

<b>Tab 1</b>	<b>SB 214</b> by <b>Detert</b> ; (Compare to CS/H 0047) Offenses Committed on Real Estate Agents				
897402	D	S	RCS	CJ, Bradley	Delete everything after 02/22 04:15 PM

<b>Tab 2</b>	<b>CS/SB 964</b> by <b>HP, Grimsley</b> ; (Similar to CS/H 0313) Prescription Drug Monitoring Program				
--------------	---	--	--	--	--

<b>Tab 3</b>	<b>SB 1412</b> by <b>Simmons</b> ; (Similar to CS/H 0969) Conditions of Pretrial Release				
--------------	--	--	--	--	--

<b>Tab 4</b>	<b>CS/SB 1420</b> by <b>CF, Bean</b> ; (Similar to CS/CS/CS/H 1125) Eligibility for Employment as Child Care Personnel				
--------------	--	--	--	--	--

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

**CRIMINAL JUSTICE**  
**Senator Evers, Chair**  
**Senator Gibson, Vice Chair**

**MEETING DATE:** Monday, February 22, 2016  
**TIME:** 2:00—3:30 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

**MEMBERS:** Senator Evers, Chair; Senator Gibson, Vice Chair; Senators Bradley, Brandes, and Clemens

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 214</b> Detert (Compare CS/H 47)	Offenses Committed on Real Estate Agents; Providing for reclassification of specified offenses committed on real estate brokers, broker associates, or sales associates, etc.  CJ 02/08/2016 Not Considered CJ 02/22/2016 Fav/CS ACJ RC	Fav/CS Yeas 4 Nays 0
2	<b>CS/SB 964</b> Health Policy / Grimsley (Similar CS/H 313, Compare S 7038)	Prescription Drug Monitoring Program; Providing that certain acts of dispensing controlled substances in specified facilities are not required to be reported to the prescription drug monitoring program; requiring the Department of Health to disclose certain information from the prescription drug monitoring program to an impaired practitioner consultant under certain circumstances, etc.  HP 02/01/2016 Fav/CS CJ 02/22/2016 Favorable FP	Favorable Yeas 5 Nays 0
3	<b>SB 1412</b> Simmons (Similar CS/H 969)	Conditions of Pretrial Release; Requiring that a defendant be notified in writing if a court issues an order of no contact rather than receive a copy of the order, etc.  JU 01/26/2016 Not Considered JU 02/08/2016 Favorable CJ 02/22/2016 Favorable RC	Favorable Yeas 5 Nays 0
4	<b>CS/SB 1420</b> Children, Families, and Elder Affairs / Bean (Similar CS/CS/CS/H 1125)	Eligibility for Employment as Child Care Personnel; Prohibiting the removal of or exemption from certain disqualifications from employment for child care personnel under certain circumstances; specifying certain offenses that disqualify a person from child care employment, notwithstanding any prior exemption, etc.  CF 01/27/2016 Temporarily Postponed CF 02/04/2016 Fav/CS CJ 02/22/2016 Favorable RC	Favorable Yeas 4 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Monday, February 22, 2016, 2:00—3:30 p.m.

---

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
-----	------------------------------------	-----------------	------------------

---

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

**Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.**

5	Garey, Alan L. (Parkland)	09/30/2019	Recommend Confirm Yeas 3 Nays 2
6	Upchurch, James R. (Tallahassee)	09/30/2017	Recommend Confirm Yeas 5 Nays 0
7	Hunter, Donald C. (Naples)	09/30/2017	Recommend Confirm Yeas 5 Nays 0

---

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
-----	-------------------------	--	------------------

---

Other Related Meeting Documents

---

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

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

---

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

---

BILL: CS/SB 214

INTRODUCER: Criminal Justice Committee and Senator Detert

SUBJECT: Offenses Committed on Real Estate Agents

DATE: February 23, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.			ACJ	
3.			RC	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 214 reclassifies the felony or misdemeanor degree of an assault, battery, or sexual battery if the offense is committed against a “broker,” “broker associate,” or “sales associate” while he or she is engaged in the act of showing real property or holding an open house of real property. These terms are currently defined in ch. 475, F.S., which regulates real estate professionals.

This reclassification would increase the maximum penalty for the offense. Specifically, the bill provides:

- A second degree misdemeanor (maximum penalty of 60 days in jail) is reclassified as a first degree misdemeanor (maximum penalty of one year in jail);
- A first degree misdemeanor is reclassified as a third degree felony (maximum penalty of 5 years in state prison);
- A third degree felony is reclassified as a second degree felony (maximum penalty of 15 years in state prison);
- A second degree felony is reclassified as a first degree felony (maximum penalty of 30 years in state prison); and
- A first degree felony is reclassified as a life felony (maximum penalty of life imprisonment or a term of years not exceeding life imprisonment).

## II. Present Situation:

### Real Estate Professionals: Brokers, Broker Associates, and Sales Associates

Chapter 475, F.S., regulates real estate professionals, including brokers, broker associates, and sales associates.

A “broker”<sup>1</sup> is:

- A person who, for another, and for a compensation or valuable consideration directly or indirectly paid or promised, expressly or impliedly, or with an intent to collect or receive a compensation or valuable consideration therefor, appraises,<sup>2</sup> auctions, sells, exchanges, buys, rents, or offers, attempts or agrees to appraise, auction, or negotiate the sale, exchange, purchase, or rental of business enterprises or business opportunities or any real property or any interest in or concerning the same, including mineral rights or leases;
- A person who advertises or holds out to the public by any oral or printed solicitation or representation that she or he is engaged in the business of appraising, auctioning, buying, selling, exchanging, leasing, or renting business enterprises or business opportunities or real property of others or interests therein, including mineral rights;
- A person who takes any part in the procuring of sellers, purchasers, lessors, or lessees of business enterprises or business opportunities or the real property of another, or leases, or interest therein, including mineral rights;
- A person who directs or assists in the procuring of prospects or in the negotiation or closing of any transaction which does, or is calculated to, result in a sale, exchange, or leasing thereof, and who receives, expects, or is promised any compensation or valuable consideration, directly or indirectly therefor;
- All persons who advertise rental property information or lists;
- A general partner, officer, or director of a partnership or corporation which acts as a broker; and
- Any person or entity who undertakes to list or sell one or more timeshare periods per year in one or more timeshare plans on behalf of any number of persons, except as provided in s. 475.011 (exemptions from part I of ch. 475, F.S.), and s. 721.20, F.S. (licensing requirements and prohibited acts relating to timeshares).<sup>3</sup>

A “broker associate” is a person who is qualified to be issued a license as a broker but who operates as a sales associate in the employ of another.<sup>4</sup>

A “sales associate” is a person who performs any act specified in the definition of “broker,” but who performs such act under the direction, control, or management of another person.<sup>5</sup>

---

<sup>1</sup> A broker renders a professional service and is a professional within the meaning of s. 95.11(4)(a), F.S. Section 475.01(1)(a), F.S. Section 95.11(4)(a), F.S., addresses the limitations period for an action for professional malpractice.

<sup>2</sup> Where the term “appraise” or “appraising” appears in the definition of the term “broker,” it specifically excludes those appraisal services which must be performed only by a state-licensed or state-certified appraiser, and those appraisal services which may be performed by a registered trainee appraiser as defined in part II of ch. 475, F.S. Section 475.01(1)(a), F.S.

<sup>3</sup> *Id.*

<sup>4</sup> Section 475.01(1)(b), F.S.

<sup>5</sup> Section 475.01(1)(b), F.S. A sales associate renders a professional service and is a professional within the meaning of s. 95.11(4)(a), F.S. *Id.*

## Violent Acts Committed Upon Real Estate Professionals

National workforce (preliminary) statistics provided by the U.S. Department of Labor indicate that in 2014 there were 19 fatal occupational injuries involving property, real estate, and community association managers. Twelve of the 19 fatal injuries involved “violence and other injuries by persons or animals” and event or exposure that includes “violence by persons, self-inflicted injury, and attacks by animals.”<sup>6</sup>

In a 2015 survey conducted by the National Association of REALTORS® of its members (2,804 members responded to the survey),<sup>7</sup> 40 percent of members responding to the survey reported that they “experienced a situation that made them fear for their personal safety or safety of their personal information.” The survey notes that “common situations that caused fear” included “open houses, vacant homes/model homes, properties that were unlocked or unsecured, [and] properties in remote areas.” Two percent of members responding to the survey indicated that they were a victim of a robbery while working as a real estate professional. One percent of members responding to the survey indicated that they were a victim of an assault while working as a real estate professional.

In 2015, at least three incidents were reported in the news media of real estate professionals in Florida being attacked or robbed while showing houses. One or more of these incidents involved armed robbery, kidnapping, kidnapping with a deadly weapon, or attempted sexual battery.<sup>8</sup>

### Assault

Assault is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent.<sup>9</sup> Assault is typically a second degree misdemeanor. However, if a perpetrator commits assault using a deadly weapon without intent to kill or commits assault with the intent to commit a felony, the crime constitutes aggravated assault<sup>10</sup> and is punishable as a third degree felony.

---

<sup>6</sup> “Table A-2. Fatal occupational injuries resulting from transportation incidents and homicides, all United States, 2014” (preliminary data), U.S. Department of Labor, available at <http://www.bls.gov/iif/oshwc/cfoi/cftb0287.pdf> (last visited on February 2, 2016).

<sup>7</sup> *2015 Member Safety Report*, National Association of REALTORS®, available at <http://www.realtor.org/sites/default/files/reports/2015/2015-member-safety-report-2015-03-02-updated.pdf> (last visited on February 2, 2016).

<sup>8</sup> “Man arrested in attempted rape of real estate agent in Manatee” (August 11, 2015), *Tampa Tribune*, available at <http://www.tbo.com/news/crime/deputies-manatee-real-estate-agent-thwarts-sex-attack-while-showing-house-20150811/> (last visited on February 2, 2016); McNeill, Claire, “Police arrest suspect in robbery and kidnapping of St. Petersburg real estate agents” (June 8, 2015), *Tampa Bay Times*, available at <http://www.tampabay.com/news/publicsafety/crime/police-to-arrest-suspect-in-robbery-and-kidnapping-of-st-petersburg-real/2232843> (last visited on February 2, 2016).

<sup>9</sup> Section 784.011, F.S.

<sup>10</sup> Section 784.021, F.S.

## **Battery**

Battery is to actually and intentionally touch or strike another person against the will of that person or intentionally causing bodily harm to another person.<sup>11</sup> Battery is typically a first degree misdemeanor.<sup>12</sup> However, battery can be enhanced to felony battery when a perpetrator commits a battery and causes great bodily harm, permanent disability, or permanent disfigurement to the victim,<sup>13</sup> or when the perpetrator has one or more prior convictions for battery, aggravated battery, or felony battery, and commits a subsequent battery.<sup>14</sup> Both forms of felony battery are third degree felonies.

## **Sexual Battery**

Section 794.011, F.S., contains a variety of offenses relating to sexual battery. Depending on various factors, such as whether a deadly weapon is used or the victim is physically incapacitated, these offenses can be punishable as a third degree felony, a second degree felony, a first degree felony, a life felony, or a capital felony.

## **Reclassification of Felonies or Misdemeanors**

The typical reclassification statute reclassifies the felony or misdemeanor degree of offenses (or specific offenses) to the next higher degree (e.g., a first degree misdemeanor is reclassified to a third degree felony or a third degree felony is reclassified to a second degree felony). For example, s. 775.085, F.S., Florida's "hate crimes" statute, reclassifies the degree of any felony or misdemeanor in which the commission of the offense "evidences prejudice based on the race, color, ancestry, ethnicity, religion, sexual orientation, national origin, homeless status, mental or physical disability, or advanced age of the victim." Another example, is s. 784.07, F.S., which reclassifies the felony or misdemeanor degree of an assault or battery if that offense was committed upon a law enforcement officer (or other specified official or person) engaged in the lawful performance of his or her duties.

