. 429.19, s. 429.69, or s.
 730 429.71.

731 (4) The department, in consultation with the state
 732 ombudsman, may adopt rules implementing procedures for
 733 conducting onsite administrative assessments of long-term care
 734 facilities.

735 Section 11. Section 400.0075, Florida Statutes, is amended
 736 to read:

737 400.0075 Complaint notification and resolution procedures.—

738 (1) (a) Any complaint ~~or problem~~ verified by a
 739 representative of the office ~~an ombudsman council~~ as a result of
 740 an investigation may ~~or onsite administrative assessment, which~~
 741 ~~complaint or problem is determined to require remedial action by~~
 742 ~~the local council, shall be identified and brought to the~~
 743 attention of the long-term care facility administrator subject
 744 to the confidentiality provisions of s. 400.0077 in writing.

745 Upon receipt of the information ~~such document,~~ the
 746 administrator, with the concurrence of the representative of the
 747 office ~~local council chair,~~ shall establish target dates for
 748 taking appropriate remedial action. If, by the target date, the
 749 remedial action is not completed or forthcoming, the
 750 representative may extend the target date if there is reason to
 751 believe such action would facilitate the resolution of the
 752 complaint, or the representative may refer the complaint to the
 753 district manager ~~local council chair may, after obtaining~~
 754 ~~approval from the ombudsman and a majority of the members of the~~

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755 ~~local council.~~

756 1. ~~Extend the target date if the chair has reason to~~
 757 ~~believe such action would facilitate the resolution of the~~
 758 ~~complaint.~~

759 2. ~~In accordance with s. 400.0077, publicize the complaint,~~
 760 ~~the recommendations of the council, and the response of the~~
 761 ~~long-term care facility.~~

762 3. ~~Refer the complaint to the state council.~~

763 (b) If an ombudsman determines ~~the local council chair~~
 764 ~~believes that the health, safety, welfare, or rights of a the~~
 765 ~~resident are in imminent danger, the ombudsman must immediately~~
 766 ~~notify the district manager. The district manager chair shall~~
 767 ~~notify the ombudsman or legal advocate, who, after verifying~~
 768 ~~that such imminent danger exists, must notify the appropriate~~
 769 ~~state agencies, including law enforcement agencies, the state~~
 770 ~~ombudsman, and the legal advocate to ensure the protection of~~
 771 ~~shall seek immediate legal or administrative remedies to protect~~
 772 ~~the resident.~~

773 (c) If the state ombudsman or legal advocate has reason to
 774 believe that the long-term care facility or an employee of the
 775 facility has committed a criminal act, the state ombudsman or
 776 legal advocate shall provide the local law enforcement agency
 777 with the relevant information to initiate an investigation of
 778 the case.

779 (2)(a) Upon referral from a district local council, the
 780 state ombudsman or his or her designee council shall assume the
 781 responsibility for the disposition of the complaint. If a long-
 782 term care facility fails to take action to resolve or remedy the
 783 ~~on a complaint by the state council~~, the state ombudsman council

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784 may, ~~after obtaining approval from the ombudsman and a majority~~
 785 ~~of the state council members:~~

786 (a)1- ~~In accordance with s. 400.0077, publicize the~~
 787 ~~complaint, the recommendations of the representatives of the~~
 788 ~~office local or state council, and the response of the long-term~~
 789 ~~care facility.~~

790 (b)2- ~~Recommend to the department and the agency a series~~
 791 ~~of facility reviews pursuant to s. 400.19, s. 429.34, or s.~~
 792 ~~429.67 to ensure correction and nonrecurrence of the conditions~~
 793 ~~that gave give rise to the complaint complaints against the a~~
 794 ~~long-term care facility.~~

795 (c)3- ~~Recommend to the department and the agency that the~~
 796 ~~long-term care facility no longer receive payments under any~~
 797 ~~state assistance program, including Medicaid.~~

798 (d)4- ~~Recommend to the department and the agency that~~
 799 ~~procedures be initiated for action against revocation of the~~
 800 ~~long-term care facility's license in accordance with chapter~~
 801 ~~120.~~

802 (b) ~~If the state council chair believes that the health,~~
 803 ~~safety, welfare, or rights of the resident are in imminent~~
 804 ~~danger, the chair shall notify the ombudsman or legal advocate,~~
 805 ~~who, after verifying that such imminent danger exists, shall~~
 806 ~~seek immediate legal or administrative remedies to protect the~~
 807 ~~resident.~~

808 (3)(e) If the state ombudsman, after consultation with the
 809 legal advocate, has reason to believe that the long-term care
 810 facility or an employee of the facility has committed a criminal
 811 act, the office ombudsman shall provide the local law
 812 enforcement agency with the relevant information to initiate an

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813 investigation of the case.

814 Section 12. Section 400.0078, Florida Statutes, is amended

815 to read:

816 400.0078 Citizen access to state ~~Long-Term Care~~ ombudsman

817 program services.-

818 (1) The office shall establish a statewide toll-free

819 telephone number and e-mail address for receiving complaints

820 concerning matters adversely affecting the health, safety,

821 welfare, or rights of residents.

822 (2) ~~Every resident or representative of a resident shall~~

823 ~~receive,~~ Upon admission to a long-term care facility, each

824 resident or representative of a resident must receive

825 information regarding:

826 (a) The purpose of the state ~~Long-Term Care~~ ombudsman

827 program,r

828 (b) The statewide toll-free telephone number and e-mail

829 address for receiving complaints,~~r and~~

830 (c) Information that retaliatory action cannot be taken

831 against a resident for presenting grievances or for exercising

832 any other resident rights.

833 (d) Other relevant information regarding how to contact

834 representatives of the office ~~program.~~

835

836 Residents or their representatives must be furnished additional

837 copies of this information upon request.

838 Section 13. Section 400.0079, Florida Statutes, is amended

839 to read:

840 400.0079 Immunity.-

841 (1) Any person making a complaint pursuant to this part who

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842 does so in good faith shall be immune from any liability, civil

843 or criminal, that otherwise might be incurred or imposed as a

844 direct or indirect result of making the complaint.

845 (2) ~~Representatives of the office and The ombudsman or any~~

846 ~~person authorized by the ombudsman to act on behalf of the~~

847 ~~office, as well as all members of the state council are and~~

848 ~~local councils, shall be immune from any liability, civil or~~

849 criminal, that otherwise might be incurred or imposed during the

850 good faith performance of official duties.

851 Section 14. Section 400.0081, Florida Statutes, is amended

852 to read:

853 400.0081 Access to facilities, residents, and records.-

854 (1) A long-term care facility shall provide representatives

855 of the office with, ~~the state council and its members, and the~~

856 ~~local councils and their members access to:~~

857 (a) Access to Any portion of the long-term care facility

858 and residents any resident as necessary to investigate or

859 ~~resolve a complaint.~~

860 (b) Appropriate access to medical and social records of a

861 resident for review ~~as necessary to investigate or resolve a~~

862 ~~complaint,~~ if:

863 1. The representative of the office has the permission of

864 the resident or the legal representative of the resident; or

865 2. The resident is unable to consent to the review and does

866 not have a ~~has no~~ legal representative.

867 (c) Access to medical and social records of a the resident

868 ~~as necessary to investigate or resolve a complaint,~~ if:

869 1. A legal representative or guardian of the resident

870 refuses to give permission;

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871 2. A representative of the office has reasonable cause to
872 believe that the legal representative or guardian is not acting
873 in the best interests of the resident; and

874 3. The ~~representative of the office state or local council~~
875 ~~member~~ obtains the approval of the state ombudsman.

876 (d) Access to the administrative records, policies, and
877 documents to which residents or the general public has have
878 access.

879 (e) Upon request, copies of all licensing and certification
880 records maintained by the state with respect to a long-term care
881 facility.

882 (2) The department, in consultation with the state
883 ombudsman ~~and the state council~~, may adopt rules to establish
884 procedures to ensure access to facilities, residents, and
885 records as described in this section.

886 Section 15. Section 400.0083, Florida Statutes, is amended
887 to read:

888 400.0083 Interference; retaliation; penalties.—

889 (1) ~~A~~ It shall be unlawful for any person, long-term care
890 facility, or other entity may not ~~to~~ willfully interfere with a
891 representative of the office or, ~~the state council, or a local~~
892 ~~council~~ in the performance of official duties.

893 (2) ~~A~~ It shall be unlawful for any person, long-term care
894 facility, or other entity may not ~~to~~ knowingly or willfully take
895 action or retaliate against any resident, employee, or other
896 person for filing a complaint with, providing information to, or
897 otherwise cooperating with any representative of the office or,
898 ~~the state council, or a local council.~~

899 (3) ~~A~~ Any person, long-term care facility, or other entity

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900 that violates this section:

901 (a) ~~Is~~ ~~shall be~~ liable for damages and equitable relief as
902 determined by law.

903 (b) Commits a misdemeanor of the second degree, punishable
904 as provided in s. 775.083.

905 Section 16. Section 400.0087, Florida Statutes, is amended
906 to read:

907 400.0087 Department oversight; funding.—

908 (1) The department shall meet the costs associated with the
909 state ~~Long-Term Care~~ ombudsman program from funds appropriated
910 to it.

911 (a) The department shall include the costs associated with
912 support of the state ~~Long-Term Care~~ ombudsman program when
913 developing its budget requests for consideration by the Governor
914 and submittal to the Legislature.

915 (b) The department may divert from the federal ombudsman
916 appropriation an amount equal to the department's administrative
917 cost ratio to cover the costs associated with administering the
918 state ombudsman program. The remaining allotment from the Older
919 Americans Act program shall be expended on direct ombudsman
920 activities.

921 (2) The department shall monitor the office and, the state
922 council, ~~and the local councils~~ to ensure that each is carrying
923 out the duties delegated to it by state and federal law.

924 (3) The department is responsible for ensuring that the
925 office:

926 (a) Has the objectivity and independence required to
927 qualify it for funding under the federal Older Americans Act.

928 (b) Provides information to public and private agencies,

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929 legislators, and others.

930 (c) Provides appropriate training to representatives of the
931 office ~~or of the state or local councils.~~

932 (d) Coordinates ombudsman services with Disability Rights
933 ~~Florida the Advocacy Center for Persons with Disabilities~~ and
934 with providers of legal services to residents ~~of long-term care~~
935 ~~facilities~~ in compliance with state and federal laws.

936 (4) The department shall also:

937 (a) Receive and disburse state and federal funds for
938 purposes that the state ombudsman has formulated in accordance
939 with the Older Americans Act.

940 (b) Whenever necessary, act as liaison between agencies and
941 branches of the federal and state governments and the office
942 ~~State Long-Term Care Ombudsman Program.~~

943 Section 17. Section 400.0089, Florida Statutes, is amended
944 to read:

945 400.0089 Complaint data reports.—The office shall maintain
946 a statewide uniform reporting system to collect and analyze data
947 relating to complaints and conditions in long-term care
948 facilities and to residents for the purpose of identifying and
949 resolving significant complaints ~~problems~~. The office shall
950 publish quarterly and make readily available information
951 pertaining to the number and types of complaints received by the
952 state ~~Long-Term Care~~ ombudsman program and shall include such
953 information in the annual report required under s. 400.0065.

954 Section 18. Section 400.0091, Florida Statutes, is amended
955 to read:

956 400.0091 Training.—The state ombudsman shall ensure that
957 appropriate training is provided to all representatives

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958 ~~employees of the office and to the members of the state and~~
959 ~~local councils.~~

960 (1) All representatives ~~state and local council members and~~
961 ~~employees~~ of the office shall be given a minimum of 20 hours of
962 training upon employment with the office or appointment as an
963 ombudsman. Ten ~~approval as a state or local council member and~~
964 ~~40~~ hours of continuing education is required annually
965 thereafter.

966 (2) The state ombudsman shall approve the curriculum for
967 the initial and continuing education training, which must, at a
968 minimum, address:

969 (a) Resident confidentiality.

970 (b) Guardianships and powers of attorney.

971 (c) Medication administration.

972 (d) Care and medication of residents with dementia and
973 Alzheimer's disease.

974 (e) Accounting for residents' funds.

975 (f) Discharge rights and responsibilities.

976 (g) Cultural sensitivity.

977 (h) Any other topic related to residency within a long-term
978 care facility recommended by the secretary.

979 (3) An individual ~~No employee, officer, or representative~~
980 ~~of the office or of the state or local councils,~~ other than the
981 state ombudsman, may not hold himself or herself out as a
982 representative of the office ~~State Long-Term Care Ombudsman~~
983 ~~Program~~ or conduct any authorized program duty described in this
984 part unless the individual person has received the training
985 required by this section and has been certified by the state
986 ombudsman as qualified to carry out ombudsman activities on

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987 behalf of the office ~~or the state or local councils.~~

988 Section 19. Subsection (4) of section 20.41, Florida

989 Statutes, is amended to read:

990 20.41 Department of Elderly Affairs.—There is created a

991 Department of Elderly Affairs.

992 (4) The department shall administer the Office of State

993 Long-Term Care Ombudsman Council, created by s. 400.0063

994 ~~400.0067, and the local long-term care ombudsman councils,~~

995 ~~created by s. 400.0069~~ and shall, as required by s. 712 of the

996 federal Older Americans Act of 1965, ensure that ~~both~~ the state

997 ~~office operates and local long-term care ombudsman councils~~

998 ~~operate~~ in compliance with the Older Americans Act.

999 Section 20. Subsections (10) through (19) of section

1000 400.021, Florida Statutes, are amended to read:

1001 400.021 Definitions.—When used in this part, unless the

1002 context otherwise requires, the term:

1003 ~~(10) "Local ombudsman council" means a local long-term care~~

1004 ~~ombudsman council established pursuant to s. 400.0069, located~~

1005 ~~within the Older Americans Act planning and service areas.~~

1006 (10)(11) "Nursing home bed" means an accommodation which is

1007 ready for immediate occupancy, or is capable of being made ready

1008 for occupancy within 48 hours, excluding provision of staffing;

1009 and which conforms to minimum space requirements, including the

1010 availability of appropriate equipment and furnishings within the

1011 48 hours, as specified by rule of the agency, for the provision

1012 of services specified in this part to a single resident.

1013 (11)(12) "Nursing home facility" means any facility which

1014 provides nursing services as defined in part I of chapter 464

1015 and which is licensed according to this part.

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1016 (12)(13) "Nursing service" means such services or acts as

1017 may be rendered, directly or indirectly, to and in behalf of a

1018 person by individuals as defined in s. 464.003.

1019 (13) "Office" has the same meaning as in s. 400.0060.

1020 (14) "Planning and service area" means the geographic area

1021 in which the Older Americans Act programs are administered and

1022 services are delivered by the Department of Elderly Affairs.

1023 (15) "Representative of the office" has the same meaning as

1024 in s. 400.0060.

1025 (16)(15) "Respite care" means admission to a nursing home

1026 for the purpose of providing a short period of rest or relief or

1027 emergency alternative care for the primary caregiver of an

1028 individual receiving care at home who, without home-based care,

1029 would otherwise require institutional care.

1030 (17)(16) "Resident care plan" means a written plan

1031 developed, maintained, and reviewed not less than quarterly by a

1032 registered nurse, with participation from other facility staff

1033 and the resident or his or her designee or legal representative,

1034 which includes a comprehensive assessment of the needs of an

1035 individual resident; the type and frequency of services required

1036 to provide the necessary care for the resident to attain or

1037 maintain the highest practicable physical, mental, and

1038 psychosocial well-being; a listing of services provided within

1039 or outside the facility to meet those needs; and an explanation

1040 of service goals.

1041 (18)(17) "Resident designee" means a person, other than the

1042 owner, administrator, or employee of the facility, designated in

1043 writing by a resident or a resident's guardian, if the resident

1044 is adjudicated incompetent, to be the resident's representative

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1045 for a specific, limited purpose.

1046 ~~(19)(18)~~ "State ombudsman program council" has the same
1047 meaning as in s. 400.0060 means the State Long-Term Care
1048 Ombudsman Council established pursuant to s. 400.0067.

1049 ~~(20)(19)~~ "Therapeutic spa services" means bathing, nail,
1050 and hair care services and other similar services related to
1051 personal hygiene.

1052 Section 21. Paragraph (c) of subsection (1) and subsections
1053 (2) and (3) of section 400.022, Florida Statutes, are amended to
1054 read:

1055 400.022 Residents' rights.—

1056 (1) All licensees of nursing home facilities shall adopt
1057 and make public a statement of the rights and responsibilities
1058 of the residents of such facilities and shall treat such
1059 residents in accordance with the provisions of that statement.
1060 The statement shall assure each resident the following:

1061 (c) Any entity or individual that provides health, social,
1062 legal, or other services to a resident has the right to have
1063 reasonable access to the resident. The resident has the right to
1064 deny or withdraw consent to access at any time by any entity or
1065 individual. Notwithstanding the visiting policy of the facility,
1066 the following individuals must be permitted immediate access to
1067 the resident:

1068 1. Any representative of the federal or state government,
1069 including, but not limited to, representatives of the Department
1070 of Children and Families Family Services, the Department of
1071 Health, the Agency for Health Care Administration, the Office of
1072 the Attorney General, and the Department of Elderly Affairs; any
1073 law enforcement officer; any representative members of the

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1074 ~~office state or local ombudsman council~~; and the resident's
1075 individual physician.

1076 2. Subject to the resident's right to deny or withdraw
1077 consent, immediate family or other relatives of the resident.

1078
1079 The facility must allow representatives of the office state
1080 ~~Long-Term Care ombudsman Council~~ to examine a resident's
1081 clinical records with the permission of the resident or the
1082 resident's legal representative and consistent with state law.

1083 (2) The licensee for each nursing home shall orally inform
1084 the resident of the resident's rights and provide a copy of the
1085 statement required by subsection (1) to each resident or the
1086 resident's legal representative at or before the resident's
1087 admission to a facility. The licensee shall provide a copy of
1088 the resident's rights to each staff member of the facility. Each
1089 such licensee shall prepare a written plan and provide
1090 appropriate staff training to implement ~~the provisions of this~~
1091 section. The written statement of rights must include a
1092 statement that a resident may file a complaint with the agency
1093 or state local ombudsman program council. The statement must be
1094 in boldfaced type and ~~shall include the name, address, and~~
1095 telephone number and e-mail address of the state numbers of the
1096 ~~local~~ ombudsman program council and the telephone number of the
1097 central abuse hotline where complaints may be lodged.

1098 (3) Any violation of the resident's rights set forth in
1099 this section ~~constitutes shall constitute~~ grounds for action by
1100 the agency under ~~the provisions of~~ s. 400.102, s. 400.121, or
1101 part II of chapter 408. In order to determine whether the
1102 licensee is adequately protecting residents' rights, the

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1103 licensure inspection of the facility ~~must shall~~ include private
 1104 informal conversations with a sample of residents to discuss
 1105 residents' experiences within the facility with respect to
 1106 rights specified in this section and general compliance with
 1107 standards, and consultation with the state ombudsman program
 1108 ~~council in the local planning and service area of the Department~~
 1109 ~~of Elderly Affairs in which the nursing home is located.~~

1110 Section 22. Subsections (8), (9), and (11) through (14) of
 1111 section 400.0255, Florida Statutes, are amended to read:

1112 400.0255 Resident transfer or discharge; requirements and
 1113 procedures; hearings.-

1114 (8) The notice required by subsection (7) must be in
 1115 writing and must contain all information required by state and
 1116 federal law, rules, or regulations applicable to Medicaid or
 1117 Medicare cases. The agency shall develop a standard document to
 1118 be used by all facilities licensed under this part for purposes
 1119 of notifying residents of a discharge or transfer. Such document
 1120 must include a means for a resident to request the office local
 1121 ~~long-term care ombudsman council~~ to review the notice and
 1122 request information about or assistance with initiating a fair
 1123 hearing with the department's Office of Appeals Hearings. In
 1124 addition to any other pertinent information included, the form
 1125 shall specify the reason allowed under federal or state law that
 1126 the resident is being discharged or transferred, with an
 1127 explanation to support this action. Further, the form ~~must shall~~
 1128 state the effective date of the discharge or transfer and the
 1129 location to which the resident is being discharged or
 1130 transferred. The form ~~must shall~~ clearly describe the resident's
 1131 appeal rights and the procedures for filing an appeal, including

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1132 the right to request the office local ombudsman council to
 1133 review the notice of discharge or transfer. A copy of the notice
 1134 must be placed in the resident's clinical record, and a copy
 1135 must be transmitted to the resident's legal guardian or
 1136 representative and to the office local ombudsman council within
 1137 5 business days after signature by the resident or resident
 1138 designee.

1139 (9) A resident may request that the office local ombudsman
 1140 ~~council~~ review any notice of discharge or transfer given to the
 1141 resident. When requested by a resident to review a notice of
 1142 discharge or transfer, the office local ombudsman council shall
 1143 do so within 7 days after receipt of the request. The nursing
 1144 home administrator, or the administrator's designee, must
 1145 forward the request for review contained in the notice to the
 1146 office local ombudsman council within 24 hours after such
 1147 request is submitted. Failure to forward the request within 24
 1148 hours after the request is submitted shall toll the running of
 1149 the 30-day advance notice period until the request has been
 1150 forwarded.

1151 (11) Notwithstanding paragraph (10)(b), an emergency
 1152 discharge or transfer may be implemented as necessary pursuant
 1153 to state or federal law during the ~~period of~~ time after the
 1154 notice is given and before the time a hearing decision is
 1155 rendered. Notice of an emergency discharge or transfer to the
 1156 resident, the resident's legal guardian or representative, and
 1157 the office local ombudsman council if requested pursuant to
 1158 subsection (9) must be by telephone or in person. This notice
 1159 shall be given before the transfer, if possible, or as soon
 1160 thereafter as practicable. A representative of the office local

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1161 ~~ombudsman council~~ conducting a review under this subsection
 1162 shall do so within 24 hours after receipt of the request. The
 1163 resident's file must be documented to show who was contacted,
 1164 whether the contact was by telephone or in person, and the date
 1165 and time of the contact. If the notice is not given in writing,
 1166 written notice meeting the requirements of subsection (8) must
 1167 be given the next working day.

1168 (12) After receipt of any notice required under this
 1169 section, the office local ombudsman council may request a
 1170 private informal conversation with a resident to whom the notice
 1171 is directed, and, if known, a family member or the resident's
 1172 legal guardian or designee, to ensure that the facility is
 1173 proceeding with the discharge or transfer in accordance with ~~the~~
 1174 ~~requirements of~~ this section. If requested, the office local
 1175 ~~ombudsman council~~ shall assist the resident with filing an
 1176 appeal of the proposed discharge or transfer.

1177 (13) The following persons must be present at all hearings
 1178 authorized under this section:

1179 (a) The resident, or the resident's legal representative or
 1180 designee.

1181 (b) The facility administrator, or the facility's legal
 1182 representative or designee.

1183

1184 A representative of the office local long-term care ombudsman
 1185 ~~council~~ may be present at all hearings authorized by this
 1186 section.

1187 (14) In any hearing under this section, the following
 1188 information concerning the parties shall be confidential and
 1189 exempt from ~~the provisions of~~ s. 119.07(1):

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1190 (a) Names and addresses.
 1191 (b) Medical services provided.
 1192 (c) Social and economic conditions or circumstances.
 1193 (d) Evaluation of personal information.
 1194 (e) Medical data, including diagnosis and past history of
 1195 disease or disability.
 1196 (f) Any information received verifying income eligibility
 1197 and amount of medical assistance payments. Income information
 1198 received from the Social Security Administration or the Internal
 1199 Revenue Service must be safeguarded according to the
 1200 requirements of the agency that furnished the data.
 1201
 1202 The exemption created by this subsection does not prohibit
 1203 access to such information by a representative of the office
 1204 ~~local long-term care ombudsman council~~ upon request, by a
 1205 reviewing court if such information is required to be part of
 1206 the record upon subsequent review, or as specified in s. 24(a),
 1207 Art. I of the State Constitution.

1208 Section 23. Subsection (2) of section 400.1413, Florida
 1209 Statutes, is amended to read:

1210 400.1413 Volunteers in nursing homes.—

1211 (2) This section does not affect the activities of the
 1212 ~~state or local long-term care ombudsman~~ program councils
 1213 authorized under part I.

1214 Section 24. Paragraph (d) of subsection (5) of section
 1215 400.162, Florida Statutes, is amended to read:

1216 400.162 Property and personal affairs of residents.—

1217 (5)

1218 (d) If, at any time during the period for which a license

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1219 is issued, a licensee that has not purchased a surety bond or
 1220 entered into a self-insurance agreement, as provided in
 1221 paragraphs (b) and (c), is requested to provide safekeeping for
 1222 the personal funds of a resident, the licensee shall notify the
 1223 agency of the request and make application for a surety bond or
 1224 for participation in a self-insurance agreement within 7 days
 1225 ~~after~~ of the request, exclusive of weekends and holidays. Copies
 1226 of the application, along with written documentation of related
 1227 correspondence with an insurance agency or group, shall be
 1228 maintained by the licensee for review by the agency and the
 1229 office state Nursing Home and Long-Term Care Facility ombudsman
 1230 Council.

1231 Section 25. Subsections (1) and (4) of section 400.19,
 1232 Florida Statutes, are amended to read:

1233 400.19 Right of entry and inspection.—

1234 (1) In accordance with part II of chapter 408, the agency
 1235 and any duly designated officer or employee thereof or a
 1236 representative member of the office state Long-Term Care
 1237 ombudsman Council or the local long-term care ombudsman council
 1238 shall have the right to enter upon and into the premises of any
 1239 facility licensed pursuant to this part, or any distinct nursing
 1240 home unit of a hospital licensed under chapter 395 or any
 1241 freestanding facility licensed under chapter 395 which that
 1242 provides extended care or other long-term care services, at any
 1243 reasonable time in order to determine the state of compliance
 1244 with ~~the provisions of~~ this part, part II of chapter 408, and
 1245 applicable rules in force pursuant thereto. The agency shall,
 1246 within 60 days after receipt of a complaint made by a resident
 1247 or resident's representative, complete its investigation and

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1248 provide to the complainant its findings and resolution.

1249 (4) The agency shall conduct unannounced onsite facility
 1250 reviews following written verification of licensee noncompliance
 1251 in instances in which ~~the office a long-term care ombudsman~~
 1252 ~~council~~, pursuant to ss. 400.0071 and 400.0075, has received a
 1253 complaint and has documented deficiencies in resident care or in
 1254 the physical plant of the facility that threaten the health,
 1255 safety, or security of residents, or when the agency documents
 1256 through inspection that conditions in a facility present a
 1257 direct or indirect threat to the health, safety, or security of
 1258 residents. However, the agency shall conduct unannounced onsite
 1259 reviews every 3 months of each facility while the facility has a
 1260 conditional license. Deficiencies related to physical plant do
 1261 not require followup reviews after the agency has determined
 1262 that correction of the deficiency has been accomplished and that
 1263 the correction is of the nature that continued compliance can be
 1264 reasonably expected.

1265 Section 26. Subsection (1) of section 400.191, Florida
 1266 Statutes, is amended to read:

1267 400.191 Availability, distribution, and posting of reports
 1268 and records.—

1269 (1) The agency shall provide information to the public
 1270 about all of the licensed nursing home facilities operating in
 1271 the state. The agency shall, within 60 days after a licensure
 1272 inspection visit or within 30 days after any interim visit to a
 1273 facility, send copies of the inspection reports to the office
 1274 ~~local long-term care ombudsman council~~, the agency's local
 1275 office, and a public library or the county seat for the county
 1276 in which the facility is located. The agency may provide

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1277 electronic access to inspection reports as a substitute for
 1278 sending copies.

1279 Section 27. Subsection (6) and paragraph (c) of subsection
 1280 (7) of section 400.23, Florida Statutes, are amended to read:

1281 400.23 Rules; evaluation and deficiencies; licensure
 1282 status.—

1283 (6) ~~Before~~ ~~Prior to~~ conducting a survey of the facility,
 1284 the survey team shall obtain a copy of the office's local long-
 1285 ~~term care ombudsman council~~ report on the facility. Problems
 1286 noted in the report shall be incorporated into and followed up
 1287 through the agency's inspection process. This procedure does not
 1288 preclude the office local long term care ombudsman council from
 1289 requesting the agency to conduct a followup visit to the
 1290 facility.

1291 (7) The agency shall, at least every 15 months, evaluate
 1292 all nursing home facilities and make a determination as to the
 1293 degree of compliance by each licensee with the established rules
 1294 adopted under this part as a basis for assigning a licensure
 1295 status to that facility. The agency shall base its evaluation on
 1296 the most recent inspection report, taking into consideration
 1297 findings from other official reports, surveys, interviews,
 1298 investigations, and inspections. In addition to license
 1299 categories authorized under part II of chapter 408, the agency
 1300 shall assign a licensure status of standard or conditional to
 1301 each nursing home.

1302 (c) In evaluating the overall quality of care and services
 1303 and determining whether the facility will receive a conditional
 1304 or standard license, the agency shall consider the needs and
 1305 limitations of residents in the facility and the results of

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1306 interviews and surveys of a representative sampling of
 1307 residents, families of residents, representatives of the office
 1308 ~~ombudsman council members in the planning and service area in~~
 1309 ~~which the facility is located~~, guardians of residents, and staff
 1310 of the nursing home facility.

1311 Section 28. Paragraph (a) of subsection (3), paragraph (f)
 1312 of subsection (5), and subsection (6) of section 400.235,
 1313 Florida Statutes, are amended to read:

1314 400.235 Nursing home quality and licensure status; Gold
 1315 Seal Program.—

1316 (3) (a) The Gold Seal Program shall be developed and
 1317 implemented by the Governor's Panel on Excellence in Long-Term
 1318 Care which shall operate under the authority of the Executive
 1319 Office of the Governor. The panel shall be composed of three
 1320 persons appointed by the Governor, to include a consumer
 1321 advocate for senior citizens and two persons with expertise in
 1322 the fields of quality management, service delivery excellence,
 1323 or public sector accountability; three persons appointed by the
 1324 Secretary of Elderly Affairs, to include an active member of a
 1325 nursing facility family and resident care council and a member
 1326 of the University Consortium on Aging; a representative of the
 1327 Office of State Long-Term Care Ombudsman; one person appointed
 1328 by the Florida Life Care Residents Association; one person
 1329 appointed by the State Surgeon General; two persons appointed by
 1330 the Secretary of Health Care Administration; one person
 1331 appointed by the Florida Association of Homes for the Aging; and
 1332 one person appointed by the Florida Health Care Association.
 1333 Vacancies on the panel shall be filled in the same manner as the
 1334 original appointments.

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1335 (5) Facilities must meet the following additional criteria
1336 for recognition as a Gold Seal Program facility:

1337 (f) Evidence an outstanding record regarding the number and
1338 types of substantiated complaints reported to the Office of
1339 State Long-Term Care Ombudsman ~~Council~~ within the 30 months
1340 preceding application for the program.

1341

1342 A facility assigned a conditional licensure status may not
1343 qualify for consideration for the Gold Seal Program until after
1344 it has operated for 30 months with no class I or class II
1345 deficiencies and has completed a regularly scheduled relicensure
1346 survey.

1347 (6) The agency, nursing facility industry organizations,
1348 consumers, Office of State Long-Term Care Ombudsman ~~Council~~, and
1349 members of the community may recommend to the Governor
1350 facilities that meet the established criteria for consideration
1351 for and award of the Gold Seal. The panel shall review nominees
1352 and make a recommendation to the Governor for final approval and
1353 award. The decision of the Governor is final and is not subject
1354 to appeal.

1355 Section 29. Present subsections (18) through (28) of
1356 section 415.102, Florida Statutes, are redesignated as
1357 subsections (19) through (29), respectively, and a new
1358 subsection (18) is added to that section, to read:

1359 415.102 Definitions of terms used in ss. 415.101-415.113.-
1360 As used in ss. 415.101-415.113, the term:

1361 (18) "Office" has the same meaning as in s. 400.0060.

1362 Section 30. Paragraph (a) of subsection (1) of section
1363 415.1034, Florida Statutes, is amended to read:

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1364 415.1034 Mandatory reporting of abuse, neglect, or
1365 exploitation of vulnerable adults; mandatory reports of death.-

1366 (1) MANDATORY REPORTING.-

1367 (a) Any person, including, but not limited to, any:

1368 1. Physician, osteopathic physician, medical examiner,
1369 chiropractic physician, nurse, paramedic, emergency medical
1370 technician, or hospital personnel engaged in the admission,
1371 examination, care, or treatment of vulnerable adults;

1372 2. Health professional or mental health professional other
1373 than one listed in subparagraph 1.;

1374 3. Practitioner who relies solely on spiritual means for
1375 healing;

1376 4. Nursing home staff; assisted living facility staff;
1377 adult day care center staff; adult family-care home staff;
1378 social worker; or other professional adult care, residential, or
1379 institutional staff;

1380 5. State, county, or municipal criminal justice employee or
1381 law enforcement officer;

1382 6. ~~An~~ Employee of the Department of Business and
1383 Professional Regulation conducting inspections of public lodging
1384 establishments under s. 509.032;

1385 7. Florida advocacy council member or representative of the
1386 Office of State Long-Term Care Ombudsman ~~council member~~; or

1387 8. Bank, savings and loan, or credit union officer,
1388 trustee, or employee,

1389

1390 who knows, or has reasonable cause to suspect, that a vulnerable
1391 adult has been or is being abused, neglected, or exploited shall
1392 immediately report such knowledge or suspicion to the central

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1393 abuse hotline.

1394 Section 31. Subsection (1) of section 415.104, Florida

1395 Statutes, is amended to read:

1396 415.104 Protective investigations of cases of abuse,

1397 neglect, or exploitation of vulnerable adults; transmittal of

1398 records to state attorney.-

1399 (1) The department shall, upon receipt of a report alleging

1400 abuse, neglect, or exploitation of a vulnerable adult, begin

1401 within 24 hours a protective investigation of the facts alleged

1402 therein. If a caregiver refuses to allow the department to begin

1403 a protective investigation or interferes with the conduct of

1404 such an investigation, the appropriate law enforcement agency

1405 shall be contacted for assistance. If, during the course of the

1406 investigation, the department has reason to believe that the

1407 abuse, neglect, or exploitation is perpetrated by a second

1408 party, the appropriate law enforcement agency and state attorney

1409 shall be orally notified. The department and the law enforcement

1410 agency shall cooperate to allow the criminal investigation to

1411 proceed concurrently with, and not be hindered by, the

1412 protective investigation. The department shall make a

1413 preliminary written report to the law enforcement agencies

1414 within 5 working days after the oral report. The department

1415 shall, within 24 hours after receipt of the report, notify the

1416 appropriate Florida local advocacy council, or the office long-

1417 ~~term care ombudsman council~~, when appropriate, that an alleged

1418 abuse, neglect, or exploitation perpetrated by a second party

1419 has occurred. Notice to the Florida local advocacy council or

1420 the office long-term care ombudsman council may be accomplished

1421 orally or in writing and shall include the name and location of

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1422 the vulnerable adult alleged to have been abused, neglected, or

1423 exploited and the nature of the report.

1424 Section 32. Subsection (8) of section 415.1055, Florida

1425 Statutes, is amended to read:

1426 415.1055 Notification to administrative entities.-

1427 (8) At the conclusion of a protective investigation at a

1428 facility, the department shall notify ~~either~~ the Florida local

1429 advocacy council or the office long-term care ombudsman council

1430 of the results of the investigation. This notification must be

1431 in writing.

1432 Section 33. Subsection (2) of section 415.106, Florida

1433 Statutes, is amended to read:

1434 415.106 Cooperation by the department and criminal justice

1435 and other agencies.-

1436 (2) To ensure coordination, communication, and cooperation

1437 with the investigation of abuse, neglect, or exploitation of

1438 vulnerable adults, the department shall develop and maintain

1439 interprogram agreements or operational procedures among

1440 appropriate departmental programs and the Office of State Long-

1441 ~~Term Care Ombudsman Council~~, the Florida Statewide Advocacy

1442 Council, and other agencies that provide services to vulnerable

1443 adults. These agreements or procedures must cover such subjects

1444 as the appropriate roles and responsibilities of the department

1445 in identifying and responding to reports of abuse, neglect, or

1446 exploitation of vulnerable adults; the provision of services;

1447 and related coordinated activities.

1448 Section 34. Paragraph (g) of subsection (3) of section

1449 415.107, Florida Statutes, is amended to read:

1450 415.107 Confidentiality of reports and records.-

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1451 (3) Access to all records, excluding the name of the
 1452 reporter which shall be released only as provided in subsection
 1453 (6), shall be granted only to the following persons, officials,
 1454 and agencies:

1455 (g) Any appropriate official of the Florida advocacy
 1456 council or the office long-term care ombudsman council
 1457 investigating a report of known or suspected abuse, neglect, or
 1458 exploitation of a vulnerable adult.