Several statutes reclassify the degree of certain felonies and misdemeanors when committed against specified professionals or officials engaged in the performance of their duties.<sup>15</sup> For the most part, the victim is a public servant. However, there is precedent for reclassifying the degree of certain felonies and misdemeanors when committed against specified professionals who are not public servants and who are engaged in the performance of their duties, e.g., licensed security officers<sup>16</sup> or sports officials.<sup>17</sup>

A felony or misdemeanor reclassification increases the maximum penalty for the offense. For example, the maximum penalty for a third degree felony is 5 years in state prison.<sup>18</sup> The

---

<sup>11</sup> Section 784.03, F.S.

<sup>12</sup> Section 784.03(1)(b), F.S.

<sup>13</sup> Section 784.041(1), F.S.

<sup>14</sup> Section 784.03(2), F.S.

<sup>15</sup> See e.g., ss. 784.07, 784.074, 784.081, and 784.083, F.S.

<sup>16</sup> Section 784.07, F.S.

<sup>17</sup> Section 784.081, F.S.

<sup>18</sup> Section 775.082, F.S.

maximum penalty for a second degree felony is 15 years in state prison.<sup>19</sup> If a third degree felony is reclassified to a second degree felony, the maximum penalty increases from 5 years in state prison to 15 years in state prison.

### III. Effect of Proposed Changes:

The bill creates s. 775.0863, F.S., which reclassifies the felony or misdemeanor degree of an assault, battery, or sexual battery<sup>20</sup> if the offense is committed against a “broker,” “broker associate,” or “sales associate” while he or she is engaged in the act of showing real property or holding an open house of real property. These terms have the same meaning as provided in s. 475.01, F.S.

The bill provides that the felony or misdemeanor degree of such offenses is reclassified in the following manner:

- A second degree misdemeanor<sup>21</sup> is reclassified as a first degree misdemeanor;<sup>22</sup>
- A first degree misdemeanor is reclassified as a third degree felony;<sup>23</sup>
- A third degree felony is reclassified as a second degree felony;<sup>24</sup>
- A second degree felony is reclassified as a first degree felony;<sup>25</sup> and
- A first degree felony is reclassified as a life felony.<sup>26</sup>

For purposes of sentencing under ch. 921, F.S., and determining incentive gain-time eligibility under ch. 944, F.S., a reclassified felony offense is ranked one level above the ranking specified under s. 921.0022, F.S., or s. 921.0023, F.S., for the offense. However, a first degree misdemeanor that has been reclassified to a third degree felony is ranked in Level 2 of the offense severity ranking chart in s. 921.0022, F.S. Noncapital felonies are ranked under s. 921.0022, F.S., or s. 921.023 of the Criminal Punishment Code (“Code”). The higher the ranking, the greater the number of sentence points, which are used to calculate the lowest permissible sentence under the Code.

The effective date of the bill is October 1, 2016.

---

<sup>19</sup> *Id.*

<sup>20</sup> The specified offenses are assault (s. 784.011, F.S.), aggravated assault (s. 784.021, F.S.), battery and felony battery (s. 784.041(1), F.S.), aggravated battery (s. 784.045, F.S.), and sexual battery (s. 794.011, F.S.).

<sup>21</sup> A second degree misdemeanor is punishable by up to 60 days in county jail and a fine of up to \$500. Sections 775.082 and 775.083, F.S.

<sup>22</sup> A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

<sup>23</sup> A third degree felony is punishable by up to 5 years in state prison and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

<sup>24</sup> A second degree felony is punishable by up to 15 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

<sup>25</sup> A first degree felony is *generally* punishable by up to 30 years in state prison and a fine of up to \$10,000. Sections 775.082 and 775.083, F.S.

<sup>26</sup> A life felony is *generally* punishable by life imprisonment or a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None

## C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of prison bed impact, if any, of legislation, estimated that the original bill would have an insignificant prison bed impact (an increase of 10 or fewer prison beds). The CJIC has not reviewed CS/SB 214; however, the changes to the original bill that are incorporated in the committee substitute do not affect the proposed penalties, and therefore, should not affect the original prison bed impact estimate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 775.0863 of the Florida Statutes.

**IX. Additional Information:**

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

**CS by Criminal Justice on February 22, 2016:**

- Reclassifies the felony or misdemeanor degree of an assault, battery, or sexual battery if the offense is committed against a broker, broker associate, or sales associate while he or she is engaged in the act of showing real property or holding an open house of real property.
- For purposes of reclassification, specifies relevant assault, battery, and sexual battery offenses.

- B. **Amendments:**

None.

---

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

---



897402

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/22/2016	.	
	.	
	.	
	.	

---

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

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 775.0863, Florida Statutes, is created  
to read:

775.0863 Offenses against brokers, broker associates, or  
sales associates; reclassification of offenses.-

(1) For purposes of this section, the terms "broker,"  
"broker associate," and "sales associate" have the same meanings



897402

11 as provided in s. 475.01.

12 (2) The degree of an offense shall be reclassified as  
13 provided in subsection (3) if the offense is committed against a  
14 broker, broker associate, or sales associate while he or she is  
15 engaged in the act of showing real property or holding an open  
16 house of real property and the offense is a felony or  
17 misdemeanor violation of:

18 (a) Section 784.011, relating to assault;

19 (b) Section 784.021, relating to aggravated assault;

20 (c) Section 784.03, relating to battery and felony battery;

21 (d) Section 784.041(1), relating to felony battery;

22 (e) Section 784.045, relating to aggravated battery; or

23 (f) Section 794.011, relating to sexual battery.

24 (3) (a) A misdemeanor of the second degree shall be  
25 reclassified as a misdemeanor of the first degree.

26 (b) A misdemeanor of the first degree shall be reclassified  
27 as a felony of the third degree.

28 (c) A felony of the third degree shall be reclassified as a  
29 felony of the second degree.

30 (d) A felony of the second degree shall be reclassified as  
31 a felony of the first degree.

32 (e) A felony of the first degree shall be reclassified as a  
33 life felony.

34 (4) For purposes of sentencing under chapter 921 and  
35 determining incentive gain-time eligibility under chapter 944, a  
36 felony offense that is reclassified under this section is ranked  
37 one level above the ranking under s. 921.0022 or s. 921.0023 of  
38 the offense committed.

39 Section 2. This act shall take effect October 1, 2016.



897402

40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51

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

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled  
An act relating to offenses against brokers, broker  
associates, or sales associates; creating s. 775.0863,  
F.S.; providing definitions; providing applicability;  
providing for reclassification of specified offenses  
committed against brokers, broker associates, or sales  
associates; providing an effective date.

By Senator Detert

28-00281-16

2016214\_\_

A bill to be entitled

An act relating to offenses committed on real estate agents; creating s. 775.0863, F.S.; providing definitions; providing applicability; providing for reclassification of specified offenses committed on real estate brokers, broker associates, or sales associates; providing an effective date.

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

Section 1. Section 775.0863, Florida Statutes, is created to read:

775.0863 Assault or battery on a real estate broker, broker associate, or sales associate; reclassification of offenses.-

(1) For purposes of this section, the terms "broker," "broker associate," and "sales associate" shall have the same meanings as provided in s. 475.01. This section applies to a broker, broker associate, or sales associate while he or she is engaged in the act of showing or holding an open house of real property.

(2) Whenever a person is charged with knowingly committing an assault, a battery, or a sexual battery in violation of s. 794.011 on a broker, broker associate, or sales associate, the offense for which the person is charged shall be reclassified as follows:

(a) A misdemeanor of the second degree shall be reclassified as a misdemeanor of the first degree.

(b) A misdemeanor of the first degree shall be reclassified as a felony of the third degree.

Page 1 of 2

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

28-00281-16

2016214\_\_

(c) A felony of the third degree shall be reclassified as a felony of the second degree.

(d) A felony of the second degree shall be reclassified as a felony of the first degree.

(e) A felony of the first degree shall be reclassified as a life felony.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this subsection is ranked one level above the ranking under s. 921.0022 or s. 921.0023 of the offense committed.

Section 2. This act shall take effect October 1, 2016.

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request

**To:** Senator Greg Evers, Chair  
Committee on Criminal Justice



**Subject:** Committee Agenda Request

**Date:** October 20, 2015

---

I respectfully request that **Senate Bill #214**, relating to Offenses Committed on Real Estate Agents, be placed on the:

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

A handwritten signature in black ink that reads "Nancy Detert".

---

Senator Nancy C. Detert  
Florida Senate, District 28

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/22/16

Meeting Date

214

Bill Number (if applicable)

Topic Offenses Committed on Real Estate Agents

Name Greg Pouncil

Amendment Barcode (if applicable)

Job Title

Address 9166 Sunrise Dr

Street

Phone

Largo Fla

City

State

33773

Zip

Email

Speaking:  For  Against  Information

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

Representing Pinellas County Florida Government Corruption

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2 / 22 / 2016

Meeting Date

Topic \_\_\_\_\_

Bill Number 214

Name BRIAN PITTS

(if applicable)

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

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)

02/22/16

Meeting Date

214

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name VANI UNGAPEN

Job Title DIRECTOR OF LEGISLATIVE RESEARCH

Address 200 S. MONROE ST

Phone 850 224 1400

Street

TALLAHASSEE

City

FL

State

32301

Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing FLORIDA REALTORS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

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

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

---

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

---

**BILL:** CS/SB 964

**INTRODUCER:** Health Policy Committee and Senator Grimsley

**SUBJECT:** Prescription Drug Monitoring Program

**DATE:** February 19, 2016      **REVISED:** \_\_\_\_\_

---

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stovall	Stovall	HP	<b>Fav/CS</b>
2.	Erickson	Cannon	CJ	<b>Favorable</b>
3.			FP	

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 964 exempts a rehabilitative hospital, assisted living facility, or nursing home that dispenses a dosage of a controlled substance to a patient from reporting that act of dispensing to the prescription drug monitoring program database (PDMP).

The bill also authorizes impaired practitioner consultants to access the PDMP information of impaired practitioner program participants who have agreed in writing to allow the consultants such access.

**II. Present Situation:**

**The Prescription Drug Monitoring Program**

Starting in the early 2000s, Florida began experiencing a marked increase in deaths resulting from prescription drug abuse. In 2010, the former Florida Office of Drug Control (FODC) identified prescription drug abuse as “the most threatening substance abuse issue in Florida.”<sup>1</sup> According to the FODC, between 2003 and 2009, the number of deaths caused by at least one

---

<sup>1</sup> Executive Office of the Governor, *Florida Office of Drug Control 2010 Annual Report*, p. 8 (on file with the Senate Committee on Health Policy and the Senate Committee on Criminal Justice).

prescription drug increased by 102 percent (from 1,234 to 2,488).<sup>2</sup> The FODC remarked that these numbers translated into seven Floridians dying from prescription drug overdoses per day.<sup>3</sup>

Between 2009 and 2011, the Legislature enacted a series of reforms to combat prescription drug abuse. These reforms included strict regulation of pain management clinics; creating the Prescription Drug Monitoring Database (PDMP); and stricter regulation on selling, distributing, and dispensing controlled substances.<sup>4</sup>

Chapter 2009-197, L.O.F., established the PDMP in s. 893.055, F.S. The PDMP uses a comprehensive electronic system/database to monitor the prescribing and dispensing of certain controlled substances.<sup>5</sup> The PDMP became operational on September 1, 2011, when it began receiving prescription data from pharmacies and dispensing practitioners.<sup>6</sup> Dispensers have reported over 163 million controlled substance prescriptions to the PDMP since its inception.<sup>7</sup> Health care practitioners began accessing the PDMP on October 17, 2011.<sup>8</sup> Law enforcement agencies began requesting data from the PDMP in support of active criminal investigations on November 14, 2011.<sup>9</sup>

Dispensers of controlled substances listed in Schedule II, Schedule III, or Schedule IV of s. 893.03, F.S., must report specified information to the PDMP database within seven days after dispensing, each time the controlled substance is dispensed. The information required to be reported includes:<sup>10</sup>

- Name of the dispensing practitioner and Drug Enforcement Administration registration number, National Provider Identification, or other applicable identifier;
- Date the prescription is dispensed;
- Name, address, and date of birth of the person to whom the controlled substance is dispensed; and
- Name, national drug code, quantity, and strength of the controlled substance dispensed.<sup>11</sup>

Current law exempts certain acts of dispensing or administering from PDMP reporting:

- A health care practitioner when administering a controlled substance directly to a patient if the amount of the controlled substance is adequate to treat the patient during that particular treatment session.
- A pharmacist or health care practitioner when administering a controlled substance to a patient or resident receiving care as a patient at a hospital, nursing home, ambulatory surgical

---

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> See chs. 2009-197, 2010-211, and 2011-141, Laws of Fla.