1459 Section 35. Present subsections (16) through (26) of
 1460 section 429.02, Florida Statutes, are redesignated as
 1461 subsections (17) through (27), respectively, present subsections
 1462 (11) and (20) are amended, and a new subsection (16) is added to
 1463 that section, to read:

1464 429.02 Definitions.—When used in this part, the term:

1465 (11) "Extended congregate care" means acts beyond those
 1466 authorized in subsection (17) ~~(16)~~ that may be performed
 1467 pursuant to part I of chapter 464 by persons licensed thereunder
 1468 while carrying out their professional duties, and other
 1469 supportive services which may be specified by rule. The purpose
 1470 of such services is to enable residents to age in place in a
 1471 residential environment despite mental or physical limitations
 1472 that might otherwise disqualify them from residency in a
 1473 facility licensed under this part.

1474 (16) "Office" has the same meaning as in s. 400.0060.

1475 (21)(20) "Resident's representative or designee" means a
 1476 person other than the owner, or an agent or employee of the
 1477 facility, designated in writing by the resident, if legally
 1478 competent, to receive notice of changes in the contract executed
 1479 pursuant to s. 429.24; to receive notice of and to participate

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1480 in meetings between the resident and the facility owner,
 1481 administrator, or staff concerning the rights of the resident;
 1482 to assist the resident in contacting the office ombudsman
 1483 ~~council~~ if the resident has a complaint against the facility; or
 1484 to bring legal action on behalf of the resident pursuant to s.
 1485 429.29.

1486 Section 36. Paragraph (b) of subsection (3) of section
 1487 429.07, Florida Statutes, is amended to read:

1488 429.07 License required; fee.—

1489 (3) In addition to the requirements of s. 408.806, each
 1490 license granted by the agency must state the type of care for
 1491 which the license is granted. Licenses shall be issued for one
 1492 or more of the following categories of care: standard, extended
 1493 congregate care, limited nursing services, or limited mental
 1494 health.

1495 (b) An extended congregate care license shall be issued to
 1496 facilities providing, directly or through contract, services
 1497 beyond those authorized in paragraph (a), including services
 1498 performed by persons licensed under part I of chapter 464 and
 1499 supportive services, as defined by rule, to persons who would
 1500 otherwise be disqualified from continued residence in a facility
 1501 licensed under this part.

1502 1. In order for extended congregate care services to be
 1503 provided, the agency must first determine that all requirements
 1504 established in law and rule are met and must specifically
 1505 designate, on the facility's license, that such services may be
 1506 provided and whether the designation applies to all or part of
 1507 the facility. Such designation may be made at the time of
 1508 initial licensure or relicensure, or upon request in writing by

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1509 a licensee under this part and part II of chapter 408. The
 1510 notification of approval or the denial of the request shall be
 1511 made in accordance with part II of chapter 408. Existing
 1512 facilities qualifying to provide extended congregate care
 1513 services must have maintained a standard license and may not
 1514 have been subject to administrative sanctions during the
 1515 previous 2 years, or since initial licensure if the facility has
 1516 been licensed for less than 2 years, for any of the following
 1517 reasons:

- 1518 a. A class I or class II violation;
 - 1519 b. Three or more repeat or recurring class III violations
 1520 of identical or similar resident care standards from which a
 1521 pattern of noncompliance is found by the agency;
 - 1522 c. Three or more class III violations that were not
 1523 corrected in accordance with the corrective action plan approved
 1524 by the agency;
 - 1525 d. Violation of resident care standards which results in
 1526 requiring the facility to employ the services of a consultant
 1527 pharmacist or consultant dietitian;
 - 1528 e. Denial, suspension, or revocation of a license for
 1529 another facility licensed under this part in which the applicant
 1530 for an extended congregate care license has at least 25 percent
 1531 ownership interest; or
 - 1532 f. Imposition of a moratorium pursuant to this part or part
 1533 II of chapter 408 or initiation of injunctive proceedings.
- 1534 2. A facility that is licensed to provide extended
 1535 congregate care services shall maintain a written progress
 1536 report on each person who receives services which describes the
 1537 type, amount, duration, scope, and outcome of services that are

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1538 rendered and the general status of the resident's health. A
 1539 registered nurse, or appropriate designee, representing the
 1540 agency shall visit the facility at least quarterly to monitor
 1541 residents who are receiving extended congregate care services
 1542 and to determine whether ~~if~~ the facility is in compliance with
 1543 this part, part II of chapter 408, and relevant rules. One of
 1544 the visits may be in conjunction with the regular survey. The
 1545 monitoring visits may be provided through contractual
 1546 arrangements with appropriate community agencies. A registered
 1547 nurse shall serve as part of the team that inspects the
 1548 facility. The agency may waive one of the required yearly
 1549 monitoring visits for a facility that has been licensed for at
 1550 least 24 months to provide extended congregate care services,
 1551 if, during the inspection, the registered nurse determines that
 1552 extended congregate care services are being provided
 1553 appropriately, and if the facility has no class I or class II
 1554 violations and no uncorrected class III violations. The agency
 1555 must first consult with the office long-term care ombudsman
 1556 ~~council~~ for the area in which the facility is located to
 1557 determine whether ~~if~~ any complaints have been made and
 1558 substantiated about the quality of services or care. The agency
 1559 may not waive one of the required yearly monitoring visits if
 1560 complaints have been made and substantiated.

1561 3. A facility that is licensed to provide extended
 1562 congregate care services must:

- 1563 a. Demonstrate the capability to meet unanticipated
 1564 resident service needs.
- 1565 b. Offer a physical environment that promotes a homelike
 1566 setting, provides for resident privacy, promotes resident

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1567 independence, and allows sufficient congregate space as defined
 1568 by rule.

1569 c. Have sufficient staff available, taking into account the
 1570 physical plant and firesafety features of the building, to
 1571 assist with the evacuation of residents in an emergency.

1572 d. Adopt and follow policies and procedures that maximize
 1573 resident independence, dignity, choice, and decisionmaking to
 1574 permit residents to age in place, so that moves due to changes
 1575 in functional status are minimized or avoided.

1576 e. Allow residents or, if applicable, a resident's
 1577 representative, designee, surrogate, guardian, or attorney in
 1578 fact to make a variety of personal choices, participate in
 1579 developing service plans, and share responsibility in
 1580 decisionmaking.

1581 f. Implement the concept of managed risk.

1582 g. Provide, directly or through contract, the services of a
 1583 person licensed under part I of chapter 464.

1584 h. In addition to the training mandated in s. 429.52,
 1585 provide specialized training as defined by rule for facility
 1586 staff.

1587 4. A facility that is licensed to provide extended
 1588 congregate care services is exempt from the criteria for
 1589 continued residency set forth in rules adopted under s. 429.41.
 1590 A licensed facility must adopt its own requirements within
 1591 guidelines for continued residency set forth by rule. However,
 1592 the facility may not serve residents who require 24-hour nursing
 1593 supervision. A licensed facility that provides extended
 1594 congregate care services must also provide each resident with a
 1595 written copy of facility policies governing admission and

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1596 retention.

1597 5. The primary purpose of extended congregate care services
 1598 is to allow residents, as they become more impaired, the option
 1599 of remaining in a familiar setting from which they would
 1600 otherwise be disqualified for continued residency. A facility
 1601 licensed to provide extended congregate care services may also
 1602 admit an individual who exceeds the admission criteria for a
 1603 facility with a standard license, if the individual is
 1604 determined appropriate for admission to the extended congregate
 1605 care facility.

1606 6. Before the admission of an individual to a facility
 1607 licensed to provide extended congregate care services, the
 1608 individual must undergo a medical examination as provided in s.
 1609 429.26(4) and the facility must develop a preliminary service
 1610 plan for the individual.

1611 7. When a facility can no longer provide or arrange for
 1612 services in accordance with the resident's service plan and
 1613 needs and the facility's policy, the facility shall make
 1614 arrangements for relocating the person in accordance with s.
 1615 429.28(1)(k).

1616 8. Failure to provide extended congregate care services may
 1617 result in denial of extended congregate care license renewal.

1618 Section 37. Subsection (9) of section 429.19, Florida
 1619 Statutes, is amended to read:
 1620 429.19 Violations; imposition of administrative fines;
 1621 grounds.—
 1622 (9) The agency shall develop and disseminate an annual list
 1623 of all facilities sanctioned or fined for violations of state
 1624 standards, the number and class of violations involved, the

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1625 penalties imposed, and the current status of cases. The list
 1626 shall be disseminated, at no charge, to the Department of
 1627 Elderly Affairs, the Department of Health, the Department of
 1628 Children and ~~Families Family Services~~, the Agency for Persons
 1629 with Disabilities, the area agencies on aging, the Florida
 1630 Statewide Advocacy Council, and the ~~office state and local~~
 1631 ~~ombudsman councils~~. The Department of Children and ~~Families~~
 1632 ~~Family Services~~ shall disseminate the list to service providers
 1633 under contract to the department who are responsible for
 1634 referring persons to a facility for residency. The agency may
 1635 charge a fee commensurate with the cost of printing and postage
 1636 to other interested parties requesting a copy of this list. This
 1637 information may be provided electronically or through the
 1638 agency's Internet site.

1639 Section 38. Subsection (8) of section 429.26, Florida
 1640 Statutes, is amended to read:

1641 429.26 Appropriateness of placements; examinations of
 1642 residents.-

1643 (8) The Department of Children and ~~Families Family Services~~
 1644 may require an examination for supplemental security income and
 1645 optional state supplementation recipients residing in facilities
 1646 at any time and shall provide the examination whenever a
 1647 resident's condition requires it. Any facility administrator;
 1648 personnel of the agency, the department, or the Department of
 1649 Children and ~~Families Family Services~~; or representative of the
 1650 Office of the State Long-Term Care Ombudsman long-term care
 1651 ~~ombudsman council member~~ who believes a resident needs to be
 1652 evaluated shall notify the resident's case manager, who shall
 1653 take appropriate action. A report of the examination findings

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1654 shall be provided to the resident's case manager and the
 1655 facility administrator to help the administrator meet his or her
 1656 responsibilities under subsection (1).

1657 Section 39. Subsection (2) and paragraph (b) of subsection
 1658 (3) of section 429.28, Florida Statutes, are amended to read:

1659 429.28 Resident bill of rights.-

1660 (2) The administrator of a facility shall ensure that a
 1661 written notice of the rights, obligations, and prohibitions set
 1662 forth in this part is posted in a prominent place in each
 1663 facility and read or explained to residents who cannot read.
 1664 This notice must ~~shall~~ include the statewide toll-free telephone
 1665 number and e-mail address of the state ombudsman program and the
 1666 telephone number of the name, address, and telephone numbers of
 1667 the local ombudsman council and central abuse hotline and, when
 1668 applicable, the Advocacy Center for Persons with Disabilities,
 1669 Inc., and the Florida local advocacy council, where complaints
 1670 may be lodged. The facility must ensure a resident's access to a
 1671 telephone to call the state local ombudsman program council, the
 1672 central abuse hotline, the Advocacy Center for Persons with
 1673 Disabilities, Inc., and the Florida local advocacy council.

1674 (3)

1675 (b) In order to determine whether the facility is
 1676 adequately protecting residents' rights, the biennial survey
 1677 shall include private informal conversations with a sample of
 1678 residents and consultation with the state ombudsman program
 1679 council in the planning and service area in which the facility
 1680 is located to discuss residents' experiences within the
 1681 facility.

1682 Section 40. Section 429.34, Florida Statutes, is amended to

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1683 read:

1684 429.34 Right of entry and inspection.—In addition to the
 1685 requirements of s. 408.811, ~~a any~~ duly designated officer or
 1686 employee of the department, the Department of Children and
 1687 ~~Families Family Services~~, the Medicaid Fraud Control Unit of the
 1688 Office of the Attorney General, the state or local fire marshal,
 1689 or a representative member of the Office of the State Long-Term
 1690 Care Ombudsman ~~may state or local long-term care ombudsman~~
 1691 ~~council shall have the right to~~ enter unannounced upon and into
 1692 the premises of any facility licensed under ~~pursuant to~~ this
 1693 part in order to determine the state of compliance with ~~the~~
 1694 ~~provisions of~~ this part, part II of chapter 408, and applicable
 1695 rules. Data collected by the office ~~state or local long-term~~
 1696 ~~care ombudsman councils~~ or the state or local advocacy councils
 1697 may be used by the agency in investigations involving violations
 1698 of regulatory standards.

1699 Section 41. Subsection (2) of section 429.35, Florida
 1700 Statutes, is amended to read:

1701 429.35 Maintenance of records; reports.—

1702 (2) Within 60 days after the date of the biennial
 1703 inspection visit required under s. 408.811 or within 30 days
 1704 after the date of any interim visit, the agency shall forward
 1705 the results of the inspection to the office ~~local ombudsman~~
 1706 ~~council in whose planning and service area, as defined in part~~
 1707 ~~II of chapter 400, the facility is located;~~ to at least one
 1708 public library or, in the absence of a public library, the
 1709 county seat in the county in which the inspected assisted living
 1710 facility is located; and, when appropriate, to the district
 1711 Adult Services and Mental Health Program Offices.

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1712 Section 42. Subsection (6) of section 429.67, Florida
 1713 Statutes, is amended to read:

1714 429.67 Licensure.—

1715 (6) In addition to the requirements of s. 408.811, access
 1716 to a licensed adult family-care home must be provided at
 1717 reasonable times for the appropriate officials of the
 1718 department, the Department of Health, the Department of Children
 1719 and ~~Families Family Services~~, the agency, and the State Fire
 1720 Marshal, who are responsible for the development and maintenance
 1721 of fire, health, sanitary, and safety standards, to inspect the
 1722 facility to assure compliance with these standards. In addition,
 1723 access to a licensed adult family-care home must be provided at
 1724 reasonable times to representatives of the Office of State ~~for~~
 1725 ~~the local~~ Long-Term Care Ombudsman ~~council~~.

1726 Section 43. Subsection (2) of section 429.85, Florida
 1727 Statutes, is amended to read:

1728 429.85 Residents' bill of rights.—

1729 (2) The provider shall ensure that residents and their
 1730 legal representatives are made aware of the rights, obligations,
 1731 and prohibitions set forth in this part. Residents must also be
 1732 given the statewide toll-free telephone number and e-mail
 1733 address of the state ombudsman program and the telephone number
 1734 of names, addresses, and telephone numbers of the local
 1735 ~~ombudsman council~~ and the central abuse hotline where they may
 1736 lodge complaints.

1737 Section 44. Subsection (17) of section 744.444, Florida
 1738 Statutes, is amended to read:

1739 744.444 Power of guardian without court approval.—Without
 1740 obtaining court approval, a plenary guardian of the property, or

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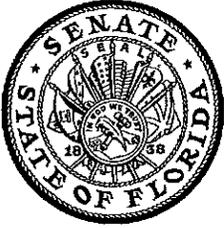
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1741 a limited guardian of the property within the powers granted by
1742 the order appointing the guardian or an approved annual or
1743 amended guardianship report, may:

1744 (17) Provide confidential information about a ward which
1745 ~~that~~ is related to an investigation arising under part I of
1746 chapter 400 to a representative of the Office of the State Long-
1747 Term Care Ombudsman ~~local or state ombudsman council member~~
1748 conducting such an investigation. Any such ombudsman shall have
1749 a duty to maintain the confidentiality of such information.

1750 Section 45. This act shall take effect July 1, 2014.



The Florida Senate

Committee Agenda Request

To: Senator Eleanor Sobel, Chair
Committee on Children, Families, and Elder Affairs

Subject: Committee Agenda Request

Date: February 5, 2014

I respectfully request that SB 508, relating to State Ombudsman Program, be placed on the:

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

A handwritten signature in black ink, reading "Nancy C. Detert".

Senator Nancy C. Detert
Florida Senate, District 28

RECEIVED

FEB 05 2014

Senate Committee
Children and Families

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-1-14
Meeting Date

Topic Ombudsman Program

Bill Number SB 508
(if applicable)

Name Susan Anderson

Amendment Barcode 826374
(if applicable)

Job Title Deputy State Ombudsman

Address 4040 Esplanade Way
Street

Phone 850-414-2054

Tallahassee FL 32399
City State Zip

E-mail andersons@elderaffairs.o

Speaking: For Against Information

Representing Long-Term Care Ombudsman Program

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-1-14
Meeting Date

Topic Ombudsman Program

Bill Number SB 508
(if applicable)

Name Susan Anderson

Amendment Barcode 532700
strike-all
(if applicable)

Job Title Deputy State Ombudsman

Address 4040 Esplanade Way
Street

Phone 850-414-2054

Tallahassee FL 32399
City State Zip

E-mail andersons@elderaffa.rs.o

Speaking: For Against Information

Representing Long-Term Care Ombudsman Program

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Ombudsman
Name JACK MURRAY
Job Title _____

Bill Number 508 (if applicable)
Amendment Barcode 537700 (if applicable)

Address 200 W COLLEGE ST.
Street
TLH FL 32301
City State Zip

Phone 250-577-5187
E-mail jmcroy@aarp.org

Speaking: For Against Information

Representing AARP

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-1-14
Meeting Date

Topic _____
Name Eric Murray
Job Title Dep. Gen. Counsel

Bill Number SB 508 (if applicable)
Amendment Barcode 537700 (if applicable)

Address 218 S Monroe St.
Street
Tallahassee FL 32301
City State Zip

Phone 850 521 1034
E-mail _____

Speaking: For Against Information

Representing Florida Justice Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-1-14
Meeting Date

main bill

Topic Long-Term Care Ombudsman

Bill Number SB 508
(if applicable)

Name Susan Anderson

Amendment Barcode _____
(if applicable)

Job Title Deputy State Ombudsman

Address 4040 Esplanade Way

Phone 850-414-2054

Tallahassee FL 32399
City State Zip

E-mail andersons@elderaffairs.org

Speaking: For Against Information

Representing Long-Term Care Ombudsman Program

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: SB 552

INTRODUCER: Senator Thompson

SUBJECT: Transactions in Fresh Produce Markets

DATE: March 31, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Weidenbenner</u>	<u>Becker</u>	<u>AG</u>	Favorable
2.	<u>Sanford</u>	<u>Hendon</u>	<u>CF</u>	Favorable
3.	_____	_____	<u>AP</u>	_____
4.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 552 permits an owner or operator of a market that sells fresh produce to allow a non-competing third party that has been authorized by the United States Department of Agriculture (USDA) to be a Supplemental Nutrition Services Program (SNAP) retailer to establish an Electronic Benefit Transfer (EBT) system to accept SNAP payments for the market's produce sellers, to the extent allowed by federal law and regulation. The bill does not require a market to operate an EBT system for its produce sellers. It also does not prohibit an authorized Food Nutrition Service produce seller from operating its own EBT system for its own customers.

The bill has no fiscal impact to the state. It has an effective date of July 1, 2014.

II. Present Situation:

The Food Research and Action Center reports that it is well documented that the SNAP program that delivers monthly benefits through EBT cards (formerly the Food Stamp Program) is beneficial to the health of children and adults and the well-being of low-income people in the United States by enhancing the food purchasing power of eligible low-income families. The review further finds that many venues, especially in low income communities, do not accept SNAP cards.¹

The Johns Hopkins Center for a Livable Future issued a report in the summer of 2012 detailing the relationship between nutritious food, farmers' markets, and the SNAP program. The report states that low-income consumers lack access to farmers' markets because the SNAP program cannot be used at many such markets since they lack wireless terminals to process EBT sales. According to the Johns Hopkins report, SNAP redemptions at farmers markets fell by half

¹ See <http://frac.org/wp-content/uploads/2011/06/SNAPstrategies.pdf>. (last visited Feb. 19, 2014).

between 1992 and 2009 with the transition to EBT, which started in 1993. The report concludes that improving EBT technology at farmers markets has the potential to improve SNAP participants' diets and health by increasing access to fresh, local fruits and vegetables.²

The federal government pays 100 percent of the SNAP benefits while the federal and state governments share administrative costs.³ The SNAP program for retailers and the certification of a retailer to use an EBT system to process SNAP payments are administered by the USDA Food and Nutrition Service.⁴

The USDA defines farmers' market as a multi-stall market at which farmer-producers sell agricultural products directly to the general public at a central or fixed location, particularly fresh fruit and vegetables (but also meat products, dairy products, and/or grains).⁵ While there has been a boom in the number of farmers' markets in the last two decades, there is still limited access for the nation's poorest consumers. Data from USDA shows there were 7,864 farmers' markets of which 1,645, about one out of five, accepted SNAP payments as of mid-year 2012.⁶

In order to encourage greater EBT participation by farmers markets, the USDA provided grant money for a farmers market to implement an EBT system if the market was not already an authorized SNAP retailer on or before November 18, 2011. On July 27, 2012, the Department of Children and Families (DCF) announced the availability of the USDA grant money and engaged in a marketing campaign to encourage more farmers' markets to participate in EBT. That effort has resulted in fourteen markets participating in the program with one more in the implementation phase.⁷ Grant money is still available to provide EBT systems to authorized participants.

The Department of Agriculture and Consumer Services (DACS) operates 13 "State Farmers' Markets" under the authority contained in s. 570.07(18), F.S. Of the 13 markets, five have retail businesses that sell products to the public and three of these have installed EBT systems at their own expense. Other farmers' markets are operated by local governments, not-for-profit organizations, private organizations, business development groups, and individuals, each of which has its own system for accepting payment for products.⁸

There are various reasons why a farmers' market does not have an EBT system. These include a decision by the owner not to accept SNAP benefits, a lack of access to electricity and phone lines needed for vendors to accept EBT cards, or a business decision not to fund the wireless technology and associated costs of implementation that are typically necessary to handle EBT sales. Southern Food Policy Advocates, an organization whose self-defined mission is to address

² See http://www.jhsph.edu/research/centers-and-institutes/johns-hopkins-center-for-a-livable-future/_pdf/projects/ffp/farm_bill/Reuniting-Snap-Participants-and-Farmers-Markets.pdf. (last visited Feb. 19, 2014).

³ See <http://frac.org/federal-foodnutrition-programs/snapfood-stamps/>. (last visited Feb. 20, 2014).

⁴ Department of Children and Families (DCF) *2014 Agency Legislative Bill Analysis* (Jan. 23, 2014) (on file with the Senate Agriculture Committee).

⁵ See <http://www.fns.usda.gov/ebt/what-farmers-market> (last visited Feb. 25, 2014).

⁶ See <http://www.usnews.com/news/articles/2012/08/06/farmers-market-boom-not-reaching-many-food-stamp-users> (last visited Feb 14, 2014).

⁷ DCF Analysis, p. 2.

⁸ Correspondence dated February 19, 2014 from Office of Legislative Affairs, Department of Agriculture and Consumer Services. (on file with Senate Agriculture Committee).

issues concerning food, nutrition, and fitness of Floridians,⁹ points out that while the USDA program gives emphasis to farmers' markets, fresh produce is also sold at other venues, such as flea markets and open air markets.¹⁰

III. Effect of Proposed Changes:

Section 1 creates an undesignated section of Florida law relating to transactions in markets that sell fresh produce. The bill provides the following definitions: a "Market" means a farmers' market, community farmers' market, flea market, or other open air market, and "SNAP" means the federal Supplemental Nutrition Assistance Program.

The bill permits an owner or operator of a market that sells fresh produce, but who is not already a SNAP retailer, to allow specified, authorized third parties, which may not be a competitor market, to accept SNAP benefits on behalf of the market's produce sellers to the extent allowed by federal law and regulation. It requires the market owner or operator to reasonably accommodate the authorized third party in the implementation and operation of an EBT system.

The bill does not apply to a market selling fresh produce whose owner or operator has a system in place for accepting SNAP benefits nor does it prohibit an authorized Food and Nutrition Service produce seller from operating its own EBT system for its customers' transactions. Finally, the bill does not require a market owner or operator to create, operate, or maintain an EBT system on behalf of its produce sellers.

Section 2 provides that this bill takes effect on July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁹ See <http://southfpa.blogspot.com/> (last visited Feb 14, 2014).

¹⁰ Background information material provided by Southern Food Policy Advocates, Inc., (Feb. 13, 2014) (on file with the Senate Agriculture Committee).

B. Private Sector Impact:

SNAP beneficiaries will be able to use their EBT cards to purchase fresh produce at additional markets if markets selling fresh produce allow an EBT system to be established in their marketplace. Food and Nutrition Service groups, associations, or other specified parties that are authorized SNAP retailers may be able to offer EBT services at participating fresh produce markets.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section 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 Thompson

12-00074-14

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A bill to be entitled

An act relating to transactions in fresh produce markets; providing definitions; authorizing certain owners or operators of farmers' markets, community farmers' markets, flea markets, and other open-air markets selling fresh produce to allow certain authorized Food and Nutrition Service groups, associations, or third-party organizations to implement and operate electronic benefits transfer systems for the purpose of accepting SNAP benefits in such markets; requiring the owners or operators to reasonably accommodate the groups, associations, or third-party organizations in the implementation and operation of the electronic benefits transfer system; providing applicability; providing an effective date.

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

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

(a) "Market" means a farmers' market, community farmers' market, flea market, or other open-air market.

(b) "SNAP" means the Supplemental Nutrition Assistance Program established under 7 U.S.C. ss. 2011 et seq.

(2) The owner or operator of a market selling fresh produce who is not an authorized SNAP retailer may allow an authorized Food and Nutrition Service group or association of produce sellers which is actively participating in fresh produce sales in the market, or an authorized Food and Nutrition Service third-party organization, to implement and operate an electronic

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benefits transfer system for purposes of accepting SNAP benefits in the market on behalf of the market produce sellers to the extent and manner allowed by federal law and regulation.

(a) The authorized Food and Nutrition Service group, association, or third-party organization responsible for the implementation and operation of the electronic benefits transfer system must not be a competitor market.

(b) The market owner or operator shall reasonably accommodate the authorized Food and Nutrition Service group, association, or third-party organization in the implementation and operation of an electronic benefits transfer system for purposes of accepting SNAP benefits.

(3) This section does not:

(a) Apply to a market selling fresh produce whose owner or operator has an electronic benefits transfer system for accepting SNAP benefits in the market.

(b) Prohibit an authorized Food and Nutrition Service produce seller in a market selling fresh produce from operating his or her own electronic benefits transfer system as part of his or her customer transaction options.

(c) Require a market owner or operator to create, operate, or maintain an electronic benefits transfer system on behalf of the market produce sellers.

Section 2. This act shall take effect July 1, 2014.

Page 2 of 2

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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 Children, Families, and Elder Affairs

BILL: CS/SB 904

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Thompson

SUBJECT: Abuse of a Parent

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanford	Hendon	CF	Fav/CS
2.			CJ	
3.			ACJ	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 904 creates s. 784.09, F.S., to establish new criminal offenses involving actions by a child to a parent. It includes definitions for “child” and “parent.” It describes the new offenses of abuse of a parent, aggravated offense of a parent, exploitation of a parent’s assets, and emotional abuse of a parent. The bill establishes penalties for commission of each of these offenses. It allows for the reduction of felony charges to misdemeanors upon conviction of aggravated abuse of a parent or exploitation of a parent’s assets when such reduction is requested by the state attorney or defense attorney.

The bill requires any person with knowledge or reasonable cause to suspect that a parent is being abused or that a parent’s assets are being exploited by a child to report such knowledge or suspicion to the DCF central abuse hotline and provides that any person who files such a report or participates in an investigation resulting from such reporting in good faith is immune from prosecution for such reporting or participation.

The bill is not expected to have a significant fiscal effect on the state. It has an effective date of October 1, 2014.

II. Present Situation:

On July 15, 2013, Rosemary Pate, the 51-year-old mother of Everett Pate, was killed in her home. Her son has been charged with first degree murder as a result. The death and subsequent arrest of Everett Pate, along with two of his friends, received extensive media coverage in the Orange County area.^{1,2} As a result of that incident, family members have urged that legislation be enacted which would address crimes committed by children against their parents.³

Current law contains a number of statutes which address issues touched on by this bill, but these statutes do not specifically name parents or children as victims or perpetrators. Examples of current laws which appear to address offenses similar to those established in the bill are: s. 784.011, F.S., (assault); s. 784.021, F.S., (aggravated assault); s. 784.03, F.S., (battery; felony battery); s. 784.045, F.S., (aggravated battery); s. 812.014, F.S., (theft); ch. 825, F.S., (abuse, neglect, and exploitation of elderly persons and disabled adults); and s. 836.05, F.S., (threats, extortion).

Current law does not contain any provision specifically allowing for mitigation of an offense if requested by the state attorney or defense counsel when the parent is the victim of the offense.

Chapter 921, F.S., relates to sentencing of offenders convicted of felonies. It requires that all non-capital felonies either be assigned a severity ranking or be ranked by default.⁴ The rankings determine the level of punishment to be administered for each offense. The rankings range from one to 10, with level one being the least serious and level 10 the most serious.⁵

Section 39.201, F.S., currently requires reporting to the Department of Children and Families abuse hotline known or suspected cases of child abuse, and s. 39.205, F.S., provides that person's reporting in good faith are immune from liability. Similarly, s. 415.1034, F.S., requires reporting to the same hotline known or suspected cases of abuse to vulnerable adults, and s. 415.1036, F.S., provides immunity from liability for such reports. There is no legislative mandate to report known or suspected parental abuse.

III. Effect of Proposed Changes:

Section 1 creates s. 784.09, F.S., to establish new criminal offenses involving actions by a child to a parent. It includes definitions for "child" and "parent." The definition of "parent" is limited to the biological parent of the child. The bill describes the new offenses of abuse of a parent, aggravated offense of a parent, exploitation of a parent's assets, and emotional abuse of a parent.

¹ *Son Charged with murder in Ocoee mother's death, police say*, CLICKORLANDO, July 15, 2013, available at <http://www.clickorlando.com/news/police-investigate-possible-homicide-in-ocoe/20986684> (last visited Mar. 27, 2014). *Ocoee mother lived in fear of delinquent son charged with her murder*, ORLANDO SENTINEL, July 17, 2013, available at http://articles.orlandosentinel.com/2013-07-17/news/os-son-charged-murder-rosemary-pate-20130717_1_mother-and-son-ocoe-mother-multiple-times (last visited Mar. 27, 2014).

² According to the Orange County Office of the State Attorney, the criminal charges are still pending and Everett Pate is still incarcerated, as of March 27, 2014.

³ *Parent abuse would be a crime under proposed law*, ORLANDO SENTINEL, Feb. 24, 2014, available at <http://orlandosentinel.com/news/politics/os-parent-abuse-20140224,0,808333.story> (last visited March 27, 2014).

⁴ Section 921.0023, F.S.

⁵ Section 921.0022, F.S.

The bill establishes penalties for commission of each of these offenses. It allows for the reduction of felony charges to misdemeanors upon conviction of aggravated abuse of a parent or exploitation of a parent's assets when such reduction is requested by the state attorney or defense attorney. The reduced sentence may include probation or attendance in specialized intervention programs.

The bill requires any person with knowledge or reasonable cause to suspect that a parent is being abused or that a parent's assets are being exploited by a child to report such knowledge or suspicion to the DCF central abuse hotline and provides that any person who files such a report or participates in an investigation resulting from such reporting in good faith is immune from prosecution for such reporting or participation.

Section 2 provides for an effective date of October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill, in describing the offense of "aggravated abuse of a parent," refers to the underlying offenses of "aggravated battery pursuant to s. 784.045, F.S., or aggravated assault pursuant to s. 784.021, F.S." The constitutional prohibition against double jeopardy would limit sentencing for this offense, if convicted, to either the new offense or to one of the underlying offenses, since one cannot be sentenced twice for the same acts even if charged under two different statutory provisions.⁶

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

⁶ FLA. CONST. art I, s. 9.

C. Government Sector Impact:

The Department of Children and Families expects an indeterminate impact as a result of the increased calls to its hotline.

Similarly, the Office of the State Courts Administrator predicted an indeterminate impact on the courts as the result of adding these new offenses.

VI. Technical Deficiencies:

Since the bill does not rank the new offenses under s. 921.0022, F.S., the default provision of s. 921.0023, F.S., would apply, in some instances resulting in a lesser penalty than the underlying offense would have received.

The effect of calling the DCF hotline for these offenses is unclear, since DCF is not instructed to investigate the offenses or to take any particular action after receiving the calls.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 784.09 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 Children, Families, and Elder Affairs on April 1, 2014:

The Committee Substitute:

- Changes the placement of the new provisions from ch. 741, F.S., relating to marriage and domestic violence, to ch. 784, F.S., relating to assault, battery, and culpable negligence.

B. Amendments:

None.



451752

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2014	.	
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	.	
	.	

The Committee on Children, Families, and Elder Affairs
(Thompson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 17 - 19

and insert:

Section 1. Section 784.09, Florida Statutes, is created to
read:

784.09 Abuse and exploitation of a parent.-

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

And the title is amended as follows:



451752

11 Delete line 3
12 and insert:
13 784.09, F.S.; defining the terms "child" and "parent"

By Senator Thompson

12-00711A-14

2014904__

A bill to be entitled

An act relating to the abuse of a parent; creating s. 741.50, F.S.; defining the terms "child" and "parent" for purposes of the crimes of abuse of a parent, aggravated abuse of a parent, exploitation of a parent's assets, and emotional abuse of a parent; providing the elements of such crimes; providing criminal penalties; authorizing alternative sentencing under certain circumstances; requiring reporting of the abuse of a parent or exploitation of a parent's assets to the Department of Children and Families' central abuse hotline; providing immunity for a person who makes such a report; providing an effective date.

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

Section 1. Section 741.50, Florida Statutes, is created to read:

741.50 Abuse and exploitation of a parent.-

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

(a) "Child" means an unmarried person younger than 18 years of age who has not been emancipated by order of the court.

(b) "Parent" means a child's biological parent.

(2) A child commits abuse of a parent if he or she:

(a) Inflicts physical injury or threatens to inflict great bodily harm upon a parent;

(b) Commits an act that could reasonably be expected to result in physical injury to a parent; or

(c) Actively encourages the commission of an act that

Page 1 of 4

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

12-00711A-14

2014904__

results or could reasonably be expected to result in physical injury to a parent.

(3) A child commits aggravated abuse of a parent if he or she:

(a) Commits aggravated battery pursuant to s. 784.045 or aggravated assault pursuant to s. 784.021 of a parent;

(b) Falsely imprisons a parent pursuant to s. 787.02; or

(c) Causes great bodily harm to, permanent disability of, or permanent disfigurement of a parent.

(4) A child commits exploitation of a parent's assets if he or she:

(a) Willfully damages or steals a parent's physical property; or

(b) Engages in activities outside the home that financially intimidate or harm a parent, including, but not limited to, the incurring of fines or other costs for which a parent is financially liable, theft, or making charges or financial commitments in a parent's name.

(5) A child commits emotional abuse of a parent if he or she:

(a) Induces a parent to take an action under threat;

(b) Falsely reports child abuse; or

(c) Engages in repeated conduct that results in, or could be reasonably expected to result in, the infliction of physical injury, including repeated threats of great bodily harm or death.

(6) A violation of:

(a) Subsection (2) for abuse is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Page 2 of 4

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

12-00711A-14

2014904__

59 (b) Paragraph (3) (a) for aggravated battery is a felony of
 60 the second degree, punishable as provided in s. 775.082, s.
 61 775.083, or s. 775.084.

62 (c) Paragraph (3) (a) for aggravated assault is a felony of
 63 the third degree, punishable as provided in s. 775.082, s.
 64 775.083, or s. 775.084.

65 (d) Paragraph (3) (b) for false imprisonment is a felony of
 66 the third degree, punishable as provided in s. 787.02.

67 (e) Paragraph (3) (c) for great bodily harm, permanent
 68 disability, or permanent disfigurement is a felony of the first
 69 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 70 775.084.

71 (f) Subsection (4) for exploitation of assets is a:

72 1. Misdemeanor of the second degree, punishable as provided
 73 in s. 775.082 or s. 775.083, if the value is less than \$500.

74 2. Misdemeanor of the first degree, punishable as provided
 75 in s. 775.082 or s. 775.083, if the value is \$500 or more but
 76 less than \$5,000.

77 3. Felony of the third degree, punishable as provided in s.
 78 775.082, s. 775.083, or s. 775.084, if the value is \$5,000 or
 79 more but less than \$10,000.

80 4. Felony of the second degree, punishable as provided in
 81 s. 775.082, s. 775.083, or s. 775.084, if the value is \$10,000
 82 or more but less than \$50,000.

83 5. Felony of the first degree, punishable as provided in s.
 84 775.082, s. 775.083, or s. 775.084, if the value is \$50,000 or
 85 more.

86 (g) Subsection (5) for emotional abuse is a misdemeanor of
 87 the second degree, punishable as provided in s. 775.082 or s.

12-00711A-14

2014904__

88 775.083.