<sup>5</sup> Section 893.055(2)(a), F.S.

<sup>6</sup> Florida Dep't of Health, *2012-2013 Prescription Drug Monitoring Program Annual Report* (December 1, 2013), available at [http://www.floridahealth.gov/reports-and-data/e-forcse/news-reports/\\_documents/2012-2013pdmp-annual-report.pdf](http://www.floridahealth.gov/reports-and-data/e-forcse/news-reports/_documents/2012-2013pdmp-annual-report.pdf) (last visited on Feb. 16, 2016).

<sup>7</sup> Florida Dep't of Health, *2014-2015 Prescription Drug Monitoring Program Annual Report* (December 1, 2015), available at [http://www.floridahealth.gov/statistics-and-data/e-forcse/news-reports/\\_documents/2015-pdmp-annual-report.pdf](http://www.floridahealth.gov/statistics-and-data/e-forcse/news-reports/_documents/2015-pdmp-annual-report.pdf) (last visited on Feb. 16, 2016).

<sup>8</sup> *Supra* note 16

<sup>9</sup> *Supra* note 16

<sup>10</sup> The specific information reported depends upon the whether the reporter is a pharmacy or practitioner.

<sup>11</sup> See s. 893.055(3), F.S.

center, hospice, or intermediate care facility for the developmentally disabled which is licensed in this state.

- A practitioner when administering or dispensing a controlled substance in the health care system of the Department of Corrections.
- A practitioner when administering a controlled substance in the emergency room of a licensed hospital.
- A health care practitioner when administering or dispensing a controlled substance to a person under the age of 16.
- A pharmacist or a dispensing practitioner when dispensing a one-time, 72-hour emergency resupply of a controlled substance to a patient.<sup>12</sup>

### Accessing the PDMP database

Section 893.0551, F.S., makes certain identifying information<sup>13</sup> of a patient or patient's agent, a health care practitioner, a dispenser, an employee of the practitioner who is acting on behalf of and at the direction of the practitioner, a pharmacist, or a pharmacy that is contained in records held by the department under s. 893.055, F.S., confidential and exempt from the public records laws in s. 119.07(1), F.S., and in article I, section 24(a) of the State Constitution.<sup>14</sup>

Direct access to the PDMP database is presently limited to medical doctors, osteopathic physicians, dentists, podiatric physicians, advanced registered nurse practitioners, physician assistants, and pharmacists.<sup>15</sup> Currently, prescribers are not required to consult the PDMP database before prescribing a controlled substance for a patient however physicians and pharmacists queried the database more than 3.7 million times in 2012, over 9.3 million times in 2014, and over 18.6 million times in 2015.<sup>16</sup>

Indirect access to the PDMP database is provided to:

- The Department of Health (DOH) or certain health care regulatory boards;
- The Attorney General for Medicaid fraud cases;
- Law enforcement agencies during active investigations<sup>17</sup> involving potential criminal activity, fraud, or theft regarding prescribed controlled substances if the law enforcement agency has entered into a user agreement with the DOH; and
- Patients, or the legal guardians or designated health care surrogates of incapacitated patients.<sup>18</sup>

---

<sup>12</sup> See s. 893.055(5), F.S.

<sup>13</sup> Such information includes name, address, telephone number, insurance plan number, government-issued identification number, provider number, and Drug Enforcement Administration number, or any other unique identifying information or number.

<sup>14</sup> Section 893.0551(2)(a)-(h), F.S.

<sup>15</sup> Section 893.055(7)(b), F.S.

<sup>16</sup> *Supra* at notes 16 and 17.

<sup>17</sup> Section 893.055(1)(h), F.S., defines an "active investigation" as an investigation that is being conducted with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings, or that is ongoing and continuing and for which there is a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

<sup>18</sup> Section 893.055(7)(c)1.-4., F.S.

Indirect access means the person must request the information from the PDMP manager. After an extensive process to validate and authenticate the request and the requestor, the PDMP manager or support staff provides the specific information requested.<sup>19</sup>

### III. Effect of Proposed Changes:

The bill amends s. 893.055, F.S., to exempt a rehabilitative hospital, assisted living facility, or nursing home that dispenses a certain dosage of a controlled substance, as needed, to a patient pursuant to an order of the patient's treating physician from reporting that act of dispensing to the prescription drug monitoring program database. These settings are low-risk with administration being monitored by facility staff.

The bill amends ss. 893.055 and 893.0551, F.S., to authorize impaired practitioner consultants<sup>20</sup> to access the information in the PDMP relating to impaired practitioner program participants, or persons who are referred to the program, who have agreed voluntarily, in writing, to allow the consultant access to the information for initial evaluation and monitoring purposes. The impaired practitioner consultant is authorized indirect access only. Consequently, the program manager, or staff, must verify the authenticity of the request prior to release of the information.

The effective date of the bill is July 1, 2016.

### IV. Constitutional Issues:

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

None.

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

This bill does not create or expand a public records exemption and therefore does not require two-thirds vote for passage.

#### C. Trust Funds Restrictions:

None.

---

<sup>19</sup> See s. 893.055(7)(c), F.S., and Rule 64k-1.003, F.A.C.

<sup>20</sup> The Department of Health (DOH) designates an approved impaired practitioner program "through contract with a consultant to initiate intervention, recommend evaluation, and refer impaired practitioners to treatment providers or treatment programs and monitor the progress of impaired practitioners in treatment. Approved impaired practitioner programs do not provide medical services." Rule 64B31-10.001, F.A.C. "Consultants operate approved impaired practitioner programs which receive allegations of licensee impairment, personally intervene or arrange intervention with licensees, refer licensees to approved treatment programs or treatment providers, evaluate treatment progress, and monitor continued care provided by approved programs and providers." *Id.* The DOH has designated Project for Nurses (IPN) and Professionals Resource Network (PRN) as the approved impaired practitioner programs. *Id.*

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

None.

**B. Private Sector Impact:**

Eliminating the reporting requirement will have a favorable impact on rehabilitative hospitals, assisted living facilities, and nursing homes due to increased efficiencies and reduced administrative costs.

**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: 893.055 and 893.0551.

**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 Health Policy on February 1, 2016:**

The CS authorizes a consultant in the impaired practitioner program indirect access to information in the PDMP concerning a participant or person referred to the PRN or IPN program.

**B. Amendments:**

None.

By the Committee on Health Policy; and Senator Grimsley

588-02886-16

2016964c1

A bill to be entitled

An act relating to the prescription drug monitoring program; amending s. 893.055, F.S.; providing that certain acts of dispensing controlled substances in specified facilities are not required to be reported to the prescription drug monitoring program; authorizing an impaired practitioner consultant to access an impaired practitioner program participant's or referral's record in the prescription drug monitoring program's database; amending s. 893.0551, F.S.; requiring the Department of Health to disclose certain information from the prescription drug monitoring program to an impaired practitioner consultant under certain circumstances; providing an effective date.

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

Section 1. Paragraph (g) is added to subsection (5) of section 893.055, Florida Statutes, and paragraph (c) of subsection (7) of that section is amended, to read:

893.055 Prescription drug monitoring program.—

(5) When the following acts of dispensing or administering occur, the following are exempt from reporting under this section for that specific act of dispensing or administration:

(g) A rehabilitative hospital, assisted living facility, or nursing home dispensing a certain dosage of a controlled substance, as needed, to a patient as ordered by the patient's treating physician.

(7)

(c) The following entities ~~are shall~~ not be allowed direct access to information in the prescription drug monitoring

Page 1 of 4

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

588-02886-16

2016964c1

program database but may request from the program manager and, when authorized by the program manager, the program manager's program and support staff, information that is confidential and exempt under s. 893.0551. ~~Before~~ ~~Prior~~ ~~to~~ release, a the request by the following entities shall be verified as authentic and authorized with the requesting organization by the program manager, the program manager's program and support staff, or as determined in rules by the department as being authentic and as having been authorized by the requesting entity:

1. The department or its relevant health care regulatory boards responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances and who are involved in a specific controlled substance investigation involving a designated person for one or more prescribed controlled substances.

2. The Attorney General for Medicaid fraud cases involving prescribed controlled substances.

3. A law enforcement agency during active investigations of ~~regarding~~ potential criminal activity, fraud, or theft regarding prescribed controlled substances.

4. A patient or the legal guardian or designated health care surrogate of an incapacitated patient as described in s. 893.0551 who, for the purpose of verifying the accuracy of the database information, submits a written and notarized request that includes the patient's full name, address, and date of birth, and includes the same information if the legal guardian or health care surrogate submits the request. The request shall be validated by the department to verify the identity of the

Page 2 of 4

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

588-02886-16 2016964c1

62 patient and the legal guardian or health care surrogate, if the  
 63 patient's legal guardian or health care surrogate is the  
 64 requestor. Such verification is also required for any request to  
 65 change a patient's prescription history or other information  
 66 related to his or her information in the electronic database.

67 5. An impaired practitioner consultant who is retained by  
 68 the department under s. 456.076 for the purpose of reviewing the  
 69 database information of an impaired practitioner program  
 70 participant or a referral who has agreed to be evaluated or  
 71 monitored through the program and who has separately agreed in  
 72 writing to the consultant's access to and review of such  
 73 information.

74 Information in the database for the electronic prescription drug  
 75 monitoring system is not discoverable or admissible in any civil  
 76 or administrative action, except in an investigation and  
 77 disciplinary proceeding by the department or the appropriate  
 78 regulatory board.

80 Section 2. Paragraph (h) is added to subsection (3) of  
 81 section 893.0551, Florida Statutes, and subsections (6) and (7)  
 82 of that section are republished, to read:

83 893.0551 Public records exemption for the prescription drug  
 84 monitoring program.—

85 (3) The department shall disclose such confidential and  
 86 exempt information to the following persons or entities upon  
 87 request and after using a verification process to ensure the  
 88 legitimacy of the request as provided in s. 893.055:

89 (h) An impaired practitioner consultant who has been  
 90 authorized in writing by a participant in, or by a referral to,

Page 3 of 4

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

588-02886-16 2016964c1

91 the impaired practitioner program to access and review  
 92 information as provided in s. 893.055(7)(c)5.

93 (6) An agency or person who obtains any confidential and  
 94 exempt information pursuant to this section must maintain the  
 95 confidential and exempt status of that information and may not  
 96 disclose such information unless authorized by law. Information  
 97 shared with a state attorney pursuant to paragraph (3)(a) or  
 98 paragraph (3)(c) may be released only in response to a discovery  
 99 demand if such information is directly related to the criminal  
 100 case for which the information was requested. Unrelated  
 101 information may be released only upon an order of a court of  
 102 competent jurisdiction.

103 (7) A person who willfully and knowingly violates this  
 104 section commits a felony of the third degree, punishable as  
 105 provided in s. 775.082, s. 775.083, or s. 775.084.

106 Section 3. This act shall take effect July 1, 2016.

Page 4 of 4

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



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

**COMMITTEES:**  
Communications, Energy, and Public Utilities, *Chair*  
Agriculture  
Appropriations  
Appropriations Subcommittee on Health  
and Human Services  
Health Policy  
Transportation

**JOINT COMMITTEES:**  
Joint Administrative Procedures Committee  
Joint Legislative Budget Commission

### SENATOR DENISE GRIMSLEY

*Deputy Majority Leader*  
21st District

February 22, 2016

The Honorable Greg Evers, Chair  
Senate Committee on Criminal Justice  
510 Knott Building  
402 S. Monroe Street  
Tallahassee, FL 32399-1300

Dear Mr. Chair;

Today at your committee meeting you will be considering Senate Bill 964, relating to Prescription Drug Monitoring Program. I have several pharmacists from my district that I have arranged to meet with the Agency for Health Care Administration to discuss problems they are having. I respectfully request that Marty Mielke, my legislative assistant, be able to present this bill while I am with my constituents.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Denise Grimsley".

Denise Grimsley  
Senator, District 21

DG/mm

**REPLY TO:**

- 205 South Commerce Avenue, Suite A, Sebring, Florida 33870 (863) 386-6016
- 212 East Stuart Avenue, Lake Wales, Florida 33853 (863) 679-4847
- 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

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

**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore



The Florida Senate

## Committee Agenda Request

**To:** Senator Greg Evers, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** February 2, 2016

---

I respectfully request that **Senate Bill #964**, relating to Prescription Drug Monitoring Program, be placed on the:

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

A handwritten signature in cursive script that reads "Denise Grimsley".

---

Senator Denise Grimsley  
Florida Senate, District 21

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2-22-16

Meeting Date

CS/SB 964

Bill Number (if applicable)

Topic Prescription Drug Monitoring Program

Amendment Barcode (if applicable)

Name Dr. Martha Brown

Job Title Associate Medical Director, Professionals Resource Network (PRN)

Address P.O. Box 16510

Street

Phone 1-800-888-8776

Fernandina Beach, FL 32035

City

State

Zip

Email drbrown@flprn.org

Speaking:  For  Against  Information

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

Representing PRN

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

964

Bill Number (if applicable)

Meeting Date

Topic PDMP

Amendment Barcode (if applicable)

Name Lisa Henning

Job Title Consultant

Address 242 Office Plaza Dr.

Phone 850-766-8808

Street

Tallahassee, FL 32301

City

State

Zip

Email lisap@timminscsconsulting.com

Speaking:  For  Against  Information

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

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/22/16

Meeting Date

SB 964

Bill Number (if applicable)

Topic PDMP

Amendment Barcode (if applicable)

Name Linda L. Smith

Job Title CEO

Address PO Box 49130

Street

Jax Beach FL 32250

City

State

Zip

Phone (904) 270-1620

Email lsmith@ipnfl.org

Speaking:  For  Against  Information

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

Representing Intervention Project for Nurses

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2 / 22 / 2016

*Meeting Date*

Topic \_\_\_\_\_

Bill Number 964  
*(if applicable)*

Name BRIAN PITTS

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

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH  
*Street*

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705  
*City State Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

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)

2/22/16

Meeting Date

964

Bill Number (if applicable)

Topic PDMP

Amendment Barcode (if applicable)

Name Melody Arnold

Job Title Govt Affairs Mngr

Address 307 W- Park Ave

Phone (850)224-3907

Street

Tallahassee

FL

32301

Email marnold@fhca.org

City

State

Zip

Speaking:  For  Against  Information

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

Representing FL Health care 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 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/22/16

Meeting Date

964

Bill Number (if applicable)

Topic Drugs Prescription

Amendment Barcode (if applicable)

Name Greg Dowd

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

Address 9166 Sunrise Dr  
Street

Phone \_\_\_\_\_

Largo Fla 33773  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Pinellas County Florida Government Corruption

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/22/14

Meeting Date

964

~~214~~

Bill Number (if applicable)

Topic Prescription Drugs

Amendment Barcode (if applicable)

Name Greg Pound

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

Address 9166 Sunrise Dr  
Street

Phone \_\_\_\_\_

Largo Fla 33773  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

---

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

---

BILL: SB 1412

INTRODUCER: Senator Simmons

SUBJECT: Conditions of Pretrial Release

DATE: February 19, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McAloon</u>	<u>Cibula</u>	<u>JU</u>	<b>Favorable</b>
2.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

---

**I. Summary:**

SB 1412 clarifies that courts have the discretion to issue an order of no contact to a person on pretrial release. An order of no contact generally prohibits a defendant from being near or communicating with a victim. Existing law could be read to require a court to issue an order of no contact to every person who is released on pretrial release if there is a victim in the case.

**II. Present Situation:**

**Conditions of Pretrial Release**

Section 903.047, F.S., governs the conditions of pretrial release. The conditions include refraining from criminal activity, refraining from contact with the victim, and complying with any other condition imposed.<sup>1</sup> The requirement that a defendant refrain from contact with the victim is implemented through a no contact order. This order includes prohibitions on communicating with the victim, having physical or violent contact with the victim or other named person or his or her property, being within 500 feet of the victim's residence, or being within 500 feet of the victim's place of employment.<sup>2</sup>

A person who fails to comply with the conditions of pretrial release, if the original arrest was for an act of domestic violence, commits a first degree misdemeanor.<sup>3</sup> The statute currently requires that the defendant receive a copy of the order of no contact before he or she is released from custody on pretrial release. The order is effective immediately upon issuance and enforceable for the duration of the pretrial release or until modified by the court.

---

<sup>1</sup> Section 903.047, F.S.

<sup>2</sup> Section 903.047(1)(b), F.S.

<sup>3</sup> Section 741.29(6), F.S.

## 2015 No Contact Legislation

Most of the current language of s. 903.047(1)(b), F.S., was enacted through the passage of SB 342 during the 2015 Legislative Session. The 2015 language is italicized below:

### **903.047 Conditions of pretrial release.—**

(1) As a condition of pretrial release, whether such release is by surety bail bond or recognizance bond or in some other form, the defendant *must*:

(a) Refrain from criminal activity of any kind.

(b) Refrain from any contact of any type with the victim, except through pretrial discovery pursuant to the Florida Rules of Criminal Procedure. *An order of no contact is effective immediately and enforceable for the duration of the pretrial release or until it is modified by the court. The defendant shall receive a copy of the order of no contact which specifies the applicable prohibited acts before the defendant is released from custody on pretrial release. As used in this section, unless otherwise specified by the court, the term “no contact” includes the following prohibited acts:*

- 1. Communicating orally or in any written form, either in person, telephonically, electronically, or in any other manner, either directly or indirectly through a third person, with the victim or any other person named in the order. ...*
- 2. Having physical or violent contact with the victim or other named person or his or her property.*
- 3. Being within 500 feet of the victim’s or other named person’s residence, even if the defendant and the victim or other named person share the residence.*
- 4. Being within 500 feet of the victim’s or other named person’s vehicle, place of employment, or a specified place frequented regularly by such person.*

The 2015 bill analysis indicates that the intent of SB 342 was to define the basic restrictions imposed on a defendant through a no contact order.<sup>4</sup> The analysis also states the requirement that the order be “effective immediately” was intended to prevent a detainee from making harassing phone calls to a victim while in jail awaiting a pretrial release.

There is no mention in the bill analysis that the bill created statutorily-mandated court orders. However, it is *possible* to read existing law as *requiring* a court to enter an order of no contact for all cases for which there is a victim and to serve the defendant with the order before release from jail.

## **No Contact Condition of Release Case Law – Notice to Defendant Required**

In *Pilgore v. State*, the District Court of Appeal held that evidence was insufficient to establish that the defendant was informed of the no contact condition of his pretrial release.<sup>5</sup> Pilgore had been arrested for beating his wife and was released on bond with the condition of having no contact with the victim pursuant to s. 903.047, F.S.<sup>6</sup> Subsequently, Pilgore made contact with the

---

<sup>4</sup> CS/CS/CS/SB 342, Bill Analysis and Fiscal Impact Statement on No Contact Orders (2015).

<sup>5</sup> *Pilgore v. State*, 876 So. 2d 591 (Fla. 5th DCA 2004).

<sup>6</sup> *Id.* at 591-92.

victim and was charged with violation of a condition of pretrial release pursuant to s. 741.29, F.S.<sup>7</sup>

The *Pilgore* court found the statute requires the imposition of the no contact condition to be proven by substantial competent evidence in order to convict the person of the crime.<sup>8</sup> The statute requires the court to impose the no contact condition on a person charged with domestic violence, but it does not create a presumption the defendant knows that he or she is to have no contact.<sup>9</sup>

In 2008, the Fifth DCA again held that the state had the burden to prove the defendant received adequate notice of his pretrial no contact condition. In *Sheppard v. State*, the court stated “the state has the burden of proving, by substantial, competent evidence, that the condition was imposed on a defendant charged with domestic violence.”<sup>10</sup> The court went on to quote its decision in *Pilgore* to state there is no presumption that the defendant knows that he or she is to have no contact.<sup>11</sup>

Therefore, in order to be convicted of violating a no contact order by a person who was arrested for domestic violence, the state must prove by substantial competent evidence the defendant received constructive notice of the no contact condition laid out in s. 903.047, F.S. It cannot be presumed the defendant is on notice of the no contact condition.

### III. Effect of Proposed Changes:

This bill clarifies that courts have the *discretion* to issue an order of no contact to a person on pretrial release. An order of no contact generally prohibits a defendant from being near or communicating with a victim. It is possible that existing law could be read to *require* a court to issue an order of no contact to every person who is released on pretrial release if there is a victim in the case.

### IV. Constitutional Issues:

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

None.

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

None.

#### C. Trust Funds Restrictions:

None.

---

<sup>7</sup> *Id.* at 592.

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

<sup>9</sup> *Id.*

<sup>10</sup> *Sheppard v. State*, 974 So. 2d 529, 530 (Fla. 5th DCA 2008).

<sup>11</sup> *Id.* at 530.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

This bill may result in a reduction in judicial workloads if it reduces the number of no contact orders issued.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends 903.047 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 Simmons

10-01560-16

20161412\_\_

1 A bill to be entitled  
 2 An act relating to conditions of pretrial release;  
 3 amending s. 903.047, F.S.; requiring that a defendant  
 4 be notified in writing if a court issues an order of  
 5 no contact rather than receive a copy of the order;  
 6 providing an effective date.  
 7  
 8 Be It Enacted by the Legislature of the State of Florida:  
 9  
 10 Section 1. Subsection (1) of section 903.047, Florida  
 11 Statutes, is amended to read:  
 12 903.047 Conditions of pretrial release.—  
 13 (1) As a condition of pretrial release, whether such  
 14 release is by surety bail bond or recognizance bond or in some  
 15 other form, the defendant must:  
 16 (a) Refrain from criminal activity of any kind.  
 17 (b) Refrain from any contact of any type with the victim,  
 18 except through pretrial discovery pursuant to the Florida Rules  
 19 of Criminal Procedure. If a court issues an order of no contact,  
 20 the order is effective immediately and enforceable for the  
 21 duration of the pretrial release or until it is modified by the  
 22 court. The defendant shall be notified in writing before he or  
 23 she is released from custody on pretrial release ~~receive a copy~~  
 24 ~~of the order of no contact,~~ which notification must specify  
 25 ~~specifies~~ the applicable prohibited acts ~~before the defendant is~~  
 26 ~~released from custody on pretrial release.~~ As used in this  
 27 section, unless otherwise specified by the court, the term “no  
 28 contact” includes the following prohibited acts:  
 29 1. Communicating orally or in any written form, either in  
 30 person, telephonically, electronically, or in any other manner,  
 31 either directly or indirectly through a third person, with the  
 32 victim or any other person named in the order. If the victim and

Page 1 of 2

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

10-01560-16

20161412\_\_

33 the defendant have children in common, at the request of the  
 34 defendant, the court may designate an appropriate third person  
 35 to contact the victim for the sole purpose of facilitating the  
 36 defendant’s contact with the children. However, this  
 37 subparagraph does not prohibit an attorney for the defendant,  
 38 consistent with rules regulating The Florida Bar, from  
 39 communicating with any person protected by the no contact order  
 40 for lawful purposes.  
 41 2. Having physical or violent contact with the victim or  
 42 other named person or his or her property.  
 43 3. Being within 500 feet of the victim’s or other named  
 44 person’s residence, even if the defendant and the victim or  
 45 other named person share the residence.  
 46 4. Being within 500 feet of the victim’s or other named  
 47 person’s vehicle, place of employment, or a specified place  
 48 frequented regularly by such person.  
 49 (c) Comply with all conditions of pretrial release.  
 50 Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request



**To:** Senator Greg Evers, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** February 8, 2016

---

I respectfully request that **Senate Bill 1412**, relating to Conditions of Pretrial Release, be placed on the:

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

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

Senator David Simmons  
Florida Senate, District 10

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

22 Feb 16

Meeting Date

1412

Bill Number (if applicable)

Topic Pretrial Release

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe

Phone 577-3032  
barney@smartjustice

Street

Tall

FL

32301

Email alliance.org

City

State

Zip

Speaking:  For  Against  Information

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

Representing Fla. Smart Justice Alliance

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.