89 (7) If a child is convicted of aggravated abuse of a parent
 90 under subsection (3) or exploitation of a parent's assets under
 91 subsection (4), upon request of the state attorney or defense
 92 attorney, the court may reduce a felony charge to a misdemeanor
 93 and provide alternative sentencing. Such alternative sentencing
 94 may include, but need not be limited to, probation or required
 95 attendance in specialized intervention programs.

96 (8) A person who knows, or has reasonable cause to suspect,
 97 that a parent is being abused or that a parent's assets are
 98 being exploited by his or her child shall report such knowledge
 99 or suspicion to the Department of Children and Families' central
 100 abuse hotline. A person who files a report in good faith or
 101 participates in an investigation resulting from a report is
 102 immune from prosecution for such reporting or participation.

103 Section 2. This act shall take effect October 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GERALDINE F. THOMPSON
12th District

COMMITTEES:
Appropriations Subcommittee on General
Government, *Vice Chair*
Community Affairs, *Vice Chair*
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Children, Families, and Elder Affairs
Commerce and Tourism
Transportation

JOINT COMMITTEE:
Joint Administrative Procedures Committee

March 13, 2014

The Honorable Eleanor Sobel
410 Senate Office Building
By Hand

Dear Chair Sobel:

I respectfully request *SB 904—Abuse of a Parent* be placed on the agenda of the Committee on Children, Families, and Elder Affairs as soon as possible.

SB 904 defines parent abuse and provides for enhanced penalties and reporting requirements. This bill was filed in response to the death of Ocoee resident, Rosemary Pate, a woman who was killed by her abusive son. Ms. Pate's fear that her son would hurt her forced her to get a restraining order against her son and install additional locks on her bedroom doors – none of which ultimately helped. She was later found stabbed to death by her son in that bedroom.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Geraldine F. Thompson".

Senator Geraldine Thompson, District 12
GT:dr

cc: Claude Hendon

RECEIVED

MAR 14 2014

Senate Committee
Children and Families

REPLY TO:

- 511 W. South Street, Suite 204, Orlando, Florida 32805
- 224 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Parent Abuse
Name Alice Flowers
Job Title _____

Bill Number SB904
(if applicable)
Amendment Barcode _____
(if applicable)

Address 232 Daniels Pointe Dr
Winter Garden, Fla 34787
Street City State Zip

Phone 321-229-7688
E-mail Aliceflowers2@yahoo.com

Speaking: For Against Information

Representing Parent Abuse Action Coalition

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic Abuse of Parent
Name DENNIS STRANGE
Job Title LT.

Bill Number SB 0904
(if applicable)
Amendment Barcode _____
(if applicable)

Address 2500 West Colonial Dr
Orlando FL 32807
Street City State Zip

Phone _____
E-mail _____

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic SB 904 Abuse of Parent Bill Number SB 904
(if applicable)

Name Homer L. Hartage Amendment Barcode _____
(if applicable)

Job Title Chair, Parent Abuse Action Coalition

Address Former Orange County Commissioner Phone _____

4862 Atlantic Dr Phone _____

Orl., FL 32808 E-mail hartage@hartsden.com
City State Zip

Speaking: For Against Information

Representing Parent Abuse Action Coalition

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

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 1190

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Lee

SUBJECT: Family Law

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.			JU	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1190 creates a uniform process in ch. 61, F.S., entitled the “Collaborative Process Act.” The bill provides definitions, states when a collaborative agreement is in effect and its impact on legal time periods. The bill addresses the confidentiality and applicable exceptions of all collaborative communications, written agreements entered into as a result of the process, and the waiver of the privilege by a party. The bill provides for the disqualification of an attorney from further representation of a party if the process terminates without an agreement. The bill provides that certain sections created in the legislation do not take effect until the Florida Supreme Court adopts certain rules.

The bill has an effective date of July 1, 2014, and the fiscal impact is indeterminate.

II. Present Situation:

The Uniform Law Commission (ULC) provides model statutes that are designed to be consistent from state to state. Florida’s commissioners to the ULC are appointed to four year terms by the Governor and confirmed by the Senate.¹ The ULC develops model statutes in many different areas of law to create uniformity in the law between jurisdictions. One such model statute is the Uniform Collaborative Law Act of 2009 (amended in 2010) which regulates the best use of collaborative law, a form of alternative dispute resolution. According to the ULC:

¹ Section 11.249, F.S.

At its core, Collaborative Law is a voluntary dispute-resolution process in which clients agree that, with respect to a particular matter in dispute, their named counsel will represent them solely for purposes of negotiation, and, if the matter is not settled out of court that new counsel will be retained for purposes of litigation. The parties and their lawyers work together to find an equitable resolution of a dispute, retaining experts as necessary. The process is intended to promote full and open disclosure and, as is the case in mediation, information disclosed in a collaborative process is privileged against use in any subsequent litigation. Collaborative Law is currently being practiced in all American jurisdictions as well as in a number of foreign countries. In the U.S., Collaborative Law is governed by a patchwork of state laws, state Supreme Court rules, local rules, and ethics opinions. The Uniform Collaborative Law Rules/Act (UCLR/A) is intended to create a uniform national framework for the use of Collaborative Law; one which includes important consumer protections and enforceable privilege provisions. Collaborative Law under the UCLR/A is strictly voluntary. Attorneys are not required to offer collaborative services, and parties cannot be compelled to participate.²

Seven states, Washington, Nevada, Utah, Texas, Hawaii, Alabama, Ohio, and Washington, D.C., have enacted the Uniform Collaborative Law Act, while bills are pending in six other states.³ Florida currently recognizes forms of alternative dispute resolution and is considered a leader among states in that regard.⁴ Florida public policy favors arbitration⁵ and “mediation and settlement of family law disputes is highly favored in Florida law.”⁶

Collaborative law is a non-adversarial alternative dispute resolution concept that, similar to mediation, promotes problem-solving and solutions in lieu of litigation. Collaborative law is entirely voluntary, and counsel retained for the purpose of collaborative law is only to be used in the collaborative law process. Should litigation ensue because the collaborative law process partially or completely failed to resolve the issues, the parties are required to retain different attorneys for litigation. The concept requires extensive confidentiality and privileges to be created by statute, while the courts must develop rules of practice and procedure to conform.

The bill creates the Florida Uniform Collaborative Law Act. The bill does not actually create a collaborative law process in Florida. The bill primarily serves to provide the necessary statutory privileges and confidentiality of communications required for the collaborative law process.

² Uniform Law Commission, Uniform Collaborative Law Rules/Act Short Summary. *available at* http://www.uniformlaws.org/Shared/Docs/Collaborative_Law/UCLA%20Short%20Summary.pdf (last visited March 27, 2014).

³ Illinois, Massachusetts, Michigan, New Jersey, Oklahoma, and South Carolina.

⁴ Fran L. Tetunic, *Demystifying Florida Mediator Ethics: the Good, the Bad, and the Unseemly*, 32 *Nova L. Rev.* 205, 244 (Fall 2007).

⁵ *Shotts v. OP Winter Haven, Inc.*, 86 So.3d 456 (Fla. 2011).

⁶ *Griffith v. Griffith*, 860 So.2d 1069, 1073 (Fla. 1st DCA 2003).

III. Effect of Proposed Changes:

Section 1 provides the legislative intent for the creation of a collaborative law process for proceedings under ch. 61, F.S., and ch. 742, F.S.

Section 2 creates Part III of ch. 61, F.S., and is entitled the “Collaborative Process Act.”

Section 3 creates s. 61.55, F.S. This section states the purpose and the state policy for creating a uniform system of practice of the collaborative process which is to encourage the peaceful resolution of disputes and early settlement of pending litigation through voluntary settlement procedures.

Section 4 creates s. 61.56, F.S. This section provides definitions of terms pertinent to the collaborative process such as collaborative attorney, collaborative communication, collaborative participant, and collaborative participation agreement. The section also provides that matters arising under ch. 61, F.S., or ch. 742, F.S., are included in the collaborative law process.

Section 5 creates s. 61.57, F.S. This section provides that the collaborative process is commenced when the parties enter into a collaborative process agreement regardless of whether a proceeding is pending. This section provides when the collaborative process is terminated.

Section 6 creates s. 61.58, F.S., to provide that a collaborative law communication is confidential to the extent agreed upon by the parties in writing. This section also provides a privilege against disclosure for collaborative law communications, within limits provided in the bill. A collaborative law communication is not subject to discovery or admissibility into evidence in a proceeding before a tribunal. Each party has a privilege to refuse to disclose a collaborative law communication, and to prevent any other person from disclosing a communication. If a party makes a representation about a privileged collaborative communication, the privilege is waived but only to the extent necessary for the other party to respond to the disclosure or representation. The privilege does not attach to a signed written agreement reached during the collaborative process unless the parties otherwise agree in writing.

The bill provides that a privilege does not apply to a collaborative law communication that:

- Is available to the public under ch. 119, F.S.;
- Is a threat or statement of a plan to inflict bodily injury or commit a crime of violence;
- Intentionally used to plan a crime, commit or attempt to commit a crime, conceal ongoing criminal activity, or threaten violence; and
- Is offered for the limited purpose of establishing or refuting enforceability of an agreement reached during the collaborative process.

Section 7 provides that ss. 61.55-61.58, F.S., created by this bill shall not take effect until 30 days after approval and publication by the Florida Supreme Court of:

- Rules of Professional Conduct governing mandatory disqualification of a collaborative law attorney and includes limited exceptions to mandatory disqualification in certain situations.
- Family Law Rules of Procedure governing required elements of a collaborative law participation agreement defining the commencement, procedures, and termination of the

collaborative law process and that upon referral to a collaborative law process ongoing procedures are legally suspended during the time the collaborative process remains in effect.

Section 8 creates s. 61.57, F.S., to provide for the disqualification of collaborative attorneys from further representation of the collaborative participants in a dissolution of marriage proceeding if the collaborative process terminates without an agreement.

Section 9 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The use of a collaborative process may reduce litigation costs for litigants by reducing attorney fees, case related costs, and court fees.

C. Government Sector Impact:

The fiscal impact of this bill on expenditures of the State Courts System is indeterminate at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: Part III of Chapter 61, 61.55, 61.56, 61.57 and 61.58.

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 Children, Families, and Elder Affairs on April 1, 2014:

The Committee Substitute:

- Provides legislative purpose to create a system of practice of a collaborative law process.
- Adds definitions of terms used in the collaborative law process.
- Provides that certain sections created in the proposed legislation not take effect until 30 days after the approval and publication by the Florida Supreme Court of Rules of Professional Conduct and Family Law Rules of Procedure.

- B. **Amendments:**

None.



559024

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2014	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Altman) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. The Legislature finds and declares that the purpose of this part is to:

(1) Create a system of practice of a collaborative law process for proceedings under chapters 61 and 742, Florida Statutes.

(2) Encourage the peaceful resolution of disputes and the



559024

11 early settlement of pending litigation through voluntary
12 settlement procedures.

13 (3) Preserve the working relationship between parties to a
14 dispute through a nonadversarial method that reduces the
15 emotional and financial toll of litigation.

16 Section 2. Part III of chapter 61, Florida Statutes,
17 consisting of ss. 61.55-61.58, is created and entitled the
18 "Collaborative Law Act."

19 Section 3. Section 61.55, Florida Statutes, is created to
20 read:

21 61.55 Purpose.—The purpose of this part is to create a
22 uniform system of practice for the collaborative law process in
23 this state. It is the policy of this state to encourage the
24 peaceful resolution of disputes and the early settlement of
25 pending litigation through a voluntary settlement process. The
26 collaborative law process is a unique nonadversarial process
27 that preserves a working relationship between the parties and
28 reduces the emotional and financial toll of litigation.

29 Section 4. Section 61.56, Florida Statutes, is created to
30 read:

31 61.56 Definitions.—As used in this part, the term:

32 (1) "Collaborative attorney" means an attorney who
33 represents a party in a collaborative law process.

34 (2) "Collaborative law communication" means an oral or
35 written statement, including a statement made in a record, or
36 nonverbal conduct, which:

37 (a) Is made in the conduct of or in the course of
38 participating in, continuing, or reconvening a collaborative law
39 process; or



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40 (b) Occurs after the parties sign a collaborative law
41 participation agreement and before the collaborative law process
42 is concluded.

43 (3) "Collaborative law participation agreement" means an
44 agreement between persons to participate in a collaborative law
45 process.

46 (4) "Collaborative law process" means a process intended to
47 resolve a collaborative matter without intervention by a
48 tribunal in which persons sign a collaborative law participation
49 agreement and are represented by collaborative attorneys.

50 (5) "Collaborative matter" means a dispute, transaction,
51 claim, problem, or issue for resolution including a dispute,
52 claim, or issue in a proceeding that is described in a
53 collaborative law participation agreement and arises under
54 chapter 61 or chapter 742, including, but not limited to:

55 (a) Marriage, divorce, dissolution, annulment, and marital
56 property distribution.

57 (b) Child custody, visitation, parenting plans, and
58 parenting time.

59 (c) Alimony, maintenance, and child support.

60 (d) Parental relocation with a child.

61 (e) Parentage.

62 (f) Premarital, marital, and postmarital agreements.

63 (6) "Law firm" means:

64 (a) An attorney or attorneys who practice law in a
65 partnership, professional corporation, sole proprietorship,
66 limited liability company, or association; or

67 (b) An attorney or attorneys employed in a legal services
68 organization, the legal department of a corporation or other



559024

69 organization, or the legal department of a governmental entity,
70 subdivision, agency, or instrumentality.

71 (7) "Nonparty participant" means a person, other than a
72 party and the party's collaborative attorney, who participates
73 in a collaborative law process.

74 (8) "Party" means a person who signs a collaborative law
75 participation agreement and whose consent is necessary to
76 resolve a collaborative matter.

77 (9) "Person" means an individual; a corporation; a business
78 trust; estate; trust; partnership; a limited liability company;
79 association; joint venture; public corporation; a government or
80 governmental subdivision, agency, or instrumentality; or any
81 other legal or commercial entity.

82 (10) "Proceeding" means a judicial, administrative,
83 arbitral, or other adjudicative process before a tribunal,
84 including related prehearing and posthearing motions,
85 conferences, and discovery.

86 (11) "Prospective party" means a person who discusses with
87 a prospective collaborative attorney the possibility of signing
88 a collaborative law participation agreement.

89 (12) "Record" means information that is inscribed on a
90 tangible medium or that is stored in an electronic or other
91 medium and is retrievable in perceivable form.

92 (13) "Related to a collaborative matter" means involving
93 the same parties, transaction or occurrence, nucleus of
94 operative fact, dispute, claim, or issue as the collaborative
95 matter.

96 (14) "Sign" means, with present intent to authenticate or
97 adopt a record:



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98 (a) To execute or adopt a tangible symbol; or
99 (b) To attach to or logically associate with the record an
100 electronic symbol, sound, or process.

101 (15) "Tribunal" means a court, arbitrator, administrative
102 agency, or other body acting in an adjudicative capacity that,
103 after presentation of evidence or legal argument, has
104 jurisdiction to render a decision affecting a party's interests
105 in a matter.

106 Section 5. Section 61.57, Florida Statutes, is created to
107 read:

108 61.57 Beginning and concluding a collaborative law
109 process.-

110 (1) The collaborative law process commences, regardless of
111 whether a legal proceeding is pending, when the parties enter
112 into a collaborative participation agreement.

113 (2) A tribunal may not order a party to participate in a
114 collaborative law process over that party's objection.

115 (3) A collaborative law process is concluded by a:

116 (a) Resolution of a collaborative matter as evidenced by a
117 signed record;

118 (b) Resolution of a part of the collaborative matter,
119 evidenced by a signed record, in which the parties agree that
120 the remaining parts of the collaborative matter will not be
121 resolved in the process; or

122 (c) Termination of the process.

123 (4) A collaborative law process terminates when a party:

124 (a) Gives notice to other parties in a record that the
125 collaborative law process is concluded;

126 (b) Begins a proceeding related to a collaborative matter



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127 without the agreement of all parties;

128 (c) Initiates a pleading, motion, order to show cause, or
129 request for a conference with a tribunal in a pending proceeding
130 related to the collaborative matter;

131 (d) Requests that the proceeding be put on the tribunal's
132 active calendar in a pending proceeding related to the
133 collaborative matter;

134 (e) Takes similar action requiring notice to be sent to the
135 parties in a pending proceeding related to the collaborative
136 matter; or

137 (f) Discharges a collaborative attorney or a collaborative
138 attorney withdraws from further representation of a party,
139 except as otherwise provided by subsection (7).

140 (5) A party's collaborative attorney shall give prompt
141 notice to all other parties in a record of a discharge or
142 withdrawal.

143 (6) A party may terminate a collaborative law process with
144 or without cause.

145 (7) Notwithstanding the discharge or withdrawal of a
146 collaborative attorney, a collaborative law process continues
147 if, not later than 30 days after the date that the notice of the
148 discharge or withdrawal of a collaborative attorney required by
149 subsection (5) is sent to the parties:

150 (a) The unrepresented party engages a successor
151 collaborative attorney;

152 (b) The parties consent to continue the collaborative law
153 process by reaffirming the collaborative law participation
154 agreement in a signed record;

155 (c) The collaborative law participation agreement is



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156 amended to identify the successor collaborative attorney in a
157 signed record; and

158 (d) The successor collaborative attorney confirms the
159 attorney's representation of a party in the collaborative law
160 participation agreement in a signed record.

161 (8) A collaborative law process does not conclude if, with
162 the consent of the parties, a party requests a tribunal to
163 approve a resolution of the collaborative matter or any part
164 thereof as evidenced by a signed record.

165 (9) A collaborative law participation agreement may provide
166 additional methods for concluding a collaborative law process.

167 Section 6. Section 61.58, Florida Statutes, is created to
168 read:

169 61.58 Confidentiality of a collaborative law
170 communication.—Except as provided in this section, a
171 collaborative law communication is confidential to the extent
172 agreed by the parties in a signed record or as otherwise
173 provided by law.

174 (1) PRIVILEGE AGAINST DISCLOSURE FOR COLLABORATIVE LAW
175 COMMUNICATION; ADMISSIBILITY; DISCOVERY.—

176 (a) Subject to subsections (2) and (3), a collaborative law
177 communication is privileged as provided under paragraph (b), is
178 not subject to discovery, and is not admissible into evidence.

179 (b) In a proceeding, the following privileges apply:

180 1. A party may refuse to disclose, and may prevent another
181 person from disclosing, a collaborative law communication.

182 2. A nonparty participant may refuse to disclose, and may
183 prevent another person from disclosing, a collaborative law
184 communication of a nonparty participant.



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185 (c) Evidence or information that is otherwise admissible or
186 subject to discovery does not become inadmissible or protected
187 from discovery solely because of its disclosure or use in a
188 collaborative law process.

189 (2) WAIVER AND PRECLUSION OF PRIVILEGE.—

190 (a) A privilege under subsection (1) may be waived orally
191 or in a record during a proceeding if it is expressly waived by
192 all parties and, in the case of the privilege of a nonparty
193 participant, if it is expressly waived by the nonparty
194 participant.

195 (b) A person who makes a disclosure or representation about
196 a collaborative law communication that prejudices another person
197 in a proceeding may not assert a privilege under subsection (1).
198 This preclusion applies only to the extent necessary for the
199 person prejudiced to respond to the disclosure or
200 representation.

201 (3) LIMITS OF PRIVILEGE.—

202 (a) A privilege under subsection (1) does not apply for a
203 collaborative law communication that is:

204 1. Available to the public under chapter 119 or made during
205 a session of a collaborative law process that is open, or is
206 required by law to be open, to the public;

207 2. A threat or statement of a plan to inflict bodily injury
208 or commit a crime of violence;

209 3. Intentionally used to plan a crime, commit or attempt to
210 commit a crime, or conceal an ongoing crime or ongoing criminal
211 activity; or

212 4. In an agreement resulting from the collaborative law
213 process, as evidenced by a record signed by all parties to the



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214 agreement.

215 (b) The privilege under subsection (1) for a collaborative
216 law communication does not apply to the extent that such
217 communication is:

218 1. Sought or offered to prove or disprove a claim or
219 complaint of professional misconduct or malpractice arising from
220 or related to a collaborative law process; or

221 2. Sought or offered to prove or disprove abuse, neglect,
222 abandonment, or exploitation of a child or adult unless the
223 Department of Children and Families is a party to or otherwise
224 participates in the process.

225 (c) A privilege under subsection (1) does not apply if a
226 tribunal finds, after a hearing in camera, that the party
227 seeking discovery or the proponent of the evidence has shown
228 that the evidence is not otherwise available, the need for the
229 evidence substantially outweighs the interest in protecting
230 confidentiality, and the collaborative law communication is
231 sought or offered in:

232 1. A court proceeding involving a felony; or

233 2. A proceeding seeking rescission or reformation of a
234 contract arising out of the collaborative law process or in
235 which a defense is asserted to avoid liability on the contract.

236 (d) If a collaborative law communication is subject to an
237 exception under paragraph (b) or paragraph (c), only the part of
238 the communication necessary for the application of the exception
239 may be disclosed or admitted.

240 (e) Disclosure or admission of evidence excepted from the
241 privilege under paragraph (b) or paragraph (c) does not make the
242 evidence or any other collaborative law communication



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243 discoverable or admissible for any other purpose.

244 (f) The privilege under subsection (1) does not apply if
245 the parties agree in advance in a signed record, or if a record
246 of a proceeding reflects agreement by the parties, that all or
247 part of a collaborative law process is not privileged. This
248 paragraph does not apply to a collaborative law communication
249 made by a person who did not receive actual notice of the
250 collaborative participation agreement before the communication
251 was made.

252 Section 7. Sections 61.55-61.58, Florida Statutes, as
253 created by this act, shall not take effect until 30 days after
254 approval and publication by the Florida Supreme Court of:

255 (1) The Rules of Professional Conduct, governing:

256 (a) The mandatory disqualification of a collaborative
257 attorney, and attorneys in the same law firm, from appearing
258 before a tribunal to represent a party to a collaborative law
259 process in a proceeding related to the collaborative law matter.

260 (b) Limited exceptions to mandatory disqualification to
261 seek emergency orders for the protection of the health, safety,
262 welfare, or interest of a party until such time as a successor
263 collaborative attorney is available and for continued
264 representation of government entities, subject to certain
265 conditions.

266 (2) The Family Law Rules of Procedure, governing:

267 (a) Required elements of a collaborative law participation
268 agreement defining the commencement, procedures, and termination
269 of the collaborative law process.

270 (b) The stay of ongoing proceedings upon referral to a
271 collaborative law process and related status reports.



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272 Section 8. Except as otherwise expressly provided in this act,
273 this act shall take effect July 1, 2014.

274

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

276 And the title is amended as follows:

277 Delete everything before the enacting clause

278 and insert:

279 A bill to be entitled

280 An act relating to family law; providing legislative
281 findings; creating Part III of ch. 61, F.S., entitled
282 the "Collaborative Law Act"; creating s. 61.55, F.S.;
283 declaring the purpose of the act; creating s. 61.56,
284 F.S.; defining terms; creating s. 61.57, F.S.;
285 declaring that a collaborative law process commences
286 when the parties enter into a collaborative
287 participation agreement; providing that a tribunal may
288 not order a party to participate in a collaborative
289 law process over the party's objection; providing
290 conditions under which a collaborative law process is
291 concluded; creating s. 61.58, F.S.; providing for
292 confidentiality of communications made during the
293 collaborative law process; providing exceptions;
294 providing that the effective date of specified
295 provisions are contingent upon approval and
296 publication of Florida Supreme Court rules governing
297 specified subjects; providing effective dates.

By Senator Lee

24-00252B-14

20141190__

1
2 A bill to be entitled
3 An act relating to family law; creating part III of
4 ch. 61, F.S., entitled the "Collaborative Process
5 Act"; creating s. 61.51, F.S.; declaring the purpose
6 of the act; creating s. 61.52, F.S.; defining terms;
7 creating s. 61.53, F.S.; declaring that a
8 collaborative process commences when the parties enter
9 into a collaborative participation agreement; creating
10 s. 61.54, F.S.; stating that the execution of a
11 collaborative participation agreement tolls all legal
12 time periods applicable under law between the parties
13 for the amount of time the agreement remains in
14 effect; creating s. 61.55, F.S.; stating that all
15 collaborative communications are confidential;
16 providing exceptions; creating s. 61.56, F.S.;
17 providing sanctions; creating s. 61.57, F.S.;
18 disqualifying an attorney from further representing a
19 party if the collaborative process terminates without
20 an agreement; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Part III of chapter 61, Florida Statutes,
25 consisting of ss. 61.51-61.57, Florida Statutes, is created and
26 entitled the "Collaborative Process Act."

27 Section 2. Section 61.51, Florida Statutes, is created to
28 read:

29 61.51 Purpose.—The general purpose of this part is to

Page 1 of 6

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

24-00252B-14

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30 create a uniform system of practice of the collaborative process
31 in this state. It is the policy of this state to encourage the
32 peaceful resolution of disputes and the early settlement of
33 pending litigation through voluntary settlement procedures. The
34 collaborative process is a unique nonadversarial method that
35 preserves a working relationship between the parties and reduces
36 the emotional and financial toll of litigation.

37 Section 3. Section 61.52, Florida Statutes, is created to
38 read:

39 61.52 Definitions.—As used in this part, the term:

40 (1) "Collaborative attorney" means an attorney licensed to
41 practice law in this state by the Florida Supreme Court who
42 satisfies any training and other requirements mandated by the
43 Florida Supreme Court which enable the attorney to represent
44 clients in the collaborative process.

45 (2) "Collaborative communication" means any oral or written
46 statement or any nonverbal act that is made following the
47 execution by the parties of a collaborative participation
48 agreement for the purpose of conducting, participating in,
49 continuing, or otherwise furthering the collaborative process,
50 until the time the collaborative process terminates or a final
51 agreement is reached.

52 (3) "Collaborative participant" means a party,
53 collaborative attorney, or nonparty participant in the
54 collaborative process.

55 (4) "Collaborative participation agreement" means a written
56 contract entered into pursuant to this act and the requirements
57 adopted by the Florida Supreme Court pertaining to the
58 collaborative process.

Page 2 of 6

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

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59 (5) "Collaborative process" means a process in which
 60 parties, represented by collaborative attorneys, attempt to
 61 resolve a matter pursuant to a collaborative participation
 62 agreement without court intervention.

63 (6) "Court" means a tribunal of competent jurisdiction
 64 acting in an adjudicative capacity in which a judicial officer,
 65 after presentation of evidence, testimony, and legal argument,
 66 renders a binding decision affecting a party's interests in a
 67 matter.

68 (7) "Matter" means a dispute, transaction, claim, problem,
 69 or issue for resolution described in a collaborative
 70 participation agreement.

71 (8) "Nonparty participant" means a person, other than a
 72 party or collaborative attorney, who is retained by or serves as
 73 an advisor to a party in the collaborative process.

74 (9) "Party" means a person who enters into a collaborative
 75 participation agreement and whose consent is necessary to
 76 resolve the matter disputed in the agreement.

77 (10) "Proceeding" means a judicial, administrative, or
 78 other adjudicative process before a tribunal, including related
 79 prehearing and post-hearing motions, conferences, and discovery.

80 Section 4. Section 61.53, Florida Statutes, is created to
 81 read:

82 61.53 Commencement of collaborative process.—The
 83 collaborative process commences, whether or not a proceeding is
 84 pending, when the parties enter into a collaborative
 85 participation agreement.

86 Section 5. Section 61.54, Florida Statutes, is created to
 87 read:

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88 61.54 Tolling of statutes of limitations.—The execution of
 89 a collaborative participation agreement tolls all legal time
 90 periods applicable to legal rights and issues under law between
 91 the parties for the amount of time the collaborative
 92 participation agreement remains in effect. This section applies
 93 to all applicable statutes of limitations, filing deadlines, and
 94 other time limitations imposed by law.

95 Section 6. Section 61.55, Florida Statutes, is created to
 96 read:

97 61.55 Confidentiality; privilege; exceptions.—

98 (1) Except as provided in this section and unless the
 99 parties agree otherwise in writing, all collaborative
 100 communications are confidential. A collaborative participant may
 101 not disclose a collaborative communication to a person other
 102 than another collaborative participant. A violation of this
 103 section during the collaborative process may be sanctioned as
 104 agreed to by the parties, or a party may terminate the
 105 collaborative process. A violation of this section after the
 106 collaborative process terminates may be sanctioned as provided
 107 in s. 61.56.

108 (2) A party has a privilege to refuse to testify and to
 109 prevent any other person from testifying in a subsequent
 110 proceeding regarding collaborative communications.

111 (3) (a) Notwithstanding subsections (1) and (2),
 112 confidentiality or privilege does not attach to a signed written
 113 agreement reached during a collaborative process unless the
 114 parties agree otherwise, in writing, or to any collaborative
 115 communication that:

116 1. Is willfully used to plan a crime, commit or attempt to

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117 commit a crime, conceal ongoing criminal activity, or threaten
 118 violence;

119 2. Requires a mandatory report pursuant to chapter 39 or
 120 chapter 415 solely for the purpose of making the mandatory
 121 report to the entity requiring the report;

122 3. Is offered to report, prove, or disprove professional
 123 malpractice or misconduct occurring during the collaborative
 124 process, solely for the purpose of the professional malpractice,
 125 misconduct, or ethics proceeding; or

126 4. Is offered for the limited purpose of establishing or
 127 refuting enforceability of an agreement reached during the
 128 collaborative process.

129 (b) A collaborative communication that is disclosed under
 130 subparagraph (a)2., subparagraph (a)3., or subparagraph (a)4.
 131 remains confidential and is not discoverable or admissible for
 132 any other purpose unless otherwise authorized by this section.

133 (4) Information that is otherwise admissible or subject to
 134 discovery does not become inadmissible or protected from
 135 discovery by reason of its disclosure or use in a collaborative
 136 process.

137 (5) A party that discloses or makes a representation about
 138 a privileged collaborative communication waives that privilege,
 139 but only to the extent necessary for the other party to respond
 140 to the disclosure or representation.

141 Section 7. Section 61.56, Florida Statutes, is created to
 142 read:

143 61.56 Confidentiality; sanctions.—

144 (1) After the collaborative process terminates, a
 145 collaborative participant that knowingly and willfully discloses

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146 a collaborative communication in violation of s. 61.55 is
 147 subject to all of the following:

148 (a) Equitable relief.

149 (b) Compensatory damages.

150 (c) Attorney fees and costs incurred during the
 151 collaborative process.

152 (d) Reasonable attorney fees and costs incurred by the
 153 application for remedies under this section.

154 (2) Notwithstanding any other law, an application for
 155 relief filed under this section may not be commenced later than
 156 2 years after the date on which the party has a reasonable
 157 opportunity to discover the breach of confidentiality, but in no
 158 case more than 4 years after the date of the breach.

159 (3) A collaborative participant is not subject to a civil
 160 action under this section for lawful compliance with s. 119.07.

161 Section 8. Section 61.57, Florida Statutes, is created to
 162 read:

163 61.57 Disqualification.—If the collaborative process
 164 terminates without an agreement, the collaborative attorneys are
 165 disqualified from further representing the collaborative
 166 participants in the dissolution of marriage that is the subject
 167 of the collaborative process.

168 Section 9. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, Chair
Appropriations
Appropriations Subcommittee on Health
and Human Services
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Ethics and Elections
Gaming
Rules
Transportation

SENATOR TOM LEE
Deputy Majority Leader
24th District

March 12, 2014

The Honorable Eleanor Sobel
Senate Children, Families, and Elder Affairs, Chair
410 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399

Dear Chair Sobel,

I respectfully request that SB 1190 related to *Family Law*, be placed on the Senate Children, Families, and Elder Affairs committee agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Tom Lee".

Tom Lee
Senator, District 24

Cc: Claude Hendon, Staff Director

RECEIVED

MAR 12 2014

Senate Committee
Children and Families

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Collaborative Process Act

Bill Number SB 1190
(if applicable)

Name Robert J. Merlin

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 95 Merrick Way, Suite 420

Phone _____

Street
Coral Gables FL 33134
City State Zip

E-mail _____

Speaking: For Against Information

Representing Collaborative Professionals in Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

didn't speak

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

4/1/2014
Meeting Date

Topic COLLABORATIVE LAW ACT

Bill Number SB 1190
(if applicable)

Name COLE JEFFRIES

Amendment Barcode _____
(if applicable)

Job Title ATTORNEY AT LAW

Address 2501 W. MORRISON AVE.

Phone 813-244-3399

Street
TAMPA FL 33629
City State Zip

E-mail CJEFFRIES@EARTHLINK.NET

Speaking: For Against Information

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

BILL: CS/SB 1436

INTRODUCER: Children, Families, and Elder Affairs Committee; Senators Flores and Bullard

SUBJECT: Public Records/Location of Safe Houses

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1436 provides a public records exemption for information about the location of safe houses and other facilities housing victims of human trafficking, as defined in s. 787.06, F.S. Specifically, the bill provides that the information regarding the location of safe houses that is held by an agency is confidential and exempt. However, the bill provides that the location of safe houses and safe foster homes may be provided to an agency to address emergency situations. The bill provides that the public records exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

The bill will take effect on the same date that SB 1440 or similar legislation takes effect.

Article I, s. 24(c), State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records exemption. The bill creates a public records exemption; thus, it requires a two-third vote for final passage.

II. Present Situation:

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. This section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature;

however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.¹

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act² provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without an exemption;
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; and
- Protects trade or business secrets.

Florida law defines human trafficking as “soliciting, recruiting, harboring, providing, enticing, maintain, or obtaining another person for the purpose of exploitation of that person.”³ Human trafficking is a form of modern-day slavery, which involves the exploitation of persons for commercial sex or forced labor.⁴ Trafficking subject victims to force, fraud, or coercion.⁵ Children experiencing this type of sexual exploitation often become bonded with their exploiters and do not see themselves as victims. These children experience trauma and are exposed to danger, but are often unable to leave their exploiter to seek help.

The Safe Harbor Act provided for “safe houses.” Safe houses are homes for sexually exploited children who have been adjudicated dependent or delinquent and need to reside in a secure⁶ residential facility.⁷ Safe houses must provide a living environment that has set aside gender-specific, separate, and distinct living quarters for sexually exploited children and must have awake staff members on duty 24 hours a day. Safe houses must also hold a license as a family foster home or residential child-caring agency. Each facility must be appropriately licensed in this state as a residential child-caring agency as defined in s. 409.175, F.S., and must have applied for accreditation within one year after being licensed.⁸ A safe house serving children

¹ FLA. CONST. art. I, s.24(c)

² Section 119.15, F.S.

³ Section 787.06(2)(d), F.S.

⁴ Section 787.06(1)(a), F.S.

⁵ *Id.*

⁶ The term “secure” is defined as a facility providing services and supervised 24 hours a day by staff members who are awake while on duty.

⁷ Section 409.1678(1)(b), F.S.

⁸ According to DCF, there are currently no entities that provides accreditation to safe houses and safe houses are not sure what type of accreditation they are required to have. No safe houses have applied for accreditation at this time.

who have been sexually exploited must have available staff or contract personnel who have the clinical expertise, credentials, and training to provide:

- Security;
- Crisis intervention services;
- General counseling and victim-witness counseling;
- A comprehensive assessment;
- Residential care;
- Transportation;
- Access to behavioral health services;
- Recreational activities;
- Food;
- Clothing;
- Supplies;
- Infant care;
- Miscellaneous expenses associated with caring for these children;
- Necessary arrangement for or provision of educational services, including life skills services and planning services for the successful transition of residents back to the community; and
- Ensuring necessary and appropriate health care and dental care.⁹

The Department of Children and Families (DCF) or the local community-based care organization is required to assess sexually exploited dependent children for placement in a safe house if the child is older than six years of age. The assessment is required to incorporate and address the following:

- Current and historical information from any law enforcement reports;
- Psychological testing or evaluation that has occurred;
- Current and historical information from the guardian ad litem, if one has been assigned;
- Current and historical information from any current therapist, teacher, or other professional who has knowledge of the child and has worked with the child; and
- Any other information concerning the availability and suitability of safe-house placement.

The child may be placed in a safe house if such placement is determined to be appropriate as a result of this assessment and if one is available, but placement is not required.¹⁰ There are currently two safe houses in Florida, with a total of 11 beds statewide. If a trafficker learned the location of a safe house and went to the safe house, the safe house staff and individuals residing in the safe house could be in danger of physical and/or emotional harm.

III. Effect of Proposed Changes:

Section 1 amends s. 409.1678, F.S., to provide that information held by an agency as defined in s. 119.011, F.S., about the location of safe houses and safe foster homes is confidential and exempt from s. 119.07(1), F.S. and s. 24(a), Art. I of the State Constitution. Information about the location of safe houses and safe foster homes may be provided to an agency as defined in

⁹ Section 409.1671, F.S.

¹⁰ Section 39.524, F.S.

s. 119.011, F.S., as necessary to maintain health and safety standards and to address emergency situations that may occur in safe houses and safe foster homes.