© 2014 Florida Senate

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

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

2/22/16

*Meeting Date*

1412

*Bill Number (if applicable)*

Topic Pretrial Release

*Amendment Barcode (if applicable)*

Name Mike Graves

Job Title Public Defender, 5th Circuit

Address 123 North Sinclair Ave

Phone 352.742.4270

*Street*

Tavares

Florida

32778

Email mgraves@pdor.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

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

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

2-22-2016

1412

*Meeting Date*

*Bill Number (if applicable)*

Topic Conditions of Pretrial Release

*Amendment Barcode (if applicable)*

Name Matt Dunagan

Job Title Deputy Director

Address 2617 Mahan Drive

Phone 850-274-3599

*Street*

Tallahassee

FL

32308

Email mdunagan@flsheriffs.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Sheriffs 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 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/22/2016

Meeting Date

Topic \_\_\_\_\_

Bill Number 1912

(if applicable)

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

---

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

---

BILL: CS/SB 1420

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

SUBJECT: Eligibility for Employment as Child Care Personnel

DATE: February 19, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	<b>Fav/CS</b>
2.	<u>Sumner</u>	<u>Cannon</u>	<u>CJ</u>	<b>Favorable</b>
3.	_____	_____	<u>RC</u>	_____

---

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

COMMITTEE SUBSTITUTE - Substantial Changes

---

**I. Summary:**

CS/SB 1420 restricts persons who can be employed by a child care provider. Specifically, it prohibits any current or prospective employee from employment with a child care provider if the individual is registered as a sex offender under federal law.

Additionally, it restricts those persons who:

- Have been arrested
- Are awaiting final disposition, or
- Have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for any felony or misdemeanor referenced in the federal child care criminal background check law or any felony or misdemeanor enumerated in Florida's Level 1 and Level 2 employment screening statutes. Such individuals are disqualified from employment with a child care provider notwithstanding any prior exemption from disqualification.

The bill also requires that any person employed by a child care provider on July 1, 2016, who has been granted an exemption to a disqualification from employment must be rescreened no later than August 1, 2016.

The bill is not anticipated to have a fiscal impact on state government but may have an indeterminate fiscal impact on Broward County.

## II. Present Situation:

### **Child Care Licensure and Personnel**

The Department of Children and Families (DCF or department) is responsible for the licensure and regulation of child care facilities, family day care homes, and large family child care homes.<sup>1</sup> In addition, there are child care providers that are not licensed by the department, including those that are only required to register with the department and those that have an exemption from being licensed by virtue of being an integral part of a church or parochial school that meets certain requirements.<sup>2</sup> All child care personnel employed in a setting regulated by DCF, whether it is licensed, registered, or exempt because of an affiliation with a religious entity, are required to be background screened as provided in ch. 435, F.S., using the level 2 standards for screening set forth in that chapter.<sup>3</sup> If an applicant for employment is disqualified from working with children due to the results of the level 2 screening, the department may grant an exemption from that disqualification.<sup>4</sup>

### **Background Screening and Exemptions from Disqualification**

#### ***Level 2 Background Screening***

A level 2 background screening includes but is not limited to fingerprinting for statewide criminal history records checks through the Florida Department of Law Enforcement (FDLE) and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.<sup>5</sup> The applicant has fingerprints taken by a vendor that submits the electronic fingerprints to FDLE for DCF. FDLE then runs statewide checks and submits the electronic file to the FBI for national checks.

Once the background screening is completed, and FDLE receives the information from the FBI, the criminal history information is transmitted to DCF. DCF then determines if the screening contains any disqualifying information for employment. DCF must ensure that no applicant has been arrested for, is awaiting final disposition of, has been found guilty of, or entered a plea of nolo contendere or guilty to any prohibited offense including, but not limited to, such crimes as sexual misconduct, murder, assault, kidnapping, arson, exploitation, lewd and lascivious behavior, drugs, and domestic violence.<sup>6</sup> If the department finds that an individual has a history containing any of these offenses, they must disqualify that individual from employment in child care settings regulated by the department.

#### ***Exemptions from Disqualification***

The Secretary of DCF is authorized to grant an exemption from disqualification to applicants for employment, including applicants wanting to work in child care, based on a number reasons:

---

<sup>1</sup> See ss. 402.301-402.319, F.S.

<sup>2</sup> See s. 402.316, F.S.

<sup>3</sup> See s. 402.305, F.S.

<sup>4</sup> See s. 435.07, F.S.

<sup>5</sup> See s. 435.04, F.S.

<sup>6</sup> *Id.*

- Felonies for which at least 3 years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony;
- Misdemeanors prohibited under any of the statutes cited in this chapter or under similar statutes of other jurisdictions for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court;
- Offenses that were felonies when committed but that are now misdemeanors and for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court; or
- Findings of delinquency.<sup>7</sup>

The Secretary of the department may not grant an exemption to an individual who is found guilty of, regardless of adjudication, or who has entered a plea of nolo contendere or guilty to, any felony covered by s. 435.03 or s.435.04, F.S., solely by reason of any pardon, executive clemency, or restoration of civil rights.<sup>8</sup> An exemption may also not be granted to anyone who is considered a sexual predator,<sup>9</sup> career offender,<sup>10</sup> or sexual offender (unless not required to register).<sup>11</sup>

### **Child Care Development Block Grant**

The Child Care and Development Fund (CCDF), also known as the Child Care and Development Block Grant (CCDBG), is administered by the U.S. Department of Health and Human Services (HHS). CCDF provides funding for state efforts to provide child care services for low-income family members who work, train for work, attend school, or whose children receive or need to receive protective services. Block grant funding can be used for public or private, religious or non-religious, and center or home-based care. Child care programs that accept funding must comply with state health and safety requirements.<sup>12</sup>

The CCDBG is administered in Florida by the school readiness program in the Office of Early Learning within the Department of Education (DOE).<sup>13</sup> To be eligible to deliver the school readiness program, a school readiness program provider must be:

- A child care facility licensed under s. 402.305, F.S.;
- A family day care home licensed or registered under s. 402.313, F.S.;
- A large family child care home licensed under s. 402.3131, F.S.;
- A public school or nonpublic school exempt from licensure under s. 402.3025, F.S.;
- A faith-based child care provider exempt from licensure under s. 402.316, F.S.;
- A before-school or after-school program described in s. 402.305(1)(c), F.S.; or

<sup>7</sup> See s. 435.07, F.S.

<sup>8</sup> See s. 435.07, F.S.

<sup>9</sup> See s. 775.21, F.S.

<sup>10</sup> See s. 775.261, F.S.

<sup>11</sup> See ss. 943.0435 and 943.04354.

<sup>12</sup> U.S. Department of Education, Office of Non-Public Education, *available at* <http://www2.ed.gov/about/offices/list/oji/nonpublic/childcare.html> (last visited January 24, 2016).

<sup>13</sup> See s. 1001.213, F.S.

- An informal child care provider under certain circumstances.<sup>14</sup>

The DCF regulates many, but not all, child care providers that provide early learning programs.

On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014 was signed into law. The new law reauthorizes the block grant program and makes expansive changes focused on improving the health and safety of children in child care, making the program more family-friendly by streamlining eligibility policies, ensuring parents and the general public have transparent information about the child care choices available to them, and improving the overall quality of early learning and afterschool programs.<sup>15</sup>

Reauthorization of the block grant program requires changes to Florida law, including an increase in requirements for screening all child care personnel to include searches of the National Sex Offender Registry, state criminal records, state sex offender registries, and child abuse and neglect registries of all states in which the child care personnel resided during the preceding five years.<sup>16</sup> It will also require that individuals who are sex offenders or convicted of certain crimes be ineligible for employment with child care providers receiving CCDBG funds.

Based on the new requirements of the CCDBG, in order to continue to receive federal funding, the state must make ineligible for employment by school readiness providers any person who is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry<sup>17</sup> or has been convicted of:

- Murder;
- Child abuse or neglect;
- A crime against children, including child pornography;
- Spousal abuse;
- A crime involving rape or sexual assault;
- Kidnapping;
- Arson;
- Physical assault or battery;
- A drug-related offense committed during the preceding 5 years; or
- A violent misdemeanor committed as an adult against a child, including the following crimes: child abuse, child endangerment, sexual assault, or of a misdemeanor involving child pornography.<sup>18</sup>

However, these Federal prohibitions on employment will not apply to child care facilities that are not school readiness providers and as such do not receive any CCDBG funds.

---

<sup>14</sup> See s. 1002.88, F.S.

<sup>15</sup> U.S. Department of Health and Human Services, Office of Child Care, *Program Instruction on CCDF Reauthorization Effective Dates*, available at <http://www.acf.hhs.gov/programs/occ/resource/pi-2015-02> (last visited January 24, 2016).

<sup>16</sup> Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658H(b).

<sup>17</sup> 42 U.S.C. s. 9858f(c)(1)(C)

<sup>18</sup> 42 U.S.C. s. 9858f(c)(1)

### III. Effect of Proposed Changes:

**Section 1** amends s. 435.07, F.S., by restricting persons who can be employed by a child care provider. Specifically, it prohibits any current or prospective employee from employment with a child care provider if the individual is registered as a sex offender under federal law.<sup>19</sup>

Additionally, it restricts those persons who:

- Have been arrested
- Are awaiting final disposition, or
- Have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for any felony or misdemeanor referenced in the federal child care criminal background check law<sup>20</sup> or any felony or misdemeanor enumerated in Florida's Level 1 and Level 2 employment screening statutes.<sup>21</sup> Such individuals are disqualified from employment with a child care provider notwithstanding any prior exemption from disqualification.

The bill provides that individuals are disqualified from employment with a child care provider notwithstanding any prior exemption from disqualification.

The bill also requires that any person employed by a child care provider on July 1, 2016, who has been granted an exemption to a disqualification from employment must be rescreened no later than August 1, 2016.

**Section 2** provides for an effective date of July 1, 2016.

### 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.

---

<sup>19</sup> 42 U.S.C. 30 s. 9858f(c)(1)(c)

<sup>20</sup> 42 U.S.C. s. 9858f

<sup>21</sup> Sections 435.03 and 435.04, F.S.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Broward County conducts background screening for individuals applying to work for child care providers at the county level. It is unknown what impact, if any, the bill will have on the county.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 435.07 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 February 4, 2016:**

- Prohibits a disqualification from employment under ch. 435, F.S., from being removed, and prohibits an exemption from being granted to, any current or prospective personnel with a child care provider if the individual:
  - Is registered as a sex offender as described in 42 U.S.C. 30 s. 9858f (c)(1)(c); or
  - Has been arrested for and is awaiting final disposition of, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for, any felony or misdemeanor referenced in 42 U.S.C. s. 9858f or any felony or misdemeanor covered by s. 435.03 or s. 435.04, F.S.
- Provides that individuals are disqualified from employment with a child care provider notwithstanding any prior exemption from disqualification.
- Requires that any person employed by a child care provider on July 1, 2016, who has been granted an exemption to a disqualification from employment must be rescreened no later than August 1, 2016.