The section also provides that the exemption is subject to the Open Government Sunset Review Act and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 provides a statement of public necessity as required by Section 24(c), Art. I of the State Constitution.

Section 3 provides for an effective date contingent upon the passage of SB 1440 or similar legislation.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

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 newly created or expanded public records exemption. The bill creates a public records exemption; thus, it requires a two-thirds vote for final passage.

Article I, s. 24(c) of the State Constitution requires a public necessity statement for a newly-created or expanded public record or public meeting exemption. The bill expands current public record exemptions; thus, it includes a public necessity statement.

Article I, s. 24(c) of the State Constitution requires a newly created public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for information relating to the identification and location of safe houses. The exemption does not appear to be in conflict with the constitutional requirement that the exemption must be no broader than necessary to accomplish its purpose.

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 s. 409.1678 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 Children, Families, and Elder Affairs on April 1, 2014:**

The Committee Substitute:

- Provides that information held by an agency as defined in s. 119.011, F.S., about the location of safe houses and safe foster homes are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.
- Provides that information about the location of safe houses and safe fosters homes may be provided to an agency as defined in s. 119.011, F.S., as necessary to maintain health and safety standards and to address emergency situations in the safe house and safe foster home.

B. Amendments:

None.



900800

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2014	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Diaz de la Portilla) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (5) is added to section 409.1678,
Florida Statutes, to read:

409.1678 Safe harbor for children who are victims of sexual
exploitation.—

(5) (a) Information held by an agency as defined in s.
119.011 about the location of safe houses and safe foster homes



900800

11 is confidential and exempt from s. 119.07(1) and s. 24(a), Art.
12 I of the State Constitution.

13 (b) Information about the location of safe houses and safe
14 foster homes may be provided to an agency, as defined in s.
15 119.011, as necessary to maintain health and safety standards
16 and to address emergency situations in the safe house and safe
17 foster home.

18 (c) This subsection is subject to the Open Government
19 Sunset Review Act in accordance with s. 119.15 and shall stand
20 repealed on October 2, 2019, unless reviewed and saved from
21 repeal through reenactment by the Legislature.

22 Section 2. The Legislature finds that it is a public
23 necessity that information about the location of safe houses and
24 safe foster homes held by an agency, as defined in s. 119.011,
25 Florida Statutes, be made confidential and exempt from s.
26 119.07(1), Florida Statutes, and s. 24(a), Article I of the
27 State Constitution. Safe houses and safe foster homes are
28 intended as refuges for sexually exploited victims from those
29 who exploited them. If the individuals who victimized these
30 people were able to learn the location of such safe houses, they
31 may attempt to contact their victims, exploit their
32 vulnerabilities, and return them to the situations in which they
33 were victimized. Even without the return of these victims to
34 their former situations, additional contact with those who
35 victimized them would have the effect of continuing their
36 victimization and inhibiting their recoveries. Additionally,
37 knowledge about the location of safe houses and safe foster
38 homes could enable other individuals to locate and attempt to
39 victimize the residents. Therefore, it is the finding of the



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40 Legislature that such information must be made confidential and
41 exempt from public disclosure.

42 Section 3. This act shall take effect on the same date that
43 SB 1440 or similar legislation relating to human trafficking
44 takes effect, if such legislation is adopted in the same
45 legislative session or an extension thereof and becomes a law.

46
47 ===== T I T L E A M E N D M E N T =====

48 And the title is amended as follows:

49 Delete everything before the enacting clause
50 and insert:

51 A bill to be entitled
52 An act relating to public records; amending s.
53 409.1678, F.S.; providing an exemption from public
54 records requirements for information about the
55 location of safe houses and safe foster homes held by
56 an agency; providing for future legislative review and
57 repeal of the exemption; providing a statement of
58 public necessity; providing a contingent effective
59 date.

By Senator Flores

37-01920-14

20141436__

1 A bill to be entitled
 2 An act relating to public records; amending ss.
 3 119.0713 and 409.1678, F.S.; providing exemptions from
 4 public records requirements for information about the
 5 location of safe houses and such other facilities held
 6 by units of local government or the Department of
 7 Children and Families; providing for future
 8 legislative review and repeal of the exemptions;
 9 providing a statement of public necessity; providing a
 10 contingent effective date.
 11
 12 Be It Enacted by the Legislature of the State of Florida:
 13
 14 Section 1. Subsection (5) is added to section 119.0713,
 15 Florida Statutes, to read:
 16 119.0713 Local government agency exemptions from inspection
 17 or copying of public records.—
 18 (5) Information about the location of safe houses and other
 19 facilities housing victims of human trafficking, as those
 20 victims are defined in s. 787.06, held by a unit of local
 21 government including, but not limited to a law enforcement
 22 agency, tax collector, clerk of court, or property appraiser, is
 23 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 24 of the State Constitution. Such facilities include facilities
 25 operated by the Department of Children and Families under s.
 26 409.1678. This subsection is subject to the Open Government
 27 Sunset Review Act in accordance with s. 119.15 and shall stand
 28 repealed on October 2, 2019, unless reviewed and saved from
 29 repeal through reenactment by the Legislature.

Page 1 of 3

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

37-01920-14

20141436__

30 Section 2. Subsection (5) is added to section 409.1678,
 31 Florida Statutes, to read:
 32 409.1678 Safe harbor for children who are victims of sexual
 33 exploitation.—
 34 (5) Information held by the department about the location
 35 of safe houses and short-term safe houses and facilities is
 36 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 37 of the State Constitution. This subsection is subject to the
 38 Open Government Sunset Review Act in accordance with s. 119.15
 39 and shall stand repealed on October 2, 2019, unless reviewed and
 40 saved from repeal through reenactment by the Legislature.
 41 Section 3. (1) The Legislature finds that it is a public
 42 necessity that information about the location of safe houses and
 43 short-term safe houses and facilities held by a unit of local
 44 government be made exempt from s. 119.07(1), Florida Statutes,
 45 and s. 24(a), Article I of the State Constitution. Safe houses
 46 and short-term safe houses are intended as refuges for sexually
 47 exploited victims from those who exploited them. If the
 48 individuals who victimized these people were able to learn the
 49 location of such safe houses, they may attempt to contact their
 50 victims, exploit their vulnerabilities, and return them to the
 51 situations in which they were victimized. Even without the
 52 return of these victims to their former situations, additional
 53 contact with those who victimized them would have the effect of
 54 continuing their victimization and inhibit their recoveries.
 55 Therefore, it is the finding of the Legislature that such
 56 identifying information must be made confidential and exempt
 57 from public disclosure.
 58 (2) The Legislature finds that it is a public necessity

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

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20141436__

59 that information about the location of safe houses and short-
60 term safe houses and facilities held by the Department of
61 Children and Families be made exempt from s. 119.07(1), Florida
62 Statutes, and s. 24(a), Article I of the State Constitution.
63 Safe houses and short-term safe houses are intended as refuges
64 for sexually exploited children from those who exploited them.
65 If the individuals who victimized such children were able to
66 learn the location of such safe houses, they may attempt to
67 contact their victims, exploit their vulnerabilities, and return
68 them to the situations in which they were victimized. Even
69 without the return of these child victims to their former
70 situations, additional contact with those who victimized them
71 would have the effect of continuing their victimization and
72 inhibit their recoveries. Therefore, it is the finding of the
73 Legislature that such identifying information must be made
74 confidential and exempt from public disclosure.

75 Section 4. This act shall take effect on the same date that
76 SB ____ or similar legislation relating to human trafficking
77 takes effect, if such legislation is adopted in the same
78 legislative session or an extension thereof and becomes a law.



The Florida Senate

Committee Agenda Request

To: Senator Eleanor Sobel, Chair
Committee on Children, Families, and Elder Affairs

Subject: Committee Agenda Request

Date: March 10, 2014

I respectfully request that **Senate Bill #1436**, relating to Public Records/Location of Safe Houses, be placed on the:

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

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

RECEIVED

MAR 10 2014

Senate Committee
Children and Families

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 Children, Families, and Elder Affairs

BILL: CS/SB 1440

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Flores

SUBJECT: Human Trafficking

DATE: April 1, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Crosier	Hendon	CF	Fav/CS
2.			CJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1440 prohibits a person under 18 years of age from working in an adult theater even if the person's disabilities of nonage have been removed by marriage or otherwise. The bill also eliminates the statute of limitation for prosecutions under specified human trafficking provisions and revises and enhances penalties for various human trafficking and prostitution offenses. The bill allows for the expunction of criminal history records of certain criminal charges against victims of human trafficking regardless of the disposition of the arrest or of any charges.

The bill has an effective date of October 1, 2014, and may have a fiscal impact on local and state government correctional expenditures.

II. Present Situation:

Victims of human trafficking are young children, teenagers, men, and women. Victims are subjected to force,¹ fraud, or coercion for the purpose of sexual exploitation or forced labor. The International Labor Organization (ILO), the United Nations agency charged with addressing labor standards, employment, and social protections issues, estimates that as many as 27 million adults and children are in forced labor, bonded labor, and commercial sexual servitude at any

¹U.S. Department of Health and Human Services, Administration for Children and Families, *About Human Trafficking*, available at <http://www.acf.hhs.gov/trafficking/about/index.html#> (last visited March 27, 2014).

given time.² The federal government has estimated that the number of persons trafficked into the United States each year ranges from 14,500-17,500.³

Third party or pimp-controlled commercial sexual exploitation of children is linked to escort and massage services, private dancing, drinking and photographic clubs, major sporting and recreational events, major cultural events, conventions, and tourist destinations. About one-fifth of these children become involved in nationally recognized crime networks and are trafficked nationally. They are transported around the United States by a variety of means – cars, buses, vans, trucks or planes – and are often provided counterfeit identification to use in the event of arrest.

Survivors of human trafficking often face both criminalization and stigmatization. Trafficked persons are not always recognized or treated as victims by law enforcement and prosecutors. Despite being victims, individuals who are trafficked are often arrested and convicted of prostitution and other related offenses, and may plead guilty without understanding the consequences. Multiple arrests, incarceration, police violence, deportation, employment, and housing discrimination may result.⁴

In 2012, Florida passed comprehensive legislation that updated and enhanced Florida’s human trafficking statutes.⁵ Section 787.06, F.S., is Florida’s human trafficking statute and defines “human trafficking” as the “transporting, soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining of another person for the purpose of exploitation of that person.” The statute contains a variety of provisions prohibiting persons from knowingly engaging in human trafficking using coercion for labor or services, or for sexual activity.⁶

Part I of ch. 450, F.S., commonly referred to as Florida’s Child Labor law, provides for the regulation of child labor in Florida. A person who violates any provision of Part I of ch. 450, F.S., commits a second degree misdemeanor⁷ and may be subject to a fine up to \$2,500.⁸

The Criminal Punishment Code (Code)⁹ is Florida’s framework for determining permissible sentencing ranges for noncapital felonies. Noncapital felonies sentenced under the Code are ranked in the offense severity ranking chart (Chart) from level one (least severe) to level 10 (most severe) and are assigned points based on the severity of the offense.¹⁰ If an offense is not listed in the Chart, it defaults to a score as provided in s. 921.0023, F.S., – third degree felonies

² See U.S. Department of State, *The 2013 Trafficking in Persons (TIP) Report*, (June 2013), available at <http://www.state.gov/j/tip/rls/tiprpt/2013/index.htm> (last visited March 27, 2014).

³ Sonide Simon, *Human Trafficking and Florida Law Enforcement*, Florida Criminal Justice Executive Institute, pg. 2, (March 2008), available at <http://www.fdle.state.fl.us/Content/getdoc/e77c75b7-e66b-40cd-ad6e-c7f21953b67a/Human-Trafficking.aspx> (last visited on March 27, 2014.)

⁴ *OJP Fact Sheet*, Office of Justice Programs, U.S. Department of Justice, (Dec. 2011), available at http://www.ojp.gov/newsroom/factsheets/ojpbs_humanttrafficking.html (last visited March 27, 2014).

⁵ Chapter 2012-97, Laws of Fla. This legislation took effect July 1, 2012.

⁶ Section 787.06(3), F.S.

⁷ A second degree misdemeanor is punishable by up to 60 days in county jail and a \$500 fine. Sections 775.072 and 775.0783, F.S.

⁸ Section 450.141.F.S.

⁹ Sections 921.002-921.0027, F.S.

¹⁰ Section 921.0022, F.S.

default to a Level one offense, second degree felonies default to a Level four offense, first degree felonies default to a Level seven offense, first degree felonies punishable by life default to a Level nine offense, and life felonies default to a Level 10 offense.

Section 787.06(3), F.S., provides the criminal penalties for human trafficking offenses.¹¹ Section 787.06(4), F.S., provides that it is a first degree felony ranked in Level nine of the Chart for a parent, legal guardian, or other person having custody or control of a minor to:

- Sell or otherwise transfer custody or control of the minor, or offer to sell or otherwise transfer custody or control of the minor with knowledge or in reckless disregard of the fact that as a consequence of the sale or transfer, the minor will be subject to human trafficking.¹²

Statute of limitations set forth time limitations for commencing criminal prosecutions and civil actions. In *State v. Garfalo*, the court found that “[t]he sole purpose of a statute of limitations in a criminal context is to prevent the State from hampering defense preparation by delaying prosecution until a point in time when its evidence is stale and defense witnesses have died, disappeared or otherwise become unavailable.”¹³

Section 943.0585, F.S., provides the procedures for expunging a criminal history record. When a criminal history record¹⁴ is expunged, criminal justice agencies¹⁵ other than the Florida Department of Law Enforcement (FDLE) must physically destroy the record.¹⁶ FDLE is required to retain expunged records.¹⁷ Records that have been expunged are confidential and exempt from the public records law,¹⁸ and it is a first degree misdemeanor¹⁹ to divulge their existence.²⁰

Persons who have had their criminal history records expunged may lawfully deny or fail to acknowledge the arrests covered by their record, except when they are applying for certain types of employment,²¹ petitioning the court for a record sealing or expunction, or are a defendant in a

¹¹ Each instance of human trafficking constitutes a separate crime, and authorizes separate punishment for each crime. Section 787.07(3), F.S. Convictions for human trafficking for commercial sexual activity offenses are included in the list of offenses that require an offender to be designated a sexual predator or sexual offender. Sections 776.21(4)(a), 943.0435(1)(a)1., 977.606(1)(b), and 944.607(1)(a)1., F.S.

¹² Section 921.0022(3)(i), F.S.

¹³ 453 So.2d 905, 906 (Fla. 4th DCA 1984)(citing *State v. Hickman*, 189 So.2d 254 (Fla. 2d DCS 1966)).

¹⁴ Section 943.045(6), F.S., defines a “criminal history record” as any nonjudicial record maintained by a criminal justice agency containing criminal history information.

¹⁵ Section 943.045(11), F.S., defines a “criminal justice agency” as: a court, the Florida Department of Law Enforcement; the Department of Juvenile Justice; the protective investigations component of the Department of Children and Families, which investigates crimes of abuse and neglect; or any other governmental agency or subunit thereof that performs the administration of criminal justice pursuant to a statute or rule of court and that allocates a substantial part of its annual budget to the administration of criminal justice.

¹⁶ Section 943.0585(4), F.S. Criminal justice agencies are allowed to make a notation indicating compliance with an expunction order.

¹⁷ *Id.*

¹⁸ Section 943.0585(4)(c), F.S.

¹⁹ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

²⁰ Section 943.0585(4)(c), F.S. requires FDLE to disclose expunged criminal history records to specified entities for specified purposes.

²¹ These include candidates for employment with a criminal justice agency; applicants for admission to the Florida Bar; those seeing a sensitive position involving direct contact with children, the developmentally disabled, or the elderly with the Department of Children and Families, Division of Vocational Rehabilitation within the Department of Education, the Agency

criminal prosecution.²² In 1992, the Legislature amended s. 943.0585, F.S., to require a person petitioning the court for an expunction to first obtain a certificate of eligibility for expunction (certificate) from FDLE.²³ Once a petition to expunge is submitted, it is up to the court to decide whether the expunction is appropriate.²⁴

Section 943.0583, F.S., authorizes a victim of human trafficking to petition the court for the expunction for an offense committed while he or she was a victim of human trafficking. A “victim of human trafficking” is defined as a person subjected to coercion for the purpose of being used in human trafficking, a minor who is a victim of human trafficking, or an individual subject to human trafficking as defined by federal law.²⁵

A petition must be initiated with due diligence after the victim has ceased to be a victim of human trafficking or has sought services for victims of human trafficking.²⁶ The petition must include:

- A sworn statement attesting that the victim is eligible for such expunction to the best of his or her knowledge or belief and does not have another petition to expunge or seal before any other court; and
- Official documentation of the victim’s status as a victim of human trafficking, if any exists.²⁷

The court’s determination of the petition must be by a preponderance of the evidence.²⁸ A determination made without official documentation must be made by a showing of clear and convincing evidence.²⁹ If a court grants an expunction, criminal justice agencies with custody of the expunged record, except FDLE, must physically destroy the record.³⁰ Persons who have had their human trafficking criminal history records expunged may lawfully deny or fail to acknowledge the arrests that were expunged unless they are a candidate for employment with a criminal justice agency or a defendant in a criminal prosecution.³¹

III. Effect of Proposed Changes:

Section 1 amends s. 450.021, F.S., to prohibit a person under 18 years of age from working in an adult theater regardless of whether such person’s disabilities of nonage have been removed by marriage or otherwise.

for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice; persons seeking to be employed or licensed by the Department of Education, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that licenses child care facilities, or a Florida seaport.

²² Section 943.0585(4)(c), F.S.

²³ Chapter 1992-73, Law of Fla.

²⁴ Section 943.0585, F.S.

²⁵ Section 943.0583(1)(c), F.S.

²⁶ Section 943.0583(4), F.S.

²⁷ Section 943.0583(6), F.S.

²⁸ Section 943.0583(3), F.S.

²⁹ Section 943.0583(5), F.S.

³⁰ Section 943.0583(8)(a), F.S. Records retained by FDLE are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution, except that the record shall be made available to criminal justice agencies for their respective criminal justice purposes. Section 943.0583(10)(a), F.S.

³¹ Section 943.0583(8)(b), F.S.

Section 2 amends s. 450.045, F.S., to require an adult theater to obtain proof of the identity and age of its employees and independent contractors prior to employment or the provision of services. The adult theater must also verify the validity of the identification documents used to provide such proof. The adult theater is required to maintain a photocopy of the person's government-issued photo identification card, as well as proof of the verification of the validity of the identification document. These records must be maintained at the location where the employee or independent contractor works or provides services to the adult theater for at least three years. This section provides the Department of Business and Professional Regulation and its agents the authority to enter and inspect at any time a place or establishment and to have access to age verification documents kept on file by the adult theater.

Section 3 amends s. 775.15, F.S., to provide that there is no time limitation for the criminal prosecution of a violation of s. 787.06, F.S., relating to human trafficking offenses.

Section 4 amends s. 787.06, F.S., to provide that is a felony of the first degree for the following:

- To engage in human trafficking for labor or services of any child under 18 years of age.
- To use coercion for labor or services of an adult.
- For labor or services of any child under 18 years of age who is an unauthorized alien.
- To use coercion for labor or services of an adult who is an unauthorized alien.
- To use coercion for commercial sexual activity of an adult.
- For labor or services by the transfer or transport of any child under the 18 years of age from outside this state to within the state.
- To use coercion for labor or services done by transfer or transport of an adult from outside this state to within the state.
- For commercial sexual activity done by transfer or transport of any child under 18 years of age from outside this state to within this state, which term of punishment not exceed life.
- To use coercion for commercial sexual activity done by transfer or transport of an adult from outside this state to within the state.

A person commits a life felony for commercial sexual activity in which any child is under 18 years of age or in which any person is mentally defective or mentally incapacitated as those terms are defined.

The bill also creates a new felony offense in that any person who permanently brands or directs the branding of a victim commits a second degree felony. Permanently branded is defined as a mark on the individual's body which, if it can be removed or repaired at all, can only be removed or repaired by surgical means, laser treatment, or other medical procedure.

This section also provides that the defendant's ignorance of the victim's age, the victim's misrepresentation of his or her age, or the defendant's bona fide belief of the victim's age cannot be raised as a defense in a prosecution for human trafficking.

Section 5 amends s. 775.082, F.S., to provide that for a life felony committed on or after October 1, 2014, which is a violation of s.787.06(3)(g), F.S., (commercial sex trafficking in which a child under 18 years of age is involved), the punishment be a term of life imprisonment.

Section 6 creates s. 796.001, F.S., to provide legislative intent that adults who involve minors in behaviors prohibited under ch. 796, F.S. (prostitution) be prosecuted under other laws of the state, such as, but not limited to, s. 787.06, F.S., ch. 794, F.S., ch. 800, F.S., s. 810.145, F.S., ch. 827, F.S., and ch. 847, F.S.

Section 7 repeals s. 796.03, F.S., s. 796.035, F.S., and s. 796.036, F.S., which relate to various prostitution related offenses.

Section 8 amends s. 706.05, F.S., to provide that any person with reasonable belief or knowledge that another person is engaged in prostitution to live or derive support or maintenance from the earnings of such person's prostitution commits a second degree felony for a first offense, a first degree felony for a second offense and a first degree felony with a mandatory minimum term of imprisonment of 10 years for a third or subsequent offense.

Section 9 amends s. 797.07, F.S. This section prohibits prostitution and related acts and enhances the penalties for violations of certain sections of this section.

Section 10 amends s. 943.0583, F.S., to allow victims of human trafficking to petition for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed under ch. 796, F.S., and ch. 847, F.S., regardless of the disposition of the arrest or of any charges.

This section also provides that a person adjudicated not guilty by reason of insanity or found to be incompetent to stand trial for any such charge, the expunction of the criminal history record may not prevent the entry of the judgment or finding in state and national databases for use in determination of eligibility to purchase or possess a firearm or carry a concealed firearm. The expunction shall not prevent any governmental agency authorized by state or federal law to determine eligibility to purchase or possess a firearm or carry a concealed firearm from accessing or using the record of the judgment or finding in the court of its official duties.

Section 11 amends s. 921.0022, F.S., to make revisions and add offenses pertaining to human trafficking and prostitution to the severity ranking and the description of the offense to the Criminal Punishment Code.

Sections 12 – 30 amends ss. 39.01, 90.404, 772.102, 775.0877, 775.21, 787.01, 787.02, 794.056, 856.022, 895.02, 938.085, 938.10, 943.0435, 943.0585, 943.059, 944.606, 944.607, 948.013, and 948.32, F.S., to make technical changes.

Section 31 provides an effective date of October, 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference met on March 25, 2014, and reported the impact of the bill was indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.01, 90.404, 450.021, 450.045, 772.102, 775.082, 775.0877, 775.15, 775.21, 787.01, 787.02, 787.06, 794.056, 796.05, 796.07, 856.022, 895.02, 921.0022, 938.085, 938.10, 943.0435, 943.0583, 943.0585, 943.059, 944.606, 944.607, 948.013, and 948.32.

This bill creates section 706.001 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 796.03, and 796.035.

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 Children, Families, and Elder Affairs on April 1, 2014:

The Committee Substitute:

- Prohibits a person under 18 years of age from working in an adult theater regardless of whether or not the disabilities of nonage have been removed by marriage or otherwise.
- Requires the adult theater to obtain proof and verification of identity and age of its employees or independent contractors and to retain such proof for at least three years.
- Creates s.796.001, F.S., to provide legislative intent that for adults who involve minors in any behavior prohibited in ch. 796, F.S., (Prostitution) be prosecuted under certain laws of this state.
- Repeals ss. 796.03, 796.035, and 796.036, F.S.
- Allows for victims of human trafficking to petition for the expunction of a criminal history record resulting from the arrest or filing of charges for an offense committed or reported to have been committed while the person was a victim of human trafficking without regard to the disposition of the arrest of any charge.
- Makes revisions and adds offenses pertaining to prostitution and human trafficking to the severity ranking and a description of the offense to the Criminal Punishment Code.
- Provides technical changes to certain statutes to provide conformity.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/01/2014	.	
	.	
	.	
	.	

The Committee on Children, Families, and Elder Affairs (Diaz de la Portilla) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (5) is added to section 450.021,
Florida Statutes, to read:

450.021 Minimum age; general.—

(5) In order to better ensure the elimination of minors
being exploited and becoming victims of human trafficking, a
person under the age of 18, whether or not such person's



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11 disabilities of nonage have been removed by marriage or
12 otherwise, may not be employed, permitted, or suffered to work
13 in an adult theater, as defined in s. 847.001(2)(b).

14 Section 2. Subsection (3) is added to section 450.045,
15 Florida Statutes, to read:

16 450.045 Proof of identity and age; posting of notices.—

17 (3) (a) In order to provide the department and law
18 enforcement agencies the means to more effectively identify,
19 investigate, and arrest persons engaging in human trafficking,
20 an adult theater, as defined in s. 847.001(2)(b), shall obtain
21 proof of the identity and age of each of its employees or
22 independent contractors, and shall verify the validity of the
23 identification and age verification document with the issuer,
24 before his or her employment or provision of services as an
25 independent contractor.

26 (b) The adult theater shall obtain and keep on record a
27 photocopy of the person's driver license or state or federal
28 government-issued photo identification card, along with a record
29 of the verification of the validity of the identification and
30 age verification document with the issuer, during the entire
31 period of employment or business relationship with the
32 independent contractor and for at least 3 years after the
33 employee or independent contractor ceases employment or the
34 provision of services.

35 (c) The department and its agents have the authority to
36 enter during operating hours, unannounced and without prior
37 notice, and inspect at any time a place or establishment covered
38 by this subsection and to have access to age verification
39 documents kept on file by the adult theater and such other



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40 records as may aid in the enforcement of this subsection.

41 Section 3. Subsection (18) is added to section 775.15,
42 Florida Statutes, to read:

43 775.15 Time limitations; general time limitations;
44 exceptions.—

45 (18) A prosecution for a violation of s. 787.06 may be
46 commenced at any time. This subsection applies to any such
47 offense except an offense the prosecution of which would have
48 been barred by subsection (2) on or before October 1, 2014.

49 Section 4. Subsections (3) and (4) of section 787.06,
50 Florida Statutes, are amended, and subsection (8) is added to
51 that section, to read:

52 787.06 Human trafficking.—

53 (3) Any person who knowingly, or in reckless disregard of
54 the facts, engages in human trafficking, or attempts to engage
55 in human trafficking, or benefits financially by receiving
56 anything of value from participation in a venture that has
57 subjected a person to human trafficking:

58 (a) 1. Using coercion For labor or services of any child
59 under the age of 18 commits a felony of the first degree,
60 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

61 2. Using coercion for labor or services of an adult commits
62 a felony of the first degree, punishable as provided in s.
63 775.082, s. 775.083, or s. 775.084.

64 (b) Using coercion for commercial sexual activity of an
65 adult commits a felony of the first degree, punishable as
66 provided in s. 775.082, s. 775.083, or s. 775.084.

67 (c) 1. Using coercion For labor or services of any child
68 under the age of 18 individual who is an unauthorized alien



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69 commits a felony of the first degree, punishable as provided in
70 s. 775.082, s. 775.083, or s. 775.084.

71 2. Using coercion for labor or services of an adult who is
72 an unauthorized alien commits a felony of the first degree,
73 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

74 (d) Using coercion for commercial sexual activity of an
75 adult ~~any individual~~ who is an unauthorized alien commits a
76 felony of the first degree, punishable as provided in s.
77 775.082, s. 775.083, or s. 775.084.

78 (e) 1. Using coercion For labor or services who does so by
79 the transfer or transport of any child under the age of 18
80 ~~individual~~ from outside this state to within the state commits a
81 felony of the first degree, punishable as provided in s.
82 775.082, s. 775.083, or s. 775.084.

83 2. Using coercion for labor or services who does so by the
84 transfer or transport of an adult from outside this state to
85 within the state commits a felony of the first degree,
86 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

87 (f) 1. Using coercion For commercial sexual activity who
88 does so by the transfer or transport of any child under the age
89 of 18 ~~individual~~ from outside this state to within the state
90 commits a felony of the first degree, punishable by imprisonment
91 for a term of years not exceeding life, or as provided in s.
92 775.082, s. 775.083, or s. 775.084.

93 2. Using coercion for commercial sexual activity who does
94 so by the transfer or transport of an adult from outside this
95 state to within the state commits a felony of the first degree,
96 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

97 (g) For commercial sexual activity in which any child under



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98 the age of 18, or in which any person who is mentally defective
99 or mentally incapacitated as those terms are defined in s.
100 794.011(1), is involved commits a life felony ~~of the first~~
101 ~~degree, punishable by imprisonment for a term of years not~~
102 ~~exceeding life, or as provided in s. 775.082(3)(a)5. 775.082, s.~~
103 ~~775.083, or s. 775.084. In a prosecution under this paragraph in~~
104 ~~which the defendant had a reasonable opportunity to observe the~~
105 ~~person who was subject to human trafficking, the state need not~~
106 ~~prove that the defendant knew that the person had not attained~~
107 ~~the age of 18 years.~~

108 ~~(h) For commercial sexual activity in which any child under~~
109 ~~the age of 15 is involved commits a life felony, punishable as~~
110 ~~provided in s. 775.082, s. 775.083, or s. 775.084. In a~~
111 ~~prosecution under this paragraph in which the defendant had a~~
112 ~~reasonable opportunity to observe the person who was subject to~~
113 ~~human trafficking, the state need not prove that the defendant~~
114 ~~knew that the person had not attained the age of 15 years.~~

115
116 For each instance of human trafficking of any individual under
117 this subsection, a separate crime is committed and a separate
118 punishment is authorized.

119 (4) (a) Any parent, legal guardian, or other person having
120 custody or control of a minor who sells or otherwise transfers
121 custody or control of such minor, or offers to sell or otherwise
122 transfer custody of such minor, with knowledge or in reckless
123 disregard of the fact that, as a consequence of the sale or
124 transfer, the minor will be subject to human trafficking commits
125 a life ~~first-degree~~ felony, punishable as provided in s.
126 775.082, s. 775.083, or s. 775.084.



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127 (b) Any person who permanently brands, or directs to be
128 branded, a victim of an offense under this section commits a
129 second degree felony, punishable as provided in s. 775.082, s.
130 775.083, or s. 775.084. For purposes of this subsection, the
131 term "permanently branded" means a mark on the individual's body
132 that, if it can be removed or repaired at all, can only be
133 removed or repaired by surgical means, laser treatment, or other
134 medical procedure.

135 (8) In a prosecution under this section, the defendant's
136 ignorance of the victim's age, the victim's misrepresentation of
137 his or her age, or the defendant's bona fide belief of the
138 victim's age cannot be raised as a defense.

139 Section 5. Paragraph (a) of subsection (3) of section
140 775.082, Florida Statutes, is amended to read:

141 775.082 Penalties; applicability of sentencing structures;
142 mandatory minimum sentences for certain reoffenders previously
143 released from prison.-

144 (3) A person who has been convicted of any other designated
145 felony may be punished as follows:

146 (a)1. For a life felony committed prior to October 1, 1983,
147 by a term of imprisonment for life or for a term of years not
148 less than 30.

149 2. For a life felony committed on or after October 1, 1983,
150 by a term of imprisonment for life or by a term of imprisonment
151 not exceeding 40 years.

152 3. Except as provided in subparagraph 4., for a life felony
153 committed on or after July 1, 1995, by a term of imprisonment
154 for life or by imprisonment for a term of years not exceeding
155 life imprisonment.



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156 4.a. Except as provided in sub-subparagraph b., for a life
157 felony committed on or after September 1, 2005, which is a
158 violation of s. 800.04(5)(b), by:

159 (I) A term of imprisonment for life; or

160 (II) A split sentence that is a term of not less than 25
161 years' imprisonment and not exceeding life imprisonment,
162 followed by probation or community control for the remainder of
163 the person's natural life, as provided in s. 948.012(4).

164 b. For a life felony committed on or after July 1, 2008,
165 which is a person's second or subsequent violation of s.
166 800.04(5)(b), by a term of imprisonment for life.

167 5. For a life felony committed on or after October 1, 2014,
168 which is a violation of s. 787.06(3)(g), by a term of
169 imprisonment for life.

170 Section 6. Section 796.001, Florida Statutes, is created to
171 read:

172 796.001 Offenses by adults involving minors; intent.—It is
173 the intent of the Legislature that adults who involve minors in
174 any behavior prohibited under this chapter be prosecuted under
175 other laws of this state, such as, but not limited to, s.
176 787.06, chapter 794, chapter 800, s. 810.145, chapter 827, and
177 chapter 847. The Legislature finds that prosecution of such
178 adults under this chapter is inappropriate since a minor is
179 unable to consent to such behavior.

180 Section 7. Sections 796.03, 796.035, and 796.036, Florida
181 Statutes, are repealed.

182 Section 8. Section 796.05, Florida Statutes, is amended to
183 read:

184 796.05 Deriving support from the proceeds of prostitution.—



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185 (1) It shall be unlawful for any person with reasonable
186 belief or knowing another person is engaged in prostitution to
187 live or derive support or maintenance in whole or in part from
188 what is believed to be the earnings or proceeds of such person's
189 prostitution.

190 (2) Anyone violating this section commits:

191 (a) For a first offense, a felony of the second ~~third~~
192 degree, punishable as provided in s. 775.082, s. 775.083, or s.
193 775.084.

194 (b) For a second offense, a felony of the first degree,
195 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

196 (c) For a third or subsequent offense, a felony of the
197 first degree punishable as provided in s. 775.082, s. 775.083,
198 or s. 775.084, with a mandatory minimum term of imprisonment of
199 10 years.

200 Section 9. Subsection (2) and subsections (4) through (6)
201 of section 796.07, Florida Statutes, are amended to read:

202 796.07 Prohibiting prostitution and related acts.—

203 (2) It is unlawful:

204 (a) To own, establish, maintain, or operate any place,
205 structure, building, or conveyance for the purpose of lewdness,
206 assignation, or prostitution.

207 (b) To offer, or to offer or agree to secure, another for
208 the purpose of prostitution or for any other lewd or indecent
209 act.

210 (c) To receive, or to offer or agree to receive, any person
211 into any place, structure, building, or conveyance for the
212 purpose of prostitution, lewdness, or assignation, or to permit
213 any person to remain there for such purpose.



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214 (d) To direct, take, or transport, or to offer or agree to
215 direct, take, or transport, any person to any place, structure,
216 or building, or to any other person, with knowledge or
217 reasonable cause to believe that the purpose of such directing,
218 taking, or transporting is prostitution, lewdness, or
219 assignation.

220 (e) To offer to commit, or to commit, or to engage in,
221 prostitution, lewdness, or assignation.

222 (f) To solicit, induce, entice, or procure another to
223 commit prostitution, lewdness, or assignation.

224 (g) To reside in, enter, or remain in, any place,
225 structure, or building, or to enter or remain in any conveyance,
226 for the purpose of prostitution, lewdness, or assignation.

227 (h) To aid or, abet, ~~or participate~~ in any of the acts or
228 things enumerated in this subsection.

229 (i) To purchase the services of any person engaged in
230 prostitution.

231 (4) A person who violates paragraph (2) (e) or (g) any
232 ~~provision of this section~~ commits:

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

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

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

240 (5) (a) A person who violates paragraphs (2) (a), (b), (c),
241 (d), (f), (h), or (i) commits:

242 1. For a first offense, a felony of the third degree,



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243 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

244 2. For a second offense, a felony of the second degree,
245 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

246 3. For a third or subsequent offense, a felony of the first
247 degree, punishable as provided in s. 775.082, s. 775.083, or s.
248 775.084. A person who is charged with a third or subsequent
249 violation of this section shall be offered admission to a
250 pretrial intervention program or a substance abuse treatment
251 program as provided in s. 948.08.

252 (6) A person who violates paragraphs (2) (a), (b), (c), (d),
253 (f), (h), or (i) paragraph (2) (f) shall be assessed a criminal
254 civil penalty of \$5,000 if the violation results in any judicial
255 disposition other than acquittal or dismissal. Of the proceeds
256 from each penalty assessed under this subsection, the first \$500
257 shall be paid to the circuit court administrator for the sole
258 purpose of paying the administrative costs of treatment-based
259 drug court programs provided under s. 397.334. The remainder of
260 the penalty assessed shall be deposited in the Operations and
261 Maintenance Trust Fund of the Department of Children and Family
262 Services for the sole purpose of funding safe houses and short-
263 term safe houses as provided in s. 409.1678.