**B. Amendments:**

None.

By the Committee on Children, Families, and Elder Affairs; and  
Senator Bean

586-03044-16

20161420c1

A bill to be entitled

An act relating to eligibility for employment as child care personnel; amending s. 435.07, F.S.; prohibiting the removal of or exemption from certain disqualifications from employment for child care personnel under certain circumstances; specifying certain offenses that disqualify a person from child care employment, notwithstanding any prior exemption; requiring that certain persons who have been granted an exemption from disqualification from child care employment be rescreened by a certain date; providing an effective date.

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

Section 1. Paragraph (c) is added to subsection (4) of section 435.07, Florida Statutes, to read:

435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this chapter, regardless of whether those disqualifying offenses are listed in this chapter or other laws.

(4)

(c)1. Disqualification from employment under this chapter may not be removed from, nor may an exemption be granted to, any current or prospective employee of a child care provider if the person:

- a. Is registered as a sex offender as described in 42 U.S.C. s. 9858f (c) (1) (c); or
- b. Has been arrested for and is awaiting final disposition

Page 1 of 2

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

586-03044-16

20161420c1

of; has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to; or has been adjudicated delinquent and the record has not been sealed or expunged for any felony or misdemeanor referenced in 42 U.S.C. s. 9858f or any felony or misdemeanor covered by s. 435.03 or s. 435.04.

2. Such persons are disqualified from employment with a child care provider, notwithstanding any prior exemption from disqualification from employment.

3. A person employed by a child care provider on July 1, 2016, who has been granted an exemption to a disqualification from employment must be rescreened no later than August 1, 2016.

Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

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



The Florida Senate

## Committee Agenda Request



**To:** Senator Greg Evers, Chair  
Committee on Criminal Justice

**Subject:** Committee Agenda Request

**Date:** February 4, 2016

---

I respectfully request that **Senate Bill # 1420**, relating to Eligibility for Employment as Child Care Personnel, be placed on the:

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

A handwritten signature in cursive script that reads "Aaron Bean".

---

Senator Aaron Bean  
Florida Senate, District 4

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

22 Feb 16

Meeting Date

1412

Bill Number (if applicable)

Topic Pretrial Release

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe

Street

Phone 577-3032

Tall

FL

32301

barney@smartjustice

City

State

Zip

Email alliance.org

Speaking:  For  Against  Information

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

Representing Fla. Smart Justice Alliance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

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

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

2/22/16

*Meeting Date*

1412

*Bill Number (if applicable)*

Topic Pretrial Release

*Amendment Barcode (if applicable)*

Name Mike Graves

Job Title Public Defender, 5th Circuit

Address 123 North Sinclair Ave

Phone 352.742.4270

*Street*

Tavares

Florida

32778

Email mgraves@pdor.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

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

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

2-22-2016

1412

*Meeting Date*

*Bill Number (if applicable)*

Topic Conditions of Pretrial Release

*Amendment Barcode (if applicable)*

Name Matt Dunagan

Job Title Deputy Director

Address 2617 Mahan Drive

Phone 850-274-3599

*Street*

Tallahassee

FL

32308

Email mdunagan@flsheriffs.org

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Sheriffs 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 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/22/2016

Meeting Date

Topic \_\_\_\_\_

Bill Number 1912

(if applicable)

Name BRIAN PITTS

Amendment Barcode \_\_\_\_\_

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking:  For  Against  Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/22/10

Meeting Date

Bill Number (if applicable)

Topic Appointment Confirmation Hearing

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr

Phone

Street

Largo

Fla.

33773

Email

City

State

Zip

Speaking: For Against Information

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

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

PRIDE

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

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

Topic \_\_\_\_\_

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

Name WILBUR BREWSTER

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

Address 225 S. ADAMS

Phone 850-222-7718

TLH, FL  
City State Zip

Email wbrenst@bpl.com

Speaking:  For  Against  Information

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

Representing Pride

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

The Florida Senate  
**Committee Notice Of Hearing**

IN THE FLORIDA SENATE  
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

Alan L. Garey

Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.

**NOTICE OF HEARING**

TO: Mr. Alan L. Garey

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, February 22, 2016, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 2:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.  
DATED this the 17th day of February, 2016

Committee on Criminal Justice

  
\_\_\_\_\_  
Senator Greg Evers  
As Chair and by authority of the committee

cc: Members, Committee on Criminal Justice  
Office of the Sergeant at Arms

1940

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Ken Detzner, Secretary of State,  
do hereby certify that

*Alan L. Garey*

is duly appointed a member of the  
**Board of Directors,  
Prison Rehabilitative Industries and Diversified  
Enterprises, Inc.**

for a term beginning on the  
Thirtieth day of October, A.D., 2015,  
until the Thirtieth day of September, A.D., 2019  
and is subject to be confirmed by the Senate  
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Seventh day of December, A.D., 2015.*



*Ken Detzner*

Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document



**RICK SCOTT**  
GOVERNOR

RECEIVED  
DEPARTMENT OF STATE  
2015 NOV -9 AM 10:28  
DIVISION OF ELECTIONS  
TALLAHASSEE, FL

November 4, 2015

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

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 946.504, Florida Statutes:

Mr. Alan Garey

as a member of the Prison Rehabilitative Industries and Diversified Enterprises, Inc., Board of Directors, subject to confirmation by the Senate. This appointment is effective October 30, 2015, for a term ending September 30, 2019.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott  
Governor

RS/cw

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED  
DEPARTMENT OF STATE  
2015 NOV 24 AM 9:48  
DIVISION OF ELECTIONS  
TALLAHASSEE, FL

STATE OF FLORIDA

County of Broward

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

Director - PRIDE Board of Directors  
(Title of Office)

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

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

Alan L. Garey  
Signature

Sworn to and subscribed before me this 20<sup>th</sup> day of November, 2015.

Monica Devi  
Signature of Officer Administering Oath or of Notary Public



Alan L. Garey  
Print Name of Notary Public  
My Commission FF 028382  
Expires  11/2017  12/2017  
Personally Known  OR Produced Identification

Type of Identification Produced

## ACCEPTANCE

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

Mailing Address:  Home  Office

2640 N. Powerline Road  
Street or Post Office Box

Pompano Beach, Florida 33069  
City, State, Zip Code

Alan L. Garey  
Print name as you desire commission issued

Alan L. Garey  
Signature

# QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire MUST BE COMPLETED IN FULL. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

11/17/15

Date Completed

1. Name: Mr. Garey Alan Lee  
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 2640 North Powerline Road Pompano Beach  
Street Office # City  
Florida 33069 954-975-7992  
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: \_\_\_\_\_

Post Office Box \_\_\_\_\_

Specify the preferred mailing address: Business  Residence  Fax # \_\_\_\_\_ (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From 2001	To Present
_____	_____	_____	_____
_____	_____	_____	_____

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
N/A	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

5. Date of Birth: 03/20/1963 Place of Birth: Ft. Lauderdale, Florida

6. Social Security Number: \_\_\_\_\_

7. Driver License Number: \_\_\_\_\_ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes  No  If "Yes" Explain

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RECEIVED  
DEPARTMENT OF STATE  
2015 NOV 21 AM 9:48  
DIVISION OF ELECTIONS  
TALLAHASSEE FL

9. Are you a United States citizen? Yes  No  If "No" explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you are a naturalized citizen, date of naturalization: \_\_\_\_\_

10. Since what year have you been a continuous resident of Florida? 1963

11. Are you a registered Florida voter? Yes  No  If "Yes" list:

A. County of Registration: Broward B. Current Party Affiliation: Republican

12. Education

A. High School: St. Thomas Aquinas Ft. Lauderdale, Florida Year Graduated: 1981  
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name &amp; Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>Florida Southern College - Lakeland, FL</u>	<u>1981-1985</u>	<u>BS in Accounting</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes  No  If "Yes" list:

A. Dates of Service: \_\_\_\_\_

B. Branch or Component: \_\_\_\_\_

C. Date & type of discharge: \_\_\_\_\_

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes  No  If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name &amp; Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>Decimal Engineering, Inc.</u>	<u>Manufacturing</u>	<u>CEO/President</u>	<u>1980 - Present</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes  No   
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I have worked in the manufacturing industry over 30 years. Currently I am CEO/President of  
Decimal Engineering, Inc., a manufacturer of sheet metal, machining and stamped components for  
several diverse industries. For the past 20 years I have extensive experience in leading employees,  
suppliers and customers to resolve many different business issues. This together with my  
accounting background should serve very useful in being a Director on Pride Enterprises Board.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes  No  If "Yes", list:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes  No  If "Yes", list:

2008 - SFMA Manufacturer of the Year Winner  
2009 - MAF Manufacturer of the Year Finalist  
2009 - Movers & Shakers - South Florida Business Leader Magazine  
2011 & 2012 - Fab 40 - Rank # 32 in the US - Fabricator Magazine

D. Identify all association memberships and association offices held by you that relate to this appointment:

SFMA - South Florida Manufacturers Association - Past Chairman and Current Director  
MAF - Manufacturers Association of Florida - Current Director  
Greater Ft. Lauderdale Chamber of Commerce 2012 & 2013 Director  
Vistage Florida - Current Member  
PRIDE - 2014 & Current Director

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes  No  If "Yes", list:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

19. A. Have you ever been elected or appointed to any public office in this state? Yes  No  If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: Monthly

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
<u>100</u>	<u>8</u>	<u>Family</u>

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes  No  If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes  No  If "Yes", list:

A. Title of office: \_\_\_\_\_ C. Reason for suspension: \_\_\_\_\_

B. Date of suspension: \_\_\_\_\_ D. Result: Reinstated  Removed  Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes  No  If "Yes", list:

A. Title of Office: \_\_\_\_\_

B. Term of Appointment: \_\_\_\_\_

C. Confirmation results: \_\_\_\_\_

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes  No  If "Yes", explain:

\_\_\_\_\_

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes  No  If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title &amp; Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes  No  If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes  No  If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes  No

A. Did you receive any compensation other than reimbursement for expenses? Yes  No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Jeff Strohecker			
Vinnie Morris			
June Wolfe			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held &amp; Term</u>	<u>Date(s) of Membership</u>
Lambda Chi Alpha			1985 - Present
SFMA		Chairman/Current Director	
MAF		Current Director	
March of Dimes		Past Director	
PRIDE		Current Director	

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes  No  If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes  No

## MEMORANDUM

**AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.**

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) \_\_\_\_\_

**IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.**

The Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, Florida 32399  
(850) 245-0150

114255

### CERTIFICATION

STATE OF FLORIDA  
COUNTY OF Broward

Before me, the undersigned Notary Public of Florida, personally appeared

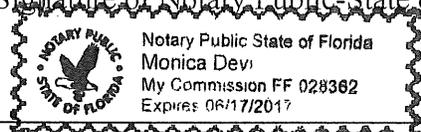
Alan L. Garey

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Alan L. Garey  
Signature of Applicant-Affiant

Sworn to and subscribed before me this 30<sup>th</sup> day of November, 2015.

Monica Dev  
Signature of Notary Public, State of Florida



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 06/17/2017

Personally Known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_

RECEIVED  
DEPARTMENT OF STATE  
2015 DEC -7 AM 9:57  
OFFICE OF ELECTORAL  
ADMINISTRATION

(seal)

The Florida Senate  
**COMMITTEE RECOMMENDATION ON  
EXECUTIVE APPOINTMENT**

**COMMITTEE:** Committee on Criminal Justice  
**MEETING DATE:** Monday, February 22, 2016  
**TIME:** 2:00—3:30 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

---

**TO:** The Honorable Andy Gardiner, President

**FROM:** Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

**Office:** Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.

**Appointee:** Garey, Alan L.

**Term:** 10/30/2015-9/30/2019

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

The Florida Senate  
**Committee Notice Of Hearing**

IN THE FLORIDA SENATE  
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

James R. Upchurch

Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.