264 Section 10. Subsection (3), paragraph (a) of subsection
265 (8), and paragraph (a) of subsection (10) of section 943.0583,
266 Florida Statutes, are amended to read:

267 943.0583 Human trafficking victim expunction.—

268 (3) A person who is a victim of human trafficking may
269 petition for the expunction of a criminal history record
270 resulting from the arrest or filing of charges any conviction
271 for an offense committed or reported to have been committed



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272 while the person ~~he or she~~ was a victim of human trafficking,
273 which offense was committed or reported to have been committed
274 as a part of the human trafficking scheme of which the person ~~he~~
275 ~~or she~~ was a victim or at the direction of an operator of the
276 scheme, including, but not limited to, violations under chapters
277 796 and 847, without regard to the disposition of the arrest or
278 of any charges. However, this section does not apply to any
279 offense listed in s. 775.084(1)(b)1. Determination of the
280 petition under this section should be by a preponderance of the
281 evidence. A conviction expunged under this section is deemed to
282 have been vacated due to a substantive defect in the underlying
283 criminal proceedings. If a person is adjudicated not guilty by
284 reason of insanity or is found to be incompetent to stand trial
285 for any such charge, the expunction of the criminal history
286 record may not prevent the entry of the judgment or finding in
287 state and national databases for use in determining eligibility
288 to purchase or possess a firearm or to carry a concealed
289 firearm, as authorized in s. 790.065(2)(a)4.c. and 18 U.S.C. s.
290 922(t), nor shall it prevent any governmental agency that is
291 authorized by state or federal law to determine eligibility to
292 purchase or possess a firearm or to carry a concealed firearm
293 from accessing or using the record of the judgment or finding in
294 the course of such agency's official duties.

295 (8)(a) Any criminal history record of a minor or an adult
296 that is ordered expunged by the court of original jurisdiction
297 over the charges ~~crime~~ sought to be expunged pursuant to this
298 section must be physically destroyed or obliterated by any
299 criminal justice agency having custody of such record, except
300 that any criminal history record in the custody of the



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301 department must be retained in all cases.

302 (10) (a) A criminal history record ordered expunged under
303 this section that is retained by the department is confidential
304 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
305 Constitution, except that the record shall be made available to
306 criminal justice agencies for their respective criminal justice
307 purposes and to any governmental agency that is authorized by
308 state or federal law to determine eligibility to purchase or
309 possess a firearm or to carry a concealed firearm for use in the
310 course of such agency's official duties. Otherwise, such record
311 shall not be disclosed to any person or entity except upon order
312 of a court of competent jurisdiction. A criminal justice agency
313 may retain a notation indicating compliance with an order to
314 expunge.

315 Section 11. Paragraphs (c), (e), and (g) through (j) of
316 subsection (3) of section 921.0022, Florida Statutes, are
317 amended to read:

318 921.0022 Criminal Punishment Code; offense severity ranking
319 chart.-

320 (3) OFFENSE SEVERITY RANKING CHART

321 (c) LEVEL 3

322
323

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.

324



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325	316.066 (3) (b) - (d)	3rd	Unlawfully obtaining or using confidential crash reports.
326	316.193 (2) (b)	3rd	Felony DUI, 3rd conviction.
327	316.1935 (2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
328	319.30 (4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
329	319.33 (1) (a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
330	319.33 (1) (c)	3rd	Procure or pass title on stolen vehicle.
331	319.33 (4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
332	327.35 (2) (b)	3rd	Felony BUI.
333			



- 334 328.05(2) 3rd Possess, sell, or counterfeit
fictitious, stolen, or
fraudulent titles or bills of
sale of vessels.
- 335 328.07(4) 3rd Manufacture, exchange, or
possess vessel with counterfeit
or wrong ID number.
- 336 376.302(5) 3rd Fraud related to reimbursement
for cleanup expenses under the
Inland Protection Trust Fund.
- 337 379.2431 3rd Taking, disturbing, mutilating,
(1) (e) 5. destroying, causing to be
destroyed, transferring,
selling, offering to sell,
molesting, or harassing marine
turtles, marine turtle eggs, or
marine turtle nests in
violation of the Marine Turtle
Protection Act.
- 338 379.2431 3rd Soliciting to commit or
(1) (e) 6. conspiring to commit a
violation of the Marine Turtle
Protection Act.
- 400.9935(4) 3rd Operating a clinic without a



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vehicle.

346

~~796.05(1) 3rd Live on earnings of a
prostitute.~~

347

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

348

806.10(2) 3rd Interferes with or assaults
firefighter in performance of
duty.

349

810.09(2)(c) 3rd Trespass on property other than
structure or conveyance armed
with firearm or dangerous
weapon.

350

812.014(2)(c)2. 3rd Grand theft; \$5,000 or more but
less than \$10,000.

351

812.0145(2)(c) 3rd Theft from person 65 years of
age or older; \$300 or more but
less than \$10,000.

352

815.04(4)(b) 2nd Computer offense devised to
defraud or obtain property.

353

817.034(4)(a)3. 3rd Engages in scheme to defraud



(Florida Communications Fraud Act), property valued at less than \$20,000.

354

817.233 3rd Burning to defraud insurer.

355

817.234 3rd Unlawful solicitation of
(8) (b) - (c) persons involved in motor vehicle accidents.

356

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

357

817.236 3rd Filing a false motor vehicle insurance application.

358

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

359

817.413 (2) 3rd Sale of used goods as new.

360

817.505 (4) 3rd Patient brokering.

361

828.12 (2) 3rd Tortures any animal with intent to inflict intense pain, serious physical injury, or death.



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362 831.28(2)(a) 3rd Counterfeiting a payment
instrument with intent to
defraud or possessing a
counterfeit payment instrument.

363 831.29 2nd Possession of instruments for
counterfeiting drivers'
licenses or identification
cards.

364 838.021(3)(b) 3rd Threatens unlawful harm to
public servant.

365 843.19 3rd Injure, disable, or kill police
dog or horse.

366 860.15(3) 3rd Overcharging for repairs and
parts.

367 870.01(2) 3rd Riot; inciting or encouraging.

368 893.13(1)(a)2. 3rd Sell, manufacture, or deliver
cannabis (or other s.
893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) drugs).

369



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370 893.13(1)(d)2. 2nd Sell, manufacture, or deliver
s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) drugs
within 1,000 feet of
university.

371 893.13(1)(f)2. 2nd Sell, manufacture, or deliver
s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) drugs
within 1,000 feet of public
housing facility.

372 893.13(6)(a) 3rd Possession of any controlled
substance other than felony
possession of cannabis.

373 893.13(7)(a)8. 3rd Withhold information from
practitioner regarding previous
receipt of or prescription for
a controlled substance.

893.13(7)(a)9. 3rd Obtain or attempt to obtain
controlled substance by fraud,
forgery, misrepresentation,
etc.



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- 374 893.13(7)(a)10. 3rd Affix false or forged label to
package of controlled
substance.
- 375 893.13(7)(a)11. 3rd Furnish false or fraudulent
material information on any
document or record required by
chapter 893.
- 376 893.13(8)(a)1. 3rd Knowingly assist a patient,
other person, or owner of an
animal in obtaining a
controlled substance through
deceptive, untrue, or
fraudulent representations in
or related to the
practitioner's practice.
- 377 893.13(8)(a)2. 3rd Employ a trick or scheme in the
practitioner's practice to
assist a patient, other person,
or owner of an animal in
obtaining a controlled
substance.
- 378 893.13(8)(a)3. 3rd Knowingly write a prescription
for a controlled substance for
a fictitious person.



388	316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
389	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
390	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
391	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
392	379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
393	379.3671 (2)(c)3.	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
394	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
395	440.10(1)(g)	2nd	Failure to obtain workers'



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compensation coverage.

396

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

397

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

398

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

399

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

400

790.01(2) 3rd Carrying a concealed firearm.

401

790.162 2nd Threat to throw or discharge
destructive device.

402

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

403



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404	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
405	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
406	<u>796.05 (1)</u>	<u>2nd</u>	<u>Live on earnings of a prostitute; 1st offense.</u>
407	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
408	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
409	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
410	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
411	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.



412	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
413	812.131(2)(b)	3rd	Robbery by sudden snatching.
414	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
415	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
416	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
417	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
	817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification



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information of 10 or more
individuals.

418

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

419

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

420

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

421

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

422

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

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424	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
425	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
426	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
427	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
428	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
429	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 to join a criminal gang.
	893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).



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430

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

431

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

432

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



441	316.193 (3) (c) 2.	3rd	DUI resulting in serious bodily injury.
442	316.1935 (3) (b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
443	327.35 (3) (c) 2.	3rd	Vessel BUI resulting in serious bodily injury.
444	402.319 (2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
445	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
446	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
447			



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448	456.065 (2)	3rd	Practicing a health care profession without a license.
449	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
450	458.327 (1)	3rd	Practicing medicine without a license.
451	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
452	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
453	461.012 (1)	3rd	Practicing podiatric medicine without a license.
454	462.17	3rd	Practicing naturopathy without a license.
455	463.015 (1)	3rd	Practicing optometry without a license.
456	464.016 (1)	3rd	Practicing nursing without a license.



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457	465.015 (2)	3rd	Practicing pharmacy without a license.
458	466.026 (1)	3rd	Practicing dentistry or dental hygiene without a license.
459	467.201	3rd	Practicing midwifery without a license.
460	468.366	3rd	Delivering respiratory care services without a license.
461	483.828 (1)	3rd	Practicing as clinical laboratory personnel without a license.
462	483.901 (9)	3rd	Practicing medical physics without a license.
463	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
464	484.053	3rd	Dispensing hearing aids without a license.
	494.0018 (2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded



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\$50,000 and there were five or more victims.

465

560.123(8)(b)1. 3rd Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.

466

560.125(5)(a) 3rd Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.

467

655.50(10)(b)1. 3rd Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.

468

775.21(10)(a) 3rd Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.

469

775.21(10)(b) 3rd Sexual predator working where children regularly congregate.

470

775.21(10)(g) 3rd Failure to report or providing



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false information about a
sexual predator; harbor or
conceal a sexual predator.

471

782.051(3) 2nd Attempted felony murder of a
person by a person other than
the perpetrator or the
perpetrator of an attempted
felony.

472

782.07(1) 2nd Killing of a human being by the
act, procurement, or culpable
negligence of another
(manslaughter).

473

782.071 2nd Killing of a human being or
viable fetus by the operation
of a motor vehicle in a
reckless manner (vehicular
homicide).

474

782.072 2nd Killing of a human being by the
operation of a vessel in a
reckless manner (vessel
homicide).

475

784.045(1)(a)1. 2nd Aggravated battery;
intentionally causing great
bodily harm or disfigurement.



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476	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
477	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
478	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
479	784.048 (7)	3rd	Aggravated stalking; violation of court order.
480	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
481	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
482	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
483	784.081 (1)	1st	Aggravated battery on specified official or employee.
484	784.082 (1)	1st	Aggravated battery by detained person on visitor or other detainee.



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485	784.083(1)	1st	Aggravated battery on code inspector.
486	787.06(3)(a) <u>2.</u>	1st	Human trafficking using coercion for labor and services <u>of an adult.</u>
487	787.06(3)(e) <u>2.</u>	1st	Human trafficking using coercion for labor and services by the transfer or transport of <u>an adult</u> any individual from outside Florida to within the state.
488	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
489	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
490	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
491	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or



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attempting to commit a felony.

492

790.166(3) 2nd Possessing, selling, using, or
attempting to use a hoax weapon
of mass destruction.

493

790.166(4) 2nd Possessing, displaying, or
threatening to use a hoax
weapon of mass destruction
while committing or attempting
to commit a felony.

494

790.23 1st,PBL Possession of a firearm by a
person who qualifies for the
penalty enhancements provided
for in s. 874.04.

495

794.08(4) 3rd Female genital mutilation;
consent by a parent, guardian,
or a person in custodial
authority to a victim younger
than 18 years of age.

496

~~796.03 2nd Procuring any person under 16
years for prostitution.~~

497

796.05(1) 1st Live on earnings of a
prostitute; 2nd offense.

498



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499	<u>796.05(1)</u>	<u>1st</u>	<u>Live on earnings of a prostitute; 3rd and subsequent offense.</u>
500	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.
501	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older.
502	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
503	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
504	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
505	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
	810.02(3)(e)	2nd	Burglary of authorized



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emergency vehicle.

506

812.014 (2) (a) 1. 1st Property stolen, valued at
\$100,000 or more or a
semitrailer deployed by a law
enforcement officer; property
stolen while causing other
property damage; 1st degree
grand theft.

507

812.014 (2) (b) 2. 2nd Property stolen, cargo valued
at less than \$50,000, grand
theft in 2nd degree.

508

812.014 (2) (b) 3. 2nd Property stolen, emergency
medical equipment; 2nd degree
grand theft.

509

812.014 (2) (b) 4. 2nd Property stolen, law
enforcement equipment from
authorized emergency vehicle.

510

812.0145 (2) (a) 1st Theft from person 65 years of
age or older; \$50,000 or more.

511

812.019 (2) 1st Stolen property; initiates,
organizes, plans, etc., the
theft of property and traffics
in stolen property.



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512	812.131 (2) (a)	2nd	Robbery by sudden snatching.
513	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
514	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
515	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
516	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
517	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
518	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
519	817.535 (2) (a)	3rd	Filing false lien or other



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unauthorized document.

520

825.102(3)(b) 2nd Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.

521

825.103(2)(b) 2nd Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.

522

827.03(2)(b) 2nd Neglect of a child causing great bodily harm, disability, or disfigurement.

523

827.04(3) 3rd Impregnation of a child under 16 years of age by person 21 years of age or older.

524

837.05(2) 3rd Giving false information about alleged capital felony to a law enforcement officer.

525

838.015 2nd Bribery.

526

838.016 2nd Unlawful compensation or reward for official behavior.

527



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528	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
529	838.22	2nd	Bid tampering.
530	843.0855 (2)	3rd	Impersonation of a public officer or employee.
531	843.0855 (3)	3rd	Unlawful simulation of legal process.
532	843.0855 (4)	3rd	Intimidation of a public officer or employee.
533	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
534	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
535	872.06	2nd	Abuse of a dead human body.
536	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
	874.10	1st,PBL	Knowingly initiates, organizes,



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plans, finances, directs,
manages, or supervises criminal
gang-related activity.

537

893.13(1)(c)1. 1st Sell, manufacture, or deliver
cocaine (or other drug
prohibited under s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.)
within 1,000 feet of a child
care facility, school, or
state, county, or municipal
park or publicly owned
recreational facility or
community center.

538

893.13(1)(e)1. 1st Sell, manufacture, or deliver
cocaine or other drug
prohibited under s.
893.03(1)(a), (1)(b), (1)(d),
(2)(a), (2)(b), or (2)(c)4.,
within 1,000 feet of property
used for religious services or
a specified business site.

539

893.13(4)(a) 1st Deliver to minor cocaine (or
other s. 893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or
(2)(c)4. drugs).



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540	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
541	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
542	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
543	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
544	893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
545	893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
546	893.135 (1)(g)1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
547			



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548	893.135 (1) (h) 1.a.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
549	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
550	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
551	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
552	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
553	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to



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comply with reporting
requirements.

554

943.0435 (8) 2nd Sexual offender; remains in
state after indicating intent
to leave; failure to comply
with reporting requirements.

555

943.0435 (9) (a) 3rd Sexual offender; failure to
comply with reporting
requirements.

556

943.0435 (13) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

557

943.0435 (14) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification.

558

944.607 (9) 3rd Sexual offender; failure to
comply with reporting
requirements.

559

944.607 (10) (a) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.



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560 944.607(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

561 944.607(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification.

562 985.4815(10) 3rd Sexual offender; failure to
submit to the taking of a
digitized photograph.

563 985.4815(12) 3rd Failure to report or providing
false information about a
sexual offender; harbor or
conceal a sexual offender.

564 985.4815(13) 3rd Sexual offender; failure to
report and reregister; failure
to respond to address
verification.

565
566 (h) LEVEL 8

567
568

Florida	Felony	Description
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	Statute	Degree	
569	316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
570	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
571	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
572	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
573	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
574	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
575	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.



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576

655.50(10)(b)2. 2nd Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.

577

777.03(2)(a) 1st Accessory after the fact, capital felony.

578

782.04(4) 2nd Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.

579

782.051(2) 1st Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).

580

782.071(1)(b) 1st Committing vehicular homicide and failing to render aid or give information.

581



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582	782.072 (2)	1st	Committing vessel homicide and failing to render aid or give information.
583	<u>787.06 (3) (a) 1.</u>	<u>1st</u>	<u>Human trafficking for labor and services of a child.</u>
584	787.06 (3) (b)	1st	Human trafficking using coercion for commercial sexual activity <u>of an adult.</u>
585	787.06 (3) (c) <u>2.</u>	1st	Human trafficking using coercion for labor and services of an unauthorized alien <u>adult.</u>
586	<u>787.06 (3) (e) 1.</u>	<u>1st</u>	<u>Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.</u>
587	787.06 (3) (f) <u>2.</u>	1st	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any <u>adult individual</u> from outside Florida to within the state.
	790.161 (3)	1st	Discharging a destructive



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595	812.014 (2) (a) 2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
596	812.13 (2) (b)	1st	Robbery with a weapon.
597	812.135 (2) (c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
598	817.535 (2) (b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.
599	817.535 (3) (a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
600	817.535 (4) (a) 1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
601	817.535 (5) (a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false



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vehicle resulting in great
bodily harm.

609

860.16 1st Aircraft piracy.

610

893.13(1)(b) 1st Sell or deliver in excess of 10
grams of any substance
specified in s. 893.03(1)(a) or
(b).

611

893.13(2)(b) 1st Purchase in excess of 10 grams
of any substance specified in
s. 893.03(1)(a) or (b).

612

893.13(6)(c) 1st Possess in excess of 10 grams
of any substance specified in
s. 893.03(1)(a) or (b).

613

893.135(1)(a)2. 1st Trafficking in cannabis, more
than 2,000 lbs., less than
10,000 lbs.

614

893.135 1st Trafficking in cocaine, more
(1)(b)1.b. than 200 grams, less than 400
grams.

615

893.135 1st Trafficking in illegal drugs,
(1)(c)1.b. more than 14 grams, less than
28 grams.



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616	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
617	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
618	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
619	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
620	893.135 (1) (h) 1.b.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
621	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
622	893.135 (1) (k) 2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.



623	893.1351 (3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
624	895.03 (1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
625	895.03 (2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
626	895.03 (3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
627	896.101 (5) (b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
628	896.104 (4) (a) 2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than



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\$100,000.

629

630 (i) LEVEL 9

631

632

Florida Statute	Felony Degree	Description
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633

316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
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634

327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
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635

409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
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636

499.0051 (9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
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637

560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
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638

560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling
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646

787.01(1)(a)1. 1st,PBL Kidnapping; hold for ransom or
reward or as a shield or
hostage.

647

787.01(1)(a)2. 1st,PBL Kidnapping with intent to
commit or facilitate commission
of any felony.

648

787.01(1)(a)4. 1st,PBL Kidnapping with intent to
interfere with performance of
any governmental or political
function.

649

787.02(3)(a) 1st False imprisonment; child under
age 13; perpetrator also
commits aggravated child abuse,
sexual battery, or lewd or
lascivious battery,
molestation, conduct, or
exhibition.

650

787.06(3)(c)1. 1st Human trafficking for labor and
services of an unauthorized
alien child.

787.06(3)(d) 1st Human trafficking using
coercion for commercial sexual
activity of an unauthorized
adult alien.



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651	<u>787.06(3)(f)1.</u>	<u>1st,PBL</u>	<u>Human trafficking for commercial sexual activity by the transfer or transport of any child from outside Florida to within the state.</u>
652	787.06(3)(g)	1st,PBL	Human trafficking for commercial sexual activity of a child under the age of 18.
653	787.06(4)	1st	Selling or buying of minors into human trafficking.
654	790.161	1st	Attempted capital destructive device offense.
655	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
656	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
657	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.



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658	794.011 (4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
659	794.011 (8) (b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
660	794.08 (2)	1st	Female genital mutilation; victim younger than 18 years of age.
661	796.035	1st	Selling or buying of minors into prostitution.
662	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
663	812.13 (2) (a)	1st, PBL	Robbery with firearm or other deadly weapon.
664	812.133 (2) (a)	1st, PBL	Carjacking; firearm or other deadly weapon.
665	812.135 (2) (b)	1st	Home-invasion robbery with weapon.



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666	817.535 (3) (b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
667	817.535 (4) (a) 2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
668	817.535 (5) (b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a result of the false instrument.
669	817.568 (7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
670	827.03 (2) (a)	1st	Aggravated child abuse.
671	847.0145 (1)	1st	Selling, or otherwise



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transferring custody or
control, of a minor.

672

847.0145(2) 1st Purchasing, or otherwise
obtaining custody or control,
of a minor.

673

859.01 1st Poisoning or introducing
bacteria, radioactive
materials, viruses, or chemical
compounds into food, drink,
medicine, or water with intent
to kill or injure another
person.

674

893.135 1st Attempted capital trafficking
offense.

675

893.135(1)(a)3. 1st Trafficking in cannabis, more
than 10,000 lbs.

676

893.135 1st Trafficking in cocaine, more
(1)(b)1.c. than 400 grams, less than 150
kilograms.

677

893.135 1st Trafficking in illegal drugs,
(1)(c)1.c. more than 28 grams, less than
30 kilograms.

678



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679	893.135 (1) (d) 1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
680	893.135 (1) (e) 1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
681	893.135 (1) (f) 1.c.	1st	Trafficking in amphetamine, more than 200 grams.
682	893.135 (1) (h) 1.c.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 10 kilograms or more.
683	893.135 (1) (j) 1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
684	893.135 (1) (k) 2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
685	896.101 (5) (c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
686	896.104 (4) (a) 3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.



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687 (j) LEVEL 10

688

689

Florida Statute	Felony Degree	Description
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690

499.0051(10)	1st	Knowing sale or purchase of contraband prescription drugs resulting in death.
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691

782.04(2)	1st,PBL	Unlawful killing of human; act is homicide, unpremeditated.
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692

782.07(3)	1st	Aggravated manslaughter of a child.
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693

787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm upon or terrorize victim.
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694

787.01(3)(a)	Life	Kidnapping; child under age 13, perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
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695

<u>787.06(3)(g)</u>	Life	Human trafficking for
787.06(3)(h)		commercial sexual activity of a child under the age of <u>18 or</u>



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mentally defective or
incapacitated person ~~15~~.

696

787.06(4)(a) Life Selling or buying of minors
into human trafficking.

697

794.011(3) Life Sexual battery; victim 12 years
or older, offender uses or
threatens to use deadly weapon
or physical force to cause
serious injury.

698

812.135(2)(a) 1st,PBL Home-invasion robbery with
firearm or other deadly weapon.

699

876.32 1st Treason against the state.

700

701 Section 12. Paragraph (g) of subsection (67) of section
702 39.01, Florida Statutes, is amended to read:

703 39.01 Definitions.—When used in this chapter, unless the
704 context otherwise requires:

705 (67) "Sexual abuse of a child" for purposes of finding a
706 child to be dependent means one or more of the following acts:

707 (g) The sexual exploitation of a child, which includes the
708 act of a child offering to engage in or engaging in
709 prostitution, provided that the child is not under arrest or is
710 not being prosecuted in a delinquency or criminal proceeding for
711 a violation of any offense in chapter 796 based on such
712 behavior; or allowing, encouraging, or forcing a child to:



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- 713 1. Solicit for or engage in prostitution;
714 2. Engage in a sexual performance, as defined by chapter
715 827; or
716 3. Participate in the trade of human ~~sex~~ trafficking as
717 provided in s. 787.06(3)(g) ~~796.035~~.

718 Section 13. Paragraphs (b) and (c) of subsection (2) of
719 section 90.404, Florida Statutes, are amended to read:

720 90.404 Character evidence; when admissible.—

721 (2) OTHER CRIMES, WRONGS, OR ACTS.—

722 (b)1. In a criminal case in which the defendant is charged
723 with a crime involving child molestation, evidence of the
724 defendant's commission of other crimes, wrongs, or acts of child
725 molestation is admissible and may be considered for its bearing
726 on any matter to which it is relevant.

727 2. For the purposes of this paragraph, the term "child
728 molestation" means conduct proscribed by s. 787.025(2)(c), s.
729 787.06(3)(g) ~~and (h)~~, s. 794.011, excluding s. 794.011(10), s.
730 794.05, ~~s. 796.03, s. 796.035~~, s. 800.04, s. 827.071, s.
731 847.0135(5), s. 847.0145, or s. 985.701(1) when committed
732 against a person 16 years of age or younger.

733 (c)1. In a criminal case in which the defendant is charged
734 with a sexual offense, evidence of the defendant's commission of
735 other crimes, wrongs, or acts involving a sexual offense is
736 admissible and may be considered for its bearing on any matter
737 to which it is relevant.

738 2. For the purposes of this paragraph, the term "sexual
739 offense" means conduct proscribed by s. 787.025(2)(c), s.
740 787.06(3)(b), (d), (f), or (g), ~~or (h)~~, s. 794.011, excluding s.
741 794.011(10), s. 794.05, ~~s. 796.03, s. 796.035~~, s.



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742 825.1025(2)(b), s. 827.071, s. 847.0135(5), s. 847.0145, or s.
743 985.701(1).

744 Section 14. Paragraph (a) of subsection (1) of section
745 772.102, Florida Statutes, is amended to read:

746 772.102 Definitions.—As used in this chapter, the term:

747 (1) "Criminal activity" means to commit, to attempt to
748 commit, to conspire to commit, or to solicit, coerce, or
749 intimidate another person to commit:

750 (a) Any crime that is chargeable by indictment or
751 information under the following provisions:

752 1. Section 210.18, relating to evasion of payment of
753 cigarette taxes.

754 2. Section 414.39, relating to public assistance fraud.

755 3. Section 440.105 or s. 440.106, relating to workers'
756 compensation.

757 4. Part IV of chapter 501, relating to telemarketing.

758 5. Chapter 517, relating to securities transactions.

759 6. Section 550.235 or s. 550.3551, relating to dogracing
760 and horseracing.

761 7. Chapter 550, relating to jai alai frontons.

762 8. Chapter 552, relating to the manufacture, distribution,
763 and use of explosives.

764 9. Chapter 562, relating to beverage law enforcement.

765 10. Section 624.401, relating to transacting insurance
766 without a certificate of authority, s. 624.437(4)(c)1., relating
767 to operating an unauthorized multiple-employer welfare
768 arrangement, or s. 626.902(1)(b), relating to representing or
769 aiding an unauthorized insurer.

770 11. Chapter 687, relating to interest and usurious



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771 practices.

772 12. Section 721.08, s. 721.09, or s. 721.13, relating to

773 real estate timeshare plans.

774 13. Chapter 782, relating to homicide.

775 14. Chapter 784, relating to assault and battery.

776 15. Chapter 787, relating to kidnapping or human

777 trafficking.

778 16. Chapter 790, relating to weapons and firearms.

779 17. Section ~~796.03~~, s. 796.04, s. 796.05, or s. 796.07,

780 relating to prostitution.

781 18. Chapter 806, relating to arson.

782 19. Section 810.02(2)(c), relating to specified burglary of

783 a dwelling or structure.

784 20. Chapter 812, relating to theft, robbery, and related

785 crimes.

786 21. Chapter 815, relating to computer-related crimes.

787 22. Chapter 817, relating to fraudulent practices, false

788 pretenses, fraud generally, and credit card crimes.

789 23. Section 827.071, relating to commercial sexual

790 exploitation of children.

791 24. Chapter 831, relating to forgery and counterfeiting.

792 25. Chapter 832, relating to issuance of worthless checks

793 and drafts.

794 26. Section 836.05, relating to extortion.

795 27. Chapter 837, relating to perjury.

796 28. Chapter 838, relating to bribery and misuse of public

797 office.

798 29. Chapter 843, relating to obstruction of justice.

799 30. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or



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800 s. 847.07, relating to obscene literature and profanity.
801 31. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
802 849.25, relating to gambling.
803 32. Chapter 893, relating to drug abuse prevention and
804 control.
805 33. Section 914.22 or s. 914.23, relating to witnesses,
806 victims, or informants.
807 34. Section 918.12 or s. 918.13, relating to tampering with
808 jurors and evidence.
809 Section 15. Paragraph (m) of subsection (1) of section
810 775.0877, Florida Statutes, is amended to read:
811 775.0877 Criminal transmission of HIV; procedures;
812 penalties.—
813 (1) In any case in which a person has been convicted of or
814 has pled nolo contendere or guilty to, regardless of whether
815 adjudication is withheld, any of the following offenses, or the
816 attempt thereof, which offense or attempted offense involves the
817 transmission of body fluids from one person to another:
818 (m) Sections ~~796.03~~, 796.07~~7~~ and 796.08, relating to
819 prostitution; or
820
821 the court shall order the offender to undergo HIV testing, to be
822 performed under the direction of the Department of Health in
823 accordance with s. 381.004, unless the offender has undergone
824 HIV testing voluntarily or pursuant to procedures established in
825 s. 381.004(2)(h)6. or s. 951.27, or any other applicable law or
826 rule providing for HIV testing of criminal offenders or inmates,
827 subsequent to her or his arrest for an offense enumerated in
828 paragraphs (a)-(n) for which she or he was convicted or to which



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829 she or he pled nolo contendere or guilty. The results of an HIV
830 test performed on an offender pursuant to this subsection are
831 not admissible in any criminal proceeding arising out of the
832 alleged offense.

833 Section 16. Paragraph (a) of subsection (4) and paragraph
834 (b) of subsection (10) of section 775.21, Florida Statutes, are
835 amended to read:

836 775.21 The Florida Sexual Predators Act.—

837 (4) SEXUAL PREDATOR CRITERIA.—

838 (a) For a current offense committed on or after October 1,
839 1993, upon conviction, an offender shall be designated as a
840 “sexual predator” under subsection (5), and subject to
841 registration under subsection (6) and community and public
842 notification under subsection (7) if:

843 1. The felony is:

844 a. A capital, life, or first-degree felony violation, or
845 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
846 is a minor and the defendant is not the victim’s parent or
847 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
848 violation of a similar law of another jurisdiction; or

849 b. Any felony violation, or any attempt thereof, of s.
850 787.01, s. 787.02, or s. 787.025(2)(c), where the victim is a
851 minor and the defendant is not the victim’s parent or guardian;
852 s. 787.06(3)(b), (d), (f), or (g), ~~or (h)~~; s. 794.011, excluding
853 s. 794.011(10); s. 794.05; ~~s. 796.03; s. 796.035~~; s. 800.04; s.
854 810.145(8)(b); s. 825.1025(2)(b); s. 827.071; s. 847.0135(5); s.
855 847.0145; or s. 985.701(1); or a violation of a similar law of
856 another jurisdiction, and the offender has previously been
857 convicted of or found to have committed, or has pled nolo



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858 | contendere or guilty to, regardless of adjudication, any
859 | violation of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
860 | the victim is a minor and the defendant is not the victim's
861 | parent or guardian; s. 787.06(3)(b), (d), (f), or (g), ~~or~~ (h);
862 | s. 794.011, excluding s. 794.011(10); s. 794.05; ~~s. 796.03; s.~~
863 | ~~796.035; s.~~ 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
864 | 847.0135, excluding s. 847.0135(6); s. 847.0145; or s.
865 | 985.701(1); or a violation of a similar law of another
866 | jurisdiction;

867 | 2. The offender has not received a pardon for any felony or
868 | similar law of another jurisdiction that is necessary for the
869 | operation of this paragraph; and

870 | 3. A conviction of a felony or similar law of another
871 | jurisdiction necessary to the operation of this paragraph has
872 | not been set aside in any postconviction proceeding.

873 | (10) PENALTIES.—

874 | (b) A sexual predator who has been convicted of or found to
875 | have committed, or has pled nolo contendere or guilty to,
876 | regardless of adjudication, any violation, or attempted
877 | violation, of s. 787.01, s. 787.02, or s. 787.025(2)(c), where
878 | the victim is a minor and the defendant is not the victim's
879 | parent or guardian; s. 794.011, excluding s. 794.011(10); s.
880 | 794.05; ~~s. 796.03; s. 796.035; s.~~ 800.04; s. 827.071; s.
881 | 847.0133; s. 847.0135(5); s. 847.0145; or s. 985.701(1); or a
882 | violation of a similar law of another jurisdiction when the
883 | victim of the offense was a minor, and who works, whether for
884 | compensation or as a volunteer, at any business, school, child
885 | care facility, park, playground, or other place where children
886 | regularly congregate, commits a felony of the third degree,



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887 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

888 Section 17. Paragraph (a) of subsection (3) of section
889 787.01, Florida Statutes, is amended to read:

890 787.01 Kidnapping; kidnapping of child under age 13,
891 aggravating circumstances.—

892 (3) (a) A person who commits the offense of kidnapping upon
893 a child under the age of 13 and who, in the course of committing
894 the offense, commits one or more of the following:

895 1. Aggravated child abuse, as defined in s. 827.03;

896 2. Sexual battery, as defined in chapter 794, against the
897 child;

898 3. Lewd or lascivious battery, lewd or lascivious
899 molestation, lewd or lascivious conduct, or lewd or lascivious
900 exhibition, in violation of s. 800.04 or s. 847.0135(5);

901 4. A violation of ~~s. 796.03~~ or s. 796.04, relating to
902 prostitution, upon the child; or

903 5. Exploitation of the child or allowing the child to be
904 exploited, in violation of s. 450.151,

905
906 commits a life felony, punishable as provided in s. 775.082, s.
907 775.083, or s. 775.084.

908 Section 18. Paragraph (a) of subsection (3) of section
909 787.02, Florida Statutes, is amended to read:

910 787.02 False imprisonment; false imprisonment of child
911 under age 13, aggravating circumstances.—

912 (3) (a) A person who commits the offense of false
913 imprisonment upon a child under the age of 13 and who, in the
914 course of committing the offense, commits any offense enumerated
915 in subparagraphs 1.-5., commits a felony of the first degree,



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916 punishable by imprisonment for a term of years not exceeding
917 life or as provided in s. 775.082, s. 775.083, or s. 775.084.

918 1. Aggravated child abuse, as defined in s. 827.03;

919 2. Sexual battery, as defined in chapter 794, against the
920 child;

921 3. Lewd or lascivious battery, lewd or lascivious
922 molestation, lewd or lascivious conduct, or lewd or lascivious
923 exhibition, in violation of s. 800.04 or s. 847.0135(5);

924 4. A violation of ~~s. 796.03~~ or s. 796.04, relating to
925 prostitution, upon the child; or

926 5. Exploitation of the child or allowing the child to be
927 exploited, in violation of s. 450.151.

928 Section 19. Subsection (1) of section 794.056, Florida
929 Statutes, is amended to read:

930 794.056 Rape Crisis Program Trust Fund.—

931 (1) The Rape Crisis Program Trust Fund is created within
932 the Department of Health for the purpose of providing funds for
933 rape crisis centers in this state. Trust fund moneys shall be
934 used exclusively for the purpose of providing services for
935 victims of sexual assault. Funds credited to the trust fund
936 consist of those funds collected as an additional court
937 assessment in each case in which a defendant pleads guilty or
938 nolo contendere to, or is found guilty of, regardless of
939 adjudication, an offense provided in s. 775.21(6) and (10)(a),
940 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
941 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
942 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
943 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
944 ~~s. 796.03; s. 796.035;~~ s. 796.04; s. 796.05; s. 796.06; s.



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945 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
946 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
947 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
948 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and
949 (14)(c); or s. 985.701(1). Funds credited to the trust fund also
950 shall include revenues provided by law, moneys appropriated by
951 the Legislature, and grants from public or private entities.

952 Section 20. Subsection (1) of section 856.022, Florida
953 Statutes, is amended to read:

954 856.022 Loitering or prowling by certain offenders in close
955 proximity to children; penalty.-

956 (1) Except as provided in subsection (2), this section
957 applies to a person convicted of committing, or attempting,
958 soliciting, or conspiring to commit, any of the criminal
959 offenses proscribed in the following statutes in this state or
960 similar offenses in another jurisdiction against a victim who
961 was under 18 years of age at the time of the offense: s. 787.01,
962 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
963 the offender was not the victim's parent or guardian; s.
964 794.011, excluding s. 794.011(10); s. 794.05; ~~s. 796.03; s.~~
965 ~~796.035~~; s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s.
966 847.0135, excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s.
967 847.0145; s. 985.701(1); or any similar offense committed in
968 this state which has been redesignated from a former statute
969 number to one of those listed in this subsection, if the person
970 has not received a pardon for any felony or similar law of
971 another jurisdiction necessary for the operation of this
972 subsection and a conviction of a felony or similar law of
973 another jurisdiction necessary for the operation of this



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974 subsection has not been set aside in any postconviction
975 proceeding.

976 Section 21. Paragraph (a) of subsection (1) of section
977 895.02, Florida Statutes, is amended to read:

978 895.02 Definitions.—As used in ss. 895.01-895.08, the term:

979 (1) "Racketeering activity" means to commit, to attempt to
980 commit, to conspire to commit, or to solicit, coerce, or
981 intimidate another person to commit:

982 (a) Any crime that is chargeable by petition, indictment,
983 or information under the following provisions of the Florida
984 Statutes:

985 1. Section 210.18, relating to evasion of payment of
986 cigarette taxes.

987 2. Section 316.1935, relating to fleeing or attempting to
988 elude a law enforcement officer and aggravated fleeing or
989 eluding.

990 3. Section 403.727(3)(b), relating to environmental
991 control.

992 4. Section 409.920 or s. 409.9201, relating to Medicaid
993 fraud.

994 5. Section 414.39, relating to public assistance fraud.

995 6. Section 440.105 or s. 440.106, relating to workers'
996 compensation.

997 7. Section 443.071(4), relating to creation of a fictitious
998 employer scheme to commit reemployment assistance fraud.

999 8. Section 465.0161, relating to distribution of medicinal
1000 drugs without a permit as an Internet pharmacy.

1001 9. Section 499.0051, relating to crimes involving
1002 contraband and adulterated drugs.



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- 1003 10. Part IV of chapter 501, relating to telemarketing.
- 1004 11. Chapter 517, relating to sale of securities and
1005 investor protection.
- 1006 12. Section 550.235 or s. 550.3551, relating to dogracing
1007 and horseracing.
- 1008 13. Chapter 550, relating to jai alai frontons.
- 1009 14. Section 551.109, relating to slot machine gaming.
- 1010 15. Chapter 552, relating to the manufacture, distribution,
1011 and use of explosives.
- 1012 16. Chapter 560, relating to money transmitters, if the
1013 violation is punishable as a felony.
- 1014 17. Chapter 562, relating to beverage law enforcement.
- 1015 18. Section 624.401, relating to transacting insurance
1016 without a certificate of authority, s. 624.437(4)(c)1., relating
1017 to operating an unauthorized multiple-employer welfare
1018 arrangement, or s. 626.902(1)(b), relating to representing or
1019 aiding an unauthorized insurer.
- 1020 19. Section 655.50, relating to reports of currency
1021 transactions, when such violation is punishable as a felony.
- 1022 20. Chapter 687, relating to interest and usurious
1023 practices.
- 1024 21. Section 721.08, s. 721.09, or s. 721.13, relating to
1025 real estate timeshare plans.
- 1026 22. Section 775.13(5)(b), relating to registration of
1027 persons found to have committed any offense for the purpose of
1028 benefiting, promoting, or furthering the interests of a criminal
1029 gang.
- 1030 23. Section 777.03, relating to commission of crimes by
1031 accessories after the fact.



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- 1032 24. Chapter 782, relating to homicide.
- 1033 25. Chapter 784, relating to assault and battery.
- 1034 26. Chapter 787, relating to kidnapping or human
1035 trafficking.
- 1036 27. Chapter 790, relating to weapons and firearms.
- 1037 28. Chapter 794, relating to sexual battery, but only if
1038 such crime was committed with the intent to benefit, promote, or
1039 further the interests of a criminal gang, or for the purpose of
1040 increasing a criminal gang member's own standing or position
1041 within a criminal gang.
- 1042 29. Section ~~796.03, s. 796.035, s.~~ 796.04, s. 796.05, or s.
1043 796.07, relating to prostitution and sex trafficking.
- 1044 30. Chapter 806, relating to arson and criminal mischief.
- 1045 31. Chapter 810, relating to burglary and trespass.
- 1046 32. Chapter 812, relating to theft, robbery, and related
1047 crimes.
- 1048 33. Chapter 815, relating to computer-related crimes.
- 1049 34. Chapter 817, relating to fraudulent practices, false
1050 pretenses, fraud generally, and credit card crimes.
- 1051 35. Chapter 825, relating to abuse, neglect, or
1052 exploitation of an elderly person or disabled adult.
- 1053 36. Section 827.071, relating to commercial sexual
1054 exploitation of children.
- 1055 37. Section 828.122, relating to fighting or baiting
1056 animals.
- 1057 38. Chapter 831, relating to forgery and counterfeiting.
- 1058 39. Chapter 832, relating to issuance of worthless checks
1059 and drafts.
- 1060 40. Section 836.05, relating to extortion.



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1061 41. Chapter 837, relating to perjury.
1062 42. Chapter 838, relating to bribery and misuse of public
1063 office.
1064 43. Chapter 843, relating to obstruction of justice.
1065 44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
1066 s. 847.07, relating to obscene literature and profanity.
1067 45. Chapter 849, relating to gambling, lottery, gambling or
1068 gaming devices, slot machines, or any of the provisions within
1069 that chapter.
1070 46. Chapter 874, relating to criminal gangs.
1071 47. Chapter 893, relating to drug abuse prevention and
1072 control.
1073 48. Chapter 896, relating to offenses related to financial
1074 transactions.
1075 49. Sections 914.22 and 914.23, relating to tampering with
1076 or harassing a witness, victim, or informant, and retaliation
1077 against a witness, victim, or informant.
1078 50. Sections 918.12 and 918.13, relating to tampering with
1079 jurors and evidence.
1080 Section 22. Section 938.085, Florida Statutes, is amended
1081 to read:
1082 938.085 Additional cost to fund rape crisis centers.—In
1083 addition to any sanction imposed when a person pleads guilty or
1084 nolo contendere to, or is found guilty of, regardless of
1085 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
1086 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
1087 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
1088 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
1089 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; ~~s. 796.03;~~



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1090 ~~s. 796.035~~; s. 796.04; s. 796.05; s. 796.06; s. 796.07(2)(a)-(d)
1091 and (i); s. 800.03; s. 800.04; s. 810.14; s. 810.145; s.
1092 812.135; s. 817.025; s. 825.102; s. 825.1025; s. 827.071; s.
1093 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s. 847.0145;
1094 s. 943.0435(4)(c), (7), (8), (9)(a), (13), and (14)(c); or s.
1095 985.701(1), the court shall impose a surcharge of \$151. Payment
1096 of the surcharge shall be a condition of probation, community
1097 control, or any other court-ordered supervision. The sum of \$150
1098 of the surcharge shall be deposited into the Rape Crisis Program
1099 Trust Fund established within the Department of Health by
1100 chapter 2003-140, Laws of Florida. The clerk of the court shall
1101 retain \$1 of each surcharge that the clerk of the court collects
1102 as a service charge of the clerk's office.

1103 Section 23. Subsection (1) of section 938.10, Florida
1104 Statutes, is amended to read:

1105 938.10 Additional court cost imposed in cases of certain
1106 crimes.—

1107 (1) If a person pleads guilty or nolo contendere to, or is
1108 found guilty of, regardless of adjudication, any offense against
1109 a minor in violation of s. 784.085, chapter 787, chapter 794, ~~s.~~
1110 ~~796.03~~, ~~s. 796.035~~, s. 800.04, chapter 827, s. 847.012, s.
1111 847.0133, s. 847.0135(5), s. 847.0138, s. 847.0145, s.
1112 893.147(3), or s. 985.701, or any offense in violation of s.
1113 775.21, s. 823.07, s. 847.0125, s. 847.0134, or s. 943.0435, the
1114 court shall impose a court cost of \$151 against the offender in
1115 addition to any other cost or penalty required by law.

1116 Section 24. Paragraph (a) of subsection (1) of section
1117 943.0435, Florida Statutes, is amended to read:

1118 943.0435 Sexual offenders required to register with the



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1119 department; penalty.-

1120 (1) As used in this section, the term:

1121 (a)1. "Sexual offender" means a person who meets the
1122 criteria in sub-subparagraph a., sub-subparagraph b., sub-
1123 subparagraph c., or sub-subparagraph d., as follows:

1124 a.(I) Has been convicted of committing, or attempting,
1125 soliciting, or conspiring to commit, any of the criminal
1126 offenses proscribed in the following statutes in this state or
1127 similar offenses in another jurisdiction: s. 787.01, s. 787.02,
1128 or s. 787.025(2)(c), where the victim is a minor and the
1129 defendant is not the victim's parent or guardian; s.
1130 787.06(3)(b), (d), (f), or (g), ~~or (h)~~; s. 794.011, excluding s.
1131 794.011(10); s. 794.05; ~~s. 796.03; s. 796.035~~; s. 800.04; s.
1132 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
1133 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
1134 or s. 985.701(1); or any similar offense committed in this state
1135 which has been redesignated from a former statute number to one
1136 of those listed in this sub-sub-subparagraph; and

1137 (II) Has been released on or after October 1, 1997, from
1138 the sanction imposed for any conviction of an offense described
1139 in sub-sub-subparagraph (I). For purposes of sub-sub-
1140 subparagraph (I), a sanction imposed in this state or in any
1141 other jurisdiction includes, but is not limited to, a fine,
1142 probation, community control, parole, conditional release,
1143 control release, or incarceration in a state prison, federal
1144 prison, private correctional facility, or local detention
1145 facility;

1146 b. Establishes or maintains a residence in this state and
1147 who has not been designated as a sexual predator by a court of



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1148 this state but who has been designated as a sexual predator, as
1149 a sexually violent predator, or by another sexual offender
1150 designation in another state or jurisdiction and was, as a
1151 result of such designation, subjected to registration or
1152 community or public notification, or both, or would be if the
1153 person were a resident of that state or jurisdiction, without
1154 regard to whether the person otherwise meets the criteria for
1155 registration as a sexual offender;

1156 c. Establishes or maintains a residence in this state who
1157 is in the custody or control of, or under the supervision of,
1158 any other state or jurisdiction as a result of a conviction for
1159 committing, or attempting, soliciting, or conspiring to commit,
1160 any of the criminal offenses proscribed in the following
1161 statutes or similar offense in another jurisdiction: s. 787.01,
1162 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
1163 the defendant is not the victim's parent or guardian; s.
1164 787.06(3)(b), (d), (f), or (g), ~~or (h)~~; s. 794.011, excluding s.
1165 794.011(10); s. 794.05; ~~s. 796.03; s. 796.035~~; s. 800.04; s.
1166 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
1167 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
1168 or s. 985.701(1); or any similar offense committed in this state
1169 which has been redesignated from a former statute number to one
1170 of those listed in this sub-subparagraph; or

1171 d. On or after July 1, 2007, has been adjudicated
1172 delinquent for committing, or attempting, soliciting, or
1173 conspiring to commit, any of the criminal offenses proscribed in
1174 the following statutes in this state or similar offenses in
1175 another jurisdiction when the juvenile was 14 years of age or
1176 older at the time of the offense:



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- 1177 (I) Section 794.011, excluding s. 794.011(10);
1178 (II) Section 800.04(4)(b) where the victim is under 12
1179 years of age or where the court finds sexual activity by the use
1180 of force or coercion;
1181 (III) Section 800.04(5)(c)1. where the court finds
1182 molestation involving unclothed genitals; or
1183 (IV) Section 800.04(5)(d) where the court finds the use of
1184 force or coercion and unclothed genitals.
1185 2. For all qualifying offenses listed in sub-subparagraph
1186 (1)(a)1.d., the court shall make a written finding of the age of
1187 the offender at the time of the offense.

1188
1189 For each violation of a qualifying offense listed in this
1190 subsection, the court shall make a written finding of the age of
1191 the victim at the time of the offense. For a violation of s.
1192 800.04(4), the court shall additionally make a written finding
1193 indicating that the offense did or did not involve sexual
1194 activity and indicating that the offense did or did not involve
1195 force or coercion. For a violation of s. 800.04(5), the court
1196 shall additionally make a written finding that the offense did
1197 or did not involve unclothed genitals or genital area and that
1198 the offense did or did not involve the use of force or coercion.

1199 Section 25. Section 943.0585, Florida Statutes, is amended
1200 to read:

1201 943.0585 Court-ordered expunction of criminal history
1202 records.—The courts of this state have jurisdiction over their
1203 own procedures, including the maintenance, expunction, and
1204 correction of judicial records containing criminal history
1205 information to the extent such procedures are not inconsistent



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1206 with the conditions, responsibilities, and duties established by
1207 this section. Any court of competent jurisdiction may order a
1208 criminal justice agency to expunge the criminal history record
1209 of a minor or an adult who complies with the requirements of
1210 this section. The court shall not order a criminal justice
1211 agency to expunge a criminal history record until the person
1212 seeking to expunge a criminal history record has applied for and
1213 received a certificate of eligibility for expunction pursuant to
1214 subsection (2). A criminal history record that relates to a
1215 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
1216 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
1217 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
1218 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,
1219 or any violation specified as a predicate offense for
1220 registration as a sexual predator pursuant to s. 775.21, without
1221 regard to whether that offense alone is sufficient to require
1222 such registration, or for registration as a sexual offender
1223 pursuant to s. 943.0435, may not be expunged, without regard to
1224 whether adjudication was withheld, if the defendant was found
1225 guilty of or pled guilty or nolo contendere to the offense, or
1226 if the defendant, as a minor, was found to have committed, or
1227 pled guilty or nolo contendere to committing, the offense as a
1228 delinquent act. The court may only order expunction of a
1229 criminal history record pertaining to one arrest or one incident
1230 of alleged criminal activity, except as provided in this
1231 section. The court may, at its sole discretion, order the
1232 expunction of a criminal history record pertaining to more than
1233 one arrest if the additional arrests directly relate to the
1234 original arrest. If the court intends to order the expunction of



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1235 records pertaining to such additional arrests, such intent must
1236 be specified in the order. A criminal justice agency may not
1237 expunge any record pertaining to such additional arrests if the
1238 order to expunge does not articulate the intention of the court
1239 to expunge a record pertaining to more than one arrest. This
1240 section does not prevent the court from ordering the expunction
1241 of only a portion of a criminal history record pertaining to one
1242 arrest or one incident of alleged criminal activity.

1243 Notwithstanding any law to the contrary, a criminal justice
1244 agency may comply with laws, court orders, and official requests
1245 of other jurisdictions relating to expunction, correction, or
1246 confidential handling of criminal history records or information
1247 derived therefrom. This section does not confer any right to the
1248 expunction of any criminal history record, and any request for
1249 expunction of a criminal history record may be denied at the
1250 sole discretion of the court.

1251 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each
1252 petition to a court to expunge a criminal history record is
1253 complete only when accompanied by:

1254 (a) A valid certificate of eligibility for expunction
1255 issued by the department pursuant to subsection (2).

1256 (b) The petitioner's sworn statement attesting that the
1257 petitioner:

1258 1. Has never, prior to the date on which the petition is
1259 filed, been adjudicated guilty of a criminal offense or
1260 comparable ordinance violation, or been adjudicated delinquent
1261 for committing any felony or a misdemeanor specified in s.
1262 943.051(3)(b).

1263 2. Has not been adjudicated guilty of, or adjudicated



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1264 delinquent for committing, any of the acts stemming from the
1265 arrest or alleged criminal activity to which the petition
1266 pertains.

1267 3. Has never secured a prior sealing or expunction of a
1268 criminal history record under this section, s. 943.059, former
1269 s. 893.14, former s. 901.33, or former s. 943.058, unless
1270 expunction is sought of a criminal history record previously
1271 sealed for 10 years pursuant to paragraph (2) (h) and the record
1272 is otherwise eligible for expunction.

1273 4. Is eligible for such an expunction to the best of his or
1274 her knowledge or belief and does not have any other petition to
1275 expunge or any petition to seal pending before any court.

1276
1277 Any person who knowingly provides false information on such
1278 sworn statement to the court commits a felony of the third
1279 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1280 775.084.

1281 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to
1282 petitioning the court to expunge a criminal history record, a
1283 person seeking to expunge a criminal history record shall apply
1284 to the department for a certificate of eligibility for
1285 expunction. The department shall, by rule adopted pursuant to
1286 chapter 120, establish procedures pertaining to the application
1287 for and issuance of certificates of eligibility for expunction.
1288 A certificate of eligibility for expunction is valid for 12
1289 months after the date stamped on the certificate when issued by
1290 the department. After that time, the petitioner must reapply to
1291 the department for a new certificate of eligibility. Eligibility
1292 for a renewed certification of eligibility must be based on the



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1293 status of the applicant and the law in effect at the time of the
1294 renewal application. The department shall issue a certificate of
1295 eligibility for expunction to a person who is the subject of a
1296 criminal history record if that person:

1297 (a) Has obtained, and submitted to the department, a
1298 written, certified statement from the appropriate state attorney
1299 or statewide prosecutor which indicates:

1300 1. That an indictment, information, or other charging
1301 document was not filed or issued in the case.

1302 2. That an indictment, information, or other charging
1303 document, if filed or issued in the case, was dismissed or nolle
1304 prosequi by the state attorney or statewide prosecutor, or was
1305 dismissed by a court of competent jurisdiction, and that none of
1306 the charges related to the arrest or alleged criminal activity
1307 to which the petition to expunge pertains resulted in a trial,
1308 without regard to whether the outcome of the trial was other
1309 than an adjudication of guilt.

1310 3. That the criminal history record does not relate to a
1311 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
1312 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
1313 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
1314 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,
1315 or any violation specified as a predicate offense for
1316 registration as a sexual predator pursuant to s. 775.21, without
1317 regard to whether that offense alone is sufficient to require
1318 such registration, or for registration as a sexual offender
1319 pursuant to s. 943.0435, where the defendant was found guilty
1320 of, or pled guilty or nolo contendere to any such offense, or
1321 that the defendant, as a minor, was found to have committed, or



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1322 pled guilty or nolo contendere to committing, such an offense as
1323 a delinquent act, without regard to whether adjudication was
1324 withheld.

1325 (b) Remits a \$75 processing fee to the department for
1326 placement in the Department of Law Enforcement Operating Trust
1327 Fund, unless such fee is waived by the executive director.

1328 (c) Has submitted to the department a certified copy of the
1329 disposition of the charge to which the petition to expunge
1330 pertains.

1331 (d) Has never, prior to the date on which the application
1332 for a certificate of eligibility is filed, been adjudicated
1333 guilty of a criminal offense or comparable ordinance violation,
1334 or been adjudicated delinquent for committing any felony or a
1335 misdemeanor specified in s. 943.051(3)(b).

1336 (e) Has not been adjudicated guilty of, or adjudicated
1337 delinquent for committing, any of the acts stemming from the
1338 arrest or alleged criminal activity to which the petition to
1339 expunge pertains.

1340 (f) Has never secured a prior sealing or expunction of a
1341 criminal history record under this section, s. 943.059, former
1342 s. 893.14, former s. 901.33, or former s. 943.058, unless
1343 expunction is sought of a criminal history record previously
1344 sealed for 10 years pursuant to paragraph (h) and the record is
1345 otherwise eligible for expunction.

1346 (g) Is no longer under court supervision applicable to the
1347 disposition of the arrest or alleged criminal activity to which
1348 the petition to expunge pertains.

1349 (h) Has previously obtained a court order sealing the
1350 record under this section, former s. 893.14, former s. 901.33,



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1351 or former s. 943.058 for a minimum of 10 years because
1352 adjudication was withheld or because all charges related to the
1353 arrest or alleged criminal activity to which the petition to
1354 expunge pertains were not dismissed prior to trial, without
1355 regard to whether the outcome of the trial was other than an
1356 adjudication of guilt. The requirement for the record to have
1357 previously been sealed for a minimum of 10 years does not apply
1358 when a plea was not entered or all charges related to the arrest
1359 or alleged criminal activity to which the petition to expunge
1360 pertains were dismissed prior to trial.

1361 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

1362 (a) In judicial proceedings under this section, a copy of
1363 the completed petition to expunge shall be served upon the
1364 appropriate state attorney or the statewide prosecutor and upon
1365 the arresting agency; however, it is not necessary to make any
1366 agency other than the state a party. The appropriate state
1367 attorney or the statewide prosecutor and the arresting agency
1368 may respond to the court regarding the completed petition to
1369 expunge.

1370 (b) If relief is granted by the court, the clerk of the
1371 court shall certify copies of the order to the appropriate state
1372 attorney or the statewide prosecutor and the arresting agency.
1373 The arresting agency is responsible for forwarding the order to
1374 any other agency to which the arresting agency disseminated the
1375 criminal history record information to which the order pertains.
1376 The department shall forward the order to expunge to the Federal
1377 Bureau of Investigation. The clerk of the court shall certify a
1378 copy of the order to any other agency which the records of the
1379 court reflect has received the criminal history record from the



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1380 court.

1381 (c) For an order to expunge entered by a court prior to
1382 July 1, 1992, the department shall notify the appropriate state
1383 attorney or statewide prosecutor of an order to expunge which is
1384 contrary to law because the person who is the subject of the
1385 record has previously been convicted of a crime or comparable
1386 ordinance violation or has had a prior criminal history record
1387 sealed or expunged. Upon receipt of such notice, the appropriate
1388 state attorney or statewide prosecutor shall take action, within
1389 60 days, to correct the record and petition the court to void
1390 the order to expunge. The department shall seal the record until
1391 such time as the order is voided by the court.

1392 (d) On or after July 1, 1992, the department or any other
1393 criminal justice agency is not required to act on an order to
1394 expunge entered by a court when such order does not comply with
1395 the requirements of this section. Upon receipt of such an order,
1396 the department must notify the issuing court, the appropriate
1397 state attorney or statewide prosecutor, the petitioner or the
1398 petitioner's attorney, and the arresting agency of the reason
1399 for noncompliance. The appropriate state attorney or statewide
1400 prosecutor shall take action within 60 days to correct the
1401 record and petition the court to void the order. No cause of
1402 action, including contempt of court, shall arise against any
1403 criminal justice agency for failure to comply with an order to
1404 expunge when the petitioner for such order failed to obtain the
1405 certificate of eligibility as required by this section or such
1406 order does not otherwise comply with the requirements of this
1407 section.

1408 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.—Any



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1409 criminal history record of a minor or an adult which is ordered
1410 expunged by a court of competent jurisdiction pursuant to this
1411 section must be physically destroyed or obliterated by any
1412 criminal justice agency having custody of such record; except
1413 that any criminal history record in the custody of the
1414 department must be retained in all cases. A criminal history
1415 record ordered expunged that is retained by the department is
1416 confidential and exempt from the provisions of s. 119.07(1) and
1417 s. 24(a), Art. I of the State Constitution and not available to
1418 any person or entity except upon order of a court of competent
1419 jurisdiction. A criminal justice agency may retain a notation
1420 indicating compliance with an order to expunge.

1421 (a) The person who is the subject of a criminal history
1422 record that is expunged under this section or under other
1423 provisions of law, including former s. 893.14, former s. 901.33,
1424 and former s. 943.058, may lawfully deny or fail to acknowledge
1425 the arrests covered by the expunged record, except when the
1426 subject of the record:

- 1427 1. Is a candidate for employment with a criminal justice
1428 agency;
- 1429 2. Is a defendant in a criminal prosecution;
- 1430 3. Concurrently or subsequently petitions for relief under
1431 this section, s. 943.0583, or s. 943.059;
- 1432 4. Is a candidate for admission to The Florida Bar;
- 1433 5. Is seeking to be employed or licensed by or to contract
1434 with the Department of Children and Families, the Division of
1435 Vocational Rehabilitation within the Department of Education,
1436 the Agency for Health Care Administration, the Agency for
1437 Persons with Disabilities, the Department of Health, the



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1438 Department of Elderly Affairs, or the Department of Juvenile
1439 Justice or to be employed or used by such contractor or licensee
1440 in a sensitive position having direct contact with children, the
1441 disabled, or the elderly; or

1442 6. Is seeking to be employed or licensed by the Department
1443 of Education, any district school board, any university
1444 laboratory school, any charter school, any private or parochial
1445 school, or any local governmental entity that licenses child
1446 care facilities.

1447 (b) Subject to the exceptions in paragraph (a), a person
1448 who has been granted an expunction under this section, former s.
1449 893.14, former s. 901.33, or former s. 943.058 may not be held
1450 under any provision of law of this state to commit perjury or to
1451 be otherwise liable for giving a false statement by reason of
1452 such person's failure to recite or acknowledge an expunged
1453 criminal history record.

1454 (c) Information relating to the existence of an expunged
1455 criminal history record which is provided in accordance with
1456 paragraph (a) is confidential and exempt from the provisions of
1457 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1458 except that the department shall disclose the existence of a
1459 criminal history record ordered expunged to the entities set
1460 forth in subparagraphs (a)1., 4., 5., 6., and 7. for their
1461 respective licensing, access authorization, and employment
1462 purposes, and to criminal justice agencies for their respective
1463 criminal justice purposes. It is unlawful for any employee of an
1464 entity set forth in subparagraph (a)1., subparagraph (a)4.,
1465 subparagraph (a)5., subparagraph (a)6., or subparagraph (a)7. to
1466 disclose information relating to the existence of an expunged



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1467 criminal history record of a person seeking employment, access
1468 authorization, or licensure with such entity or contractor,
1469 except to the person to whom the criminal history record relates
1470 or to persons having direct responsibility for employment,
1471 access authorization, or licensure decisions. Any person who
1472 violates this paragraph commits a misdemeanor of the first
1473 degree, punishable as provided in s. 775.082 or s. 775.083.

1474 (5) STATUTORY REFERENCES.—Any reference to any other
1475 chapter, section, or subdivision of the Florida Statutes in this
1476 section constitutes a general reference under the doctrine of
1477 incorporation by reference.

1478 Section 26. Section 943.059, Florida Statutes, is amended
1479 to read:

1480 943.059 Court-ordered sealing of criminal history records.—
1481 The courts of this state shall continue to have jurisdiction
1482 over their own procedures, including the maintenance, sealing,
1483 and correction of judicial records containing criminal history
1484 information to the extent such procedures are not inconsistent
1485 with the conditions, responsibilities, and duties established by
1486 this section. Any court of competent jurisdiction may order a
1487 criminal justice agency to seal the criminal history record of a
1488 minor or an adult who complies with the requirements of this
1489 section. The court shall not order a criminal justice agency to
1490 seal a criminal history record until the person seeking to seal
1491 a criminal history record has applied for and received a
1492 certificate of eligibility for sealing pursuant to subsection
1493 (2). A criminal history record that relates to a violation of s.
1494 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
1495 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,



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1496 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
1497 s. 916.1075, a violation enumerated in s. 907.041, or any
1498 violation specified as a predicate offense for registration as a
1499 sexual predator pursuant to s. 775.21, without regard to whether
1500 that offense alone is sufficient to require such registration,
1501 or for registration as a sexual offender pursuant to s.
1502 943.0435, may not be sealed, without regard to whether
1503 adjudication was withheld, if the defendant was found guilty of
1504 or pled guilty or nolo contendere to the offense, or if the
1505 defendant, as a minor, was found to have committed or pled
1506 guilty or nolo contendere to committing the offense as a
1507 delinquent act. The court may only order sealing of a criminal
1508 history record pertaining to one arrest or one incident of
1509 alleged criminal activity, except as provided in this section.
1510 The court may, at its sole discretion, order the sealing of a
1511 criminal history record pertaining to more than one arrest if
1512 the additional arrests directly relate to the original arrest.
1513 If the court intends to order the sealing of records pertaining
1514 to such additional arrests, such intent must be specified in the
1515 order. A criminal justice agency may not seal any record
1516 pertaining to such additional arrests if the order to seal does
1517 not articulate the intention of the court to seal records
1518 pertaining to more than one arrest. This section does not
1519 prevent the court from ordering the sealing of only a portion of
1520 a criminal history record pertaining to one arrest or one
1521 incident of alleged criminal activity. Notwithstanding any law
1522 to the contrary, a criminal justice agency may comply with laws,
1523 court orders, and official requests of other jurisdictions
1524 relating to sealing, correction, or confidential handling of



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1525 criminal history records or information derived therefrom. This
1526 section does not confer any right to the sealing of any criminal
1527 history record, and any request for sealing a criminal history
1528 record may be denied at the sole discretion of the court.

1529 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each
1530 petition to a court to seal a criminal history record is
1531 complete only when accompanied by:

1532 (a) A valid certificate of eligibility for sealing issued
1533 by the department pursuant to subsection (2).

1534 (b) The petitioner's sworn statement attesting that the
1535 petitioner:

1536 1. Has never, prior to the date on which the petition is
1537 filed, been adjudicated guilty of a criminal offense or
1538 comparable ordinance violation, or been adjudicated delinquent
1539 for committing any felony or a misdemeanor specified in s.
1540 943.051(3)(b).

1541 2. Has not been adjudicated guilty of or adjudicated
1542 delinquent for committing any of the acts stemming from the
1543 arrest or alleged criminal activity to which the petition to
1544 seal pertains.

1545 3. Has never secured a prior sealing or expunction of a
1546 criminal history record under this section, s. 943.0585, former
1547 s. 893.14, former s. 901.33, or former s. 943.058.

1548 4. Is eligible for such a sealing to the best of his or her
1549 knowledge or belief and does not have any other petition to seal
1550 or any petition to expunge pending before any court.

1551
1552 Any person who knowingly provides false information on such
1553 sworn statement to the court commits a felony of the third



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1554 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1555 775.084.

1556 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to
1557 petitioning the court to seal a criminal history record, a
1558 person seeking to seal a criminal history record shall apply to
1559 the department for a certificate of eligibility for sealing. The
1560 department shall, by rule adopted pursuant to chapter 120,
1561 establish procedures pertaining to the application for and
1562 issuance of certificates of eligibility for sealing. A
1563 certificate of eligibility for sealing is valid for 12 months
1564 after the date stamped on the certificate when issued by the
1565 department. After that time, the petitioner must reapply to the
1566 department for a new certificate of eligibility. Eligibility for
1567 a renewed certification of eligibility must be based on the
1568 status of the applicant and the law in effect at the time of the
1569 renewal application. The department shall issue a certificate of
1570 eligibility for sealing to a person who is the subject of a
1571 criminal history record provided that such person:

1572 (a) Has submitted to the department a certified copy of the
1573 disposition of the charge to which the petition to seal
1574 pertains.

1575 (b) Remits a \$75 processing fee to the department for
1576 placement in the Department of Law Enforcement Operating Trust
1577 Fund, unless such fee is waived by the executive director.

1578 (c) Has never, prior to the date on which the application
1579 for a certificate of eligibility is filed, been adjudicated
1580 guilty of a criminal offense or comparable ordinance violation,
1581 or been adjudicated delinquent for committing any felony or a
1582 misdemeanor specified in s. 943.051(3)(b).



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1583 (d) Has not been adjudicated guilty of or adjudicated
1584 delinquent for committing any of the acts stemming from the
1585 arrest or alleged criminal activity to which the petition to
1586 seal pertains.

1587 (e) Has never secured a prior sealing or expunction of a
1588 criminal history record under this section, s. 943.0585, former
1589 s. 893.14, former s. 901.33, or former s. 943.058.

1590 (f) Is no longer under court supervision applicable to the
1591 disposition of the arrest or alleged criminal activity to which
1592 the petition to seal pertains.

1593 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.—

1594 (a) In judicial proceedings under this section, a copy of
1595 the completed petition to seal shall be served upon the
1596 appropriate state attorney or the statewide prosecutor and upon
1597 the arresting agency; however, it is not necessary to make any
1598 agency other than the state a party. The appropriate state
1599 attorney or the statewide prosecutor and the arresting agency
1600 may respond to the court regarding the completed petition to
1601 seal.

1602 (b) If relief is granted by the court, the clerk of the
1603 court shall certify copies of the order to the appropriate state
1604 attorney or the statewide prosecutor and to the arresting
1605 agency. The arresting agency is responsible for forwarding the
1606 order to any other agency to which the arresting agency
1607 disseminated the criminal history record information to which
1608 the order pertains. The department shall forward the order to
1609 seal to the Federal Bureau of Investigation. The clerk of the
1610 court shall certify a copy of the order to any other agency
1611 which the records of the court reflect has received the criminal



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1612 history record from the court.

1613 (c) For an order to seal entered by a court prior to July
1614 1, 1992, the department shall notify the appropriate state
1615 attorney or statewide prosecutor of any order to seal which is
1616 contrary to law because the person who is the subject of the
1617 record has previously been convicted of a crime or comparable
1618 ordinance violation or has had a prior criminal history record
1619 sealed or expunged. Upon receipt of such notice, the appropriate
1620 state attorney or statewide prosecutor shall take action, within
1621 60 days, to correct the record and petition the court to void
1622 the order to seal. The department shall seal the record until
1623 such time as the order is voided by the court.

1624 (d) On or after July 1, 1992, the department or any other
1625 criminal justice agency is not required to act on an order to
1626 seal entered by a court when such order does not comply with the
1627 requirements of this section. Upon receipt of such an order, the
1628 department must notify the issuing court, the appropriate state
1629 attorney or statewide prosecutor, the petitioner or the
1630 petitioner's attorney, and the arresting agency of the reason
1631 for noncompliance. The appropriate state attorney or statewide
1632 prosecutor shall take action within 60 days to correct the
1633 record and petition the court to void the order. No cause of
1634 action, including contempt of court, shall arise against any
1635 criminal justice agency for failure to comply with an order to
1636 seal when the petitioner for such order failed to obtain the
1637 certificate of eligibility as required by this section or when
1638 such order does not comply with the requirements of this
1639 section.

1640 (e) An order sealing a criminal history record pursuant to



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1641 this section does not require that such record be surrendered to
1642 the court, and such record shall continue to be maintained by
1643 the department and other criminal justice agencies.

1644 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
1645 history record of a minor or an adult which is ordered sealed by
1646 a court of competent jurisdiction pursuant to this section is
1647 confidential and exempt from the provisions of s. 119.07(1) and
1648 s. 24(a), Art. I of the State Constitution and is available only
1649 to the person who is the subject of the record, to the subject's
1650 attorney, to criminal justice agencies for their respective
1651 criminal justice purposes, which include conducting a criminal
1652 history background check for approval of firearms purchases or
1653 transfers as authorized by state or federal law, to judges in
1654 the state courts system for the purpose of assisting them in
1655 their case-related decisionmaking responsibilities, as set forth
1656 in s. 943.053(5), or to those entities set forth in
1657 subparagraphs (a)1., 4., 5., 6., and 8. for their respective
1658 licensing, access authorization, and employment purposes.

1659 (a) The subject of a criminal history record sealed under
1660 this section or under other provisions of law, including former
1661 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
1662 deny or fail to acknowledge the arrests covered by the sealed
1663 record, except when the subject of the record:

- 1664 1. Is a candidate for employment with a criminal justice
1665 agency;
- 1666 2. Is a defendant in a criminal prosecution;
- 1667 3. Concurrently or subsequently petitions for relief under
1668 this section, s. 943.0583, or s. 943.0585;
- 1669 4. Is a candidate for admission to The Florida Bar;



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1670 5. Is seeking to be employed or licensed by or to contract
1671 with the Department of Children and Families, the Division of
1672 Vocational Rehabilitation within the Department of Education,
1673 the Agency for Health Care Administration, the Agency for
1674 Persons with Disabilities, the Department of Health, the
1675 Department of Elderly Affairs, or the Department of Juvenile
1676 Justice or to be employed or used by such contractor or licensee
1677 in a sensitive position having direct contact with children, the
1678 disabled, or the elderly;

1679 6. Is seeking to be employed or licensed by the Department
1680 of Education, any district school board, any university
1681 laboratory school, any charter school, any private or parochial
1682 school, or any local governmental entity that licenses child
1683 care facilities; or

1684 7. Is attempting to purchase a firearm from a licensed
1685 importer, licensed manufacturer, or licensed dealer and is
1686 subject to a criminal history check under state or federal law.

1687 (b) Subject to the exceptions in paragraph (a), a person
1688 who has been granted a sealing under this section, former s.
1689 893.14, former s. 901.33, or former s. 943.058 may not be held
1690 under any provision of law of this state to commit perjury or to
1691 be otherwise liable for giving a false statement by reason of
1692 such person's failure to recite or acknowledge a sealed criminal
1693 history record.

1694 (c) Information relating to the existence of a sealed
1695 criminal record provided in accordance with the provisions of
1696 paragraph (a) is confidential and exempt from the provisions of
1697 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
1698 except that the department shall disclose the sealed criminal



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1699 history record to the entities set forth in subparagraphs (a)1.,
1700 4., 5., 6., and 8. for their respective licensing, access
1701 authorization, and employment purposes. It is unlawful for any
1702 employee of an entity set forth in subparagraph (a)1.,
1703 subparagraph (a)4., subparagraph (a)5., subparagraph (a)6., or
1704 subparagraph (a)8. to disclose information relating to the
1705 existence of a sealed criminal history record of a person
1706 seeking employment, access authorization, or licensure with such
1707 entity or contractor, except to the person to whom the criminal
1708 history record relates or to persons having direct
1709 responsibility for employment, access authorization, or
1710 licensure decisions. Any person who violates the provisions of
1711 this paragraph commits a misdemeanor of the first degree,
1712 punishable as provided in s. 775.082 or s. 775.083.

1713 (5) STATUTORY REFERENCES.—Any reference to any other
1714 chapter, section, or subdivision of the Florida Statutes in this
1715 section constitutes a general reference under the doctrine of
1716 incorporation by reference.