**NOTICE OF HEARING**

TO: Mr. James R. Upchurch

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, February 22, 2016, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 2:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.  
DATED this the 17th day of February, 2016

Committee on Criminal Justice

  
\_\_\_\_\_  
Senator Greg Evers  
As Chair and by authority of the committee

cc: Members, Committee on Criminal Justice  
Office of the Sergeant at Arms

1940 5

A black and white copy of this document is not official

1940

STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections

I, Ken Detzner, Secretary of State,  
do hereby certify that

*James Upchurch*

is duly appointed a member of the

Board of Directors,  
Prison Rehabilitative Industries and Diversified  
Enterprises, Inc.

for a term beginning on the  
Thirtieth day of October, A.D., 2015,  
until the Thirtieth day of September, A.D., 2017  
and is subject to be confirmed by the Senate  
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Tenth day of December, A.D., 2015



*Ken Detzner*  
Secretary of State

DSDE 99 (3/03)

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document

The original document has a reflective line mark in paper. Hold at an angle to view when checking.



**RICK SCOTT**  
GOVERNOR

RECEIVED  
DEPARTMENT OF STA  
2015 NOV -9 AM 10: 2.  
DIVISION OF ELECTIONS  
TALLAHASSEE, FL

November 4, 2015

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

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 946.504, Florida Statutes:

Mr. James Upchurch

as a member of the Prison Rehabilitative Industries and Diversified Enterprises, Inc., Board of Directors, succeeding Richard Hanas, subject to confirmation by the Senate. This appointment is effective October 30, 2015, for a term ending September 30, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott  
Governor

RS/cw

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

2015 DEC 10 AM 9:31

RECEIVED  
NOTARY PUBLIC  
2015 DEC 10 A 9:53

County of Leon

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

Board of Directors PRIDE

(Title of Office)

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

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

[Signature]  
Signature

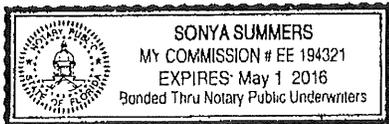
Sworn to and subscribed before me this 14 day of NOV. 2015.

[Signature]  
Signature of Officer Administering Oath or of Notary Public

Sonya Summers  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR Produced Identification

Type of Identification Produced JLDC



## ACCEPTANCE

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

Mailing Address:  Home  Office

James R Vachurch  
Print name as you desire commission issued

[Signature]  
Signature

114303

# QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

11/25/15  
Date Completed

1. Name: Mr. Vpchurch James R  
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: Same as residence  
Street Office # City

Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: \_\_\_\_\_

Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business  Residence  Fax # \_\_\_\_\_ (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
<u>Same as above</u>			

RECEIVED  
DEPARTMENT OF STATE  
2015 DEC 10 AM 9:30  
DIVISION OF ELECTIONS

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
<u>POB</u>	<u>Parchman, Mississippi</u>	<u>1975</u>	<u>1982</u>
<u>Linda Lane</u>	<u>Chandler, Arizona</u>	<u>1992</u>	<u>1996</u>
<u>UNKNOWN</u>	<u>Glendale Arizona</u>	<u>1982</u>	<u>1985</u>
<u>UNKNOWN</u>	<u>Tucson, Arizona</u>	<u>1985</u>	<u>1986</u>
<u>POB</u>	<u>Florence, Arizona</u>	<u>1986</u>	<u>1992</u>

5. Date of Birth: 4/12/48 Place of Birth: Macon, Mississippi

6. Social Security Number: \_\_\_\_\_

7. Driver License Number: \_\_\_\_\_ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes  No  If "Yes" Explain

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Are you a United States citizen? Yes  No  If "No" explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you are a naturalized citizen, date of naturalization: \_\_\_\_\_

10. Since what year have you been a continuous resident of Florida? 1996

11. Are you a registered Florida voter? Yes  No  If "Yes" list:

A. County of Registration: Leon B. Current Party Affiliation: NPA

12. Education

A. High School: Stelby High School Stelby, Mississippi Year Graduated: 1967  
(Name and Location)

B. List all postsecondary educational institutions attended:

Name & Location	Dates Attended	Certificates/Degrees Received
<u>University of Ms., Oxford Ms.</u>	<u>1967-1969</u>	<u>NONE</u>
<u>Delta State University, Cleveland, Ms</u>	<u>1972-1975</u>	<u>BS, MS</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes  No  If "Yes" list:

A. Dates of Service: 1969-1972

B. Branch or Component: Army

C. Date & type of discharge: Jan 28, 1972 Honorable

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes  No  If "Yes" give details:

Date	Place	Nature	Disposition

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

Employer's Name & Address	Type of Business	Occupation/Job Title	Period of Employment
<u>Florida Department of Corrections</u>	<u>501 S. Calhoun St Tallahassee, FL 32399</u>	<u>Government/Corrections; Bureau Chief, Warders, Division Director, Assistant Secretary for Institutions;</u>	<u>1996 - 2015 (retired March 31, 2015)</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes  No  If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

Position	Employing Agency	Period of Employment
<u>see Above response #15</u>		

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I have 43 years of prison/corrections experience including frequent interactions with and knowledge of prison industries programs

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes  No  If "Yes", list:

Executive Management Certifications From Arizona State University and University of Southern California.

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes  No  If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

American Correctional Association  
Southern States Correctional Association

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes  No  If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes  No  If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
---------------------	--	-----------------------	----------------------------

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: \_\_\_\_\_

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes  No  If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes  No  If "Yes", list:

A. Title of office: \_\_\_\_\_ C. Reason for suspension: \_\_\_\_\_  
B. Date of suspension: \_\_\_\_\_ D. Result: Reinstated  Removed  Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes  No  If "Yes", list:

A. Title of Office: \_\_\_\_\_  
B. Term of Appointment: \_\_\_\_\_  
C. Confirmation results: \_\_\_\_\_

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes  No  If "Yes", explain:

\_\_\_\_\_

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes  No  If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title &amp; Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes  No  If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes  No  If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes  No

A. Did you receive any compensation other than reimbursement for expenses? Yes  No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
William D. Bales	Professor		
Berinda P. Watson			

Secretary Julie Jones

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held &amp; Term</u>	<u>Date(s) of Membership</u>
American Correctional Association	206 W. Washington St. Alexandria, Va		22314-1978
Southern States Correctional Association	P.O. Box 928 Crestwood Ky		40114 present

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes  No  If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes  No

## MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) Identity Theft Crimes - limited to  
SSN, DL number, etc.

**IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.**

The Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, Florida 32399  
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA  
COUNTY OF Leon

Before me, the undersigned Notary Public of Florida, personally appeared JAMES RAY UPCHURCH, who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

[Signature]  
Signature of Applicant-Affiant

Sworn to and subscribed before me this 25 day of NOV, 2015.

[Signature]  
Signature of Notary Public-State of Florida

SONYA SUMMERS  
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 5/1/2016

Personally Known  OR Produced Identification

Type of Identification Produced FLDL



(seal)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

2/22/16

Meeting Date

Bill Number (if applicable)

Topic PRIDE Confirmation

Amendment Barcode (if applicable)

Name James R Upchurch

Job Title Retired

Address 1387 Devonshire Dr.

Phone 850-827-4157

Street

Tallahassee

FL

32317

City

State

Zip

Email JRUpchurch@comcast.net

Speaking:  For  Against  Information

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

Representing Pride Board Member

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

**COMMITTEE WITNESS OATH**

---

**CHAIR:**

**Please raise your right hand and be sworn in as a witness.**

**Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?**

James Upchurch

**WITNESS'S NAME:** (PRIDE-Board of Directors)

**ANSWER:** I do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

**COMMITTEE NAME:** Senate Criminal Justice Committee

**DATE:** February 22, 2016

The Florida Senate  
**COMMITTEE RECOMMENDATION ON  
EXECUTIVE APPOINTMENT**

**COMMITTEE:** Committee on Criminal Justice  
**MEETING DATE:** Monday, February 22, 2016  
**TIME:** 2:00—3:30 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

---

**TO:** The Honorable Andy Gardiner, President

**FROM:** Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

**Office:** Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.

**Appointee:** Upchurch, James R.

**Term:** 10/30/2015-9/30/2017

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

The Florida Senate  
**Committee Notice Of Hearing**

IN THE FLORIDA SENATE  
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

Donald C. Hunter

Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.

**NOTICE OF HEARING**

TO: Mr. Donald C. Hunter

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Monday, February 22, 2016, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 2:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.  
DATED this the 17th day of February, 2016

Committee on Criminal Justice

  
\_\_\_\_\_  
Senator Greg Evers  
As Chair and by authority of the committee

cc: Members, Committee on Criminal Justice  
Office of the Sergeant at Arms

1940

**STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections**

I, Ken Detzner, Secretary of State,  
do hereby certify that

***Don Hunter***

is duly appointed a member of the  
**Board of Directors,  
Prison Rehabilitative Industries and Diversified  
Enterprises, Inc.**

for a term beginning on the  
Twelfth day of June, A.D., 2015,  
until the Thirtieth day of September, A.D., 2017  
and is subject to be confirmed by the Senate  
during the next regular session of the Legislature.

*Given under my hand and the Great Seal of the  
State of Florida, at Tallahassee, the Capital, this  
the Tenth day of July, A.D., 2015.*



*Ken Detzner*  
Secretary of State

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of COLLIER

RECEIVED  
DEPARTMENT OF  
CORRECTIONS

2015 JUL -9 AM 9:53

DEPARTMENT OF  
CORRECTIONS

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

Member Prison Rehabilitative Industries and Diversified Enterprises, Inc. Board of Directors

(Title of Office)

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

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

[Signature]  
Signature

Sworn to and subscribed before me this 2<sup>nd</sup> day of July, 2015.

[Signature]  
Signature of Officer Administering Oath or of Notary Public



Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR

Produced Identification

Type of Identification Produced \_\_\_\_\_

## ACCEPTANCE

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

Mailing Address:  Home  Office

\_\_\_\_\_  
Street or Post Office Box

\_\_\_\_\_  
City, State, Zip Code

DON HUNTER

Print name as you desire commission issued

[Signature]  
Signature



**RICK SCOTT**  
GOVERNOR

RECEIVED  
DEPARTMENT OF STATE  
2015 JUN 17 AM 11:54  
DIVISION OF ELECTIONS  
TALLAHASSEE, FL

June 15, 2015

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

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 946.504, Florida Statutes:

Mr. Don C. Hunter

as a member of the Prison Rehabilitative Industries and Diversified Enterprises, Inc., Board of Directors, subject to confirmation by the Senate. This appointment is effective June 12, 2015, for a term ending September 30, 2017.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott  
Governor

RS/cw

112857

# QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

March 30, 2015

Date Completed

1. Name: Mr. Hunter Donald Curtis  
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: N/A  
Street Office # City

Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: \_\_\_\_\_  
Street City

Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business  Residence  Fax # \_\_\_\_\_ (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
			sent

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
NONE			

5. Date of Birth: 10/09/1951 Place of Birth: Tallahassee, Florida

6. Social Security Number: \_\_\_\_\_

7. Driver License Number: \_\_\_\_\_ ing State: Florida

8. Have you ever used or been known by any other legal name? Yes  No  If "Yes" Explain

Nickname of "Don Hunter"  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RECEIVED  
DEPARTMENT OF STATE  
DIVISION OF ELECTIONS  
2015 JUL -9 AM 9:53

9. Are you a United States citizen? Yes  No  If "No" explain:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If you are a naturalized citizen, date of naturalization: \_\_\_\_\_

10. Since what year have you been a continuous resident of Florida? 1951

11. Are you a registered Florida voter? Yes  No  If "Yes" list:

A. County of Registration: Collier B. Current Party Affiliation: Republican

12. Education

A. High School: Naples Senior High, Naples, Florida Year Graduated: 1969  
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name &amp; Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>Florida State University</u>	<u>August, 1972-June, 1974</u>	<u>B.S.</u>
<u>Florida State University</u>	<u>August 1976-June, 1976</u>	
<u>University of South Florida</u>	<u>January, 1983</u>	<u>M.S.</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes  No  If "Yes" list:

A. Dates of Service: \_\_\_\_\_

B. Branch or Component: \_\_\_\_\_

C. Date & type of discharge: \_\_\_\_\_

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes  No  If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name &amp; Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>PLEASE SEE NEXT PAGE ATTACHED</u>			

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes  No   
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
<u>Sheriff</u>	<u>Collier County Sheriff's Office</u>	<u>12/1988 - 1/2009</u>
<u>Deputy Sheriff/Major</u>	<u>Collier County Sheriff's Office</u>	<u>10/1979 - 12/1988</u>
<u>Regional Administrator</u>	<u>Southwest Fl. Reg. Planning Council</u>	<u>10/1976 - 10/1979</u>

ADDENDUM ITEM 15: "... current employer and for all of your employment during the last five years, ..."