1717 Section 27. Paragraph (b) of subsection (1) of section
1718 944.606, Florida Statutes, is amended to read:

1719 944.606 Sexual offenders; notification upon release.—

1720 (1) As used in this section:

1721 (b) "Sexual offender" means a person who has been convicted
1722 of committing, or attempting, soliciting, or conspiring to
1723 commit, any of the criminal offenses proscribed in the following
1724 statutes in this state or similar offenses in another
1725 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
1726 the victim is a minor and the defendant is not the victim's
1727 parent or guardian; s. 787.06(3)(b), (d), (f), or (g), ~~or~~ (h);



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1728 s. 794.011, excluding s. 794.011(10); s. 794.05; ~~s. 796.03; s.~~
1729 ~~796.035;~~ s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s.
1730 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.
1731 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense
1732 committed in this state which has been redesignated from a
1733 former statute number to one of those listed in this subsection,
1734 when the department has received verified information regarding
1735 such conviction; an offender's computerized criminal history
1736 record is not, in and of itself, verified information.

1737 Section 28. Paragraph (a) of subsection (1) of section
1738 944.607, Florida Statutes, is amended to read:

1739 944.607 Notification to Department of Law Enforcement of
1740 information on sexual offenders.—

1741 (1) As used in this section, the term:

1742 (a) "Sexual offender" means a person who is in the custody
1743 or control of, or under the supervision of, the department or is
1744 in the custody of a private correctional facility:

1745 1. On or after October 1, 1997, as a result of a conviction
1746 for committing, or attempting, soliciting, or conspiring to
1747 commit, any of the criminal offenses proscribed in the following
1748 statutes in this state or similar offenses in another
1749 jurisdiction: s. 787.01, s. 787.02, or s. 787.025(2)(c), where
1750 the victim is a minor and the defendant is not the victim's
1751 parent or guardian; s. 787.06(3)(b), (d), (f), or (g), ~~or (h)~~;
1752 s. 794.011, excluding s. 794.011(10); s. 794.05; ~~s. 796.03; s.~~
1753 ~~796.035;~~ s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s.
1754 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.
1755 847.0138; s. 847.0145; or s. 985.701(1); or any similar offense
1756 committed in this state which has been redesignated from a



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1757 former statute number to one of those listed in this paragraph;
1758 or

1759 2. Who establishes or maintains a residence in this state
1760 and who has not been designated as a sexual predator by a court
1761 of this state but who has been designated as a sexual predator,
1762 as a sexually violent predator, or by another sexual offender
1763 designation in another state or jurisdiction and was, as a
1764 result of such designation, subjected to registration or
1765 community or public notification, or both, or would be if the
1766 person were a resident of that state or jurisdiction, without
1767 regard as to whether the person otherwise meets the criteria for
1768 registration as a sexual offender.

1769 Section 29. Subsection (2) of section 948.013, Florida
1770 Statutes, is amended to read:

1771 948.013 Administrative probation.—

1772 (2) Effective for an offense committed on or after July 1,
1773 1998, a person is ineligible for placement on administrative
1774 probation if the person is sentenced to or is serving a term of
1775 probation or community control, regardless of the conviction or
1776 adjudication, for committing, or attempting, conspiring, or
1777 soliciting to commit, any of the felony offenses described in s.
1778 787.01 or s. 787.02, where the victim is a minor and the
1779 defendant is not the victim's parent; s. 787.025; chapter 794;
1780 ~~s. 796.03~~; s. 800.04; s. 825.1025(2)(b); s. 827.071; s.
1781 847.0133; s. 847.0135; or s. 847.0145.

1782 Section 30. Subsection (1) of section 948.32, Florida
1783 Statutes, is amended to read:

1784 948.32 Requirements of law enforcement agency upon arrest
1785 of persons for certain sex offenses.—



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1786 (1) When any state or local law enforcement agency
1787 investigates or arrests a person for committing, or attempting,
1788 soliciting, or conspiring to commit, a violation of s.
1789 787.025(2)(c), chapter 794, ~~s. 796.03~~, s. 800.04, s. 827.071, s.
1790 847.0133, s. 847.0135, or s. 847.0145, the law enforcement
1791 agency shall contact the Department of Corrections to verify
1792 whether the person under investigation or under arrest is on
1793 probation, community control, parole, conditional release, or
1794 control release.

1795 Section 31. This act shall take effect October 1, 2014.

1796
1797 ===== T I T L E A M E N D M E N T =====

1798 And the title is amended as follows:

1799 Delete everything before the enacting clause
1800 and insert:

1801 A bill to be entitled
1802 An act relating to human trafficking; amending s.
1803 450.021, F.S.; prohibiting the employment of minors in
1804 adult theaters; amending s. 450.045, F.S.; requiring
1805 adult theaters to verify the ages of employees and
1806 independent contractors and maintain specified
1807 documentation; amending s. 775.15, F.S.; eliminating
1808 the statute of limitations for prosecutions under a
1809 specified human trafficking provision; providing
1810 applicability; amending s. 787.06, F.S.; revising and
1811 providing penalties for various human trafficking
1812 offenses against minors and adults; amending s.
1813 775.082, F.S.; providing a life sentence for a
1814 specified felony; creating s. 796.001, F.S.; providing



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1815 legislative intent concerning prosecutions of certain
1816 offenses by adults involving minors; repealing ss.
1817 796.03, 796.035, and 796.036, F.S., relating to
1818 procuring a person under the age of 18 for
1819 prostitution, selling or buying of minors into
1820 prostitution, and reclassification of certain
1821 violations involving minors, respectively; amending
1822 ss. 796.05 and 796.07, F.S.; revising and providing
1823 penalties for various prostitution offenses; amending
1824 s. 943.0583, F.S.; providing for expunction of
1825 criminal history records of certain criminal charges
1826 against victims of human trafficking that did not
1827 result in convictions; requiring destruction of
1828 investigative records related to such expunged
1829 records; amending s. 921.0022, F.S.; conforming
1830 provisions of the offense severity ranking chart of
1831 the Criminal Punishment Code to changes made by the
1832 act; amending ss. 39.01, 90.404, 772.102, 775.0877,
1833 775.21, 787.01, 787.02, 794.056, 856.022, 895.02,
1834 938.085, 938.10, 943.0435, 943.0585, 943.059, 944.606,
1835 944.607, 948.013, and 948.32, F.S.; conforming cross-
1836 references; providing an effective date.

By Senator Flores

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1 A bill to be entitled
 2 An act relating to human trafficking; amending s.
 3 450.021, F.S.; prohibiting the employment of minors in
 4 adult theaters; amending s. 450.045, F.S.; requiring
 5 adult theaters to verify the ages of employees and
 6 independent contractors and maintain specified
 7 documentation; amending s. 775.15, F.S.; eliminating
 8 the statute of limitations for prosecutions under a
 9 specified human trafficking provision; providing
 10 applicability; amending s. 787.06, F.S.; revising and
 11 providing penalties for various human trafficking
 12 offenses against minors and adults; amending s.
 13 775.082, F.S.; providing life sentences for specified
 14 felonies; amending ss. 796.05 and 796.07, F.S.;
 15 revising and providing penalties for various
 16 prostitution and human trafficking offenses against
 17 adults and minors; amending s. 943.0583, F.S.;
 18 providing for expunction of criminal history records
 19 of certain criminal charges against victims of human
 20 trafficking that did not result in convictions;
 21 requiring destruction of investigative records related
 22 to such expunged records; amending s. 921.0022, F.S.;
 23 conforming provisions of the offense severity ranking
 24 chart of the Criminal Punishment Code to changes made
 25 by the act; providing an effective date.

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

28
 29 Section 1. Subsection (5) is added to section 450.021,

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30 Florida Statutes, to read:
 31 450.021 Minimum age; general.-
 32 (5) A person 17 years of age or younger, whether or not
 33 such person's disabilities of nonage have been removed by
 34 marriage or otherwise, may not be employed, permitted, or
 35 suffered to work in an adult theater as defined in s.
 36 847.001(2)(b).
 37 Section 2. Subsection (3) is added to section 450.045,
 38 Florida Statutes, to read:
 39 450.045 Proof of age; posting of notices.-
 40 (3) An adult theater as defined in s. 847.001(2)(b) shall
 41 obtain proof of the identity and age of each of its employees or
 42 independent contractors before his or her employment or
 43 provision of services as an independent contractor. The adult
 44 theater shall obtain and keep on record a photocopy of the
 45 person's driver license or state or federal government-issued
 46 photo identification card during the entire period of employment
 47 or business relationship with the independent contractor. The
 48 adult theater shall verify the validity of the age verification
 49 document with the issuer and shall maintain a record of the
 50 verification with the copy of the document at the location where
 51 the employee or independent contractor works or provides
 52 services to the adult theater. The department and its agents
 53 have authority to enter and inspect at any time a place or
 54 establishment covered by this subsection and to have access to
 55 age verification documents kept on file by the adult theater and
 56 such other records as may aid in the enforcement of this
 57 subsection.

58 Section 3. Subsection (18) is added to section 775.15,

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59 Florida Statutes, to read:

60 775.15 Time limitations; general time limitations;
61 exceptions.-

62 (18) A prosecution for a violation of s. 787.06 may be
63 commenced at any time. This subsection applies to any such
64 offense except an offense the prosecution of which would have
65 been barred by subsection (2) on or before October 1, 2014.

66 Section 4. Subsections (3) and (4) of section 787.06,
67 Florida Statutes, are amended, present subsections (5) through
68 (7) of that section are redesignated as subsections (7) through
69 (9), respectively, and new subsections (5) and (6) are added to
70 that section, to read:

71 787.06 Human trafficking.-

72 (3) Any person who knowingly, or in reckless disregard of
73 the facts, engages in, or attempts to engage in, or benefits
74 financially by receiving anything of value from participation in
75 a venture that has subjected a person to human trafficking:

76 (a) Using coercion for labor or services of an adult
77 commits a felony of the first degree, punishable as provided in
78 s. 775.082, s. 775.083, or s. 775.084.

79 (b) Using coercion for commercial sexual activity of an
80 adult commits a life felony ~~of the first degree~~, punishable as
81 provided in s. 775.082, s. 775.083, or s. 775.084.

82 (c) Using coercion for labor or services of an adult ~~any~~
83 ~~individual~~ who is an unauthorized alien commits a felony of the
84 first degree, punishable as provided in s. 775.082, s. 775.083,
85 or s. 775.084.

86 (d) Using coercion for commercial sexual activity of an
87 adult ~~any individual~~ who is an unauthorized alien commits a life

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88 felony ~~of the first degree~~, punishable as provided in s.
89 775.082, s. 775.083, or s. 775.084.

90 (e) Using coercion for labor or services who does so by the
91 transfer or transport of an adult ~~any individual~~ from outside
92 this state to within the state commits a felony of the first
93 degree, punishable as provided in s. 775.082, s. 775.083, or s.
94 775.084.

95 (f) Using coercion for commercial sexual activity who does
96 so by the transfer or transport of an adult ~~any individual~~ from
97 outside this state to within the state commits a life felony ~~of~~
98 ~~the first degree~~, punishable as provided in s. 775.082, s.
99 775.083, or s. 775.084.

100 (g) For commercial sexual activity in which any child under
101 the age of 18 is involved commits a life felony ~~of the first~~
102 ~~degree~~, punishable ~~by imprisonment for a term of years not~~
103 ~~exceeding life~~, ~~or~~ as provided in s. 775.082(3)(a)5. ~~s. 775.082,~~
104 s. 775.083, or s. 775.084. In a prosecution under this paragraph
105 in which the defendant had a reasonable opportunity to observe
106 the person who was subject to human trafficking, the state need
107 not prove that the defendant knew that the person had not
108 attained the age of 18 years.

109 ~~(h) For commercial sexual activity in which any child under~~
110 ~~the age of 15 is involved commits a life felony, punishable as~~
111 ~~provided in s. 775.082, s. 775.083, or s. 775.084. In a~~
112 ~~prosecution under this paragraph in which the defendant had a~~
113 ~~reasonable opportunity to observe the person who was subject to~~
114 ~~human trafficking, the state need not prove that the defendant~~
115 ~~knew that the person had not attained the age of 15 years.~~

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117 For each instance of human trafficking of any individual under
 118 this subsection, a separate crime is committed and a separate
 119 punishment is authorized.

120 (4) Any parent, legal guardian, or other person having
 121 custody or control of a minor who sells or otherwise transfers
 122 custody or control of such minor, or offers to sell or otherwise
 123 transfer custody of such minor, with knowledge or in reckless
 124 disregard of the fact that, as a consequence of the sale or
 125 transfer, the minor will be subject to human trafficking commits
 126 a life first-degree felony, punishable as provided in s.
 127 775.082, s. 775.083, or s. 775.084.

128 (5) (a) The felony degree of an offense under subsection (3)
 129 or subsection (4) shall be reclassified as provided in this
 130 subsection if the victim of the offense was permanently branded
 131 by, or at the direction of, the offender. For purposes of this
 132 subsection, the term "permanently branded" means a mark on the
 133 individual's body which, if it can be removed or repaired at
 134 all, can only be removed or repaired by surgical means.

135 (b)1. In the case of a felony of the first degree, the
 136 offense is reclassified to a life felony.

137 2. In the case of a life felony without a minimum mandatory
 138 sentence, the offense is reclassified to a life felony with a
 139 minimum mandatory term of imprisonment of 30 years.

140 3. In the case of a life felony with a minimum mandatory
 141 term of imprisonment of 30 years, the offense is reclassified to
 142 a life felony punishable by a term of imprisonment for life.

143
 144 For purposes of sentencing under chapter 921, a felony offense
 145 that is reclassified under this subsection is ranked one level

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146 above the ranking under s. 921.0022 or s. 921.0023 of the
 147 offense committed.

148 (6) (a) The felony degree of an offense under subsection (3)
 149 or subsection (4) and, if applicable, as enhanced under
 150 subsection (5) shall be reclassified or further reclassified as
 151 provided in this subsection if the victim of the offense has a
 152 mental incapacitation. For purposes of this subsection, the term
 153 "mental incapacitation" means that due to a developmental
 154 disability or organic brain damage, the ability of the person to
 155 provide adequately for his or her own care or protection is
 156 impaired.

157 (b)1. In the case of a felony of the first degree, the
 158 offense is reclassified to a life felony.

159 2. In the case of a life felony without a minimum mandatory
 160 sentence, the offense is reclassified to a life felony with a
 161 minimum mandatory term of imprisonment of 30 years.

162 3. In the case of a life felony with a minimum mandatory
 163 term of imprisonment of 30 years, the offense is reclassified to
 164 a life felony punishable by a term of imprisonment for life.

165
 166 For purposes of sentencing under chapter 921, a felony offense
 167 that is reclassified under this subsection is ranked one level
 168 above the ranking under s. 921.0022 or s. 921.0023 of the
 169 offense committed.

170 Section 5. Paragraph (a) of subsection (3) of section
 171 775.082, Florida Statutes, is amended to read:

172 775.082 Penalties; applicability of sentencing structures;
 173 mandatory minimum sentences for certain reoffenders previously
 174 released from prison.-

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175 (3) A person who has been convicted of any other designated
 176 felony may be punished as follows:

177 (a)1. For a life felony committed prior to October 1, 1983,
 178 by a term of imprisonment for life or for a term of years not
 179 less than 30.

180 2. For a life felony committed on or after October 1, 1983,
 181 by a term of imprisonment for life or by a term of imprisonment
 182 not exceeding 40 years.

183 3. Except as provided in subparagraph 4., for a life felony
 184 committed on or after July 1, 1995, by a term of imprisonment
 185 for life or by imprisonment for a term of years not exceeding
 186 life imprisonment.

187 4.a. Except as provided in sub-subparagraph b., for a life
 188 felony committed on or after September 1, 2005, which is a
 189 violation of s. 800.04(5)(b), by:

190 (I) A term of imprisonment for life; or
 191 (II) A split sentence that is a term of not less than 25
 192 years' imprisonment and not exceeding life imprisonment,
 193 followed by probation or community control for the remainder of
 194 the person's natural life, as provided in s. 948.012(4).

195 b. For a life felony committed on or after July 1, 2008,
 196 which is a person's second or subsequent violation of s.
 197 800.04(5)(b), by a term of imprisonment for life.

198 5. For a life felony committed on or after October 1, 2014,
 199 which is a violation of s. 787.06(3)(g) or s. 796.05(2)(b), by a
 200 term of imprisonment for life.

201 Section 6. Section 796.05, Florida Statutes, is amended to
 202 read:
 203 796.05 Deriving support from the proceeds of prostitution

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204 or human trafficking.-

205 (1) It shall be unlawful for any person with reasonable
 206 belief or knowing another person is engaged in prostitution or
 207 is a victim of human trafficking under s. 787.06 to live or
 208 derive support or maintenance in whole or in part from what is
 209 believed to be the earnings or proceeds of such person's
 210 prostitution.

211 (2) Anyone violating this section commits:

212 (a) If the person is engaged in prostitution or is a victim
 213 of human trafficking and is an adult:

214 1. For a first offense, a felony of the second ~~third~~
 215 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 216 775.084.

217 2. For a second offense, a felony of the first degree,
 218 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

219 3. For a third or subsequent offense, a life felony,
 220 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

221 (b) If the person is engaged in prostitution or is a victim
 222 of human trafficking and is a minor, punishable as if a
 223 violation of s. 787.06(3)(g) had been committed.

224 Section 7. Present subsections (5) and (6) of section
 225 796.07, Florida Statutes, are redesignated as subsections (6)
 226 and (7), respectively, subsection (4) of that section is
 227 amended, and a new subsection (5) is added to that section, to
 228 read:

229 796.07 Prohibiting prostitution and related acts.-

230 (4) Except as provided in subsection (5), a person who
 231 violates any provision of this section commits:

232 (a) A misdemeanor of the second degree for a first

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233 violation, punishable as provided in s. 775.082 or s. 775.083.

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

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

239 (5) (a) A person who violates paragraph (2) (f) by soliciting
240 an adult commits:

241 1. For a first offense, a felony of the third degree,
242 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

243 2. For a second offense, a felony of the second degree,
244 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

245 3. For a third or subsequent offense, a felony of the first
246 degree, punishable as provided in s. 775.082, s. 775.083, or s.
247 775.084.

248 (b) A person who violates paragraph (2) (f) by soliciting a
249 minor commits:

250 1. For a first offense, a felony of the first degree,
251 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

252 2. For a second offense, a felony of the first degree,
253 punishable by imprisonment for a term of years not exceeding
254 life imprisonment or as provided in s. 775.082, s. 775.083, or
255 s. 775.084.

256 3. For a third or subsequent offense, a life felony,
257 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
258 with a minimum mandatory term of imprisonment of 30 years.

259 Section 8. Subsection (3) and paragraph (a) of subsection
260 (8) of section 943.0583, Florida Statutes, are amended to read:
261 943.0583 Human trafficking victim expunction.—

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262 (3) A person who is a victim of human trafficking may
263 petition for the expunction of any conviction or the expunction
264 of a criminal charge for which there was no conviction for an
265 offense committed or allegedly committed while the person he or
266 she was a victim of human trafficking or an, ~~which offense was~~
267 committed or was allegedly committed as a part of the human
268 trafficking scheme of which the person he or she was a victim or
269 at the direction of an operator of the scheme, including, but
270 not limited to, violations under chapters 796 and 847. However,
271 this section does not apply to any offense listed in s.

272 775.084(1)(b)1. Determination of the petition under this section
273 should be by a preponderance of the evidence. A conviction
274 expunged under this section is deemed to have been vacated due
275 to a substantive defect in the underlying criminal proceedings.

276 (8) (a) Any criminal history record of a minor or an adult
277 that is ordered expunged by the court of original jurisdiction
278 over the crime or charge sought to be expunged pursuant to this
279 section and all criminal investigative information relating to
280 that record must be physically destroyed or obliterated by any
281 criminal justice agency having custody of such record or
282 information, except that any criminal history record or
283 investigative information in the custody of the department must
284 be retained in all cases.

285 Section 9. Paragraphs (c) and (e) through (j) of subsection
286 (3) of section 921.0022, Florida Statutes, are amended to read:

287 921.0022 Criminal Punishment Code; offense severity ranking
288 chart.—

289 (3) OFFENSE SEVERITY RANKING CHART

290 (c) LEVEL 3

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291	Florida Statute	Felony Degree	Description
292	119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
293	316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
294	316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
295	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
296	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
297	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
298	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
299			

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	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
300	327.35(2)(b)	3rd	Felony BUI.
301	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
302	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
303	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
304	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

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305	379.2431 (1) (e) 6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
306	400.9935(4)	3rd	Operating a clinic without a license or filing false license application or other required information.
307	440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
308	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
309	624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
310	624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
311			

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	626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
312	697.08	3rd	Equity skimming.
313	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
314	796.05(1)	3rd	Live on earnings of a prostitute.
315	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
316	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
317	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
318	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
319	812.0145(2)(c)	3rd	Theft from person 65 years of

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	37-01384-14		20141440__	
				age or older; \$300 or more but less than \$10,000.
320	815.04(4)(b)	2nd		Computer offense devised to defraud or obtain property.
321	817.034(4)(a)3.	3rd		Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
322	817.233	3rd		Burning to defraud insurer.
323	817.234 (8)(b)-(c)	3rd		Unlawful solicitation of persons involved in motor vehicle accidents.
324	817.234(11)(a)	3rd		Insurance fraud; property value less than \$20,000.
325	817.236	3rd		Filing a false motor vehicle insurance application.
326	817.2361	3rd		Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
327	817.413(2)	3rd		Sale of used goods as new.

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	37-01384-14		20141440__	
328	817.505(4)	3rd		Patient brokering.
329	828.12(2)	3rd		Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
330	831.28(2)(a)	3rd		Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
331	831.29	2nd		Possession of instruments for counterfeiting drivers' licenses or identification cards.
332	838.021(3)(b)	3rd		Threatens unlawful harm to public servant.
333	843.19	3rd		Injure, disable, or kill police dog or horse.
334	860.15(3)	3rd		Overcharging for repairs and parts.
335	870.01(2)	3rd		Riot; inciting or encouraging.
336				

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	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
337	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.
338	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
339	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
340	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous

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			receipt of or prescription for a controlled substance.
341	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
342	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
343	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
344	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
345	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person,

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or owner of an animal in
obtaining a controlled
substance.

346 893.13(8)(a)3. 3rd Knowingly write a prescription
for a controlled substance for
a fictitious person.

347 893.13(8)(a)4. 3rd Write a prescription for a
controlled substance for a
patient, other person, or an
animal if the sole purpose of
writing the prescription is a
monetary benefit for the
practitioner.

348 918.13(1)(a) 3rd Alter, destroy, or conceal
investigation evidence.

349 944.47 3rd Introduce contraband to
(1)(a)1.-2. correctional facility.

350 944.47(1)(c) 2nd Possess contraband while upon
the grounds of a correctional
institution.

351 985.721 3rd Escapes from a juvenile
facility (secure detention or
residential commitment

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facility).

352 (e) LEVEL 5

353

354

355

Florida Statute	Felony Degree	Description
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
379.3671(2)(c)3.	3rd	Willful molestation, possession, or removal of a commercial harvester's trap

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				contents or trap gear by another harvester.
362				
	381.0041(11)(b)	3rd		Donate blood, plasma, or organs knowing HIV positive.
363				
	440.10(1)(g)	2nd		Failure to obtain workers' compensation coverage.
364				
	440.105(5)	2nd		Unlawful solicitation for the purpose of making workers' compensation claims.
365				
	440.381(2)	2nd		Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
366				
	624.401(4)(b)2.	2nd		Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
367				
	626.902(1)(c)	2nd		Representing an unauthorized insurer; repeat offender.
368				
	790.01(2)	3rd		Carrying a concealed firearm.
369				

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	790.162	2nd		Threat to throw or discharge destructive device.
370				
	790.163(1)	2nd		False report of deadly explosive or weapon of mass destruction.
371				
	790.221(1)	2nd		Possession of short-barreled shotgun or machine gun.
372				
	790.23	2nd		Felons in possession of firearms, ammunition, or electronic weapons or devices.
373				
	<u>796.05(1)</u>	<u>2nd</u>		<u>Live on earnings of an adult prostitute; 1st offense.</u>
374				
	800.04(6)(c)	3rd		Lewd or lascivious conduct; offender less than 18 years.
375				
	800.04(7)(b)	2nd		Lewd or lascivious exhibition; offender 18 years or older.
376				
	806.111(1)	3rd		Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
377				
	812.0145(2)(b)	2nd		Theft from person 65 years of

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age or older; \$10,000 or more
but less than \$50,000.

378 812.015(8) 3rd Retail theft; property stolen
is valued at \$300 or more and
one or more specified acts.

379 812.019(1) 2nd Stolen property; dealing in or
trafficking in.

380 812.131(2)(b) 3rd Robbery by sudden snatching.

381 812.16(2) 3rd Owning, operating, or
conducting a chop shop.

382 817.034(4)(a)2. 2nd Communications fraud, value
\$20,000 to \$50,000.

383 817.234(11)(b) 2nd Insurance fraud; property value
\$20,000 or more but less than
\$100,000.

384 817.2341(1), 3rd Filing false financial
(2)(a) & (3)(a) statements, making false
entries of material fact or
false statements regarding
property values relating to the
solvency of an insuring entity.

385

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817.568(2)(b) 2nd Fraudulent use of personal
identification information;
value of benefit, services
received, payment avoided, or
amount of injury or fraud,
\$5,000 or more or use of
personal identification
information of 10 or more
individuals.

386 817.625(2)(b) 2nd Second or subsequent fraudulent
use of scanning device or
reencoder.

387 825.1025(4) 3rd Lewd or lascivious exhibition
in the presence of an elderly
person or disabled adult.

388 827.071(4) 2nd Possess with intent to promote
any photographic material,
motion picture, etc., which
includes sexual conduct by a
child.

389 827.071(5) 3rd Possess, control, or
intentionally view any
photographic material, motion
picture, etc., which includes
sexual conduct by a child.

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390 839.13(2)(b) 2nd Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

391 843.01 3rd Resist officer with violence to person; resist arrest with violence.

392 847.0135(5)(b) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

393 847.0137 3rd Transmission of pornography by (2) & (3) electronic device or equipment.

394 847.0138 3rd Transmission of material harmful to minors to a minor by (2) & (3) electronic device or equipment.

395 874.05(1)(b) 2nd Encouraging or recruiting another to join a criminal gang; second or subsequent offense.

396 874.05(2)(a) 2nd Encouraging or recruiting person under 13 to join a

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397 criminal gang.

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

398 893.13(1)(c)2. 2nd Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

399 893.13(1)(d)1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.

400 893.13(1)(e)2. 2nd Sell, manufacture, or deliver

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

401

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

402

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

403

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

404

(f) LEVEL 6

405

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Florida Statute	Felony Degree	Description
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051(3)	2nd	Knowing forgery of pedigree papers.
499.0051(4)	2nd	Knowing purchase or receipt of prescription drug from unauthorized person.
499.0051(5)	2nd	Knowing sale or transfer of prescription drug to unauthorized person.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.041	3rd	Felony battery; domestic battery by strangulation.

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415	784.048(3)	3rd	Aggravated stalking; credible threat.
416	784.048(5)	3rd	Aggravated stalking of person under 16.
417	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
418	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
419	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
420	784.081(2)	2nd	Aggravated assault on specified official or employee.
421	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
422	784.083(2)	2nd	Aggravated assault on code inspector.
423	787.02(2)	3rd	False imprisonment; restraining with purpose other than those

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			in s. 787.01.
424	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
425	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
426	790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
427	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
428	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
429	794.05(1)	2nd	Unlawful sexual activity with specified minor.
430	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years;

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 offender less than 18 years.

431 800.04(6)(b) 2nd Lewd or lascivious conduct;
 offender 18 years of age or
 older.

432 806.031(2) 2nd Arson resulting in great bodily
 harm to firefighter or any
 other person.

433 810.02(3)(c) 2nd Burglary of occupied structure;
 unarmed; no assault or battery.

434 810.145(8)(b) 2nd Video voyeurism; certain minor
 victims; 2nd or subsequent
 offense.

435 812.014(2)(b)1. 2nd Property stolen \$20,000 or
 more, but less than \$100,000,
 grand theft in 2nd degree.

436 812.014(6) 2nd Theft; property stolen \$3,000
 or more; coordination of
 others.

437 812.015(9)(a) 2nd Retail theft; property stolen
 \$300 or more; second or
 subsequent conviction.

438

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 812.015(9)(b) 2nd Retail theft; property stolen
 \$3,000 or more; coordination of
 others.

439 812.13(2)(c) 2nd Robbery, no firearm or other
 weapon (strong-arm robbery).

440 817.4821(5) 2nd Possess cloning paraphernalia
 with intent to create cloned
 cellular telephones.

441 825.102(1) 3rd Abuse of an elderly person or
 disabled adult.

442 825.102(3)(c) 3rd Neglect of an elderly person or
 disabled adult.

443 825.1025(3) 3rd Lewd or lascivious molestation
 of an elderly person or
 disabled adult.

444 825.103(2)(c) 3rd Exploiting an elderly person or
 disabled adult and property is
 valued at less than \$20,000.

445 827.03(2)(c) 3rd Abuse of a child.

446 827.03(2)(d) 3rd Neglect of a child.

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448	827.071(2) & (3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
449	836.05	2nd	Threats; extortion.
450	836.10	2nd	Written threats to kill or do bodily injury.
451	843.12	3rd	Aids or assists person to escape.
452	847.011	3rd	Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.
453	847.012	3rd	Knowingly using a minor in the production of materials harmful to minors.
454	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
455	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.

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456	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
457	944.40	2nd	Escapes.
458	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
459	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
460	951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
461	(g) LEVEL 7		
462	Florida Statute	Felony Degree	Description
463	316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
464	316.193(3)(c)2.	3rd	DUI resulting in serious bodily

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injury.

465 316.1935(3)(b) 1st Causing serious bodily injury
or death to another person;
driving at high speed or with
wanton disregard for safety
while fleeing or attempting to
elude law enforcement officer
who is in a patrol vehicle with
siren and lights activated.

466 327.35(3)(c)2. 3rd Vessel BUI resulting in serious
bodily injury.

467 402.319(2) 2nd Misrepresentation and
negligence or intentional act
resulting in great bodily harm,
permanent disfiguration,
permanent disability, or death.

468 409.920 3rd Medicaid provider fraud;
(2)(b)1.a. \$10,000 or less.

469 409.920 2nd Medicaid provider fraud; more
(2)(b)1.b. than \$10,000, but less than
\$50,000.

470 456.065(2) 3rd Practicing a health care
profession without a license.

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471 456.065(2) 2nd Practicing a health care
profession without a license
which results in serious bodily
injury.

472 458.327(1) 3rd Practicing medicine without a
license.

473 459.013(1) 3rd Practicing osteopathic medicine
without a license.

474 460.411(1) 3rd Practicing chiropractic
medicine without a license.

475 461.012(1) 3rd Practicing podiatric medicine
without a license.

476 462.17 3rd Practicing naturopathy without
a license.

477 463.015(1) 3rd Practicing optometry without a
license.

478 464.016(1) 3rd Practicing nursing without a
license.

479 465.015(2) 3rd Practicing pharmacy without a
license.

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480	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
481	467.201	3rd	Practicing midwifery without a license.
482	468.366	3rd	Delivering respiratory care services without a license.
483	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
484	483.901(9)	3rd	Practicing medical physics without a license.
485	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
486	484.053	3rd	Dispensing hearing aids without a license.
487	494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.

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488	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
489	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
490	655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
491	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
492	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
493	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or

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	37-01384-14		20141440__	conceal a sexual predator.
494	782.051(3)	2nd		Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
495	782.07(1)	2nd		Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
496	782.071	2nd		Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
497	782.072	2nd		Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
498	784.045(1)(a)1.	2nd		Aggravated battery; intentionally causing great bodily harm or disfigurement.
499	784.045(1)(a)2.	2nd		Aggravated battery; using

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500	784.045(1)(b)	2nd		Aggravated battery; perpetrator aware victim pregnant.
501	784.048(4)	3rd		Aggravated stalking; violation of injunction or court order.
502	784.048(7)	3rd		Aggravated stalking; violation of court order.
503	784.07(2)(d)	1st		Aggravated battery on law enforcement officer.
504	784.074(1)(a)	1st		Aggravated battery on sexually violent predators facility staff.
505	784.08(2)(a)	1st		Aggravated battery on a person 65 years of age or older.
506	784.081(1)	1st		Aggravated battery on specified official or employee.
507	784.082(1)	1st		Aggravated battery by detained person on visitor or other detainee.
508	784.083(1)	1st		Aggravated battery on code

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509 inspector.

787.06(3) (a) 1st Human trafficking using coercion for labor and services of an adult.

510 787.06(3) (e) 1st Human trafficking using coercion for labor and services by the transfer or transport of an adult ~~any individual~~ from outside Florida to within the state.

511 790.07(4) 1st Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).

512 790.16(1) 1st Discharge of a machine gun under specified circumstances.

513 790.165(2) 2nd Manufacture, sell, possess, or deliver hoax bomb.

514 790.165(3) 2nd Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.

515

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790.166(3) 2nd Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.

516 790.166(4) 2nd Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.

517 790.23 1st,PBL Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.

518 794.08(4) 3rd Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.

519 796.03 2nd Procuring any person under 16 years for prostitution.

520 800.04(5) (c)1. 2nd Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.

521

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800.04(5)(c)2. 2nd Lewd or lascivious molestation;
victim 12 years of age or older
but less than 16 years;
offender 18 years or older.

522 806.01(2) 2nd Maliciously damage structure by
fire or explosive.

523 810.02(3)(a) 2nd Burglary of occupied dwelling;
unarmed; no assault or battery.

524 810.02(3)(b) 2nd Burglary of unoccupied
dwelling; unarmed; no assault
or battery.

525 810.02(3)(d) 2nd Burglary of occupied
conveyance; unarmed; no assault
or battery.

526 810.02(3)(e) 2nd Burglary of authorized
emergency vehicle.

527 812.014(2)(a)1. 1st Property stolen, valued at
\$100,000 or more or a
semitrailer deployed by a law
enforcement officer; property
stolen while causing other
property damage; 1st degree
grand theft.

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528 812.014(2)(b)2. 2nd Property stolen, cargo valued
at less than \$50,000, grand
theft in 2nd degree.

529 812.014(2)(b)3. 2nd Property stolen, emergency
medical equipment; 2nd degree
grand theft.

530 812.014(2)(b)4. 2nd Property stolen, law
enforcement equipment from
authorized emergency vehicle.

531 812.0145(2)(a) 1st Theft from person 65 years of
age or older; \$50,000 or more.

532 812.019(2) 1st Stolen property; initiates,
organizes, plans, etc., the
theft of property and traffics
in stolen property.

533 812.131(2)(a) 2nd Robbery by sudden snatching.

534 812.133(2)(b) 1st Carjacking; no firearm, deadly
weapon, or other weapon.

535 817.034(4)(a)1. 1st Communications fraud, value
greater than \$50,000.

536

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	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
537	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
538	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
539	817.2341 (2)(b) & (3)(b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
540	817.535(2)(a)	3rd	Filing false lien or other unauthorized document.
541	825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
542	825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is

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			valued at \$20,000 or more, but less than \$100,000.
543	827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
544	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
545	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
546	838.015	2nd	Bribery.
547	838.016	2nd	Unlawful compensation or reward for official behavior.
548	838.021(3)(a)	2nd	Unlawful harm to a public servant.
549	838.22	2nd	Bid tampering.
550	843.0855(2)	3rd	Impersonation of a public officer or employee.
551	843.0855(3)	3rd	Unlawful simulation of legal

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552 process.

843.0855(4) 3rd Intimidation of a public officer or employee.

553 847.0135(3) 3rd Solicitation of a child, via a computer service, to commit an unlawful sex act.

554 847.0135(4) 2nd Traveling to meet a minor to commit an unlawful sex act.

555 872.06 2nd Abuse of a dead human body.

556 874.05(2)(b) 1st Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.

557 874.10 1st,PBL Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.

558 893.13(1)(c)1. 1st Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.)

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559 within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

893.13(1)(e)1. 1st Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.

560 893.13(4)(a) 1st Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

561 893.135(1)(a)1. 1st Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.

562 893.135(1)(b)1.a. 1st Trafficking in cocaine, more than 28 grams, less than 200 grams.

563

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	893.135	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
564	(1) (c) 1.a.		
	893.135(1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
565			
	893.135(1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
566			
	893.135(1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
567			
	893.135	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
568	(1) (g) 1.a.		
	893.135	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
569	(1) (h) 1.a.		
	893.135	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
570	(1) (j) 1.a.		