Self employed Security/personal protection consulting Principal of Company 6/2014 - present (Investigative Security Specialists International, LLC)

Marco Island, Fl. 50 Bald Eagle Drive Marco Island, Fl. 34145 Law Enforcement as Chief of Police 8/2011 - 6/2014

National Center for Missing & Exploited Children 699 Prince St. Alexandria, Va. 22314  
National Center is a national child protection federal, state and local collaboration served as Contractor/Consultant and Law Enforcement Liaison 1/2009 - 2/1011

Technology Investors, Inc. 4530 Conference Way Boca Raton, Fl. 33431 Software development company designed to find predators of children on the worldwide web served as company contractor/associate for law enforcement liaison and consultation

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Served as Chief Administrator and then Sheriff of Collier County Sheriff's Office 1981-2009; held responsibility for jails and prisoner care; created juvenile offender rehabilitation facility in Collier County, judged as exemplary in study conducted by University of Maryland; created an in-jail habilitation inmate pod for educational attainment of H.S. diploma and addiction treatment.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes  No  If "Yes", list:

B.S. and M.S. (non-terminal) in Criminology, FSU/USF  
Received national and state accreditation for jail systems under my administration as Sheriff of Collier County

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes  No  If "Yes", list:

As noted in "B." above, State and National Jail/Corrections Accreditation certifications

D. Identify all association memberships and association offices held by you that relate to this appointment:

International Association of Chiefs of Police (lifetime member)  
National Sheriff's Association (member)  
Commissioner Commission on Accreditation for Law Enforcement Agencies  
Commissioner Florida Accreditation Commission (also its Chair)  
Florida Sheriff's Association (member and board of directors)

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes  No  If "Yes", list:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

19. A. Have you ever been elected or appointed to any public office in this state? Yes  No  If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
Sheriff	11/1988 - 11/2004	12/1988 - 1/2009	County
Florida Parole Commission Nomination Board	(dates in state record)		State
Chief of Police	8/2011 - 6/2014		Municipal
Intelligence Chair Florida Domestic Security Oversight Council	2007-2008		State
PLEASE SEE NEXT PAGE ATTACHED			

ADDENDUM PAGE 4 ITEM 19. "... elected or appointed to any public office..."

Regional Co-Chairman Florida Domestic Security Oversight Council (approximately 2004 appointment) Term 2004 - 2008 State level of government

FBI Domestic Security Task Force Co-Chairman (approximately 2004 appointed) Term from 2004 - 2008 State and Federal level of government

Florida Criminal and Juvenile Justice Information Systems Council (approximate date of appointment 2005) term of 3 years State level of government

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: Periodic as needed (Quarterly typical)

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
		<u>Matter of State Record Fl. Parole Comm. Nomination Board - none recalled</u>
		<u>Matter of State Record Fl. Dom. Sec. Oversight Council - none recalled</u>
		<u>Matter of State Record Fl. Criminal &amp; Juv. Just. Info. Sys. Council - none recalled</u>

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes  No  If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes  No  If "Yes", list:

A. Title of office: \_\_\_\_\_ C. Reason for suspension: \_\_\_\_\_

B. Date of suspension: \_\_\_\_\_ D. Result: Reinstated  Removed  Resigned

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes  No  If "Yes", list:

A. Title of Office: \_\_\_\_\_

B. Term of Appointment: \_\_\_\_\_

C. Confirmation results: \_\_\_\_\_

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes  No  If "Yes", explain:

\_\_\_\_\_

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes  No  If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title &amp; Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes  No  If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
<u>City of Marco Island, Fl.</u>	<u>Chief of Police (Contractor)</u>	<u>Marco Police Dept.</u>

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes  No  If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>
Collier County Public Schools	Spouse	Employee of District	none
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes  No

A. Did you receive any compensation other than reimbursement for expenses? Yes  No

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
_____	_____
_____	_____
_____	_____
_____	_____

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Kevin Rambosk	_____	_____	_____
Jim Williams	_____	_____	_____
Ed Morton	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held &amp; Term</u>	<u>Date(s) of Membership</u>
SEE NEXT PAGE	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes  No  If "Yes", explain:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

30. If required by law or administrative rule, will you file financial disclosure statements? Yes  No

ADDENDUM QUESTIONNAIRE ITEM 28. "... business, professional, occupational, civic, or fraternal organizations ..."

Florida Sheriff's Association 2617 Mahan Dr. Tallahassee, Fl. 32317 Member/Board Member since approximately 1988-present

National Sheriff's Association 1450 Duke St. Alexandria, Va. 22314 - Member 1988 - present

FBI National Academy Associates FBI National Academy Quantico, Va. 22135 - Graduate Member 1994 - present

International Association of Chiefs of Police 44 Canal Center Plaza, Suite 200 Alexandria, Va. 22314 Member (Lifetime) 1994 (approximately) - present

American Society of Industrial Security 1625 Prince St. Alexandria, Va. 22314 Member 2010 - present

Association of Former Intelligence Officers 7700 Leesburg Pike suite 324 Falls Church, Va. Member/Associate approximately 2005 - present

## MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

- Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) Applicant is retired law enforcement

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General  
PL-01, The Capitol  
Tallahassee, Florida 32399  
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA  
COUNTY OF COLLER

Before me, the undersigned Notary Public of Florida, personally appeared

Don Hunter

who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.



Signature of Applicant-Affiant

Sworn to and subscribed before me this 2<sup>nd</sup> day of July, 2015.



Signature of Notary Public-State of Florida



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 6/25/17

Personally Known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_

(seal)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

22 FEB '16  
Meeting Date

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

Topic PRIDE SLATE Confirmation

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

Name Don Hunter

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

Address 498 CORBEL DRIVE

Phone 239 289 8471

Street  
NAPLES FL. 34110

Email \_\_\_\_\_

City State Zip

Speaking:  For  Against  Information

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

Representing PRIDE BOARD MEMBER

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

The Florida Senate  
**COMMITTEE RECOMMENDATION ON  
EXECUTIVE APPOINTMENT**

**COMMITTEE:** Committee on Criminal Justice  
**MEETING DATE:** Monday, February 22, 2016  
**TIME:** 2:00—3:30 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Office Building

---

**TO:** The Honorable Andy Gardiner, President

**FROM:** Committee on Criminal Justice

The committee was referred the following executive appointment subject to confirmation by the Senate:

**Office:** Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.

**Appointee:** Hunter, Donald C.

**Term:** 6/12/2015-9/30/2017

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

THE FLORIDA SENATE

# COMMITTEE WITNESS OATH

---

**CHAIR:**

**Please raise your right hand and be sworn in as a witness.**

**Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?**

Donald Hunter

**WITNESS'S NAME:** (PRIDE-Board of Directors)

**ANSWER:** I do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

**COMMITTEE NAME:** Senate Criminal Justice Committee

**DATE:** February 22, 2016

# CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 2/22/2016 2:04:20 PM

Ends: 2/22/2016 3:30:16 PM

Length: 01:25:57

2:04:24 PM Meeting called to order - Roll Call  
2:05:05 PM Tab 3 SB 1412 by Senator Simmons - Conditions of Pretrial Release  
2:07:29 PM Roll call for SB 1412  
2:08:28 PM Tab 6 Confirmation Hearing for James R. Upchurch, PRIDE, Board of Directors  
2:09:34 PM Senator Gibson asks Mr. Upchurch about participation of inmates.  
2:11:02 PM Mr. Upchurch responds to the question.  
2:13:27 PM Senator Brandes asked Mr. Upchurch about participation of inmates.  
2:13:57 PM Mr. Upchurch responds to the question.  
2:15:09 PM Senator Bradley asks Mr. Upchurch what he did before PRIDE.  
2:16:28 PM Mr. Upchurch responds to all of the questions.  
2:17:22 PM Senator Evers makes comments to Mr. Upchurch.  
2:17:55 PM Greg Pound, Largo, FL speaks on appointment of Mr. Upchurch.  
2:20:16 PM Roll call for confirmation of James R. Upchurch, approved favorably  
2:20:58 PM Tab 7 Confirmation Hearing for Donald C. Hunter, PRIDE, Board of Directors  
2:21:45 PM Senator Gibson asks Mr. Hunter about his perspective on rehabilitation.  
2:23:30 PM Mr. Hunter responds to the question.  
2:29:19 PM Senator Clemens asks a question to Mr. Hunter.  
2:29:44 PM Mr. Hunter responds.  
2:30:24 PM Senator Bradley asks Mr. Hunter about applying to the Board  
2:30:50 PM Mr. Hunter responds.  
2:33:48 PM Roll call for confirmation of Donald C. Hunter, approved favorably.  
2:34:57 PM Senator Gibson asks if Mr. Garey submitted a letter stating that he could not be here.  
2:35:54 PM Senator Evers asked if Mr. Garey would stay on the board until next year.  
2:36:32 PM Mr. Wilbur Brewton stated that he would have to be reaffirmed to the appointment.  
2:39:42 PM Senator Evers states that this is a reappointment for Mr. Garey, PRIDE.  
2:40:16 PM Senator Clemens felt that Mr. Garey should have been at this confirmation hearing.  
2:41:13 PM Roll call for confirmation of Alan L. Garey, approved favorably.  
2:42:50 PM Senator Clemens would like this committee to be clear next year about confirmation  
2:43:14 PM Senator Gibson stated that it should never be "optional" to be at confirmation hearing.  
2:45:17 PM Tab 2 CS/SB 964 by HP / Senator Grimsley - Prescription Drug Monitoring Program  
2:45:32 PM Marty Mielke is recognized to explain the bill.  
2:46:21 PM Brian Pitts, Justice-2-Jesus, St. Petersburg, FL  
2:51:13 PM Greg Pound, Pinellas County Florida Government Corruption  
2:52:35 PM Roll call for CS/SB 964  
2:53:59 PM Tab 4 CS/SB 1420 by CF / Senator Bean - Eligibility for Employment as Child Care Pe  
3:00:34 PM Greg Pound, Largo, FL  
3:05:15 PM Roll call for SB 1420  
3:05:44 PM Tab 1 SB 214 by Senator Detert - Offenses Committed on Real Estate Agents  
3:06:38 PM Amendment Barcode 897402, Senator Bradley  
3:07:50 PM Back on the bill as amended.  
3:14:56 PM Brian Pitts, Justice-2-Jesus, St. Petersburg, FL  
3:17:29 PM Greg Pound, Pinellas County Florida Government Corruption  
3:20:11 PM Senator Detert speaks on a comment made by Brian Pitts.  
3:21:28 PM Senator Detert closes on bill.  
3:22:33 PM Senator Bradley speaks on bill.  
3:22:45 PM Senator Gibson makes comments on bill.  
3:24:20 PM Roll call for SB 214  
3:29:06 PM Meeting Adjourned