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	893.135	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
	(1) (k) 2.a.		
571			
	893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
572			
	896.101(5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
573			
	896.104(4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
574			
	943.0435(4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
575			
	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
576			
	943.0435(9) (a)	3rd	Sexual offender; failure to

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 comply with reporting requirements.
 577 943.0435 (13) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
 578 943.0435 (14) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.
 579 944.607 (9) 3rd Sexual offender; failure to comply with reporting requirements.
 580 944.607 (10) (a) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.
 581 944.607 (12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
 582 944.607 (13) 3rd Sexual offender; failure to report and reregister; failure to respond to address

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 verification.
 583 985.4815 (10) 3rd Sexual offender; failure to submit to the taking of a digitized photograph.
 584 985.4815 (12) 3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
 585 985.4815 (13) 3rd Sexual offender; failure to report and reregister; failure to respond to address verification.
 586 (h) LEVEL 8
 587
 588 Florida Statute Felony Degree Description
 589 316.193 (3) (c) 3.a. 2nd DUI manslaughter.
 590 316.1935 (4) (b) 1st Aggravated fleeing or attempted eluding with serious bodily injury or death.
 591 327.35 (3) (c) 3. 2nd Vessel BUI manslaughter.

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592 499.0051(7) 1st Knowing trafficking in
contraband prescription drugs.

593 499.0051(8) 1st Knowing forgery of prescription
labels or prescription drug
labels.

594 560.123(8)(b)2. 2nd Failure to report currency or
payment instruments totaling or
exceeding \$20,000, but less
than \$100,000 by money
transmitter.

595 560.125(5)(b) 2nd Money transmitter business by
unauthorized person, currency
or payment instruments totaling
or exceeding \$20,000, but less
than \$100,000.

596 655.50(10)(b)2. 2nd Failure to report financial
transactions totaling or
exceeding \$20,000, but less
than \$100,000 by financial
institutions.

597 777.03(2)(a) 1st Accessory after the fact,
capital felony.

598

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782.04(4) 2nd Killing of human without design
when engaged in act or attempt
of any felony other than arson,
sexual battery, robbery,
burglary, kidnapping,
aggravated fleeing or eluding
with serious bodily injury or
death, aircraft piracy, or
unlawfully discharging bomb.

599 782.051(2) 1st Attempted felony murder while
perpetrating or attempting to
perpetrate a felony not
enumerated in s. 782.04(3).

600 782.071(1)(b) 1st Committing vehicular homicide
and failing to render aid or
give information.

601 782.072(2) 1st Committing vessel homicide and
failing to render aid or give
information.

602 ~~787.06(3)(b)~~ 1st ~~Human trafficking using
coercion for commercial sexual
activity.~~

603 787.06(3)(c) 1st Human trafficking using
coercion for labor and services

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of an unauthorized alien adult.
604
787.06(3)(e) 1st Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
605
~~787.06(3)(f)~~ 1st ~~Human trafficking using coercion for commercial sexual activity by the transfer or transport of any individual from outside Florida to within the state.~~
606
790.161(3) 1st Discharging a destructive device which results in bodily harm or property damage.
607
794.011(5) 2nd Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.
608
794.08(3) 2nd Female genital mutilation, removal of a victim younger than 18 years of age from this state.
609

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796.05(1) 1st Live on earnings of a minor prostitute; 1st offense.
610
800.04(4) 2nd Lewd or lascivious battery.
611
806.01(1) 1st Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
612
810.02(2)(a) 1st,PBL Burglary with assault or battery.
613
810.02(2)(b) 1st,PBL Burglary; armed with explosives or dangerous weapon.
614
810.02(2)(c) 1st Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
615
812.014(2)(a)2. 1st Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
616
812.13(2)(b) 1st Robbery with a weapon.
617
812.135(2)(c) 1st Home-invasion robbery, no firearm, deadly weapon, or other weapon.

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618 817.535(2)(b) 2nd Filing false lien or other
unauthorized document; second
or subsequent offense.

619 817.535(3)(a) 2nd Filing false lien or other
unauthorized document; property
owner is a public officer or
employee.

620 817.535(4)(a)1. 2nd Filing false lien or other
unauthorized document;
defendant is incarcerated or
under supervision.

621 817.535(5)(a) 2nd Filing false lien or other
unauthorized document; owner of
the property incurs financial
loss as a result of the false
instrument.

622 817.568(6) 2nd Fraudulent use of personal
identification information of
an individual under the age of
18.

623 825.102(2) 1st Aggravated abuse of an elderly
person or disabled adult.

624

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825.1025(2) 2nd Lewd or lascivious battery upon
an elderly person or disabled
adult.

625 825.103(2)(a) 1st Exploiting an elderly person or
disabled adult and property is
valued at \$100,000 or more.

626 837.02(2) 2nd Perjury in official proceedings
relating to prosecution of a
capital felony.

627 837.021(2) 2nd Making contradictory statements
in official proceedings
relating to prosecution of a
capital felony.

628 860.121(2)(c) 1st Shooting at or throwing any
object in path of railroad
vehicle resulting in great
bodily harm.

629 860.16 1st Aircraft piracy.

630 893.13(1)(b) 1st Sell or deliver in excess of 10
grams of any substance
specified in s. 893.03(1)(a) or
(b).

631

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	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
632			
	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
633			
	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
634			
	893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
635			
	893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
636			
	893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
637			
	893.135 (1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
638			
	893.135	1st	Trafficking in amphetamine,

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	(1)(f)1.b.		more than 28 grams, less than 200 grams.
639			
	893.135 (1)(g)1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
640			
	893.135 (1)(h)1.b.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
641			
	893.135 (1)(j)1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
642			
	893.135 (1)(k)2.b.	1st	Trafficking in Phenethylamines, 200 grams or more, less than 400 grams.
643			
	893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
644			
	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
645			

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646	37-01384-14 895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
647	895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
648	896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
649	896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
650	(i) LEVEL 9		
651	Florida Statute	Felony Degree	Description
652	316.193(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
653			

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654	37-01384-14 327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
655	409.920(2)(b)1.c.	1st	Medicaid provider fraud; \$50,000 or more.
656	499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
657	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
658	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
659	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
660	775.0844	1st	Aggravated white collar crime.
	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.

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661 782.04(3) 1st,PBL Accomplice to murder in
connection with arson, sexual
battery, robbery, burglary,
aggravated fleeing or eluding
with serious bodily injury or
death, and other specified
felonies.

662 782.051(1) 1st Attempted felony murder while
perpetrating or attempting to
perpetrate a felony enumerated
in s. 782.04(3).

663 782.07(2) 1st Aggravated manslaughter of an
elderly person or disabled
adult.

664 787.01(1)(a)1. 1st,PBL Kidnapping; hold for ransom or
reward or as a shield or
hostage.

665 787.01(1)(a)2. 1st,PBL Kidnapping with intent to
commit or facilitate commission
of any felony.

666 787.01(1)(a)4. 1st,PBL Kidnapping with intent to
interfere with performance of
any governmental or political

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667 function.

667 787.02(3)(a) 1st False imprisonment; child under
age 13; perpetrator also
commits aggravated child abuse,
sexual battery, or lewd or
lascivious battery,
molestation, conduct, or
exhibition.

668 787.06(3)(b) Life Human trafficking using
coercion for commercial sexual
activity of an adult.

669 ~~787.06(3)(d)~~ 1st ~~Human trafficking using~~
~~coercion for commercial sexual~~
~~activity of an unauthorized~~
~~alien.~~

670 787.06(3)(g) 1st,PBL Human trafficking for
commercial sexual activity of a
child under the age of 18.

671 ~~787.06(4)~~ 1st ~~Selling or buying of minors~~
~~into human trafficking.~~

672 790.161 1st Attempted capital destructive
device offense.

673

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	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
674	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
675	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
676	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
677	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
678	794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
679	796.035	1st	Selling or buying of minors into prostitution.
680			

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	<u>796.05(1)</u>	<u>Life</u>	<u>Live on earnings of a minor prostitute; 2nd offense.</u>
681	800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
682	812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
683	812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
684	812.135(2)(b)	1st	Home-invasion robbery with weapon.
685	817.535(3)(b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
686	817.535(4)(a)2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
687	817.535(5)(b)	1st	Filing false lien or other unauthorized document; second

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688 or subsequent offense; owner of
the property incurs financial
loss as a result of the false
instrument.

817.568(7) 2nd, Fraudulent use of personal
PBL identification information of
an individual under the age of
18 by his or her parent, legal
guardian, or person exercising
custodial authority.

689 827.03(2) (a) 1st Aggravated child abuse.

690 847.0145(1) 1st Selling, or otherwise
transferring custody or
control, of a minor.

691 847.0145(2) 1st Purchasing, or otherwise
obtaining custody or control,
of a minor.

692 859.01 1st Poisoning or introducing
bacteria, radioactive
materials, viruses, or chemical
compounds into food, drink,
medicine, or water with intent
to kill or injure another
person.

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693 893.135 1st Attempted capital trafficking
offense.

694 893.135(1) (a)3. 1st Trafficking in cannabis, more
than 10,000 lbs.

695 893.135 1st Trafficking in cocaine, more
(1) (b)1.c. than 400 grams, less than 150
kilograms.

696 893.135 1st Trafficking in illegal drugs,
(1) (c)1.c. more than 28 grams, less than
30 kilograms.

697 893.135 1st Trafficking in phencyclidine,
(1) (d)1.c. more than 400 grams.

698 893.135 1st Trafficking in methaqualone,
(1) (e)1.c. more than 25 kilograms.

699 893.135 1st Trafficking in amphetamine,
(1) (f)1.c. more than 200 grams.

700 893.135 1st Trafficking in gamma-
(1) (h)1.c. hydroxybutyric acid (GHB), 10
kilograms or more.

701 893.135 1st Trafficking in 1,4-Butanediol,

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702	(1) (j) 1.c.		10 kilograms or more.
	893.135	1st	Trafficking in Phenethylamines,
703	(1) (k) 2.c.		400 grams or more.
	896.101(5) (c)	1st	Money laundering, financial
704			instruments totaling or
			exceeding \$100,000.
	896.104(4) (a) 3.	1st	Structuring transactions to
			evade reporting or registration
			requirements, financial
			transactions totaling or
			exceeding \$100,000.
705	(j) LEVEL 10		
706			
707			
	Florida	Felony	Description
	Statute	Degree	
708	499.0051(10)	1st	Knowing sale or purchase of
			contraband prescription drugs
			resulting in death.
709	782.04(2)	1st,PBL	Unlawful killing of human; act
			is homicide, unpremeditated.
710	782.07(3)	1st	Aggravated manslaughter of a
			child.

	37-01384-14		20141440__
711	787.01(1) (a) 3.	1st,PBL	Kidnapping; inflict bodily harm
			upon or terrorize victim.
712	787.01(3) (a)	Life	Kidnapping; child under age 13,
			perpetrator also commits
			aggravated child abuse, sexual
			battery, or lewd or lascivious
			battery, molestation, conduct,
			or exhibition.
713	<u>787.06(3) (d)</u>	<u>Life</u>	<u>Human trafficking using</u>
			<u>coercion for commercial sexual</u>
			<u>activity of an unauthorized</u>
			<u>adult.</u>
714	<u>787.06(3) (f)</u>	<u>Life</u>	<u>Human trafficking using</u>
			<u>coercion for commercial sexual</u>
			<u>activity by the transfer or</u>
			<u>transport of an adult from</u>
			<u>outside Florida to within the</u>
			<u>state.</u>
715	787.06(3) (h)	Life	Human trafficking for
			commercial sexual activity of a
			child under the age of 15.
716	<u>787.06(4)</u>	<u>Life</u>	<u>Selling or buying of minors</u>
			<u>into human trafficking.</u>

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717

794.011(3) Life Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.

718

796.05(1) Life Live on earnings of an adult prostitute; 3rd and subsequent offense.

719

796.05(1) Life Live on earnings of a minor prostitute; 3rd or subsequent offense.

720

812.135(2)(a) 1st,PBL Home-invasion robbery with firearm or other deadly weapon.

721

876.32 1st Treason against the state.

722

Section 10. This act shall take effect October 1, 2014.



The Florida Senate

Committee Agenda Request

To: Senator Eleanor Sobel, Chair
Committee on Children, Families, and Elder Affairs

Subject: Committee Agenda Request

Date: March 10, 2014

I respectfully request that **Senate Bill #1440**, relating to Human Trafficking, be placed on the:

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

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

RECEIVED

MAR 10 2014

Senate Committee
Children and Families

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/11/14
Meeting Date

Topic Trafficking
Name Ben Wilcox
Job Title _____

Bill Number 1440 (if applicable)
Amendment Barcode _____ (if applicable)

Address 1719 Old Fort Dr,
Tallahassee
City State Zip

Phone 850-544-4448
E-mail benw@infionline.net

Speaking: For Against Information

Representing The Children's Campaign

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

Florida's Child Support Guidelines

Presentation to Senate Committee on Children,
Families and Elder Affairs

April 1, 2014

History

- 1987: Federal Advisory Panel on Child Support Guidelines issues model guidelines including proposed schedule of child support payments
- 1988: Family Support Act mandates that every state adopt a set of child support guidelines
- 1988-89: Florida adopts Advisory Panel model guidelines
- 1992-93: Most recent revision to Florida guidelines

What We Did

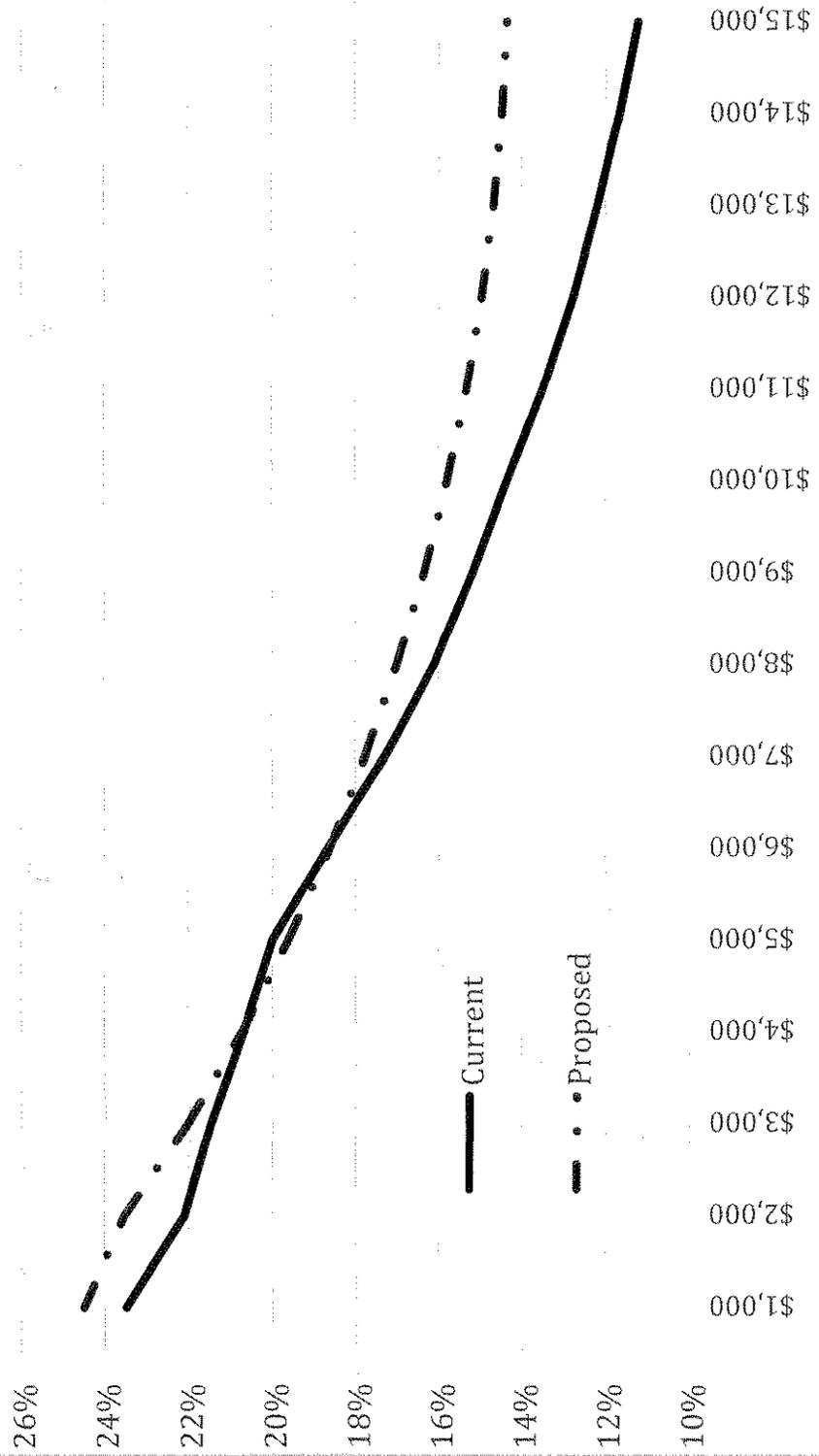
- Updated the schedule of obligations
- Reviewed the effectiveness of the low-income adjustment in the guidelines schedule
- Reviewed the guidelines adjustment for shared custody

Differences from Past Reviews

- Did not attempt to replicate methodology used for original guidelines schedule
- Used most recent available data, 2006-2011
- Revised consumption and income measures using alternative data sets
- Included a statistical adjustment for Florida residence

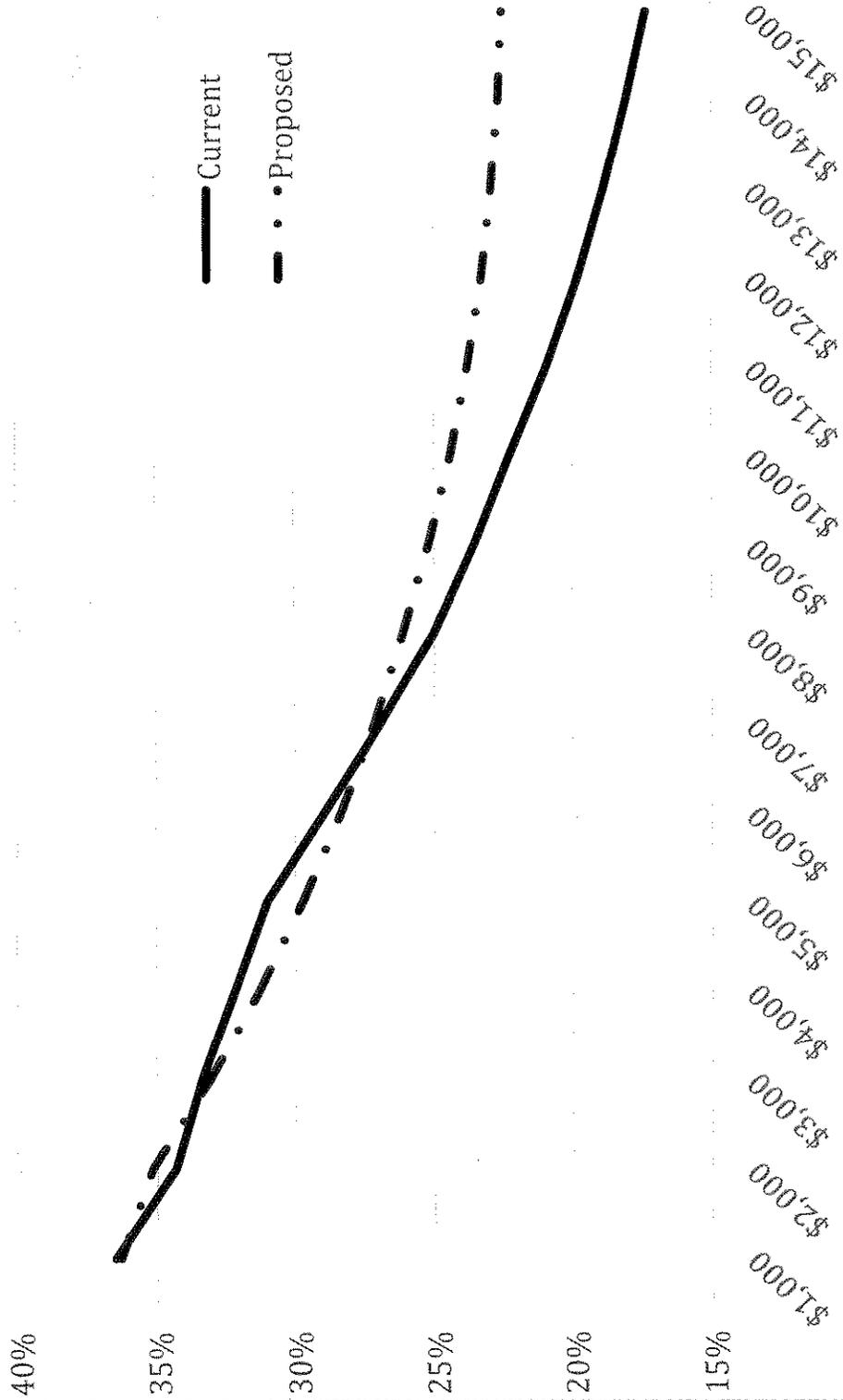
Comparison

Figure A.1 One Child Share of Net Income



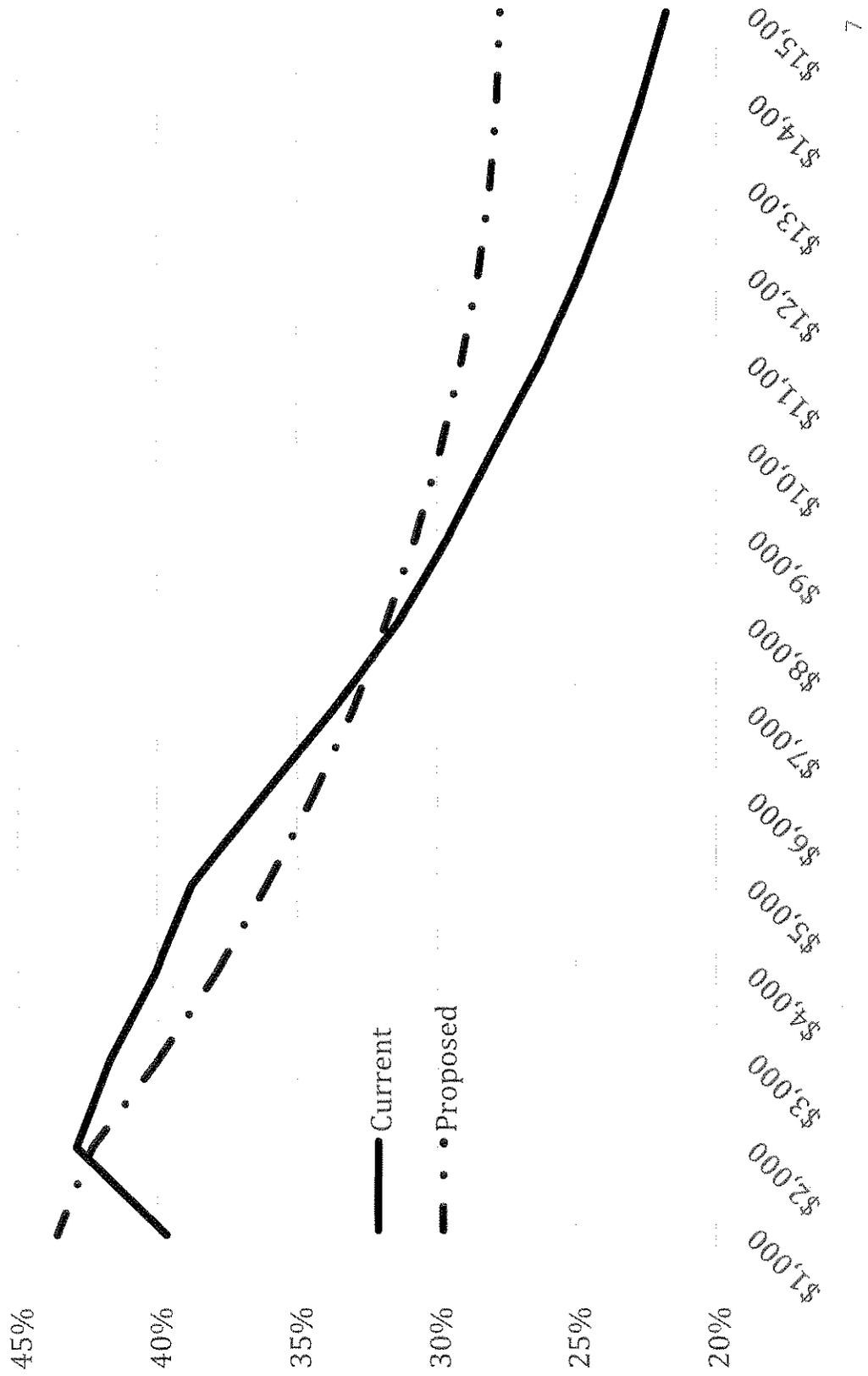
Comparison

Figure A.2 Two Children Share of Net Income



Comparison

Figure A.3 Three Children Share of Net Income



Problems with Florida's Treatment of Low-Income Parents

- Has not been adjusted to reflect increases in poverty guideline
- Based on comparison of combined income of both parents with single-person poverty guideline
- Does not apply to total obligation

Recommendations for Changes in Treatment of Low-Income Parents

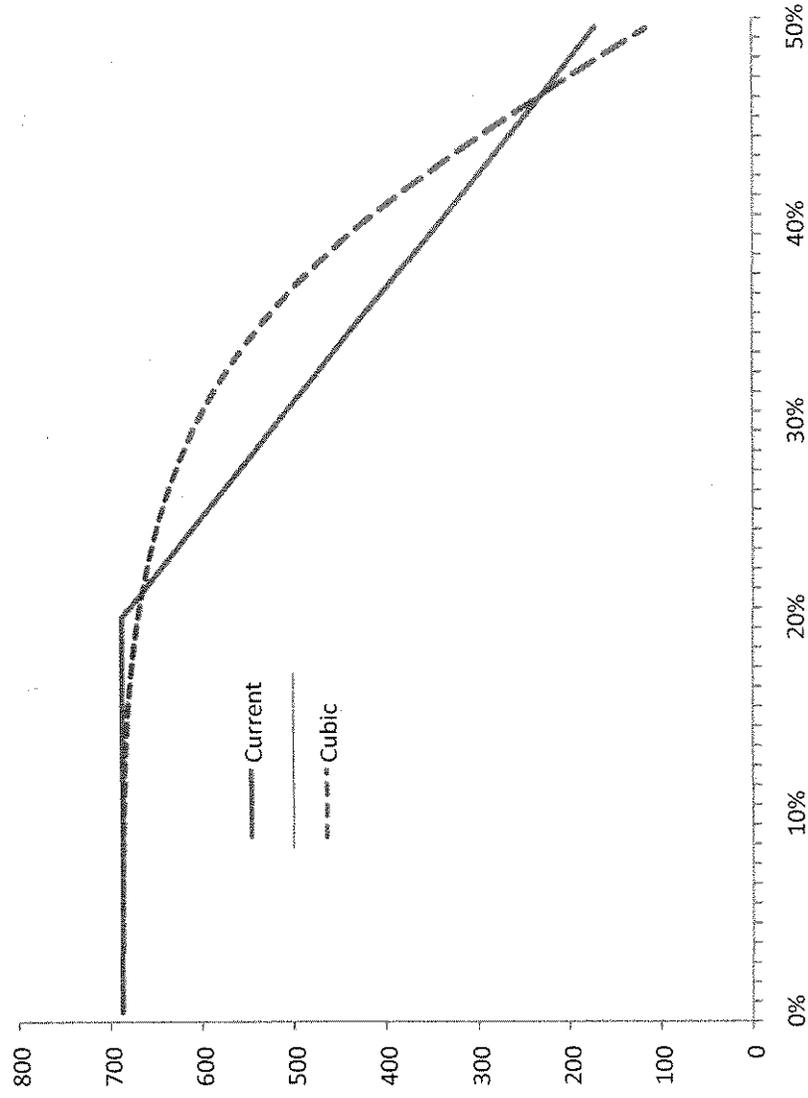
- Impute incomes at minimum wage earnings, not median earnings
- Adjust schedule for changes in poverty guideline
- Compare only obligor parent's income to poverty guideline
- Either
 - Move adjustment from schedule to worksheet or
 - Revise schedule's low-income adjustment in accordance with above recommendations

Florida's Treatment of Shared Custody

- Current adjustment uses a fixed 1.5 multiplier to account for duplicated expenses
- Current adjustment applies only when shared custody exceeds 20%, reduced from 40% after 2010-11
- Recommend continuous adjustment or variable multiplier for all levels of shared custody

Comparison of Fixed Adjustment and Continuous Adjustment

Child Support Payments for the Third Income Quintile



CourtSmart Tag Report

Room: LL 37
Caption: Senate Children, Families, & Elder Affairs Committee

Case:

Type:
Judge:

Started: 4/1/2014 9:02:12 AM
Ends: 4/1/2014 11:00:02 AM
Length: 01:57:51

9:02:15 AM Meeting called to order
9:02:21 AM Roll call
9:02:46 AM (Tab 2) SPB 7088 - Human Trafficking
9:03:10 AM Chair Sobel explains the bill
9:03:46 AM Testimony by Judy Grutza, Eckerd, VP Strategic Partnerships
9:04:28 AM Testimony by Dr. Leslie Gavin, Psychologist
9:09:37 AM Todd Dixon, Aspire Health Partners, waives in support
9:09:52 AM Testimony by Babette Hankey, Chief Operating Officer, Center for Drug Free Living
9:13:09 AM Chair Sobel's motion to TP SPB 7088
9:13:38 AM (Tab 7) SB 1436 - Public Records/Location of Safe Houses
9:13:43 AM Sen. Flores explains AM barcode 900800
9:14:42 AM AM barcode 900800 is adopted
9:14:51 AM Sen. Flores waives close
9:14:53 AM Sen. Hays moves the bill as a committee substitute
9:14:58 AM Roll call on SB 1436
9:15:17 AM (Tab 8) SB 1440 - Human Trafficking
9:15:36 AM Sen. Flores explains AM barcode 607866
9:16:49 AM Chair Sobel shows AM barcode 607866 adopted
9:16:59 AM Ben Wilcox, The Children's Campaign, waives in support
9:17:08 AM Sen. Flores waives close
9:17:10 AM Sen. Hays moves the bill as a committee substitute
9:17:15 AM Roll call on SB 1440
9:17:26 AM Show bill passing
9:17:31 AM (Tab 2) SPB 7088 - Human Trafficking
9:17:52 AM Testimony by Kimberly Grabert, Dept. of Children and Families
9:19:11 AM Testimony by Roy Miller, The Children's Campaign
9:21:50 AM Testimony by Dr. Lawanda Ravoira, Delores Barr Weaver Policy Center
9:23:29 AM Testimony by Mary Marx, PACE Center for Girls
9:26:32 AM Sen. Detert comments in debate
9:28:46 AM Sen. Grimsley comments in debate
9:29:32 AM Roll call on SPB 7088
9:29:46 AM Show bill passing
9:30:00 AM (Tab 1) SPB 7122 - Reimbursement for Crisis Stabilization Unit Services
9:30:24 AM Claude Hendon, Staff Director, explains the bill
9:31:10 AM Sen. Thompson asks question
9:31:21 AM Mr. Hendon responds
9:31:52 AM Sen. Braynon asks a question
9:32:11 AM Mr. Hendon responds
9:32:57 AM Sen. Braynon asks follow-up question
9:33:07 AM Mr. Hendon responds
9:33:29 AM Sen. Detert asks a question
9:34:27 AM Chair Sobel responds
9:35:26 AM Sen. Detert asks follow-up question
9:36:14 AM Sen. Thompson's comments
9:36:53 AM Mr. Hendon responds
9:37:15 AM Chair Sobel asks a question
9:37:20 AM Mr. Hendon responds
9:37:53 AM Testimony by Tim Bedford, Emerald Coast Behavioral
9:40:01 AM Testimony by Tim Macsuga, Universal Health Services
9:43:32 AM Sen. Altman asks a question
9:44:49 AM Mr. Macsuga responds
9:46:31 AM Sen. Altman comments

9:47:02 AM Chair Sobel makes follow-up comment
9:48:15 AM Mr. Macsuga responds
9:49:40 AM Sen. Braynon asks a question
9:50:01 AM Mr. Macsuga responds
9:50:44 AM Sen. Braynon asks follow-up question
9:51:06 AM Mr. Macsuga responds
9:52:02 AM Sen. Braynon asks question
9:52:47 AM Mr. Macsuga responds
9:53:25 AM Testimony by David Beardsley, University Behavioral Center
9:55:24 AM Testimony by Mary Ruiz, Florida Council for Community Mental Health
10:00:43 AM Tom Feeney, Hillsborough County Sheriff's Office waives in opposition
10:00:52 AM Karen Koch, FL Council for Behavioral Healthcare, waives in opposition
10:01:03 AM Senator Braynon's question
10:01:24 AM Karen Koch, FL Council for Behavioral Healthcare response
10:02:00 AM Testimony by Carole Green, Coastal Behavioral Sarasota/Salus Care Lee County
10:03:22 AM Natalie Kelly, FL. Association of Managing Entities, waives in opposition
10:03:45 AM Testimony by Mike Watkins, Big Bend Community Based Care
10:06:48 AM Sen. Detert comments in debate
10:07:32 AM Sen. Dean comments in debate
10:09:31 AM Sen. Hays comments
10:10:42 AM Sen. Braynon comments
10:13:20 AM Sen. Hays comments
10:14:22 AM Sen. Grimsley comments
10:14:40 AM Sen. Grimsley makes motion to TP the bill
10:14:59 AM Sen. Dean's motion to be voted favorably on SB 1436, SB 1440, and SPB 7088
10:15:21 AM Sen. Braynon asks a question
10:15:42 AM Sen. Altman's motion to be voted affirmatively on SB 1436, SB 1440, and SPB 7088
10:16:18 AM (Tab 4) SB 552 - Transactions in Fresh Produce Markets
10:16:33 AM Sen. Thompson explains the bill
10:17:42 AM Sen. Thompson waives close
10:17:45 AM Roll call on SB 552
10:18:01 AM Show bill passing
10:18:09 AM (Tab 5) SB 904 - Abuse of a Parent
10:18:19 AM Sen. Thompson explains the bill
10:19:11 AM Chair Sobel introduces AM barcode 451752
10:19:49 AM Testimony by Alice Flowers, Parent Abuse Action Coalition
10:20:52 AM Testimony by Dennis Strange, Orlando Sheriff's Office
10:21:39 AM Testimony by Homer Hartage, Parent Abuse Action Coalition
10:24:48 AM AM barcode 451752 is adopted
10:24:58 AM Sen. Thompson closes on bill
10:26:26 AM Sen. Hays moves the bill as a committee substitute
10:26:34 AM Roll call on SB 904
10:26:47 AM Show bill passing
10:26:51 AM (Tab 6) SB 1190 - Family Law
10:27:07 AM Sen. Lee explains the bill
10:28:50 AM AM barcode 559024 is explained by Sen. Lee
10:31:59 AM Sen. Clemens asks question
10:32:16 AM Sen. Lee responds
10:33:14 AM AM barcode 559024 adopted
10:33:28 AM Testimony by Robert Merlin, Collaborative Professionals in Florida
10:35:37 AM Sen. Lee waives close
10:35:41 AM Sen. Hays moves bill as a committee substitute
10:35:48 AM Roll call on SB 1190
10:36:02 AM Show bill passing
10:36:21 AM (Tab 3) SB 508 - State Ombudsman Program
10:37:09 AM Sen. Detert moves to withdraw AM barcode 553666
10:37:23 AM Sen. Detert explains AM barcode 144428
10:37:37 AM AM barcode 144428 is adopted
10:37:41 AM Senator Detert's comments
10:38:00 AM Chair Hays' recognizes Senator Sobel to explain AM barcode 826374
10:38:28 AM Sen. Detert's comments
10:39:37 AM Sen. Sobel moves to withdraw AM barcode 826734

10:40:04 AM Sen. Detert explains AM barcode 537700
10:40:44 AM Susan Anderson, Long-Term Care Ombulsmen Program, waives in opposition
10:40:49 AM Jack McRay, AARP, waives in support
10:41:00 AM G.C. Murray, Florida Justice Association, waives in support
10:41:24 AM AM barcode 537700 is adopted
10:41:34 AM Sen. Detert waives close and moves bill as committee substitute
10:41:42 AM Roll call on SB 508
10:41:56 AM Show bill passing
10:42:14 AM Sen. Grimsley's motion to reconsider SPB 7122
10:42:33 AM Chair Sobel's comments
10:43:14 AM Sen. Thompson comments in debate
10:44:26 AM Sen. Altman comments in debate
10:45:11 AM Roll call on SPB 7122
10:45:36 AM Show bill passing
10:45:41 AM (Tab 9) - Presentation on Child Support Guidelines
10:46:30 AM Dr. Thomas McCaleb, Florida State University
10:58:36 AM Chair Sobel asks a question
10:58:45 AM Dr. McCaleb responds
10:59:33 AM Sen. Dean's motion to change vote from Yea to Nay on SPB 7122
10:59:52 AM Meeting adjourned